

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN WINDSHIELD WIPER
DEVICES AND COMPONENTS
THEREOF**

Investigation No. 337-TA-881

**NOTICE OF COMMISSION DETERMINATION TO GRANT A
JOINT MOTION TO TERMINATE THE INVESTIGATION ON THE BASIS OF A
SETTLEMENT AGREEMENT; TERMINATION OF INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to grant the joint motion to terminate the above-captioned investigation based upon a settlement agreement. The Commission has also determined to grant the joint motion to stay the investigation pending resolution of the joint motion to terminate. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2301. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 11, 2013, based on a complaint filed by complainants Federal-Mogul Corporation of Southfield, Michigan and Federal-Mogul S.A. of Aubange, Belgium (collectively "Federal-Mogul"). *78 Fed. Reg.* 35050-51 (June 11, 2013). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("section 337"), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain windshield wiper devices and components thereof by reason of infringement of certain claims of U.S. Patent No. 8,347,449 ("the '449 patent"). The complaint further alleges the existence of a domestic industry. The Commission's Notice of Investigation named as respondents Trico Corporation of Rochester Hills, Michigan ("Trico Corp."); Trico Products of Brownsville, Texas ("Trico Products"); and Trico Components, SA de CV of Matamoros, Mexico (collectively

“Trico”). 78 *Fed. Reg.* at 35050. The Office of Unfair Import Investigations was also named as a party. *Id.* The Notice of Investigation was later amended to correct the names of Trico Corp. and Trico Products to Trico Products Corporation of New York. 79 *Fed. Reg.* 9922-923 (Feb. 21, 2014); *see* Order No. 27 (Jan. 22, 2014).

On May 8, 2014, the ALJ issued his final ID, finding a violation of section 337. Specifically, the ALJ found a violation of section 337 with respect to claims 1 and 5 of the '449 patent. The ALJ did not, however, find a violation of section 337 with respect to claims 2-4 and 6-14 of the '449 patent. The final ID included the ALJ's recommended determination on remedy and bonding.

On May 21, 2014, Trico filed a petition for review concerning the final ID's finding of violation with respect to claims 1 and 5 of the '449 patent. Also on May 21, 2014, Federal-Mogul and the Commission investigative attorney (“IA”) each filed a petition for review of certain aspects of the final ID concerning the ALJ's finding of no violation with respect to claims 2-4 and 6-14 of the '449 patent.

On July 9, 2014, the Commission determined to review the final ID in part with respect to issues of claim construction, infringement, and the technical prong of the domestic industry requirement and requested briefing on certain of the issues under review. 79 *Fed. Reg.* 41303-05 (July 15, 2014). On July 22, 2014, the parties submitted initial briefs in response to the Commission's notice.

On July 29, 2014, Federal-Mogul and Trico filed a joint motion to terminate the investigation based on a settlement agreement pursuant to sections 210.21(a)(2) and (b) of the Commission Rules of Practice and Procedure (19 C.F.R. §§ 210.21(a)(2) and (b)). On July 30, 2014, Federal-Mogul and Trico filed a request that the investigation be stayed pending the Commission's decision on the termination motion. On August 8, 2014, the IA filed a response supporting the joint motion.

The Commission has determined to grant the joint motion to terminate the investigation. Section 337(c) provides, in relevant part, that the Commission may terminate an investigation “on the basis of an agreement between the private parties to the investigation.” When the investigation is before the Commission, as is the case here, the Commission has acted on motions to terminate on the basis of settlement. *See, e.g., Certain Wireless Consumer Electronics Devices and Components Thereof*, Inv. No. 337-TA-853, Notice of Commission Determination to Grant the Consent Motion to Terminate the Investigation-In-Part as to Respondents Kyocera Corporation And Kyocera Communications, Inc. on the Basis of a Settlement Agreement (Sept. 20, 2013). Commission Rule 210.21(b), which implements section 337(c), requires that a motion for termination based upon a settlement contain a copy of that settlement agreement, as well as a statement that there are no other agreements, written or oral, express or implied, between the parties concerning the subject matter of the investigation. The joint motion complies with these requirements.

The Commission also considers the public interest when terminating an investigation based upon a settlement agreement. 19 C.F.R. § 210.50(b)(2). We find no evidence that termination of the investigation will prejudice the public interest or that settlement will adversely impact the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers. Moreover, the public interest favors settlement to avoid needless litigation and to conserve public and private resources.

Accordingly, the Commission hereby grants the joint motion to terminate this investigation on the basis of a settlement agreement. The Commission also grants the joint motion to stay the investigation pending resolution of the joint motion to terminate.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 C.F.R. Part 210).

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', with a stylized flourish at the end.

Lisa R. Barton
Secretary to the Commission

Issued: September 11, 2014