

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.**

In the Matter of

**CERTAIN TIRES AND PRODUCTS
CONTAINING SAME**

Investigation No. 337-TA-894

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN
INITIAL DETERMINATION TERMINATING THE INVESTIGATION AS TO
SHANDONG HENGYU SCIENCE & TECHNOLOGY CO., LTD., THE SOLE
REMAINING RESPONDENT, BASED ON A SETTLEMENT AGREEMENT;
REQUEST FOR WRITTEN SUBMISSIONS ON REMEDY, THE PUBLIC INTEREST,
AND BONDING**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 40) of the presiding administrative law judge (“ALJ”) terminating the investigation as to the last remaining respondent in this investigation, Shandong Hengyu Science & Technology Co., Ltd., based on a settlement agreement. Several respondents were found in default during the course of the investigation, and the Commission requests written submissions on remedy, the public interest and bonding as to the defaulting respondents.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3115. 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 under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, on September 20, 2013, based on a complaint filed by Toyo Tire & Rubber Co., Ltd. of Japan; Toyo Tire Holdings of Americas Inc. of Cypress, California; Toyo Tire U.S.A. Corp. of Cypress, California; Nitto Tire U.S.A. Inc. of Cypress, California; and Toyo Tire North America Manufacturing Inc. of White,

Georgia (collectively, “Toyo”). The complaint, as supplemented, alleges violation of section 337 by reason of infringement of certain claims of U.S. Design Patent Nos. D487,424; D610,975; D610,976; D610,977; D615,031; D626,913; D458,214; and D653,200 by numerous respondents. 78 *Fed. Reg.* 57882-83 (Sept. 20, 2013). Subsequently, the complaint and notice of investigation were amended to add Shandong Hengyu Science & Technology Co., Ltd. (“Shandong Hengyu”) as respondent. Several respondents were terminated from the investigation based on settlement agreements and consent orders.

On February 27, 2014, complainants Toyo moved to terminate the investigation as to respondent Shandong Hengyu based on a settlement agreement. On March 10, 2014, the Commission investigative attorney filed its response in support of Toyo’s motion.

On March 14, 2014, the ALJ issued an ID (Order No. 40) granting the motion. The ALJ found that termination of the investigation as to Shandong Hengyu based on settlement does not impose any undue burden on the public health and welfare, competitive conditions in the United States economy, production of like or directly competitive articles in the United States, or United States consumers. No party petitioned for review of ALJ Order No. 40, and the Commission has determined not to review it.

Shandong Hengyu is the sole remaining respondent in this investigation. Previously, the following respondents were found in default: (1) WestKY Customs, LLC – by ALJ Order No. 17 (Dec. 5, 2013), *not reviewed* December 27, 2013; (2) Tire & Wheel Master, Inc.– by ALJ Order No. 17 (Dec. 5, 2013), *not reviewed* December 27, 2013; (3) Vittore Wheel & Tire – by ALJ Order No. 17 (Dec. 5, 2013), *not reviewed* December 27, 2013; (4) RTM Wheel & Tire – by ALJ Order No. 17 (Dec. 5, 2013), *not reviewed* December 27, 2013; (5) Turbo Wholesale Tires, Inc. – by ALJ Order No. 30 (Feb. 3, 2014), *not reviewed* March 6, 2014; (6) Lexani Tires – by ALJ Order No. 30 (Feb. 3, 2014), *not reviewed* March 6, 2014; (7) WTD Inc. – by ALJ Order No. 30 (Feb. 3, 2014), *not reviewed* March 6, 2014; and (8) Simple Tire – by ALJ Order No. 34 (Feb. 18, 2014), *not reviewed* March 20, 2014. Section 337(g)(1) and Commission Rule 210.16(c) authorize the Commission to order relief against respondents found in default, unless, after considering the public interest, it finds that such relief should not issue.

In connection with the final disposition of this investigation, the Commission may: (1) issue an order that could result in the exclusion of articles manufactured or imported by the defaulting respondents; and/or (2) issue a cease and desist order that could result in the defaulting respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, *see Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors that the Commission will consider include the effect that the exclusion order and/or cease and desists orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 *Fed. Reg.* 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

WRITTEN SUBMISSIONS: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. Complainant is also requested to state the HTSUS numbers under which the accused products are imported and the expiration dates of the asserted patents.

Written submissions must be filed no later than close of business on [a date that is 2 weeks after the date of this notice]. Reply submissions must be filed not later than the close of business on [a date that is one week after service of main submissions]. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadline stated above and submit eight true paper copies to the Office of the Secretary pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR § 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-894") in a prominent place on the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures*, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR § 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted nonconfidential version of the document must also be filed simultaneously with any confidential filing. All nonconfidential

written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

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 CFR 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
Acting Secretary to the Commission

Issued: April 10, 2014