

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN HYDRAULIC EXCAVATORS
AND COMPONENTS THEREOF**

Inv. No. 337-TA-582

NOTICE OF INVESTIGATION

AGENCY: U.S. International Trade Commission

ACTION: Institution of investigation pursuant to 19 U.S.C. § 1337

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 1, 2006, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, on behalf of Caterpillar, Inc. of Peoria, Illinois. A letter supplementing the complaint was filed on August 23, 2006. The complaint alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain hydraulic excavators and components thereof by reason of infringement of U.S. Trademark Registration No. 2,140,606, U.S. Trademark Registration No. 2,421,077, U.S. Trademark Registration No. 2,140,605, and U.S. Trademark Registration No. 2,448,848. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, D.C. 20436, telephone 202-205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 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>.

FOR FURTHER INFORMATION CONTACT: Rett Snotherly, Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2599.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.10 (2006).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on August 29, 2006, ORDERED THAT –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain hydraulic excavators or components thereof by reason of infringement of U.S. Trademark Registration No. 2,140,606, U.S. Trademark Registration No. 2,421,077, U.S. Trademark Registration No. 2,140,605, or U.S. Trademark Registration No. 2,448,848, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is –

Caterpillar, Inc.
100 N.E. Adams Street
Peoria, Illinois 61629-7310

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Alex Lyon & Son Sales Managers and
Auctioneers, Inc.
5100 Highbridge Road
Fayetteville, NY 13066

Barkley Industries, LLC
13309 West Palo Verde Dr.
PO Box 579
Litchfield Park, AZ 85340

Deanco Auction Company of Mississippi, Inc.
1042 Holland Avenue
PO Box 1248
Philadelphia, MS 39350

Dom-Ex, Inc.
109 Grant Street
Hibbing, MN 55746

Frontera Equipment Sales
2300 East Expressway 83 N
Donna, TX 78537

Hoss Equipment Co., Inc.
3131 N. Hwy. 161
Irving, TX 78537

Key Equipment, LLC (subsidiary of)
C.W. Purpero, Inc.
5770 South 13th St.
Milwaukee, WI 53221

Kuhn Equipment Sales Co., Inc.
1050 Drop Off Drive
Summerville, SC 29483

MMS Equipment Sales L.L.C.
31 North Madison Drive
Three Way, TN 38343

Musselman Construction Co., dba
Musselman Rentals and Sales
16915 Hatwai Bypass
Lewistown, Idaho 83501

Pacific Rim Machinery, Inc.
3023 17th Avenue Ct., N.W.
Gig Harbor, WA 98335

Petrowsky Auctioneers, Inc.
275 Route 32
North Franklin, CT 06254

Prima International Trading

7000 Highbridge Road
Fayetteville, NY 13066

Ritchie Bros. Auctioneers Inc.
6500 River Road
Richmond, BC V6X 4G5
Vancouver, British Columbia
Canada

Ritchie Bros. Auctioneers (America) Inc.
3901 Faulkner Drive
P.O. Box 6429
Lincoln, NE 68506-0429

Southwestern Machinery of Florida, Inc.
645 SW Palmetto Cove
P.O. Box 880037
Port St. Lucie, FL 34986

Tractorland Equipment Company, Inc.
21921 Alessandro Blvd.
Moreno Valley, CA 92553

United Equipment Company, Inc.
600 W. Glenwood
Turlock, CA 95380-6232

World Tractor & Equipment Company, LLC
10600 Nations Ford Road
Charlotte, NC 28273

Worldwide Machinery, Inc.
16031 I-10 East Freeway
Houston, TX 77530

Yoder & Frey Auctioneers
1670 Commerce Rd.
Holland, OH 43528

(c) The Commission investigative attorney, party to this investigation, is Rett Snotherly, Esq., Office of Unfair Import Investigations, U.S.

International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(3) For the investigation so instituted, the Honorable Robert L. Barton, Jr. is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.13. Pursuant to 19 C.F.R. §§ 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or cease and desist order or both directed against the respondent.

By order of the Commission.

/s/
Marilyn R. Abbott
Secretary to the Commission

Issued: August 31, 2006