

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN IN-VEHICLE
INFOTAINMENT SYSTEMS,
COMPONENTS THEREOF, AND
PRODUCTS CONTAINING THE SAME**

Investigation No. 337-TA-1493

**NOTICE OF A COMMISSION DETERMINATION TO REVIEW AN INITIAL
DETERMINATION TERMINATING THE INVESTIGATION BASED ON A
FORUM SELECTION CLAUSE; REQUEST FOR WRITTEN SUBMISSIONS ON
THE ISSUES UNDER REVIEW**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review an initial determination (“ID”) (Order No. 16) of the presiding administrative law judge (“ALJ”) granting the respondents’ motion to terminate the investigation in its entirety based on a forum selection clause. The Commission requests written submissions from the parties on the issues under review, under the schedule set forth below.

FOR FURTHER INFORMATION CONTACT: Namo Kim, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3459. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 30, 2026, based on a complaint filed by Zync Inc. of San Francisco, California (“Zync”). 91 FR 15631 (Mar. 30, 2026). The complaint, as supplemented, alleges violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based on the importation into the United States, the sale for importation, and the sale within the United

States after importation of certain in-vehicle infotainment systems, components thereof, and products containing the same by reason of misappropriation of trade secrets and tortious interference with prospective economic advantage, the threat or effect of which is to destroy or substantially injure an industry in the United States. *Id.* The notice of investigation names as respondents Bayerische Motoren Werke AG of Munich, Germany, and BMW of North America, LLC of Woodcliff Lake, New Jersey (collectively, “BMW”). *Id.* The Office of Unfair Import Investigations (“OUII”) is also named as a party. *Id.*

On May 26, 2026, BMW filed a motion to terminate or stay the investigation based on a forum selection clause in agreements between the parties. On June 5, 2026, Zync filed an opposition to the motion. On the same day, OUII filed a response supporting the motion to terminate. On June 9, 2026, BMW filed for leave to file a reply in support of its motion, which the ALJ denied.

On July 28, 2026, the ALJ issued the subject ID (Order No. 16) pursuant to Commission Rule 210.21(a)(2), 19 CFR 210.21(a)(2), granting BMW’s motion to terminate the investigation in its entirety based upon the forum selection clause.

On August 3, 2026, Zync filed a petition for review of the subject ID, which includes two exhibits. On August 5, 2026, BMW filed a motion to strike the exhibits and any portions of Zync’s petition that refer to or discuss the exhibits. On August 10, 2026, BMW and OUII filed their responses to Zync’s petition.

Having reviewed the record of the investigation, including subject ID and the parties’ submissions, the Commission has determined to review the ID in its entirety.

In connection with its review, the Commission requests responses to the following questions from the parties.

1. Given that the purpose of Section 337 is to protect American industry from injury due to unfairly traded imports, please discuss whether and to what extent the termination of this investigation based on a forum selection clause that venues outside of the United States would (a) limit Complainant’s ability to seek redress in the United States; (b) interfere with Complainant’s ability to voluntarily and fully participate in the current proceeding before the Commission; and (c) comport with the Commission’s responsibilities and authorities under Section 337. Specifically, please discuss:
 - What effect termination would have on the ITC’s ability to perform its statutory mandate of preventing the importation and sale of articles that benefit from unfair acts or methods of competition and pose the threat or have the effect of destroying or substantially injuring an industry of the United States;

- What effect Congress intended forum selection clauses to have on Section 337 proceedings, and whether the venue dictated by the clause is inside or outside the United States is relevant to Congress' intention? How would termination interact with the Commission's obligations and authorities under Section 337 that, when an action that is in violation of Section 337 is found by the Commission, such violation shall be dealt with by the Commission consistent with Section 337 "in addition to any other provision of law." (19 U.S.C. 1337(a)(1));
- What role Congress contemplated private complainants playing in the Section 337 process;
- Whether termination would privilege the interests of the private parties over the broader public interest that Section 337 is meant to serve; and
- Whether, under the laws and procedures of the foreign jurisdiction, if the Complainant were to prevail in an action in the Respondent's home country's legal system regarding the same claims as in the Section 337 investigation, could the foreign court restrict export of offending articles to the United States similarly to the relief available under Section 337.

In responding, please discuss the statutory language, legislative history, and legislative purpose of Section 337.

2. How has the Commission and its reviewing court treated questions of the applicability of forum selection clauses, including ones that venue outside of the United States, or other contractual agreements that, if enforced, would prevent a party from fully participating in an agency proceeding in the past? How have other federal agencies with comparable processes and authorities treated such contractual agreements? Have federal courts held such agreements to be binding on federal agencies, or parties seeking relief before federal agencies, including the Commission? Has such treatment been uniform?
3. Do all of the alleged grounds for a violation of Section 337 in this investigation fall within the scope of the forum selection clause addressed in the ID? Do all of Complainant's allegations of trade secret misappropriation and tortious interference rely on the confidentiality agreement addressed in the ID? Are there any claims at issue in the present investigation that the parties could continue to litigate without implicating the forum selection clause in the confidentiality agreement addressed in the ID?

4. Other than the agreements discussed in the ID, are there any other agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation? Please identify any such agreements.
5. Were the parties in this investigation subject to any court orders that limited their ability to address the issues raised in Respondents' motion to terminate? Are the parties now subject to any court orders that limit their ability to respond to the Commission's questions or otherwise participate in this investigation? Please identify any such court orders and the extent of the limitations on the parties.

The parties are invited to brief only the discrete issues requested above. The parties are not to brief other issues on review, which are adequately presented in the parties' existing filings.

WRITTEN SUBMISSIONS: The parties to the investigation are requested to file written submissions on the issues identified in this notice. Initial written submissions from the private parties (Zync and BMW) must be filed no later than the close of business on **October 6, 2026**. An initial written submission from OUII must be filed no later than the close of business on **October 13, 2026**. Reply submissions from the private parties (Zync and BMW) must be filed no later than the close of business on **October 20, 2026**. A reply submission from OUII must be filed no later than the close of business on **October 27, 2026**. Opening submissions from the parties are limited to **50** pages. Reply submissions from the parties are limited to **30** pages.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above pursuant to 19 CFR 210.4(f). Submissions should refer to the investigation number (Inv. No. 337-TA-1493) in a prominent place on the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures*, https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.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 by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed with the Commission and served on any parties to the investigation within two business days of any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract

personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

The Commission vote for this determination took place on September 22, 2026.

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, cursive script.

Lisa R. Barton
Secretary to the Commission

Issued: September 23, 2026