

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN REPLACEMENT
AUTOMOTIVE LAMPS**

Investigation No. 337-TA-1291

**NOTICE OF THE COMMISSION'S FINAL DETERMINATION FINDING NO
VIOLATION OF SECTION 337; TERMINATION OF THE INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined that complainants Kia Corporation and Kia America, Inc. failed to demonstrate a violation of section 337 of the Tariff Act of 1930, as amended, by any of the named respondents in the above-captioned investigation. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5468. 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 (<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: On January 24, 2022, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), based on a complaint filed on behalf of complainants Kia Corporation of Seoul, Korea and Kia America, Inc. of Irvine, California (collectively, "Kia"). 87 FR 3584-85 (Jan. 24, 2022). The complaint, as supplemented and amended, alleges a violation of section 337 in the importation into the United States, the sale for importation, and the sale after importation within the United States after importation of certain replacement automotive lamps by reason of infringement of U.S. Design Patent Nos. D592,773 (the "773 patent"); D635,701 (the "701 patent"); D636,506 (the "506 patent"); D650,931 (the "931 patent"); D695,933 (the "933 patent"); D705,963 (the "963 patent"); D709,218 (the "218 patent"); D714,975 (the "975 patent"); D714,976 (the "976 patent"); D720,871 (the "871 patent"); D749,757 (the "757 patent"); D749,762 (the "762 patent"); D749,764 (the "764 patent"); D774,222 (the "222 patent"); D774,223 (the "223 patent"); D776,311 (the "311 patent"); D781,471 (the "471 patent"); D785,833 (the "833 patent"); D785,836 (the "836 patent"); and D792,989 (the "989 patent") (together, "Asserted Patents"). *Id.* at 3584. The notice of investigation names as

respondents TYC Brother Industrial Co., Ltd. of Tainan, Taiwan; Genera Corporation (dba TYC Genera) of Brea, California; LKQ Corporation of Chicago, Illinois; and Keystone Automotive Industries, Inc. of Exeter, Pennsylvania (together, “Respondents”). The Office of Unfair Import Investigations is not participating in this investigation.

On February 7, 2022, the Chief ALJ (“CALJ”) ordered an evidentiary hearing for both Inv. Nos. 337-TA-1291 and 337-TA-1292 on the economic prong pursuant to the Commission’s pilot program for interim initial determinations (“IID”). Order No. 6 (Feb. 7, 2022). The combined evidentiary hearing was held on April 20, 2022. On July 1, 2022, the CALJ issued an IID finding that Kia has satisfied the economic prong of the domestic industry requirement with respect to all of the asserted design patents. On August 24, 2022, the Commission determined to review the IID. Notice (Aug. 24, 2022). The investigation was reassigned to the presiding ALJ on July 6, 2022.

On January 24, 2023, the presiding ALJ issued a final initial determination (“Final ID”) finding a violation of section 337 by Respondents with respect to the ’773, ’701, ’506, ’931, ’933, ’218, ’975, ’976, ’871, ’762, ’764, ’222, ’223, ’311, ’833, ’836, and ’989 patents. Final ID at 1. The Final ID finds no violation with respect to the ’963, ’757, and ’471 patents based on noninfringement and failure to satisfy the technical prong of the domestic industry requirement. *Id.* at 1, 284-86. The Final ID also finds that no asserted patent is invalid as anticipated or obvious. *Id.* Concerning the economic prong of the domestic industry requirement, the Final ID reduced Kia’s alleged investments due to Kia’s failure to establish that certain of its alleged domestic industry products are representative of other alleged domestic industry products, but finds that the economic prong of domestic industry requirement is satisfied for all of the Asserted Patents. *Id.* at 33-37.

On February 6, 2023, Respondents filed a petition for review challenging the Final ID’s findings on the economic prong of the domestic industry requirement, infringement, and validity. Also on February 6, 2023, Kia filed a petition for review challenging the Final ID’s findings of noninfringement and contingently petitioning regarding the Final ID’s findings concerning non-satisfaction of the technical prong of the domestic industry requirement regarding the ’963, ’757, and ’471 patents. On February 14, 2023, Kia and Respondents filed responses to each other’s petitions.

On January 25, 2023, the Commission requested submissions regarding the public interest. 88 FR 5919-20 (Jan. 30, 2023). The Commission received submissions from Thomas Lee, Dennis Shiau, Peter Nguyen, John Chang, Raymond Tsai, Christopher Patti, Edward Salamy, Paul Tetrault, Clark Plucinski, Gay Gordon-Byrne, the Alliance for Automotive Innovation, and Gregory Cote. On February 23, 2023, the Commission also received submissions on the public interest from Respondents pursuant to Commission Rule 210.50(a)(4). 19 CFR 210.50(a)(4).

On May 11, 2023, the Commission determined to review the Final ID in its entirety and sought briefing from the parties on certain issues and briefing from the parties, interested government agencies, and the public concerning remedy, bonding, and the public interest. 88 FR 31520-22 (May 17, 2023). Kia and Respondents filed initial submissions on May 25, 2023, and reply submissions on June 1, 2023.

On June 15, 2023, Respondents moved to strike a declaration of Brian Sciumbato, who testified regarding the public interest factors.

Having examined the record of this investigation, including the IID, the Final ID, the petitions, responses, and other submissions from the parties and the public, the Commission has determined to vacate the IID and the Final ID's economic prong findings and find that Kia has failed to satisfy the economic prong of the domestic industry requirement with respect to any of the Asserted Patents. The Commission has further determined to take no position on the issues of infringement, satisfaction of the technical prong of the domestic industry requirement, and invalidity. The Commission also denies Respondents' motion to strike the Sciumbato declaration as moot.

The Commission's determinations are explained more fully in the accompanying Opinion. All other findings in the ID under review that are consistent with the Commission's determinations are affirmed. The investigation is hereby terminated.

Commissioner Schmidlein does not join the majority's opinion but agrees that Kia has failed to establish the economic prong of the domestic industry requirement for any of the Asserted Patents. She therefore agrees that there has been no violation of section 337 in this investigation. She explains her views in a concurring opinion.

The Commission vote for this determination took place on March 7, 2024.

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.



Lisa R. Barton
Secretary to the Commission

Issued: March 7, 2024