

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN PICK-UP TRUCK FOLDING
BED COVER SYSTEMS AND
COMPONENTS THEREOF (III)**

Investigation No. 337-TA-1353

**NOTICE OF A COMMISSION FINAL DETERMINATION OF VIOLATION OF
SECTION 337; ISSUANCE OF A GENERAL EXCLUSION ORDER AND TWO CEASE
AND DESIST ORDERS; 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 previously determined that there is a violation of section 337 of the Tariff Act of 1930, as amended, in the above-captioned investigation. The Commission has issued a general exclusion order (“GEO”) barring entry of certain pick-up truck folding bed cover systems and components thereof that infringe certain claims of two patents asserted in this investigation, and cease and desist orders (“CDOs”) against RDJ Trucks, LLC and Trek Power, Inc. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Esq., 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 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 on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on February 27, 2023, based on a complaint, as supplemented and amended, filed by Extang Corporation of Ann Arbor, Michigan (“Extang”); Laurmark Enterprises, Inc. d/b/a BAK Industries (“BAK”) of Ann Arbor, Michigan; and UnderCover, Inc. of Rogersville, Missouri (together, “Complainants”). 88 FR 12422-23 (Feb. 27, 2023). The complaint alleged 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 pick-up truck folding bed cover systems and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 7,188,888; 7,484,788 (“the ’788 patent”); 8,061,758 (“the ’758 patent”); 7,537,264; 8,182,021;

8,690,224; and 9,815,358. *Id.* at 12422. The Commission’s notice of investigation named 21 respondents: 4 Wheel Parts of Compton, California; American Trucks of Lenexa, Kansas; Auto Dynasty a/k/a Shun Fung Int’l Inc. of City of Industry, California; AUTOSTARLAND Technology (US), Inc. of Riverside, California; DNA Motoring of City of Industry, California; Fanciest Pickup Accessories of Riverside, California; Future Trucks a/k/a Future Trading Company, LLC of Houston, Texas; Ikon Motorsports, Inc. of City of Industry, California; Jiaxing Kscar Auto Accessories Co., Ltd. a/k/a KSC Auto of Pinghu City, China; Kiko Kikito of Ruian City, China; Lyon Cover Auto a/k/a Truck Tonneau Covers of Wenzhou City, China; Mamoru Cover, a/k/a Ningbo Surpass Auto Parts Co., Ltd. of Ningbo City, China; MOSTPLUS Auto of Hong Kong, China; Newpowa America, Inc. of Ontario, California; New Home Materials, Inc. of Riverside, California; OEDRO of Kent, Washington; Pickup Zone, a/k/a Dai Qun Feng of Riverside, California; RDJ Trucks, LLC of Talmo, Georgia (“RDJ”); Smittybilt, Inc. of Compton, California; Trek Power, Inc. of Placentia, California (“Trek”); and Wenzhou Tianmao Automobile Parts Co., Ltd. of Wenzhou, China. *Id.* The Office of Unfair Import Investigations (“OUII”) is participating in this investigation. *Id.*

The Commission subsequently granted leave to amend the complaint and notice of investigation to change the names of several respondents. Order No. 9 (May 4, 2023), *unreviewed by* Notice, *see* 88 FR 36615-16 (Jun. 5, 2023). Specifically, the Commission granted leave to change the names of: (1) respondents 4 Wheel Parts and Smittybilt, Inc. to TAP Worldwide, LLC d/b/a 4 Wheel Parts; (2) respondent MOSTPLUS Auto to Ultimate Motor Parts Limited; (3) respondent OEDRO to Hong Kong Yintatech Network Co., Ltd. a/k/a OEDRO; (4) respondent Ikon Motorsports, Inc. to Advance Tuning, LLC d/b/a Ikon Motorsports, Inc.; (5) respondents AUTOSTARLAND Technology (US), Inc. and Pickup Zone a/k/a Dai Qun Feng to Autostarland Technology (US), Inc. dba Pickup Zone; (6) respondent Mamoru Cover a/k/a Ningbo Surpass Auto Parts Co., Ltd. to Ningbo Surpass Auto Parts Co., Ltd.; (7) respondent American Trucks to American Trucks Inc. and Turn 5 d/b/a American Trucks; (8) respondent Kiko Kikito to Wenzhou Tianmao Automobile Parts Co., Ltd. DBA Kikito and Rui’an Yiming Trading Co. Ltd.; and (9) respondent Lyon Cover Auto a/k/a Truck Tonneau Covers to Wenzhou Tianmao Automobile Parts Co., Ltd. DBA Lyon Cover and Wenzhou Chaoming Auto Parts Co., Ltd.

The Commission also subsequently terminated certain respondents based on settlement and/or the entry of a consent order. Order No. 15 (Jun. 13, 2023), *unreviewed by* Notice (Jul. 11, 2023) (terminating TAP Worldwide, LLC d/b/a 4 Wheel Parts based on a settlement agreement); Order No. 17 (Jul. 11, 2023), *unreviewed by* Notice (Aug. 9, 2023) (terminating Advance Tuning, LLC d/b/a Ikon Motorsport, Inc. based on the entry of a consent order); Order No. 18 (Jul. 18, 2023), *unreviewed by* Notice (Aug. 16, 2023) (terminating American Trucks, Inc. and Turn 5 d/b/a American Trucks based on a settlement agreement); Order Nos. 22, 23, and 24 (Jul. 31, 2023), *unreviewed by* Notice (Aug. 28, 2023) (terminating Ningbo Surpass Auto Parts Co., Ltd., Newpowa America, Inc., and New Home Materials, Inc. based on settlement and entry of a consent order); Order Nos. 25 and 26 (Aug. 1, 2023), *unreviewed by* Notice (Aug. 30, 2023) (terminating Autostarland Technology (US), Inc. d/b/a Pickup Zone and Fanciest Pickup Accessories based on settlement and entry of a consent order); Order No. 27 (Aug. 21, 2023),

unreviewed by Notice (Sept. 19, 2023) (terminating Auto Dynasty a/k/a Shun Fung International Inc. based on settlement and entry of a consent order); Order No. 28 (Aug. 24, 2023), *unreviewed by* Corrected Notice (Sept. 20, 2023) (terminating DNA Motoring based on settlement and entry of a consent order); Order Nos. 29 and 30 (Aug. 25, 2023), *unreviewed by* Notice (Sept. 21, 2023) (terminating Wenzhou Tianmao Automobile Parts Co., Ltd., Wenzhou Tianmao Automobile Parts Co., Ltd. DBA Kikito, Rui'an Yiming Trading Co. Ltd., Wenzhou Tianmao Automobile Parts Co., Ltd. DBA Lyon Cover, Wenzhou Chaoming Auto Parts Co., Ltd., Jiaxing Kscar Auto Accessories Co. Ltd. a/k/a KSC Auto, Future Trucks a/k/a Future Trading Co., LLC, Ultimate Motor Parts Limited, and Hong Kong Yintatech Network Co., Ltd. based on settlement and entry of a consent order).

On August 22, 2023, the Commission found RDJ and Trek in default. Order No. 19 (Jul. 21, 2023), *unreviewed by* Notice (Aug. 22, 2023). On October 6, 2023, Extang and BAK (“Movants”) filed a motion for a summary determination of violation with respect to claims 2-4 of the ’758 patent and claims 1-3 of the ’788 patent, and requested the entry of a GEO, the entry of CDOs against RDJ and Trek, and the imposition of a bond rate of 100 percent of the entered value of infringing articles imported during the period of Presidential review. On October 27, 2023, OUII filed a response in support of the motion and the requested remedial relief.

On April 23, 2024, the ALJ issued an initial determination (Order No. 33) (“ID”) granting the Movants’ motion for summary determination of violation and included a recommended determination on remedy and bond (“RD”) recommending issuance of a GEO, the issuance of CDOs against RDJ and Trek, and the imposition of a bond in the amount of 100 percent of the entered value of infringing products during the period of Presidential review. Specifically, the ID finds that: 1) the importation requirement is satisfied; 2) all of the remaining asserted claims are infringed by RDJ’s and Trek’s products; and 3) Movants have satisfied the domestic industry requirement with respect to the ’758 and ’788 patents. In support of its recommendation for issuance of a GEO, the RD finds that: 1) a GEO is necessary in this investigation to prevent circumvention of a limited exclusion order and 2) the record shows a pattern of violation of section 337 through importation of articles that infringe the ’758 and ’788 patents, and the source of those infringing articles is difficult to identify. No party petitioned for review of the ID.

On June 7, 2024, the Commission determined not to review the ID and sought briefing on remedy, the public interest, and bonding. 89 FR 50370-72 (Jun. 13, 2024). On June 21, 2024, the Commission received initial responses from the Movants and OUII. On June 24, 2024, the Commission received a response from non-party Rough Country LLC. On June 28, 2024, the Commission received reply responses from OUII.

Having reviewed the written submissions and the evidentiary record, the Commission has determined that the appropriate remedy in this investigation is a GEO prohibiting the unlicensed importation of certain pick-up truck folding bed cover systems and components thereof that infringe claims 2-4 of the ’758 patent and claims 1-3 of the ’788 patent and CDOs against RDJ and Trek with respect to those claims. The Commission has further determined that the public

interest factors enumerated in section 337(d), (f), and (g) (19 U.S.C. 1337(d), (f), and (g)) do not preclude issuance of the GEO or CDOs. Finally, the Commission has determined to impose a bond in the amount of one hundred (100) percent of the entered value of the infringing articles that are imported during the period of Presidential review (19 U.S.C. 1337(j)). The investigation is hereby terminated in its entirety.

The Commission's order and opinion were delivered to the President and to the United States Trade Representative on the day of their issuance. The Commission has also notified the Secretary of the Treasury and Customs and Border Protection of the order.

The Commission vote for these determinations took place on September 19, 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.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', enclosed within a large, loopy oval flourish.

Lisa R. Barton
Secretary to the Commission

Issued: September 19, 2024