

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

In the Matter of)
)
)

**CERTAIN AUTOMOTIVE MEASURING DEVICES,
PRODUCTS CONTAINING SAME, AND
BEZELS FOR SUCH DEVICES**)
)
)

Inv. No. 337-TA-494

**NOTICE OF COMMISSION DETERMINATION TO REVIEW IN PART AND ON
REVIEW TO MODIFY ADMINISTRATIVE LAW JUDGE ORDER NO. 41;
COMMISSION DETERMINATION NOT TO REVIEW ADMINISTRATIVE LAW
JUDGE ORDER NO. 42; TERMINATION OF THE INVESTIGATION AS TO
RESPONDENT GSN AUTOMOTIVE, INC., ON THE BASIS OF A SETTLEMENT
AGREEMENT AND CONSENT ORDER; ISSUANCE OF CONSENT ORDER;
TERMINATION OF THE INVESTIGATION IN ITS ENTIRETY; SCHEDULE FOR
WRITTEN SUBMISSIONS ON REMEDY, THE PUBLIC INTEREST, AND BONDING
REGARDING THE RESPONDENTS
FOUND IN DEFAULT**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part ALJ Order No 41. Order No. 41 denied complainant's motion for summary determination with respect to domestic industry, injury, and violation of section 337 and its request for recommendations concerning remedy, public interest, and bonding. On review, the Commission has determined to modify Order No. 41 by declining to adopt the ALJ's comments concerning Commission rules 210.42(a)(1)(i) and (ii), which comments are unnecessary to support the denial of complainant's motion. The Commission has further determined not to review Order No. 42, which terminated the investigation as to respondent GSN Automotive, Inc. ("GSN") on the basis of a settlement agreement and consent order, as well as terminated the investigation in its entirety. The Commission also determined to call for written submissions on the issues of remedy, the public interest, and bonding regarding the respondents that have been found in default.

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 the public version of the IDs and all nonconfidential 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. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<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>.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 20, 2003, based on a complaint filed by Auto Meter Products, Inc. (“Auto Meter”) of Sycamore, Illinois. 68 *Fed. Reg.* 37023. The complaint alleged violations of section 337 of the Tariff Act of 1930 in the importation and sale of certain automotive measuring devices, products containing same, and bezels for such devices, by reason of infringement of U.S. Registered Trademark Nos. 1,732,643 and 1,497,472, and U.S. Supplemental Register No. 1,903,908, and infringement of the complainant’s trade dress. The complaint alleged that twelve respondents violated section 337. Subsequently, seven more firms were added as respondents

On August 18, 2004, Auto Meter filed a paper styled “Motion For Summary Determination With Respect To Domestic Industry, Injury, and Violation of Section 337 and Request For Recommendations Concerning Remedy, Public Interest, And Bonding.” The motion requested that the ALJ recommend the issuance of a general exclusion order. At the time that the motion was filed, five of the nineteen respondents in this investigation had defaulted, *viz.* : Tenzo R, dba Autotech Systems and Accessories, of Santa Clarita, California ; Auto Gauge (Taiwan) Co., Ltd., of Taipei, Taiwan; Dynamik Exhaust Industry Co., Ltd., of Taipei, Taiwan; Modern Work, Inc., of Taipei, Taiwan, and LPL Trans Trade Co. of Taipei, Taiwan (collectively, “defaulted respondents”). All but one of the remaining respondents had settled with Auto Meter on the basis of consent orders and/or settlement agreements at the time that Auto Meter filed its motion for summary determination and request for recommendations. On August 25, 2004, complainant and the remaining respondent GSN filed a joint motion to terminate the investigation as to GSN based on a settlement agreement and consent order.

On September 15, 2004, the presiding administrative law judge (ALJ) issued Order Nos. 41 and 42. Order No. 41 denied complainant’s motion for summary determination with respect to domestic industry, injury and violation of section 337 and denied complainant’s request for recommendations concerning remedy, the public interest and bonding. In denying complainant’s motion for summary determination the ALJ relied on his finding that complainant’s motion was untimely under Commission rule 210.18(a). Order No. 42 terminated the investigation both as to respondent GSN on the basis of a settlement agreement and consent order, and in its entirety.

On September 27, 2004, Auto Meter filed a petition for review of the subject orders. On October 7, 2004, the Commission investigative attorneys (IAs) filed their response opposing Auto Meter’s petition. On October 15, 2004, Auto Meter filed a motion for leave to reply to the IAs’ response. On October 25, 2004, the IAs filed a motion for leave to file a surreply.

The Commission has determined to review in part the ALJ's Order No. 41 and to modify the Order by declining to adopt the Order's comments concerning Commission rules 210.42(a)(1)(i) and (ii), comments which the Commission finds unnecessary to support the ALJ's determination to deny complainant's motion for summary determination. The Commission has also determined to deny Auto Meter's motion for leave to file a reply to the IAs' response and the IAs' motion to file a surreply.

In connection with the final disposition of this investigation in regard to the defaulted respondents, the Commission may issue orders that could result in the exclusion of articles from entry into the United States, and/or issue cease and desist orders that could result in the defaulted 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, it 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 *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

When the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider in this investigation include the effect that an exclusion order 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 President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a 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.

WRITTEN SUBMISSIONS: The parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on remedy, the public interest, and bonding. Complainant and the Commission's investigative attorneys are also requested to submit proposed orders for the Commission's consideration. The written submissions and proposed orders must be filed no later than close of business on November 12, 2004. Reply submissions, if any, must be filed no later than the close of business on November 19, 2004. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file with the Office of the Secretary the original

document and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons that the Commission should grant such treatment. *See* section 201.6 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

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 sections 210.16, 210.42, 210.43, 210.45 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.16, 210.42, 210.43, 210.45).

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: November 1, 2004