

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

In the Matter of	)	
	)	
CERTAIN MAGNIFYING LOUPE	)	Inv. No. 337-TA-611
PRODUCTS AND COMPONENTS THEREOF	)	
	)	
	)	
	)	

**NOTICE OF COMMISSION DECISION NOT TO REVIEW AN INITIAL DETERMINATION FINDING THE SOLE REMAINING RESPONDENT IN DEFAULT; REQUEST FOR WRITTEN SUBMISSIONS ON REMEDY, THE PUBLIC INTEREST, AND BONDING**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 10) issued by the presiding administrative law judge (“ALJ”) finding the last remaining respondent in this investigation in default. Accordingly, the Commission requests written submissions, according to the schedule set forth below, on remedy, public interest, and bonding with respect to the respondent in default.

**FOR FURTHER INFORMATION CONTACT:** Jonathan J. Engler, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-3112. Copies of the public version of the ID 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:** This investigation was initiated on August 1, 2007, based on a complaint filed by General Scientific Corporation (“GSC”) of Ann Arbor, Michigan. *72 Fed. Reg.* 42111 (Aug. 1, 2007). 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 magnifying loupe products and components thereof by reason of infringement of claim 8 of U.S. Patent No. 5,446,507, claim 1 of U.S. Patent No. 6,513,929, or claims 1-5 or 10 of U.S. Patent No. 6,704,141. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337. The complainant requested that the Commission issue a general exclusion order and cease and desist orders. The complaint named SheerVision (“SheerVision”), of Rolling Hills Estates, California, as well as Nanjing JinJiahe I/E Co. (“Nanjing”), of Jiangsu, China, as respondents.

On January 28, 2008, GSC and respondent SheerVision jointly moved to terminate this investigation with respect to SheerVision based on a settlement agreement and a proposed consent order. On February 8, 2008, the ALJ issued an ID (Order No. 8) granting the motion to terminate. The ALJ found no indication that termination of the investigation of SheerVision on the basis of the settlement agreement and consent order would adversely affect the public interest, and that the procedural requirements for terminating the investigation had been met. No petitions for review were filed. The Commission determined not to review the ID.

On March 10, 2008, GSC filed a motion requesting an order directing respondent Nanjing to show cause why it should not be found in default for failure to respond to the complaint and Notice of Investigation. On March 21, 2008, the ALJ issued Order No. 9, which ordered Nanjing to show cause by April 4, 2008 why it should not be found in default. No response to Order No. 9 was filed.

On April 25, 2008, the ALJ issued the subject ID, Order No. 10, granting GSC's motion because Nanjing did not respond to Order No. 9. No petitions for review were filed. The Commission has determined not to review the subject ID.

Nanjing was the last remaining respondent in this investigation. The investigation has been terminated with respect to the only other respondent based on a settlement agreement and consent order.

Section 337(g)(1) and Commission Rule 210.16(c) authorize the Commission to order relief against a respondent found in default unless, after consideration of the public-interest factors, it finds that such relief should not issue. GSC did not file a declaration stating that it was seeking a general exclusion order as provided in Commission Rule 210.16(c).

In conjunction with the final disposition of this investigation, therefore, the Commission may: (1) issue an order that could result in the exclusion of articles manufactured or imported by the defaulting respondent; and/or (2) issue a cease and desist order that could result in the defaulting respondent 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, the party 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).

If 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 include the effect that an exclusion order and/or cease and desist orders 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 U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. See Presidential Memorandum of July 21, 2005, 70 *Fed. Reg.* 43251 (July 26, 2005). During

this period, the subject articles would be entitled to enter the United States under 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 if a remedy is ordered.

**WRITTEN SUBMISSIONS:** The parties to the investigation, interested government agencies, and any other interested parties, are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. Complainant is further requested to state the dates that the patents expire and the HTSUS numbers under which the accused products are imported. The written submissions and proposed remedial orders must be filed no later than close of business on May 30, 2008. Reply submissions must be filed no later than the close of business on June 9, 2008. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof with the Office of the Secretary on or before the aforementioned deadlines. Any person desiring to submit a document 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 why the Commission should grant such treatment. See 19 C.F.R. § 210.6. 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 section 210.16 and 210.42-46 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.16; 210.42-46).

By order of the Commission.

/s/  
Marilyn R. Abbott  
Secretary to the Commission

Issued: May 16, 2008