

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

In the Matter of

**CERTAIN STARTER MOTORS AND
ALTERNATORS**

Investigation No. 337-TA-755

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION TERMINATING THE INVESTIGATION AS TO THE LAST
REMAINING RESPONDENT; REQUEST FOR WRITTEN SUBMISSIONS ON
REMEDY, THE PUBLIC INTEREST, AND BONDING WITH RESPECT TO A
RESPONDENT 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 not to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 52) granting a joint motion to terminate the investigation as to respondent Electric Motor Service, Inc. (EMS) of Logan, West Virginia. The Commission is also requesting written submissions concerning a remedy against a defaulted respondent.

FOR FURTHER INFORMATION CONTACT: Jean H. Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3104. Copies of non-confidential 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. General information concerning the Commission may also be obtained by accessing its Internet server at <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>. 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 January 19, 2011, based on a complaint filed by Remy International, Inc. and Remy Technologies, L.L.C. both of Pendleton, Indiana (collectively, "Remy"). 76 Fed. Reg. 3158 (Jan. 19, 2011). The complaint alleges violations of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain starter motors and alternators that by reason of infringement of certain claims of U.S. Patent Nos. 5,105,114 ("the '114 patent"); 5,252,878 ("the '878 patent"); 5,268,605 ("the '605 patent"); 5,295,404 ("the '404 patent"); 5,307,700 ("the '700

patent); 5,315,195 (“the ‘195 patent); and 5,453,648 (“the ‘648 patent”). On May 13, 2011, the Commission determined not to review an ID granting Remy’s motion to amend the complaint and notice of investigation to add two additional respondents. Notice (May 13, 2011). The notice of investigation, as amended, names ten respondents.

On June 30, 2011, the Commission terminated the investigation as to the ‘114 patent. Notice (June 30, 2011). On the same date, the Commission terminated Wuxi Susan Auto Parts Company of Wuxi City, China from the investigation based on a settlement agreement. Notice (June 30, 2011). On July 18, 2011, the Commission terminated Yun Shen U.S.A., Inc. of San Francisco, California based on a settlement agreement. Notice (July 18, 2011). On July 28, 2011, the Commission terminated Linhai Yonggei of Linhai City, China based on a settlement agreement. Notice (July 28, 2011).

On August 27, 2011, the Commission terminated Yongkang Boyu Auto Motor Company of Yongkang, China based on a consent order. Notice (Aug. 27, 2011). On October 27, 2011, the Commission terminated the investigation in part as to respondent Wetherill Associates, Inc. d/b/a WAI Global of Fort Lauderdale, Florida (“Wetherill”) based on a consent order that is limited to the ‘605, ‘404, ‘700 and ‘648 patents, and that excludes the ‘878 and ‘195 patents. Notice (Oct. 27, 2011). On December 2, 2011, the Commission terminated the investigation as to respondent Metric Sales & Engineering, Inc. of Northfield, Illinois based on a consent order. Notice (Dec. 2, 2011). On December 29, 2011, the Commission terminated the investigation as to respondent Wan Li Industrial Development, Inc. of South El Monte, California based on a settlement agreement. Notice (Dec. 29, 2011). Also on December 29, 2011, the Commission terminated the investigation as to Wetherill based on a settlement agreement. Notice (Dec. 29, 2011).

On January 14, 2012, the Commission found respondent American Automotive Parts, Inc. (AAP) of Niles, Illinois in default. Notice (Jan. 12, 2012). On January 24, 2012, the Commission terminated the investigation as to respondent Motorcar Parts of America, Inc. of Torrance, California based on a settlement agreement. Notice (Jan. 24, 2012).

On January 20, 2012, the ALJ issued the subject ID, granting a joint motion by Remy and EMS to terminate EMS based on a settlement agreement. The Commission investigative attorney supported the motion. The ALJ found that the motion was in compliance with Commission rule 210.21(b)(1), 19 C.F.R. § 210.21(b)(1) and that termination of the investigation as to EMS presented no public interest concerns under Commission rule 210.50(b)(2), 19 C.F.R. § 210.50(b)(2). No petitions for review of this ID were filed. The Commission has determined not to review the ID.

Section 337(g)(1) (19 U.S.C. § 1337(g)(1)) and Commission Rule 210.16(c) (19 C.F.R. § 210.16(c)) authorize the Commission to order limited relief against a respondent found in default, unless after consideration of the public interest factors, it finds that such relief should not issue. The Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the 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 against AAP. 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 are either adversely affecting it or likely to do so. For background, see *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 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 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 investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. Complainant is requested to state the dates that the patents at issue 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 March 2, 2012. Reply submissions must be filed no later than the close of business on March 9, 2012. 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 8 true copies thereof on or before the deadlines stated above with the Office of the Secretary. 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 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 sections 210.16, 210.42, and 210.50 of the Commission's Rules of Practice and Procedure, 19 C.F.R. §§ 210.16, 210.42, and 210.50.

By order of the Commission.



James R. Holbein
Secretary to the Commission

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