

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

CERTAIN DIGITAL PHOTO FRAMES
AND IMAGE DISPLAY DEVICES AND
COMPONENTS THEREOF

Investigation No. 337-TA-807

**NOTICE OF REQUEST FOR ADDITIONAL WRITTEN SUBMISSIONS ON REMEDY
AND BONDING FROM COMPLAINANT TECHNICAL PROPERTIES LIMITED, LLC**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission is requesting additional written submissions on remedy and bonding from complainant Technical Properties Limited, LLC of Cupertino, California with respect to TPL's requested relief against defaulting respondent Aiptek International Inc. ("Aiptek") of Hsinchu, Taiwan.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2310. 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 September 27, 2011, based on a complaint filed by TPL. *76 Fed. Reg.* 59737-38. The complaint alleges a violation of section 337 of the Tariff Act of 1930, as amended, 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 digital photo frames and image display devices and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 6,976,623; 7,162,549; 7,295,443; and 7,522,424. The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named twenty respondents including Aiptek. The

complaint and notice of investigation were served on Aiptek on September 22, 2011. Aiptek failed to respond to the complaint and notice of investigation.

The presiding administrative law judge (“ALJ”) issued an initial determination (“ID”) on December 22, 2011, finding Aiptek in default, pursuant to 19 C.F.R. §§ 210.13 and 210.16, because respondent did not respond to the complaint and notice of investigation, or to the ALJ’s order to show cause. On January 9, 2012, the Commission issued notice of its determination not to review the ID finding Aiptek in default.

On March 8, 2012, complainant TPL filed a declaration requesting immediate relief against the defaulting respondent Aiptek under Commission rule 210.16(c)(1), 19 C.F.R. § 210.16(c)(1). The submitted declaration included proposed remedial orders for the Commission’s consideration. On April 9, 2012, the Commission issued a Notice that requested briefing on remedy, the public interest, and bonding with respect to the respondent found in default. *77 Fed. Reg.* 21994-95 (April 12, 2012).

TPL submitted briefing responsive to the Commission’s request on April 23, 2012. TPL requested a limited exclusion order and a cease and desist order directed to Aiptek’s infringing products. No other responses were received.

The Commission requests additional briefing from TPL addressing the following issues:

- (1) In light of the fact that the non-defaulting respondents that remain in the investigation have contested the validity and/or enforceability of the patents asserted against defaulting respondent Aiptek, what special circumstances (if any) warrant granting exclusionary relief as to Aiptek at this stage of the investigation? *See* Proposed Final Rules Governing Investigations and Enforcement Procedures Pertaining to Unfair Practices in Import Trade, *57 Fed. Reg.* 52830, 52837 (Nov. 5, 1992); Final Rules Governing Investigations and Enforcement Procedures Pertaining to Unfair Practices in Import Trade, *59 Fed. Reg.* 39020, 39026 (Aug. 1, 1994) (both notices including comments noting that the Commission has discretion to grant relief as to a defaulting respondent before the completion of the investigation upon a showing of special circumstances).
- (2) What evidence (if any) warrants granting a cease and desist order (“CDO”) directed against defaulting foreign respondent Aiptek? *E.g.*, is there evidence to suggest that Aiptek maintains a commercially significant inventory of accused products in the United States or otherwise has significant domestic ties sufficient to warrant imposition of a CDO as to this foreign respondent? *See, e.g., Certain Agricultural Tractors, Lawn Tractors, Riding Lawnmowers, and Components Thereof*, Inv. No. 337-TA-486, Comm’n Op. at 17 (Aug. 19, 2003).

- (3) What evidence does Complainant rely upon to meet its burden to show a particular non-zero bond amount is warranted as to Aiptek? *See Certain Rubber Antidegradants, Components Thereof, and Products Containing Same*, Inv. No. 337-TA-533, Comm'n Op. at 39-40 (July 21, 2006) (holding complainant has the burden to prove a non-zero bond amount is warranted, e.g., based on price differentials or a reasonable royalty rate); Order Nos. 9, 12, 16, 18-20, 23, 28 of the 807 investigation (potentially providing a basis for establishing a bond amount based on established royalty rates for the asserted patents).

WRITTEN SUBMISSIONS: The written submissions must be filed no later than close of business on August 10, 2012.

Persons filing written submissions must do so in accordance with Commission rule 210.4(f), 19 C.F.R. § 210.4(f) which requires electronic filing. The original document and 8 true copies thereof must also be filed 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(c)(1) and 210.50 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.16(c)(1) and 210.50).

By order of the Commission.



Lisa R. Barton
Acting Secretary to the Commission

Issued: July 27, 2012