

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN AUTOMOTIVE FUEL CAPS
AND COMPONENTS THEREOF**

Inv. No. 337-TA-532

ORDER

The Commission instituted this investigation based on a complaint filed by Stant Manufacturing, Inc. of Connersville, Indiana (“Stant”). *See 70 Fed. Reg.* 12239 (Mar. 11, 2005). The complaint alleged 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 in the United States after importation of certain automotive fuel caps and components thereof due to infringement of United States Patent Nos. 5,449,086, 5,794,806, 5,480,055, and 4,678,097. The complaint named five respondents, including Gerdes GmbH, of Germany, Gerdes BVBA, of Belgium, Theodor Gerdes, Ralf Gerdes, and Monika Gerdes, all of Germany (collectively, “Gerdes”).

On May 16, 2005, Stant filed a motion to terminate the investigation based on the withdrawal of its complaint. Gerdes opposed Stant’s motion. On June 10, 2005, the Administrative Law Judge (“ALJ”) granted Stant’s motion to terminate the investigation based on withdrawal of the complaint. Gerdes petitioned the Commission for review of the ALJ’s decision and, on July 6, 2005, the Commission declined to review the ALJ’s initial determination and terminated the investigation. *70 Fed. Reg.* 40057 (July 12, 2005).

On August 31, 2005, Gerdes filed a notice of appeal and a petition for a writ of mandamus with the Federal Circuit challenging the Commission’s decision to terminate the investigation and,

concurrently, filed with the Commission a Petition to Stay the Termination of the Investigation Pending Review by the Court of Appeals for the Federal Circuit. On September 12, 2005, Stant filed an opposition to Gerdes's petition to stay. The Commission's investigative attorney ("IA") also filed a response to Gerdes's petition on September 12, 2005.

Having examined respondents' petition, complainant's opposition, and the IA's response, the Commission declines to grant a stay of its termination of the investigation pending review by the Federal Circuit. Respondents have failed to demonstrate, pursuant to 5 U.S.C. § 705, that there is an admittedly difficult legal question at issue, that they will suffer irreparable harm absent a stay, or that a balance of the equities or the public interest favor granting their petition for a stay. *See Certain Agric. Tractors Under 50 Power Take-Off Horsepower*, Inv. No. 337-TA-380, Comm'n Op. (Apr. 24, 1997).

Accordingly, the Commission hereby **ORDERS** that:

1. Respondents' Petition to Stay the Termination of the Investigation Pending Review by the Court of Appeals for the Federal Circuit is denied.
2. The Secretary shall serve copies of this Order upon each party of record in this investigation.

By Order of the Commission.

/s/
Marilyn R. Abbott
Secretary to the Commission

Issued: October 3, 2005