

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

In the Matter of

CERTAIN COMPACT DISC AND DVD HOLDERS

Inv. No. 337-TA-482

**NOTICE OF COMMISSION DECISION NOT TO REVIEW AN INITIAL
DETERMINATION FINDING THE TWO REMAINING RESPONDENTS IN DEFAULT,
AND REQUEST FOR 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 (“the Commission”) has determined not to review the presiding administrative law judge’s (“ALJ’s”) initial determination (“ID”) finding respondents Wah-De Electron Co., Ltd (“Wah-De”) and Dragon Star Magnetics, Inc. (“Dragon Star”) in default. In connection with final disposition of the investigation, the Commission is requesting briefing on remedy, the public interest, and the appropriate bond during the period of Presidential review.

FOR FURTHER INFORMATION CONTACT: Andrea C. Casson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3105. Copies of the ALJ’s ID and all other 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-ON-LINE) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on October 22, 2002, based on a complaint filed by DuBois Limited of the United Kingdom (“DuBois”) against eight respondents, including Wah-De and Dragon Star. The complaint alleged violations of section 337 of the Tariff Act of 1930 in the importation, sale for importation, or sale within the United States after importation of certain compact discs and DVD holders by reason of infringement of U.S. Design Patent No. D441,212. In previously-issued IDs (Orders Nos. 10 and 11), which the Commission determined not to review, the ALJ terminated the

investigation as to the other six respondents in the investigation.

Neither Wah-De nor Dragon Star filed responses to the complaint, the notice of investigation, the ALJ's discovery order or the discovery requests from DuBois and the Commission investigative attorney (IA). On February 12, 2003, DuBois moved pursuant to section 337(g) and Commission rule 210.16(b) for issuance of an order directing those respondents to show cause why they should not be found in default. DuBois' motion also requested that, upon their failure to show cause, an ID be issued finding Wah-De and Dragon Star in default, and that a limited exclusion order be entered immediately against those respondents. On March 7, 2003, the IA filed a response supporting the request for a show cause order, and the entry of default findings if Wah-De and Dragon Star failed to respond to an order to show cause. On March 7, 2003, the ALJ issued Order No. 12, which ordered Wah-De and Dragon Star to show cause by March 18, 2003, why they should not be found in default. Wah-De and Dragon Star did not respond to the order to show cause. On March 21, 2003, the ALJ issued the subject ID finding Wah-De and Dragon Star in default. No petitions for review of the ID were filed.

Under Commission rule 210.16(b)(3), 19 C.F.R. § 210.16(b)(3), Wah-De and Dragon Star are deemed to have waived their right to appear, to be served with documents, and to contest the allegations at issue in this investigation. 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 public interest factors, it finds that such relief should not issue. In this investigation, Wah-De and Dragon Star have been found in default and DuBois has requested issuance of a limited exclusion order that would deny entry to certain compact disc and DVD holders imported by Wah-De and Dragon Star. If the Commission decides to issue a limited exclusion order against Wah-De and Dragon Star, it must consider what the amount of the bond should be during the Presidential review period.

In connection with the final disposition of this investigation, the only potential remedy is the issuance of a limited exclusion order that could result in the exclusion from entry into the United States of certain compact disc and DVD holders imported by Wah-De and Dragon Star. Accordingly, the Commission is interested in receiving written submissions that address whether such an order should be issued against either or both respondents. 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 *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 a remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that a remedial 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 issues a limited exclusion order against Wah-De and/or Dragon Star, 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 bonds 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 bonds 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 investigative attorney are also requested to submit a proposed limited exclusion order for the Commission's consideration. The written submissions and proposed limited exclusion order must be filed no later than close of business on [the date that is two weeks after publication of this notice in the Federal Register]. Reply submissions, if any, must be filed no later than the close of business on [the date that is three weeks after publication of this notice in the Federal Register]. 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 why 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.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, and sections 210.16 and 210.42 of the Commission's Rules of Practice and Procedure, 19 C.F.R. §§ 210.16 and 210.42.

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: April 16, 2003