

In the Matter of

**CERTAIN KEY BLANKS FOR
KEYS OF HIGH SECURITY
CYLINDER LOCKS**

Investigation No. 337-TA-308
(Commission Decision of
August 23, 1990)

USITC PUBLICATION 2418

AUGUST 1991

**United States International Trade Commission
Washington, DC 20436**



UNITED STATES INTERNATIONAL TRADE COMMISSION

COMMISSIONERS

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Don E. Newquist

**Address all communications to
Kenneth R. Mason, Secretary to the Commission
United States International Trade Commission
Washington, DC 20436**

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

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U.S. INT'L TRADE COMMISSION

In the Matter of)
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CERTAIN KEY BLANKS FOR KEYS OF) Investigation No. 337-TA-308
HIGH SECURITY CYLINDER LOCKS)
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NOTICE OF DECISION NOT TO REVIEW AN INITIAL DETERMINATION
FINDING RESPONDENT SCOBEE ENTERPRISES, LTD. IN DEFAULT;
ISSUANCE OF LIMITED EXCLUSION ORDER

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. 11) issued on July 26, 1990, by the presiding administrative law judge (ALJ) in the above-captioned investigation finding respondent Scobee Enterprises, Ltd. in default and has issued a limited exclusion order in the investigation.

FOR FURTHER INFORMATION CONTACT: Marc A. Bernstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-252-1087.

SUPPLEMENTARY INFORMATION: The authority for the Commission's determinations is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), as amended by the Omnibus Trade and Competitiveness Act of 1988, Pub. L. 100-418 (Aug. 23, 1988), and in sections 210.25(c), 210.53, and 210.58 of the Commission's Interim Rules of Practice and Procedure (19 C.F.R. 210.25(c), 210.53, 210.58.)

On October 26, 1989, Medeco Security Locks, Inc. ("Medeco") filed a complaint with the Commission alleging violations of section 337 in the importation and sale of certain key blanks for keys of high security cylinder locks. The complaint alleged induced and contributory infringement of claims 4, 5, 17, 18, and 19 of U.S. Letters Patent 4,635,455 and claims 1, 2, and 3 of U.S. Letters Patent 4,732,022, both owned by Medeco.

The Commission instituted an investigation into the allegations of Medeco's complaint and published a notice of investigation in the Federal Register. 55 F.R. 49119 (Nov. 29, 1989). The notice named Action Security Products, Inc. ("ASP") of Ventura, California as respondent. Subsequently, the ALJ issued an ID amending the notice of investigation to add as respondents: (1) Scobee Enterprises, Ltd. ("Scobee") of Vancouver, B.C., Canada, and (2) Korea Trading International, Inc. ("KTI") of Seoul, Korea. The Commission determined not to review the ID, which then became the determination of the Commission. 55 F.R. 14490 (April 18, 1990).

The investigation has been terminated as to respondents ASP and KTI on the basis of consent orders.

On July 26, 1990, the ALJ issued an ID finding Scobee in default. No persons filed petitions for review of the ID and no government agencies submitted comments. The Commission determined not to review that ID.

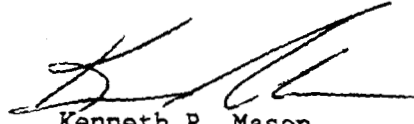
The ID of July 26, 1990, additionally instructed complainant Medeco to file a declaration with the Secretary pursuant to section 210.24(c) of the Commission's interim rules, 19 C.F.R. 210.24(c), setting forth the type of relief that it seeks. On August 2, 1990, Medeco declared that pursuant to interim rule 210.25(c), 19 C.F.R. 210.25(c), it sought a limited exclusion order directed against respondent Scobee.

Section 337(g)(1) of the Tariff Act of 1930 as amended, 19 U.S.C. 1337(g)(1), provides that the Commission shall presume the facts alleged in a complaint to be true, and, upon request, issue a limited exclusion order and/or cease and desist order if: (1) a complaint is filed against a person under section 337, (2) the complaint and a notice of investigation are served on the person, (3) the person fails to respond to the complaint and notice or otherwise fails to appear to answer the complaint and notice, (4) the person fails to show good cause why it should not be found in default, and (5) the complainant seeks relief limited solely to that person. Such an order shall be issued unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, the Commission finds that such exclusion should not be issued.

Each of the statutory requirements for the issuance of a limited exclusion order has been met with respect to defaulting respondent Scobee. The Commission has further determined that the public interest factors enumerated in section 337(g)(1) do not preclude the issuance of such relief. The Commission has established that bond under the limited exclusion order during the Presidential review period shall be in the amount of one hundred (100) percent of the entered value of the imported articles.

Copies of the ID, the limited exclusion order, and all other nonconfidential documents filed in connection with this investigation are 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 202-252-1000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'K. R. Mason', written over a horizontal line.

Kenneth R. Mason
Secretary

Issued: August 23, 1990

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

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In the Matter of))
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CERTAIN KEY BLANKS FOR KEYS OF) Investigation No. 337-TA-308
HIGH SECURITY CYLINDER LOCKS))
_____))

ORDER

On October 26, 1989, Medeco Security Locks, Inc. ("Medeco") filed a complaint with the Commission alleging violations of section 337 of the Tariff Act of 1930 as amended (19 U.S.C. § 1337) in the importation and sale of certain key blanks for keys of high security cylinder locks. The complaint alleged induced infringement and contributing to infringement of claims 4, 5, 17, 18, and 19 of U.S. Letters Patent 4,635,455 and claims 1, 2, and 3 of U.S. Letters Patent 4,732,022, both owned by Medeco.

The Commission instituted an investigation into the allegations of Medeco's complaint and published a notice of investigation in the Federal Register. 55 F.R. 49119 (Nov. 29, 1989). The notice named Action Security Products, Inc. ("ASP") of Ventura, California as respondent. Subsequently, the presiding administrative law judge (ALJ) issued an initial determination (ID) amending the notice of investigation to add as respondents: (1) Scobee Enterprises, Ltd. ("Scobee") of Vancouver, B.C., Canada, and (2) Korea Trading International, Inc. ("KTI") of Seoul, Korea. The Commission determined not to review the ID, which then became the determination of the Commission. 55 F.R. 14490 (April 18, 1990).

The investigation has been terminated as to respondents ASP and KTI on the basis of consent orders.

On July 26, 1990, the ALJ issued an ID finding Scobee in default. The

Commission has determined not to review that ID.

The ID of July 26, 1990, additionally instructed complainant Medeco to file a declaration with the Secretary pursuant to section 210.24(c) of the Commission's interim rules, 19 C.F.R § 210.24(c), setting forth the type of relief that it seeks. On August 2, 1990, Medeco declared that pursuant to interim rule 210.25(c), 19 C.F.R. § 210.25(c), it sought a limited exclusion order directed against respondent Scobee.

Section 337(g)(1) of the Tariff Act of 1930 as amended (19 U.S.C. § 1337(g)(1)) provides that the Commission shall presume the facts alleged in a complaint to be true, and, upon request, issue a limited exclusion order and/or cease and desist order if: (1) a complaint is filed against a person under section 337, (2) the complaint and a notice of investigation are served on the person, (3) the person fails to respond to the complaint and notice or otherwise fails to appear to answer the complaint and notice, (4) the person fails to show good cause why it should not be found in default, and (5) the complainant seeks relief limited solely to that person. Such an order shall be issued unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, the Commission finds that such exclusion should not be issued.

Each of the statutory requirements for the issuance of a limited exclusion order has been met with respect to defaulting respondent Scobee. The Commission has further determined that the public interest factors enumerated in section 337(g)(1) do not preclude the issuance of such relief. The Commission has determined that the bond under the limited exclusion order

during the Presidential review period shall be in the amount of one hundred (100) percent of the entered value of the imported articles.

Accordingly, it is hereby **ORDERED THAT** --

1. Key blanks for keys of high security cylinder locks manufactured abroad by or for Scobee Enterprises Ltd. of Vancouver, B.C., Canada or any of its affiliated companies, parents, subsidiaries, licensees, contractors, or other related entities, or their successors or assigns, that can be cut to form keys which infringe claims 4, 5, 17, 18, or 19 of U.S. Letters Patent 4,635,455 or claims 1, 2, or 3 of U.S. Letters Patent 4,732,022 are excluded from entry into the United States for the remaining term of the patents, except under license of the patent owner.
2. In accordance with 19 U.S.C. § 1337(1), the provisions of this **Order** do not apply to key blanks for keys of high security cylinder locks imported by or for the United States.
3. The articles identified in paragraph (1) of this **Order** are entitled to entry into the United States under bond in the amount of one hundred (100) percent of their entered value from the day after this **Order** is received by the President, pursuant to 19 U.S.C. § 1337(j)(3), until such time as the President notifies the Commission that he approves or disapproves this **Order**, but, in any event, no later than 60 days after the date of receipt of this **Order** by the President.
4. The Commission may amend this **Order** in accordance with the procedure described in section 211.57 of the Commission's Interim Rules of Practice and Procedure, 19 C.F.R. § 211.57.
5. A copy of this **Order** shall be served upon each party of record in this investigation and upon the Department of Health and Human Services, the Department of Justice, and the Federal Trade Commission.
6. Notice of this **Order** shall be published in the Federal Register.

By order of the Commission.




Kenneth R. Mason
Secretary

Issued: August 23, 1990

Certificate Of Service

I, Kenneth R. Mason, hereby certify that the attached NOTICE OF DECISION NOT TO REVIEW AN INITIAL DETERMINATION FINDING RESPONDENT SCOBEE ENTERPRISES, LTD. IN DEFAULT: ISSUANCE OF LIMITED EXCLUSION ORDER, was served upon John Kroeger, Esq., and the following parties via first class mail, and air mail where necessary, on August 23, 1990.


Kenneth R. Mason, Secretary
U.S. International Trade Commission
500 E Street, S.W.
Washington, D.C. 20436

For Complainant: Medeco Security Locks, Inc.

G. Franklin Rothwell
George R. Repper
BERNARD, ROTHWELL & BROWN, P.C.
1700 K Street, N.W.
Washington, D.C. 20006

RESPONDENTS

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Cancouver, B.C. Canada V5W 1H3

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Seoul, Korea

Government Agencies:

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1301 Constitution Avenue, N.W.
Washington, D.C. 20229

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of)
)
CERTAIN KEY BLANKS FOR KEYS OF)
HIGH SECURITY CYLINDER LOCKS)
)

Investigation No. 337-TA-308

Order No. ~~11~~ 11: Initial Determination Finding Respondent Scobee Enterprises, Ltd. In Default And Ordering Complainant To Submit Declaration Regarding Relief

On May 31, 1990, the Administrative Law Judge ordered Respondent Scobee Enterprises, Ltd. ("Scobee") to show cause on or before June 15, 1990 as to why it should not be found in default in this investigation for its failure to file a response to the Complaint and Notice of Investigation. Order No. 7. No response to Order No. 7 was received from Scobee. Counsel for Scobee and Complainant Medeco Security Locks, Inc. ("Medeco") subsequently informed the office of the Administrative Law Judge that Medeco and Scobee had agreed to terminate this investigation as to Scobee on the basis of a consent order agreement. Accordingly, the Administrative Law Judge deferred issuing an initial determination finding Scobee in default pursuant to Commission Interim Rules 210.25(b) and 210.53(c). On July 10, 1990, the Administrative Law Judge ordered that any motion to terminate this investigation with respect to Scobee was to be filed on or before July 25, 1990. Order No. 10. No motion to terminate has been filed.

Pursuant to Commission Interim Rules 210.25(b) and 210.25(c) and in light of the failure of Scobee to respond to Order No. 7 and the failure of the parties to file a motion to terminate, it is the INITIAL DETERMINATION ("ID") of the Administrative Law Judge that Respondent Scobee Enterprises, Ltd. is in

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default in this investigation. Accordingly, pursuant to Commission Interim Rule 210.25(a), Scobee is deemed to have waived its right to be served with documents and to contest the allegations at issue in this investigation.

Scobee is the last remaining respondent in this investigation. Commission Interim Rule 210.24(c) provides that at the time the last remaining respondent is found to be in default, the complainant shall declare whether it is seeking a general or limited exclusion order, or a cease and desist order, or both. The rule further provides that in cases in which the complainant is seeking relief solely against defaulting respondents, the Commission shall presume the facts alleged in the complaint to be true, and may grant relief affecting only the defaulting respondents. In cases in which the complainant seeks a general exclusion order, the Commission may issue such an order only if the complainant has presented a prima facie case of violation of § 337.¹

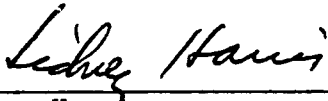
Accordingly, it is hereby ORDERED that Medeco file a declaration with the Secretary on or before August 2, 1990 setting forth the type of relief sought.

Unless a party pursuant to Commission Interim Rule 210.54 files a petition for review of this Initial Determination or the Commission pursuant to Commission Interim Rule 210.55 orders a review of this Initial Determination, or certain issues herein, this Initial Determination shall become the determination of the Commission thirty (30) days after the date of

¹ On May 31, 1990, the Administrative Law Judge granted Complainant Medeco Security Locks, Inc. ("Medeco") motion for a continuance of the prehearing and hearing schedule, suspending the schedule until further notice. Order No. 8. Thus, a hearing on whether there has been a violation of § 337 was not held and Medeco has not presented a prima facie case of violation.

service on the parties. Commission Interim Rule 210.43(h). The parties shall be notified by the Secretary in the event this ID becomes the determination of the Commission.

So ORDERED.

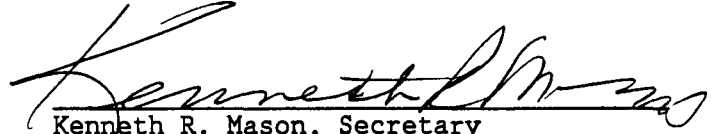


Sidney Hargis
Administrative Law Judge

Issued: July 26, 1990

CERTIFICATE OF SERVICE

I, Kenneth R. Mason, hereby certify that the attached Initial Determination was served upon John R. Kroeger, Esq. and upon the following parties via first class mail, and air mail where necessary, on July 26, 1990.



Kenneth R. Mason, Secretary
U.S. International Trade Commission
500 E Street, S.W.
Washington, D.C. 20436

FOR COMPLAINANT MEDECO SECURITY LOCKS, INC.:

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Washington, DC 20006

John P. McNicholas, Esq.
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FOR RESPONDENT ACTION SECURITY PRODUCTS, INC.:

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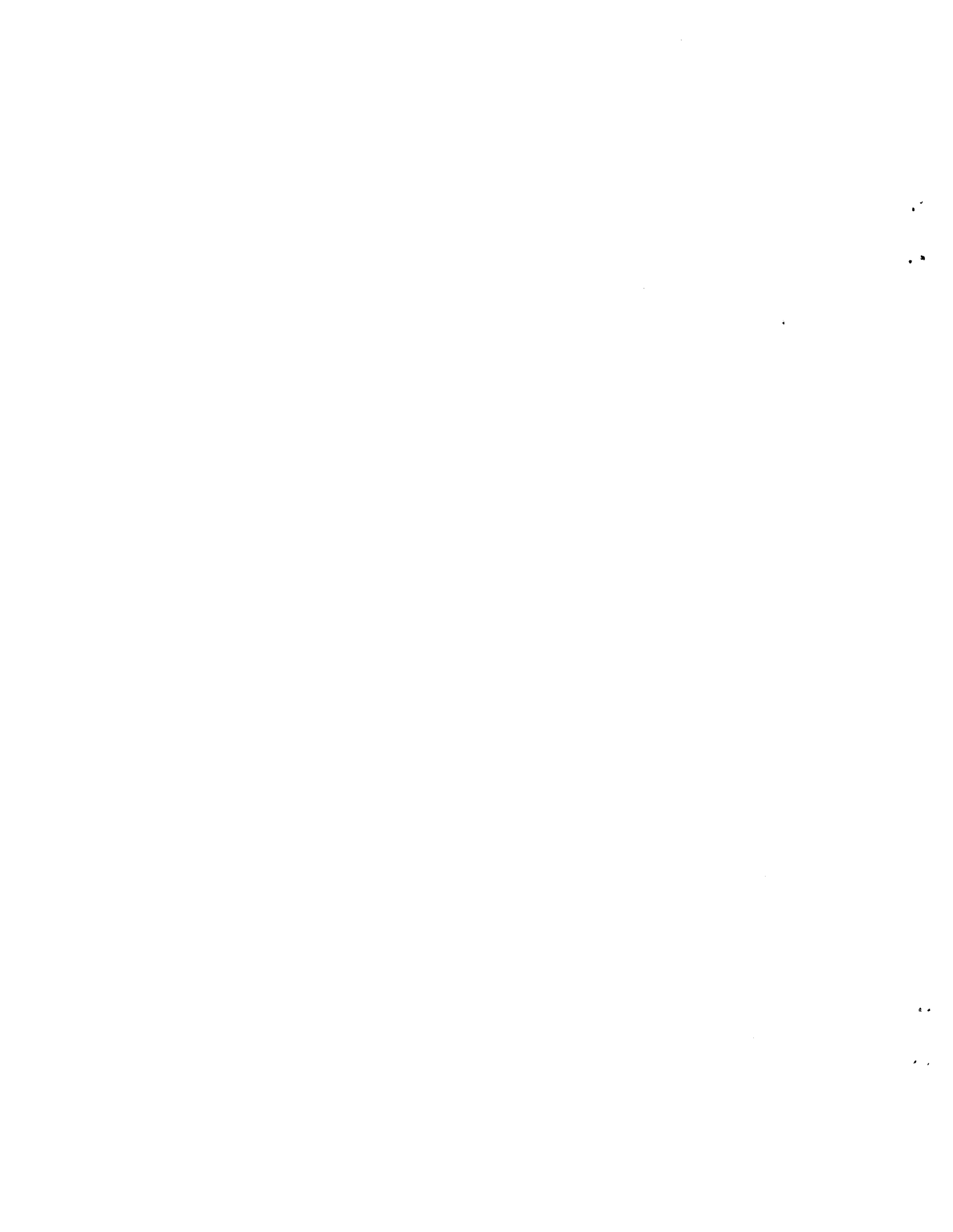
Government Agencies:

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