

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

In the Matter of

**CERTAIN AUTOMATED MECHANICAL
TRANSMISSION SYSTEMS FOR MEDIUM-
DUTY AND HEAVY-DUTY TRUCKS AND
COMPONENTS THEREOF**

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)
) **Inv. No. 337-TA-503**
) **(Consolidated Enforcement and**
) **Advisory Opinion Proceedings)**
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**NOTICE OF COMMISSION DECISION NOT TO REVIEW AN ENFORCEMENT
INITIAL DETERMINATION AND AN INITIAL ADVISORY OPINION; DENIAL OF
MOTION FOR CLARIFICATION OF REMEDIAL ORDER AND
POSTING OF BOND**

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 Enforcement Initial Determination (“EID”) and Initial Advisory Opinion (“IAO”) issued by the presiding administrative law judge (“ALJ”) in the above-captioned proceedings. The Commission has also determined to deny the complainant’s motion to clarify the Commission’s existing cease and desist order and to require retroactive posting of bond.

FOR FURTHER INFORMATION CONTACT: Rodney Maze, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3065. 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 (<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: This section 337 investigation was instituted by the Commission on January 7, 2004, based on a complaint filed by Eaton Corporation (“Eaton”) of Cleveland, Ohio. 69 *Fed. Reg.* 937 (January 7, 2004). The complaint, as supplemented, 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 within the United States after importation of certain automated mechanical transmission systems (“AMTS”) for medium-duty and heavy-duty trucks, and components thereof, by reason of infringement of claim 15 of U.S. Patent No. 4,899,279 (“the ‘279 patent”); claims 1-20 of U.S. Patent No. 5,335,566 (“the ‘566 patent”); claims 2-4 and 6-16 of U.S. Patent No. 5,272,939; claims 1-13 of U.S. Patent No. 5,624,350; claims 1, 3, 4, 6-9, 11, 13, 14, 16 and 17 of U.S. Patent No. 6,149,545 (“the ‘545 patent”); and claims 1-16 of U.S. Patent No. 6,066,071.

The complaint and notice of investigation named three respondents ZF Meritor, LLC of Maxton, North Carolina, ZF Friedrichshafen AG (“ZFAG”) of Freidrichshafen, Germany, and ArvinMeritor, Inc. (“ArvinMeritor”) of Troy, Michigan. Claim 15 of the ‘279 patent, claim 4 of the ‘566 patent, and claims 1, 3, 6, 7, 11, 13, 16, and 17 of the ‘545 patent remained at issue when the ALJ issued his final ID.

On January 7, 2005, the ALJ issued his final ID on violation and his recommended determination on remedy. The ALJ found a violation of section 337 by reason of infringement of claim 15 of the ‘279 patent by respondents. He did not find a violation based on infringement of the asserted claims of the remaining ‘545 and ‘566 patents. Petitions for review were filed by Eaton, the respondents, and the Commission investigative attorney (“IA”) on January 21, 2005. All the parties filed responses to the petitions on January 28, 2005.

On February 24, 2005, the Commission determined not to review the ALJ’s final ID on violation, thereby finding a violation of section 337. *70 Fed. Reg.* 10112 (March 2, 2005). On April 7, 2005, the Commission issued a limited exclusion order and a cease and desist order covering AMTS for medium-duty and heavy-duty trucks, and components thereof that infringe claim 15 of the ‘279 patent. *70 Fed. Reg.* 19094 (April 13, 2005).

On April 21, 2005, the respondents filed a request for advisory opinion proceedings concerning a redesigned AMTS which respondents assert does not fall within the scope of the Commission’s remedial orders. Eaton filed a complaint for enforcement proceedings on May 11, 2005, naming ZFAG and ArvinMeritor as respondents. On June 6, 2005, the Commission issued a notice that it had determined to institute consolidated formal enforcement and advisory opinion proceedings.

On August 19, 2005, Eaton filed a motion requesting that the Commission issue an order clarifying that the existing cease and desist order bars the respondents from importing their redesigned AMTS during the pendency of the above-captioned proceedings. The same motion requested that the Commission require the respondents to post a bond for the redesigned AMTS that it imported during the period of Presidential review, *see* 19 U.S.C. § 1337(j). On August 31, 2005, the respondents and the IA filed oppositions to Eaton’s motion.

On January 10, 2006, the presiding ALJ issued an EID and IAO finding that the respondents’ redesigned AMTS do not infringe claim 15 of the ‘279 patent and therefore do not fall within the Commission’s remedial orders. No petitions for review of the EID or IAO were

filed. The Commission has determined not to review the EID or IAO. The Commission has also determined to deny Eaton's motion regarding the existing cease and desist order and posting of bond because it has found that the redesigned AMTS are not covered by the remedial orders issued in this investigation.

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 210.75 and 210.79 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.75 and 210.79).

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: March 27, 2006