

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN SHAKER SCREENS FOR
DRILLING FLUIDS, COMPONENTS
THEREOF, AND RELATED
MARKETING MATERIALS**

Inv. No. 337-TA-1184

**NOTICE OF A COMMISSION DETERMINATION TO REVIEW-IN-PART AN
INITIAL DETERMINATION GRANTING SUMMARY DETERMINATION OF
VIOLATION OF SECTION 337; REQUEST FOR WRITTEN 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 has determined to review-in-part an initial determination (“ID”) (Order No. 20) issued by the presiding administrative law judge (“ALJ”) granting a motion for summary determination of violation of section 337. The Commission requests written submissions from the parties, interested government agencies, and interested persons on the issues of remedy, the public interest, and bonding, under the schedule set forth below.

FOR FURTHER INFORMATION CONTACT: Benjamin S. Richards, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436, telephone (202) 708-5453. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.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 November 21, 2019, based on a complaint, as amended, filed by M-I L.L.C. of Houston, Texas (“M-I”). 84 FR 64339 (Nov. 21, 2019). The amended complaint alleged violations 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 shaker screens for drilling fluids, components thereof, and related marketing materials by reason of infringement of: (1) certain claims of U.S. Patent Nos. 7,210,582 (“the ’582 patent”), 7,810,649 (“the ’649 patent”), and (“the ’735 patent”)); and (2) U.S. Trademark Registration

Nos. 2,151,736 and 2,744,891. *Id.* The Commission’s notice of investigation named six respondents, including Anping Shengjia Hardware Mesh Co., Ltd. (“SJ Screen”) and Hebei Hengying Wire Cloth Co. Ltd (“Hengying Wire Cloth”) (collectively the “Defaulting Respondents”). *Id.* at 64339-40. The Office of Unfair Import Investigations (“OUII”) is participating in this investigation. *Id.* at 64340.

On February 5, 2020, the Commission found SJ Screen and Hengying Wire Cloth in default. Order No. 10, *unreviewed*, Notice, EDIS Doc. ID 704161 (Mar. 5, 2020). Thereafter, and after the termination of the other remaining respondents by consent order, *see* Order No. 8, *unreviewed*, Notice, EDIS Doc. ID 701736 (Feb. 6, 2020); Order No. 14, *unreviewed*, Notice, EDIS Doc. ID 708798 (Apr. 23, 2020), M-I withdrew all of its trademark-based allegations, as well as claims 2-11 of the ’582 patent; claims 2-7 and 9 of the ’649 patent; and claims 2-9, 13, 16, and 18-19 of the ’735 patent from the investigation. *See* Order No. 19, *unreviewed*, Notice, EDIS Doc. ID 720447 (Sept. 24, 2020).

On August 27, 2020, M-I filed a motion for summary determination that the Defaulting Respondents violated section 337 and that M-I satisfies the domestic industry requirement of section 337. The motion sought issuance of a general exclusion order (“GEO”) and imposition of a one hundred percent (100%) bond on accused products imported during the Presidential review period. On September 16, 2020, OUII filed a response supporting M-I’s motion, including the remedial relief requested therein.

On November 19, 2020, the ALJ issued the subject ID granting M-I’s motion and recommending issuance of a GEO and imposition of a bond in the amount of 100 percent of the entered value of infringing products. Specifically, the ID found that (1) the Commission has jurisdiction over the products, the parties, and the investigation; (2) the importation requirement is satisfied; (3) M-I has standing to bring this investigation; (4) all of the remaining asserted claims are infringed by one or more of the Defaulting Respondents’ products; and (5) M-I has satisfied the domestic industry requirement of section 337. Additionally, the ALJ recommended that the Commission issue a GEO and impose a bond in the amount of one hundred percent (100%) of the entered value of infringing articles imported during the period of Presidential review.

The Commission has determined to review the ID’s finding that M-I’s investments in plant and equipment and M-I’s employment of labor and capital are significant under section 337(a)(3)(A) and (B). The Commission has determined not to review the remainder of the ID.

In connection with the final disposition of this investigation, the statute authorizes issuance of, *inter alia*, (1) an exclusion order that could result in the exclusion of the subject articles from entry into the United States and/or (2) cease and desist orders that could result in the respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party 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, Comm'n Op. at 7-10 (Dec. 1994).

The statute requires the Commission to consider the effects of that remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion 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 orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission's determination. See Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, 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 bond that should be imposed if a remedy is ordered.

WRITTEN SUBMISSIONS: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding.

In its initial submission, Complainant is also requested to identify the remedy sought and Complainant and OUII are requested to submit proposed remedial orders for the Commission's consideration. Complainant is further requested to state the dates that the Asserted Patents expire, the HTSUS subheadings under which the accused products are imported, and to supply the identification information for all known importers of the products at issue in this investigation. The initial written submissions and proposed remedial orders must be filed no later than close of business on January 19, 2021. Reply submissions must be filed no later than the close of business on January 26, 2021. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (March 19, 2020). Submissions should refer to the investigation number (Inv. No. 337-TA-1184) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf). Persons with questions regarding filing should contact the Secretary, (202) 205-2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission

is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

The Commission vote for this determination took place on January 4, 2021.

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 Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', with a stylized flourish at the end.

Lisa R. Barton
Secretary to the Commission

Issued: January 4, 2021