

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington D.C. 20436

In the Matter of

**CERTAIN GUN BARRELS USED IN
FIREARMS TRAINING SYSTEMS**

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) **Inv. No. 337-TA-505**
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**NOTICE OF COMMISSION ISSUANCE OF A LIMITED EXCLUSION ORDER AND A
CEASE AND DESIST ORDER AGAINST A RESPONDENT FOUND IN DEFAULT**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued a limited exclusion order and a cease and desist order against a respondent found in default in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Michael K. Haldenstein, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3041. 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 patent-based section 337 investigation was instituted by the Commission based on a complaint filed by Beamhit, LLC, and Safeshot, LLC, both of Columbia, Maryland, and Safeshot, Inc., of New York, New York. 69 Fed. Reg. 12346 (March 16, 2004). The complainants alleged violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain gun barrels used in firearms training systems by reason of infringement of claims 1, 2, 4, 5, 8, 15, 21, 22, and 26 of U.S. Patent No. 5,829,180 ("180 patent") and claims 1-3, 7, 9, 14-18, 20, 24, 27, 32, 33, 37-40, 44, 45, 49-51, and 54 of U.S. Patent No. 6,322,365 ("the '365 patent"). The complaint named Widec S.A. Décolletage ("Widec"), of Moutier, Switzerland, AMI Corp.

SA (“AMI”), of Moutier Switzerland, Crown AirMunition Holding, of Hilversum, The Netherlands, AirMunition International Corp. of Hilversum, The Netherlands, AirMunition Industries S.A., of Belprahon-Moutier, Switzerland, and AirMunition North America, Inc., of Norcross Georgia as respondents.

On April 27, 2004, complainants filed a motion, pursuant to Commission Rule 210.16, for an order to show cause and entry of a default judgement against Crown AirMunition Holding, AirMunition International Corp., AMI Corp. SA, and AirMunition North America Inc. (collectively “the AirMunition respondents”). The Commission investigative attorney (“IA”) supported the motion. None of the respondents responded to the motion. On May 12, 2004, the administrative law judge (“ALJ”) issued Order No. 6, requiring the AirMunition respondents to show cause why they should not be held in default, having not responded to either the complaint or the notice of investigation. The respondents did not respond to the show cause order. On August 16, 2004, complainants filed a motion for an order finding the AirMunition respondents in default due to the respondents’ failure to respond to the ALJ’s show cause order.

On September 21, 2004, the ALJ issued an ID finding the AirMunition respondents in default. Pursuant to Commission Rule 210.16(b)(3), the ALJ also found that the AirMunition respondents had waived their right to appear, be served with documents or contest the allegations in the complaint. No petitions for review of this ID were filed. On October 12, 2004, the ALJ’s ID became the Commission’s final determination after the Commission issued a notice indicating that it would not review the ID. On October 12, 2004, pursuant to Commission Rule of Practice and Procedure 210.16(c)(1), 19 C.F.R. § 210.16(c)(1), complainants filed a declaration seeking immediate entry of relief against the AirMunition respondents.

The complainants and the non-defaulting respondents, Widec and AMI, filed a joint motion to terminate the investigation as to Widec and AMI on September 2, 2004. The joint motion was based on a proposed consent order, filed pursuant to a settlement agreement and a limited license. The IA filed a response in support of the motion on September 13, 2004. The ALJ issued an initial determination (“ID”) on September 21, 2004, terminating the investigation as to Widec and AMI. No petitions for review of this ID were filed. On October 12, 2004, the Commission issued a notice indicating that it would not review the ID, thereby adopting the ALJ’s ID as the Commission’s final determination.

On November 10, 2004, the Commission requested that the parties brief the issues of remedy, the public interest, and bonding with respect to the defaulting AirMunition respondents. On November 22, 2004, complainants and the IA submitted their main briefs, and on December 1, 2004, the complainants and the IA submitted reply briefs. Complainants and the IA both maintained that the appropriate remedy is a limited exclusion order and a cease and desist order.

The Commission found that each of the statutory requirements of section 337(g)(1)(A)-(E), 19 U.S.C. § 1337(g)(1)(A)-(E), has been met with respect to the defaulting AirMunition respondents. Accordingly, pursuant to section 337(g)(1), 19 U.S.C. § 1337(g)(1), and Commission rule 210.16(c) 19 C.F.R. § 210.16(c), the Commission presumed the facts alleged in

the amended complaint to be true.

The Commission determined that the appropriate form of relief in this investigation is a limited exclusion order prohibiting the unlicensed entry of certain gun barrels used in firearms training systems by reason of infringement of one or more of the following claims: claims 1, 2, 4, 5, 8, 15, 21, 22, or 26 of the '180 patent or claims 1-3, 7, 9, 14-18, 20, 24, 27, 32, 33, 37-40, 44, 45, 49-51, or 54 of the '365 patent. The order covers certain gun barrels used in firearms training systems that are manufactured abroad by or on behalf of, or imported by or on behalf of the AirMunition respondents or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns. The Commission also determined to issue a cease and desist order prohibiting AirMunition North America Inc. from importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for certain gun barrels covered by the above-mentioned claims of the '180 patent and '365 patent. The Commission further determined that the public interest factors enumerated in section 337(g)(1), 19 U.S.C. § 1337(g)(1), do not preclude issuance of the limited exclusion order and cease and desist order. Finally, the Commission determined that the bond under the limited exclusion order during the Presidential review period shall be in the amount of 100 percent of the entered value of the imported articles. [The Commission's orders were delivered to the President on the day of their issuance]

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 section 210.16(c) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.16(c)).

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: February 3, 2005