

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

**In the Matter of**

**CERTAIN COMPOSITE WEAR  
COMPONENTS AND WELDING PRODUCTS  
CONTAINING SAME**

**Investigation No. 337-TA-644**

**NOTICE OF PENDING REINSTATEMENT OF AN EXCLUSION ORDER AND A  
CEASE AND DESIST ORDER UPON RESOLUTION OF FEDERAL CIRCUIT APPEAL**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the limited exclusion order and cease and desist order issued by the U.S. International Trade Commission on November 24, 2009 in the subject investigation against respondents AIA Engineering Limited and Vega Industries Ltd. (“AIA”) involving U.S. Patent No. RE39,998 (“the ‘998 patent”), which was temporarily rescinded on January 25, 2011, will automatically be reinstated upon issuance of the mandate by the United States Court of Appeals for the Federal Circuit in Appeal No. 2011-1058 certifying the Court’s judgment reversing the District Court’s decision invalidating certain claims of the ‘998 patent.

**FOR FURTHER INFORMATION CONTACT:** Jia Chen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-4737. 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 at <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:** The Commission instituted this investigation on April 25, 2008, based on a complaint filed by Magotteaux Internaional S/A and Magotteaux Inc. (“Magotteaux”). 73 *Fed. Reg.* 22431 (Apr. 25, 2008). 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, or the sale within the United States after importation of certain composite wear components and welding products containing the same that infringe certain claims of the ‘998 patent. The complaint named Fonderie Acciaiere Rioale S.P.A. (“FAR”) and AIA as respondents. FAR was subsequently terminated from the investigation on the basis of a settlement agreement, leaving AIA as the remaining respondent.

On November 24, 2009, the Commission issued a limited exclusion order and a cease and desist order against AIA, who was found by the ALJ to be in default. The limited exclusion order prohibits the unlicensed entry for consumption of composite wear components and products containing the same that are covered by one or more of claims 12-13 and 16-21 of the '998 patent and that are manufactured abroad by or on behalf of, or are imported by or on behalf of, AIA or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns. 74 *Fed. Reg.* 62814 (Dec. 1, 2009). The cease and desist order covers products that infringe claims 12-13 and 16-21 of the '998 patent and is directed to domestic respondent Vega Industries and any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled and majority owned business entities, successors, and assigns. *Id.*

On September 3, 2010, the '998 patent was declared invalid by the United States District Court for the Middle District of Tennessee in a declaratory judgment action filed by AIA against Magotteaux. On September 28, 2010, Magotteaux filed a notice of appeal of the district court's decision to the United States Court of Appeals for the Federal Circuit. On October 5, 2010, AIA filed a petition under section 337(k) and 19 C.F.R. § 210.76 asking the Commission to rescind its November 24, 2009 exclusion order and cease and desist order in light of the district court's holding invalidating the '998 patent.

On January 25, 2011, the Commission determined to temporarily rescind its limited exclusion order and cease and desist order entered on November 24, 2009 against AIA pending resolution on appeal of the district court's decision by the Federal Circuit. The Commission's notice stated that the remedial orders will become permanently rescinded if the Federal Circuit affirms the district court's judgment with respect to claims 12-13 and 16-21 of the '998 patent, *i.e.*, the claims covered by the Commission's remedial orders, and will be reinstated if the Federal Circuit reverses the district court's judgment with respect to those claims.

On August 31, the Federal Circuit reversed the District Court's decision that claims 12-13 and 16-21 of the '998 patent are invalid and remanded the case to the district court for further proceedings. On the same day, Magotteaux submitted a letter to the Commission requesting that the limited exclusion order and cease and desist order be reinstated.

Pursuant to the Commission's notice issued on January 25, 2011, the Commission's limited exclusion order and cease and desist order entered on November 24, 2009 against AIA will be automatically reinstated upon issuance of the Federal Circuit's mandate certifying its judgment reversing the district court's decision that claims 12-13 and 16-21 of the '998 patent are invalid.

The authority for the Commission's determination is contained in sections 337(d), (f), and (k) of the Tariff Act of 1930, as amended (19 U.S.C. §§ 1337(d), (f), & (k)).

By order of the Commission.

/s/  
James R. Holbein  
Secretary to the Commission

Issued: September 22, 2011