

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

IN THE MATTER OF

**CERTAIN CAST STEEL RAILWAY WHEELS,
PROCESSES FOR MANUFACTURING OR
RELATING TO SAME AND CERTAIN
PRODUCTS CONTAINING SAME**

INV. NO. 337-TA-655

**ISSUANCE OF A LIMITED EXCLUSION ORDER AND CEASE AND DESIST
ORDERS; TERMINATION OF THE INVESTIGATION**

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 as well as cease and desist orders directed to cast steel railway wheels and products containing same manufactured by or for Respondents using any of the trade secrets asserted in this investigation.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3042. 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: The Commission instituted this investigation on September 16, 2008, based on a complaint filed on August 14, 2008, by Amsted Industries Incorporated of Chicago, Illinois ("Amsted"). 73 *Fed. Reg.* 53441-42 (Sept. 16, 2008). The complaint 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 cast steel railway wheels and certain products containing same by reason of misappropriation of trade secrets, the threat or effect of which is to substantially injure an industry in the United States. The complaint named four respondents: Tianrui Group Company Limited of China; Tianrui Group Foundry Company Limited of China (collectively "Tianrui"); Standard Car Truck Company, Inc. of Park Ridge, Illinois ("SCT"); and Barber Tianrui Railway Supply, LLC of Park Ridge, Illinois ("Barber").

On October 16, 2009, the Administrative Law Judge (“ALJ”) issued his final initial determination (“ID”) finding a violation of section 337 by respondents. He found that Amsted owns the asserted trade secrets, the ABC Trade Secrets, and that respondents misappropriated the trade secrets via disclosure by former employees of Amsted’s predecessors, the threat or effect of which is to destroy or substantially injure an industry in the United States. On October 29, 2009, the ALJ issued his recommended determination (“RD”) on remedy and bonding. The ALJ recommended that the Commission issue a limited exclusion order as well as cease and desist orders directed to respondents found in violation of section 337. He further recommended that the Commission set a bond of five percent of entered value of accused products imported during the period of Presidential review.

On October 30, 2009, SCT and Barber (“SCT-Barber”) filed a joint petition for review of the final ID. Tianrui filed a petition for review on November 2, 2009, and complainant Amsted filed a contingent petition for review that same day. Amsted filed responses to SCT-Barber’s and Tianrui’s petitions on November 9 and 10, respectively, and SCT-Barber and Tianrui filed their responses to Amsted’s petition on November 10. The Commission investigative attorneys (“IAs”) filed responses to the various petitions for review on November 10. The IAs did not petition for review of the ID.

On December 17, 2009, the Commission determined not to review the ID and requested briefing on remedy, the public interest, and bonding. *74 Fed. Reg.* 68282-83 (Dec. 23, 2009). On December 29, 2009, the parties submitted written submissions on the issues for which the Commission requested further briefing, and submitted replies to the written submissions on January 6, 2010.

Having reviewed the record in this investigation, including the ID and the parties’ written submissions, the Commission has determined that the appropriate remedy is a limited exclusion order lasting a period of ten (10) years as well as cease and desist orders, lasting the same period, directed to Respondents. The limited exclusion order prohibits the entry of cast steel railway wheels and products containing same, manufactured using any of the asserted ABC Trade Secrets by or on behalf of, or imported by or on behalf of, Respondents, or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns, for consumption in the United States. The cease and desist orders prohibit Respondents from importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), soliciting U.S. agents or distributors, or aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of cast steel railway wheels and products containing the same manufactured using any of the asserted ABC Trade Secrets.

The Commission further determines that the public interest factors enumerated in section 337(d) and (f) (19 U.S.C. §§ 1337(d), (f)) do not preclude issuance of the limited exclusion order. Finally, the Commission determines that a bond of five percent of the entered value is required to permit temporary importation during the period of Presidential review (19 U.S.C. § 1337(j)) of cast steel railway wheels and products containing the same that are subject to the

order. The Commission's order and opinion were delivered to the President and to the United States Trade Representative 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 sections 210.50 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.50.

By order of the Commission.

/s/

Marilyn R. Abbott
Secretary to the Commission

Issued: February 16, 2010