

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

**In the Matter of**

**CERTAIN WINDSHIELD WIPERS AND  
COMPONENTS THEREOF**

**Investigation No. 337-TA-928**  
**Investigation No. 337-TA-937**  
**(Consolidated)**

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL  
DETERMINATION GRANTING COMPLAINANTS' MOTION FOR SUMMARY  
DETERMINATION OF NO EXHAUSTION OR PERMISSIBLE REPAIR DEFENSES  
WITH RESPECT TO U.S. PATENT NO. 7,937,798**

**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 an initial determination ("ID") (Order No. 19) of the presiding administrative law judge ("ALJ") granting complainants' motion for summary determination of no exhaustion or permissible repair defenses with respect to U.S. Patent No. 7,937,798.

**FOR FURTHER INFORMATION CONTACT:** Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3115. 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 Investigation No. 337-TA-928, *Certain Windshield Wipers and Components Thereof*, under Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("Section 337"), on September 2, 2014, based on a complaint filed by Valeo North America, Inc. of Troy, MI, and Delmex de Juarez S. de R.L. de C.V. of Mexico (collectively, "Valeo"). The complaint alleges a violation of Section 337 by reason of infringement of certain claims of U.S. Patent Nos. 7,891,044 ("the '044 patent"); 7,937,798 ("the '798 patent"); and 8,220,106 by Federal-Mogul Corp. of Southfield, Michigan; Federal-Mogul Vehicle Component Solutions, Inc. of Southfield, Michigan; and Federal-Mogul S.A. of Aubange, Belgium. *79 Fed. Reg.* 52041-42 (Sep. 2, 2014).

On November 21, 2014, the Commission instituted Investigation No. 337-TA-937, *Certain Windshield Wipers and Components Thereof*, based on a separate complaint filed by Valeo. That complaint alleges a violation of Section 337 by reason of infringement of certain claims of the '044 patent and the '798 patent by Trico Products Corporation of Rochester Hills, Michigan; Trico Products of Brownsville, Texas; and Trico Componentes SA de CV of Tamaulipas, Mexico (collectively, "Trico"). 79 *Fed. Reg.* 69525-26 (Nov. 21, 2014).

On December 9, 2014, the ALJ consolidated Investigations Nos. 337-TA-928 and 337-TA-937. *See* Inv. No. 337-TA-928 Order No. 8. The Office of Unfair Import Investigations does not participate as a party in these consolidated investigations.

On April 30, 2015, Valeo filed a motion for summary determination of no exhaustion or permissible repair defenses with respect to the '044 and '798 patents. On May 11, 2015, respondents Trico filed an opposition to Valeo's motion. No other responses were filed.

On May 19, 2015, the ALJ issued Order No. 19 in which he, *inter alia*, granted complainants' motion with respect to the '798 patent only. This portion of Order No. 19 represents the subject ID.

With respect to the '798 patent, the ALJ found that Trico failed to raise a genuine issue of material fact. The ALJ found that there is no issue of material fact or law, and concluded that even as he interpreted the evidence against Valeo as the moving party, Valeo is still entitled to summary determination of no exhaustion and no permissible repair with respect to the asserted claims of the '798 patent. Order No. 19 at 13. The ALJ granted summary determination of no exhaustion or permissible repair defenses with respect to the '798 patent. No party petitioned for review of Order No. 19, and the Commission has determined not to review it.

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 C.F.R. Part 210).

By order of the Commission.



Lisa R. Barton  
Secretary to the Commission

Issued: June 18, 2015