

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN ROAD CONSTRUCTION
MACHINES AND COMPONENTS
THEREOF**

Inv. No. 337-TA-1088

NOTICE OF INITIAL DETERMINATION ON VIOLATION OF SECTION 337

(February 14, 2019)

On this date, I have issued an initial determination on violation of section 337 in this investigation pursuant to Commission Rule 210.42(a)(1)(i).¹ For the reasons discussed therein, it is my final initial determination that there is a violation 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/or the sale within the United States after importation of certain road construction machines and components thereof with respect to claim 19 of U.S. Patent No. 7,140,693 (“the ’693 patent”).

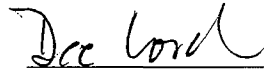
This determination is based on the following conclusions of law:

1. The Commission has subject matter jurisdiction over this investigation, *in personam* jurisdiction over Respondents, and *in rem* jurisdiction over the accused road construction machines and components thereof.
2. There has been an importation into the United States, sale for importation, or sale within the United States after importation of the accused road construction machines and components thereof by Respondents.
3. Claims 1, 15, 16, 17, 18, 19, 24, 26, 27, 28, 36, and 38 of the ’693 patent are infringed by Wirtgen’s series 1810 road milling machines.

¹ A public version shall issue within 30 days, or in the time necessary to identify and redact the confidential business information therein, pursuant to Commission Rule 210.5(f).

4. No claims of the '693 patent have been shown to be infringed by Wirtgen's series 1310 road milling machines.
5. Claims 1, 15, 16, 17, 18, 24, 26, 27, 28, 36, and 38 of the '693 patent have been shown to be invalid as anticipated by the Bitelli SF 102 C machine.
6. Claims 1, 15, 16, 17, 18, 24, 26, 27, 36, and 38 of the '693 patent have been shown to be invalid as obvious in view of certain prior art.
7. Claims 2, 3, 5, 6, and 19 of the '693 patent have not been shown to be invalid in view of any of the asserted prior art.
8. Claims 1, 17, 18, 19, 24, and 28 of the '693 patent are practiced by Caterpillar's PM3XX products.
9. Claims 2, 3, 5, and 6 of the '693 patent have not been shown to be practiced by Caterpillar's PM3XX products.
10. The economic prong of the domestic industry requirement has been satisfied with respect to Caterpillar's PM3XX products.

SO ORDERED.



Dee Lord

Administrative Law Judge