

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

In the Matter of

**CERTAIN HYDRAULIC EXCAVATORS
AND COMPONENTS THEREOF**

Investigation No. 337-TA-582

**NOTICE OF COMMISSION DECISION NOT TO REVIEW AN INITIAL DETERMINATION
GRANTING A JOINT MOTION TO TERMINATE INVESTIGATION
AS TO TWO RESPONDENTS**

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 the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 61) granting a joint motion to terminate the above-captioned investigation as to two Respondents.

FOR FURTHER INFORMATION CONTACT: Jonathan J. Engler, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3112. Copies of the ALJ's IDs and all other 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: On August 29, 2006, the Commission instituted this investigation, based on a complaint filed by Caterpillar Inc. ("Caterpillar") of Peoria, Illinois. The complaint alleges 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 hydraulic excavators and components thereof by reason of infringement of U.S. Trademark Registration No. 2,140,606, U.S. Trademark Registration No. 2,421,077, U.S. Trademark Registration No. 2,140,605, and U.S. Trademark Registration No. 2,448,848. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337. The complaint named twenty (20) firms as respondents. The complainant requested that the Commission issue a general exclusion order and cease and desist orders. Two respondents, Barkley Industries LLC and Frontera Equipment Sales, have been found in default. Fourteen respondents have been terminated as a result of settlement agreements.

On April 25, 2008, Caterpillar, Alex Lyon and Son Sales Managers and Auctioneers, Inc. ("Alex Lyon") and Yoder and Frey Auctioneers, Inc. ("Yoder and Frey") filed a joint motion seeking termination of this investigation based upon settlement agreements. On May 8, 2008, the ALJ issued an initial

determination, Order No. 61, terminating the investigation as to Alex and Son and Yoder and Frey on the basis of settlement agreements. The ALJ found no indication that termination on the basis of the settlement agreements would adversely affect the public interest, and that the procedural requirements for termination had been met. No petitions for review were filed.

The Commission has determined not to review the subject ID. 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 210.42 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.42).

By order of the Commission.

/s/
Marilyn R. Abbott
Secretary to the Commission

Issued: June 10, 2008