

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN ROAD CONSTRUCTION
MACHINES AND COMPONENTS
THEREOF**

Investigation No. 337-TA-1088

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION TERMINATING THE INVESTIGATION WITH RESPECT TO
CLAIM 25 OF U.S. PATENT NO. 7,140,693**

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. 38) of the presiding administrative law judge (“ALJ”) terminating the investigation with respect to claim 25 of U.S. Patent No. 7,140,693.

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 this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“section 337”), on November 29, 2017, based on a complaint filed by Caterpillar Inc. of Peoria, IL, and Caterpillar Paving Products, Inc. of Minneapolis, MN (collectively, “Caterpillar,” or “Complainants”). 82 *Fed. Reg.* 56625-26 (Nov. 29, 2017). The complaint alleges a violation of section 337 by reason of infringement of certain claims of U.S. Patent Nos. 7,140,693 (“the ‘693 patent”); 9,045,871; and 7,641,419. The complaint named Wirtgen GmbH of Windhagen, Germany; Joseph Voegel AG of Ludwigshafen, Germany; Wirtgen Group Holding GmbH of Windhagen, Germany; and Wirtgen America, Inc. of Antioch, TN (collectively, “Wirtgen,” or “Respondents”) as

respondents. *Id.* at 56626. The Office of Unfair Import Investigations is not a party in this investigation. *Id.*

On October 12, 2018, Complainants filed a motion for partial termination of the investigation with respect to claim 25 of the '693 patent. On October 16, 2018, the ALJ issued the subject ID (Order No. 38). The ALJ found that Complainants' motion states that there are no agreements, written or oral, express or implied between the parties concerning the subject matter of this investigation, and that it thus complies with Commission Rule 210.21(a)(1), 19 C.F.R. § 210.21(a)(1). Order No. 38 at 1.

The ALJ further found that Complainants' motion is unopposed, and that there is no evidence of extraordinary circumstances that would preclude termination of this claim, which will conserve public and private resources. *Id.* Based on the foregoing, the ALJ granted the motion. No party petitioned for review of the subject ID, 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.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', enclosed within a large, stylized oval flourish.

Lisa R. Barton
Secretary to the Commission

Issued: November 9, 2018