

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

In the Matter of

**CERTAIN AUTOMOTIVE VEHICLES
AND DESIGNS THEREFORE**

Investigation No. 337-TA-722

**NOTICE OF COMMISSION ISSUANCE OF LIMITED EXCLUSION ORDER AND
CEASE AND DESIST ORDERS AGAINST INFRINGING PRODUCTS OF
RESPONDENTS FOUND IN DEFAULT; TERMINATION OF INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has terminated the above-captioned investigation under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and has issued the following remedial orders against respondents previously found in default: a cease and desist order against infringing products of Vehicles Online, Inc. (“Vehicles”) of Charlotte, North Carolina, and a limited exclusion order and a cease and desist order against infringing products of Shanghai Tandem Industrial Co., Ltd. (“Shanghai Tandem”) of China.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2310. 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 on June 17, 2010, based on a complaint filed by Chrysler Group LLC (“Chrysler”) of Auburn Hills, Michigan. 75 *Fed. Reg.* 34483-84 (June 17, 2010). The complaint alleges violations 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 the sale within the United States after importation of certain

automotive vehicles and designs therefor by reason of infringement of U.S. Patent No. D513,395 (“the ‘395 patent”). The complaint further alleges the existence of a domestic industry. The Commission’s notice of investigation named several respondents including Vehicles, Boat N RV Supercenter (“Boat N RV”) of Rockwood, Tennessee, and Shanghai Tandem.

On July 7, 2010, Chrysler moved, pursuant to 19 C.F.R. § 210.16, for: (1) an order directing respondents Vehicles and Boat N RV to show cause why they should not be found in default for failure to respond to the complaint and notice of investigation as required by 19 C.F.R. § 210.13, and (2) the issuance of an initial determination (“ID”) finding Vehicles and Boat N RV in default upon their failure to show cause. On July 19, 2010, the ALJ issued Order No. 8, which required Vehicles and Boat N RV to show cause no later than August 2, 2010, as to why they should not be held in default and judgment rendered against them pursuant to § 210.16. Boat N RV responded to Order No. 8, but no response was received from Vehicles.

The presiding administrative law judge (“ALJ”) issued an ID on August 11, 2010, finding Vehicles in default, pursuant to §§ 210.13 and 210.16, because Vehicles did not respond to the complaint and notice of investigation or to Order No. 8’s instruction to show cause. On September 9, 2010, the Commission issued notice of its determination not to review the ALJ’s ID finding Vehicles in default.

On August 19, 2010, Chrysler moved, pursuant to § 210.16, for: (1) an order directing respondent Shanghai Tandem to show cause why it should not be found in default for failure to respond to the complaint and notice of investigation as required by § 210.13, and (2) the issuance of an ID finding Shanghai Tandem in default upon its failure to show cause. On August 31, 2010, the ALJ issued Order No. 12, which required Shanghai Tandem to show cause no later than September 14, 2010, as to why it should not be held in default and judgment rendered against it pursuant to § 210.16.

The ALJ issued an ID on September 22, 2010, finding Shanghai Tandem in default, pursuant to §§ 210.13 and 210.16, because Shanghai Tandem did not respond to the complaint and notice of investigation or to Order No. 12’s instruction to show cause. On October 14, 2010, the Commission issued notice of its determination not to review the ALJ’s ID finding Shanghai Tandem in default.

On October 29, 2010, complainant Chrysler filed declarations requesting immediate relief against the defaulting respondents. On November 15, 2010, the Commission determined not to review an ID (Order No. 17) terminating the last remaining respondents, including Boat N RV, on the basis of a consent order. On November 29, 2010, the Commission issued a Notice that requested briefing from interested parties on remedy, the public interest, and bonding with respect to respondents found in default. *75 Fed. Reg.* 75184-85 (Dec. 2, 2010).

Chrysler and the Commission investigative attorney submitted briefing responsive to the Commission’s request on December 6 and 14, 2010, respectively. Each proposed a cease and desist order directed to Vehicles’ infringing products, and a limited exclusion order and a cease

and desist order directed to Shanghai Tandem's infringing products. Neither party requested bonding during the period of Presidential review.

The Commission found that the statutory requirements of section 337(g)(1)(A)-(E) (19 U.S.C. § 1337(g)(1)(A)-(E)) were met with respect to the defaulting respondents. Accordingly, pursuant to section 337(g)(1) (19 U.S.C. § 1337(g)(1)) and Commission rule 210.16(c) (19 C.F.R. § 210.16(c)), the Commission presumed the facts alleged in the complaint to be true.

The Commission has determined that the appropriate form of relief is the following: (1) cease and desist orders prohibiting Vehicles and Shanghai Tandem from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for automotive vehicles and designs therefor that infringe the '395 patent; and (2) a limited exclusion order prohibiting the unlicensed entry of automotive vehicles and designs therefore that infringe the '395 patent, which are manufactured abroad by or on behalf of, or are imported by or on behalf of, Shanghai Tandem, or any of its affiliated companies, parents, subsidiaries, licensees, contractors, or other related business entities, or its successors or assigns.

The Commission has further determined that the public interest factors enumerated in section 337(g)(1) (19 U.S.C. § 1337(g)(1)) do not preclude issuance of the limited exclusion order or the cease and desist orders. Finally, the Commission has determined that no bond is required during the period of Presidential review (19 U.S.C. §1337(j)). The Commission's orders were delivered to the President and to the United States Trade Representative on the day of their issuance.

The Commission has terminated this investigation. 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 210.16(c) and 210.41 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.16(c) and 210.41).

By order of the Commission.

/s/
William R. Bishop
Hearings and Meetings Coordinator

Issued: March 10, 2011