

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN PERSONAL
TRANSPORTERS, COMPONENTS
THEREOF, AND MANUALS
THEREFOR**

Investigation No. 337-TA-935

**ISSUANCE OF A GENERAL EXCLUSION ORDER, A LIMITED EXCLUSION
ORDER, AND A CEASE AND DESIST ORDER; TERMINATION OF INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to issue: (1) a general exclusion order (“GEO”) barring the unlicensed entry of certain personal transporters that infringe one patent asserted in this investigation; (2) a limited exclusion order (“LEO”) prohibiting the unlicensed entry of infringing personal transporters, components thereof, and manuals therefor manufactured abroad by or on behalf of certain respondents that are covered by one or more asserted U.S. patents and copyright; and (2) a cease and desist order (“CDO”) directed against one domestic defaulting respondent. The Commission has terminated this investigation.

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 10, 2014, based on a complaint filed by Segway, Inc. of Bedford, New Hampshire (“Segway”) and DEKA Products Limited Partnership of Manchester, New Hampshire (“DEKA”) (collectively, “Complainants”). 79 Fed. Reg. 66739-40 (Nov. 10, 2014). The amended

complaint, as supplemented, alleges violations of section 337 by reason of infringement of certain claims of U.S. Patent Nos. 6,789,640 (“the ‘640 patent”); 7,275,607 (“the ‘607 patent”); and 8,830,048 (“the ‘048 patent”); the claim of U.S. Design Patent No. D551,722 (“the ‘722 design patent”); the claim of U.S. Design Patent No. D551,592 (“the ‘592 design patent”); and U.S. Copyright Registration No. TX-7-800-563 (“the Asserted Copyright”) by numerous respondents. *Id.* In particular, the notice of investigation named the following thirteen entities as respondents: Ninebot Inc., Ninebot (Tianjin) Technology Co., Ltd.; and PowerUnion (Beijing) Tech Co. Ltd. (the “Ninebot Respondents”); Robstep Robot Co., Ltd. (“Robstep”); Shenzhen INMOTION Technologies Co., Ltd. (“INMOTION”); Tech in the City; and Freego USA, LLC (“FreeGo USA”) (collectively, “Terminated Respondents”); UPTECH Robotics Technology Co., Ltd. (“UPTECH”), Beijing Universal Pioneering Technology Co., Ltd. (“U.P. Technology”), Beijing Universal Pioneering Robotics Co., Ltd. (“U.P. Robotics”), FreeGo High-Tech Corporation Limited (“FreeGo China”), and EcoBoomer Co. Ltd. (“EcoBoomer”) (collectively, “Defaulting Respondents”); and Roboscooters.com (“Roboscooters”). The Commission’s Office of Unfair Import Investigations was also named as a party.

In the course of the investigation, the ALJ issued the following IDs with respect to the Terminated Respondents: ALJ Order Nos. 13 (Feb. 19, 2015) (*not reviewed* Mar. 18, 2015) (terminating respondent FreeGo USA by consent order); 19 (May 4, 2015) (*not reviewed* May 20, 2015) (terminating respondent Robstep by settlement); 23 (Jun. 19, 2015) (*not reviewed* Jul. 15, 2015) (terminating respondent INMOTION by settlement); 24 (Jul. 8, 2015) (*not reviewed* Jul. 28, 2015) (terminating respondent Tech in the City by consent order); and 27 (Aug. 20, 2015) (*not reviewed* Sept. 18, 2015) (terminating the Ninebot Respondents by settlement). The ALJ also issued an ID finding all of the Defaulting Respondents in default. *See* ALJ Order No. 20 (May 7, 2015) (*not reviewed* May 27, 2015). The sole remaining respondent Roboscooters participated in a preliminary teleconference on December 15, 2014, filed an answer to the complaint and notice of investigation (Dec. 31, 2014), partially responded to one set of Requests for Document Production, and produced a corporate witness for deposition on May 6, 2015, but did not otherwise participate in the investigation.

On July 8, 2015, Complainants filed a motion for summary determination of violation of Section 337 by Defaulting Respondents (*i.e.*, U.P. Robotics, U.P. Technology, UPTECH, FreeGo China, and EcoBoomer), and respondent Roboscooters. The IA filed a response in support of the motion on July 23, 2015. No respondent filed a response to the motion.

On August 21, 2015, the ALJ issued an ID (order No. 28) granting Complainants’ motion. No party petitioned for review of the ID.

On October 7, 2015, the Commission issued a Notice (“Commission Notice”). The Commission determined to affirm the ALJ’s finding of a violation of section 337. The Commission also determined to review the August 21 ID in part. On review, the Commission determined, *inter alia*, to clarify that the authority for the ALJ to draw adverse inferences against respondent Roboscooters for its failures to act during the investigation and find Roboscooters in violation is found in Commission Rule 210.17, 19 C.F.R. § 210.17, and corrected certain

apparent typographical errors in the ID. *See* 80 *Fed. Reg.* 61842-43 (Oct. 14, 2015). The Commission requested written submissions on remedy, public interest, and bonding. *See id.* at 61843. Complainants and the IA timely filed their submissions pursuant to the Commission Notice. No other parties filed any submissions in response to the Commission Notice.

Having reviewed the submissions filed in response to the Commission's Notice and the evidentiary record, the Commission has determined that the appropriate form of relief in this investigation is: (a) a GEO prohibiting the unlicensed importation of certain personal transporters covered by claims 1, 2 and 4-7 of the '048 patent; (b) an LEO prohibiting the unlicensed entry of infringing (i) personal transporters, components thereof, and manuals therefor that are covered by one or more of claims 1 and 4 of the '640 patent manufactured abroad by or on behalf of, or imported by or on behalf of, the respondents UPTECH, U.P. Technology, U.P. Robotics, FreeGo China, EcoBoomer, and Roboscooters or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns; (ii) personal transporters, components thereof, and manuals therefor that are covered by one or more of claims 1, 3, and 7 of the '607 patent manufactured abroad by or on behalf of, or imported by or on behalf of, the respondents UPTECH, U.P. Technology, U.P. Robotics, FreeGo China, EcoBoomer, and Roboscooters or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns; (iii) personal transporters, components thereof, and manuals therefor that are covered by the claim of the '722 design patent manufactured abroad by or on behalf of, or imported by or on behalf of, U.P. Robotics, U.P. Technology, or UPTECH, or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns; (iv) personal transporters, components thereof, and manuals therefor that are covered by the claim of the '592 design patent manufactured abroad by or on behalf of, or imported by or on behalf of, U.P. Robotics, U.P. Technology, UPTECH, FreeGo China, or Roboscooters, or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns; (v) personal transporters, components thereof, and manuals therefor that are covered by the Asserted Copyright manufactured abroad by or on behalf of, or imported by or on behalf of, U.P. Robotics, U.P. Technology, or UPTECH, or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns; and (c) a CDO directed against respondent EcoBoomer.

The Commission has further determined that the public interest factors enumerated in subsections (d)(1), (d)(2), and (f)(1) (19 U.S.C. §§ 1337(d)(1), (d)(2), (f)(1)) do not preclude issuance of the above-referenced remedial orders. Additionally, the Commission has determined that a bond in the amount of one hundred (100) percent of the entered value is required to permit temporary importation of the articles in question during the period of Presidential review (19 U.S.C. § 1337(j)). The Commission has also issued an opinion explaining the basis for the Commission's action. The investigation is terminated.

The Commission's orders and the record upon which it based its determination were delivered to the President and to the United States Trade Representative on the day of their issuance. The Commission has also notified the Secretary of the Treasury of the orders.

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".

Lisa R. Barton
Secretary to the Commission

Issued: March 10, 2016