

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-752 (Review)]

### Crawfish Tail Meat From China

**AGENCY:** United States International Trade Commission.

**ACTION:** Scheduling of a full five-year review concerning the antidumping duty order on crawfish tail meat from China.

**SUMMARY:** The Commission hereby gives notice of the scheduling of a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty order on crawfish tail meat from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**EFFECTIVE DATE:** January 24, 2003.

**FOR FURTHER INFORMATION CONTACT:** Olympia DeRosa Hand (202-205-3182), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this review may be viewed on the Commission's electronic docket (EDISON-LINE) at <http://dockets.usitc.gov/eol/public>.

**SUPPLEMENTARY INFORMATION:**

**Background**—On November 4, 2002, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review pursuant to section 751(c)(5) of the Act should proceed (67 FR 69557, November 18, 2002). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

**Participation in the review and public service list**—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

**Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list**—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Staff report**—The prehearing staff report in the review will be placed in the nonpublic record on May 14, 2003, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

**Hearing**—The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on June 3, 2003, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 28, 2003. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on May 30, 2003, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules.

Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

**Written submissions**—Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is May 23, 2003. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is June 12, 2003; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before June 12, 2003. On July 3, 2003, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before July 8, 2003, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means except to the extent provided by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: January 27, 2003.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

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## INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-460]

### Certain Sortation Systems, Parts Thereof, and Products Containing Same; Notice of Violation of Section 337 of the Tariff Act of 1930 and Issuance of Limited Exclusion Order

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined that there is a violation of section 337 of the Tariff Act of 1930 in the above-captioned investigation and issued a limited exclusion order.

**FOR FURTHER INFORMATION CONTACT:**

Michael K. Haldenstein, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3041. Copies of the limited exclusion order, the public version of the Commission's opinion, and all other nonconfidential 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 SW., Washington, DC 20436, telephone 202-205-2000.

General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at <http://dockets.usitc.gov/eol/public>.

**SUPPLEMENTARY INFORMATION:** The Commission voted to institute this investigation on July 19, 2001, based upon a complaint filed on June 25, 2001, by Rapistan Systems Advertising Corp. and Siemens Dematic Corp., both of Grand Rapids, Michigan. 66 FR 38741 (July 25, 2001). Named as respondents were Vanderlande Industries Nederland BV of the Netherlands, and Vanderlande Industries of Atlanta, Georgia (collectively referred to as "Vanderlande"). Vanderlande Industries

Nederland BV of the Netherlands designs and manufactures the accused sortation systems, and Vanderlande Industries of Atlanta imports, sells, and installs the accused sortation systems.

Complainants alleged that respondents had violated section 337 by importing into the United States, selling for importation, and selling within the United States after importation certain sortation systems, or components thereof, covered by independent claims 1, 13, 23, 30, and 42 and dependent claims 2, 3, 4, 8, 9, 17, 18, 20, 22, 24, 27, 29, 33, 35, 36, 37, 39, 43, 45, 46, 47, and 49 of U.S. Patent No. 5,127, 510 ("the '510 patent'"), owned by Rapistan Systems and exclusively licensed to Siemens Dematic. On April 5, 2002, complainants filed an unopposed motion asking for the termination of the investigation with respect to claims 2, 3, 8, 9, 18, 24, 36, 37, 29, 46, 47, and 49. On May 16, 2002, the presiding administrative law judge (ALJ) granted the motion in an ID (Order No. 32) and the Commission determined not to review that ID. The claims of the '510 patent at issue were therefore claims 1, 4, 13, 17, 20, 22, 23, 27, 29, 30, 33, 35, 42, 43, and 45. The complaint further alleged that an industry in the United States exists, as required by subsection (a)(2) of section 337.

An evidentiary hearing was held on June 4-17, 2002. On October 22, 2002, the ALJ issued his final initial determination (ID), in which he determined that respondents' sortation systems, and parts thereof, infringe claims 1 and 4 of the '510 patent, and that the '510 patent is valid and enforceable. Based upon these findings and the finding that there is a domestic industry, he found a violation of section 337.

The ALJ recommended issuance of a limited exclusion order barring importation of the respondents' accused Mark 2 Posisorter sortation system and its parts and components. He recommended exempting spare parts destined for UPS's Hub 2000 facility in Louisville, Kentucky from the scope of the limited exclusion order. He also recommended a bond during the Presidential review period in the amount of 100 percent of the entered value of the infringing products.

On November 4, 2002, Vanderlande and the Commission investigative attorney (IA) petitioned for review of portions of the ALJ's final ID, and Rapistan submitted a contingent petition for review asking that the Commission review certain issues if it decided to review the ID. On November 12, 2002, Vanderlande, Rapistan, and the IA filed reply submissions.

The Commission determined to review the ID on the following issues: (1) The ID's construction of the claim limitation "contiguous, generally planar surfaces sloping downward from an upper extent of said diverting surface laterally inward and longitudinally forward or rearward" in independent claim 30, and dependent claims 33, and 35, and the infringement findings related to this claim element; and (2) the ID's findings regarding the affirmative defense of equitable estoppel.

Rapistan, Vanderlande, and the IA filed submissions on December 23, 2002, and reply submissions on December 30, 2002, addressing the two issues under review and remedy, the public interest, and bonding.

The Commission reviewed these issues and the parties' submissions and determined: (1) To modify the ALJ's construction of the limitation in claim 30 quoted above, and to find that the accused product does not meet this limitation; (2) that the elements of equitable estoppel have not been established.

The Commission also determined that the appropriate remedy consists of a limited exclusion order prohibiting the importation of the infringing sortation systems, and shoes and slats thereof, manufactured abroad by Vanderlande Industries. The Commission determined to include an exemption in the limited exclusion order for importations of spare parts for United Parcel Service's Hub 2000 facility in Louisville, Kentucky. The Commission further determined that the statutory public interest factors do not preclude the issuance of such relief. Finally, the Commission determined that during the Presidential review period importation should be permitted pursuant to a bond requirement in the amount of 100 percent of the entered value of the infringing products.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and section 210.50 of the Commission's rules of practice and procedure (19 CFR 210.50).

By order of the Commission.

Issued: January 27, 2003.

**Marilyn R. Abbott,**

*Secretary.*

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