

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-457-A-D (Fourth Review)]

Heavy Forged Hand Tools From China

Determinations

On the basis of the record¹ developed in the subject five-year reviews, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that revocation of the antidumping duty orders on heavy forged hand tools from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted these reviews on July 1, 2016 (81 FR 43235) and determined on October 4, 2016, that it would conduct expedited reviews (81 FR 73417, October 25, 2016).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on December 15, 2016. The views of the Commission are contained in USITC Publication 4654 (December 2016), entitled *Heavy Forged Hand Tools from China: Investigation Nos. 731-TA-457-A-D (Fourth Review)*.

By order of the Commission.

Issued: December 15, 2016.

Lisa R. Barton,

Secretary to the Commission.

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-988]

Certain Pumping Bras Commission Determination To Review In-Part an Initial Determination Granting Complainant’s Motion for Summary Determination of Section 337 Violation by Defaulted Respondents

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade

Commission has determined to review in-part an initial determination (“ID”) (Order No. 11) of the presiding administrative law judge (“ALJ”) granting Complainant’s motion for summary determination of section 337 violation by Respondents found in default. On review, the Commission has determined to modify the ID to set aside the expenses relating to Complainant’s patent and trademark prosecution and maintenance in the ID’s domestic industry analysis. The Commission has determined not to review the remainder of the ID. The Commission’s determination results in a determination of a violation of section 337. Accordingly, the Commission requests written submissions, under the schedule set forth below, on remedy, the public interest, and bonding.

FOR FURTHER INFORMATION CONTACT:

Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708-4716. 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 SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://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 Investigation No. 337-TA-988 on March 14, 2016, based on a complaint filed by Complainant Simple Wishes, LLC (“Simple Wishes”) of Sacramento, California. *See* 81 FR 13419-20 (Mar. 14, 2016). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), based upon the importation into the United States, the sale for importation, and/or the sale within the United States after importation of certain pumping bras by reason of infringement of certain claims of U.S. Patent No. 8,323,070 (“the ’070 patent”) and U.S. Patent No. 8,192,247 (“the ’247 patent”). *Id.* The notice of investigation identified TANZKY of Luohugu, China; BabyPreg of Shenzhen Guangdong, China; Deal Perfect of Shenzhen Guangdong, China; and

Buywish of Nanjing Jiangsu, China, as respondents in this investigation. *Id.* The Office of Unfair Import Investigations is also a party to this investigation. *Id.* Respondent Buywish was subsequently terminated from the investigation. *See Certain Pumping Bras*, USITC Inv. No. 337-TA-988, Comm’n Notice (Aug. 9, 2016). As a result, the ’247 patent which was asserted against Respondent Buywish only, is no longer at issue in this investigation. *See* ID at 4 n.1.

On May 12, 2016, Complainant Simple Wishes filed a motion for an order to show cause and for entry of default against Respondents TANZKY, BabyPreg, and Deal Perfect (collectively, “the Defaulting Respondents”) for failure to respond to the complaint and notice of investigation. On May 19, 2016, the Commission Investigative Attorney (“IA”) filed a response in support of Complainant’s motion. On June 22, 2016, the ALJ issued an initial determination granting Complainant’s motion and finding TANZKY, BabyPreg, and Deal Perfect in default (Order No. 8). On July 8, 2016, the Commission determined not to review Order No. 8. *See Certain Pumping Bras*, USITC Inv. No. 337-TA-988, Comm’n Notice (July 8, 2016).

On August 30, 2016, Complainant Simple Wishes filed a motion for summary determination on domestic industry and violation of section 337 by the Defaulting Respondents. In addition, Complainant Simple Wishes requested a recommended determination for the Commission to issue a general exclusion order and to set a bond at 100 percent. On September 9, 2016, the IA filed a response in support of Complainant’s motion and requested remedy.

On October 31, 2016, the ALJ issued the subject ID (Order No. 11) granting Complainant’s motion for summary determination on domestic industry and violation of section 337 by the Defaulting Respondents and recommending that the Commission issue a general exclusion order and set a bond at 100 percent. *See Certain Pumping Bras*, USITC Inv. No. 337-TA-988, Order No. 11 (Oct. 31, 2016).

On November 7, 2016, the IA filed a petition for a limited review of the ID with respect to the ID’s consideration of Complainant’s expenses relating to patent and trademark prosecution and maintenance in its domestic industry analysis under 19 U.S.C. 1337(a)(3)(C). Complainant did not file a response to the IA’s petition.

The Commission has determined to review the ID and on review, to modify the ID in-part to set aside the expenses relating to Complainant’s patent and

¹ The record is defined in sec. 207.2(f) of the Commission’s Rules of Practice and Procedure (19 CFR 207.2(f)).