

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

CERTAIN COMPOSITE WEAR
COMPONENTS AND PRODUCTS
CONTAINING SAME

Investigation No. 337-TA-644

OFFICE OF THE SECRETARY
U.S. INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C. 20436
2008 APR -7 PM 3:24

NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW
AN INITIAL DETERMINATION FINDING RESPONDENTS
AIAE ENGINEERING LTD. AND VEGA INDUSTRIES IN DEFAULT
AND FINDING A VIOLATION OF SECTION 337

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: The United States International Trade Commission hereby provides notice that it has determined not to review an initial determination ("ID") (Order No. 26) issued by the presiding administrative law judge ("ALJ") finding respondents AIAE Engineering Limited and Vega Industries in default and finding a violation of section 337.

FOR FURTHER INFORMATION CONTACT: Paul M. Bartkowski, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5432. 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: This investigation was instituted on April 25, 2008, based on a complaint filed by Magotteaux International S/A and Magotteaux, Inc. (collectively, "Magotteaux"). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930 (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 composite wear components and products containing the same that infringe all of the claims of U.S. Patent No.

RE 39,998 (“the ‘998 patent”). The complaint named Fonderie Acciaierie Rioale S.P.A. (“FAR”), AIA Engineering Ltd. (“AIAE”), and Vega Industries (“Vega”) as respondents. FAR was subsequently terminated from the investigation on the basis of a settlement agreement, leaving AIAE and Vega (hereinafter referred to collectively as “AIAE”) as the remaining respondents.

On May 8, 2009, the ALJ issued the subject ID, granting a motion filed by the Commission investigative attorney (“IA”) for issuance of an initial determination finding AIAE in default and granting in part a motion filed by Magotteaux for issuance of an initial determination finding respondents in default and requesting adverse inferences on importation, infringement, and domestic industry. AIAE filed a petition for review of the ID, which was opposed by the Magotteaux and the IA.

The Commission has determined not to review the subject ID finding AIAE in default pursuant to Rule 210.16(a)(2) and presumes the facts alleged in the complaint to be true with respect to AIAE, in addition to the ALJ’s finding of violation pursuant to Rule 210.17. The Commission also determines to waive Commission Rule 210.42(a)(ii), which, unless the Commission orders otherwise, requires that the ALJ issue a recommended determination in conjunction with any initial determination concerning violation of section 337.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease-and-desist orders that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease-and-desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission’s action. See Presidential Memorandum of July 21, 2005, 70 *Fed. Reg.* 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined

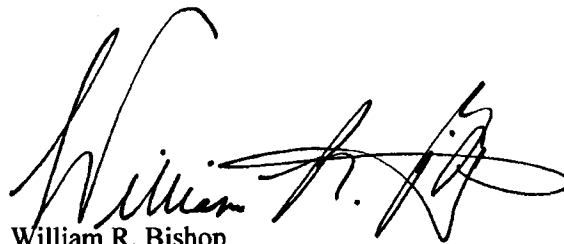
by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

WRITTEN SUBMISSIONS: The parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Complainants and the IA are also requested to submit proposed remedial orders for the Commission's consideration. Complainants are also requested to state the dates that the patents expire and the HTSUS numbers under which the accused products are imported. The written submissions and proposed remedial orders must be filed no later than close of business on July 22, 2009. Reply submissions, if any, must be filed no later than the close of business on July 30, 2009. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 C.F.R. § 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

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 section 210.42 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.42).

By order of the Commission.
Marilyn R. Abbott, Secretary



William R. Bishop
Acting Secretary

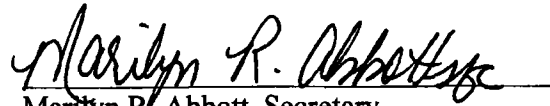
Issued: July 7, 2009

**CERTAIN COMPOSITE WEAR COMPONENTS AND
PRODUCTS CONTAINING THE SAME**

337-TA-644

PUBLIC CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL DETERMINATION FINDING RESPONDENTS AIAE ENGINEERING LTD. AND VEGA INDUSTRIES IN DEFAULT AND FINDING A VIOLATION OF SECTION 337** has been served by hand upon the Commission Investigative Attorney, David O. Lloyd, Esq., and the following parties as indicated, on July 7, 2009.


Marilyn R. Abbott, Secretary
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

**ON BEHALF OF COMPLAINANTS MAGOTTEAUX
INTERNATIONAL S/A AND MAGOTTEAUX, INC.:**

John J. Gresens, Esq.
VEDDER PRICE P.C.
222 North La Salle Street
Suite 2600
Chicago, IL 60601-1003
P-312-609-7500
F-312-609-5005

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

**ON BEHALF OF RESPONDENTS VEGA
INDUSTRIES AND AIA ENGINEERING, LTD.:**

Benjamin J. Lambiotte, Esq.
GARVEY SCHUBERT BARER
1000 Potomac Street, NW – 5th floor
Washington, DC 20005
P-202-965-7880

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____