

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

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

Inv. No. 337-TA-644

ORDER NO. 24: STAYING THE EVIDENTIARY HEARING

(March 31, 2009)

On March 23, 2009, respondents AIA Engineering and Vega Industries (collectively "AIAE") filed a "Notice of Filing of District Court Action and Statement of Position with Respect to ITC Investigation No. 337-TA-644" wherein AIAE gave "notice that AIA and Vega will not participate any further in this investigation, except in connection with appeals or other challenges to the denial by the ALJ of Respondents' Termination Motion or other challenges to the ALJ's rulings on appeals to the Commission or elsewhere, or to any actions taken by the Commission (all including without limitation challenges to the timing or substance of any exclusion order Magotteaux may seek)." *See* Respondents AIA Engineering Limited's and Vega Industries Ltd.'s Notice of Filing of District Court Action and Statement of Position with Respect to ITC Investigation No. 337-TA-644 ("Statement") at 2. The Statement of Position further stated that AIAE intends to seek redress against Magotteaux for incorrect allegations of patent infringement in the United States District Court for the Middle District of Tennessee.

On March 27, 2009, the Commission Investigative Staff ("Staff") filed a motion for issuance of an initial determination finding AIAE in default and request for shortened response time. (Motion Docket No. 644-037.) The motion further states that complainants Magotteaux International S/A and Magotteaux, Inc. (collectively "Magotteaux") join in the motion but still

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seek an opportunity to separately brief the motion and further move for adverse inferences on outstanding issues in the Investigation. AIAE has indicated that they will oppose the motion, despite its representations that it will no longer participate in this investigation in its Statement of Position.

Based on the foregoing information, the ALJ finds good cause to stay the evidentiary hearing scheduled to begin on April 13, 2009. First, AIAE has indicated that they will no longer participate in this investigation, which presumably includes attending and participating in the evidentiary hearing, and have failed to file a pre-hearing brief.¹ Further, Staff has filed a motion for issuance of an initial determination finding AIAE in default, and Magotteaux has indicated that they also will be filing separate briefing on the matter and will seek adverse inferences against AIAE on the outstanding issues in the investigation. Given the dispositive nature of Staff's motion (and, potentially that of Magotteaux's motion), an evidentiary hearing would be unnecessary should the ALJ grant such motions. In addition, requiring Magotteaux and the Staff to proceed with the evidentiary hearing given their stated positions in their pre-hearing briefs would be a waste of resources, especially given AIAE's unwillingness to participate in this investigation.² The ALJ also finds that the parties should have the fully allotted time to respond to Staff's motion given the nature of the relief sought therein and that, given the ALJ's ruling herein, Staff's request for a shortened response time is moot.


Therefore, any responses to Staff's motion shall be due on April 8, 2009 per Ground Rule 3.6. As set forth *supra*, Magotteaux has indicated that it intends to file supplemental briefing and will seek adverse inferences. Any such motion and briefing should be filed no later than

1 Per Order No. 14, the private parties' pre-hearing briefs were due on March 17, 2009. Magotteaux and Staff have filed pre-hearing briefs.

2 Both Staff and Magotteaux argue that a violation of Section 337 has occurred.

Monday, April 13, 2009, and Staff and AIAE will have the normal response time of 10 calendar days.³ Once the ALJ has ruled on the pending motions, he will revisit the issue as to whether an evidentiary hearing is necessary. Therefore, the ALJ hereby STAYS the evidentiary hearing pending disposition of these motions.

SO ORDERED.



Theodore R. Essex
Administrative Law Judge


³ The ALJ also has pending before it (1) Magotteaux's Motion For Summary Determination of a Violation by Respondents AIA Engineering Limited and Vega Industries LTD with Respect to US Patent No. Re 39,998 and (2) Motion for Reconsideration or Interlocutory Appeal of Decision Denying Motion for Termination of Investigation, both of which were filed before AIAE's notice that it no longer intended to participate in the hearing.

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PUBLIC CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **ORDER 24** has been served by hand upon, the Commission Investigative Attorney, **David O. Lloyd, Esq.**, and the following parties as indicated March 31, **2009**.


Marilyn R. Abbott, Secretary *JRC*
U.S. International Trade Commission
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CERTIFICATE OF SERVICE - PAGE 3

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