

**PUBLIC VERSION**

**UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.**

**In the Matter of**

**CERTAIN CAST STEEL RAILWAY  
WHEELS, CERTAIN PROCESSES FOR  
MANUFACTURING OR RELATING TO  
SAME AND CERTAIN PRODUCTS  
CONTAINING SAME**

Inv. No. 337-TA-655

REC'D  
JUN 27 11 10 20

**Order No. 23: Denying Respondents' Motion To Compel  
Response To Interrogatory No. 4 And Disclosure Of The  
Griffin Trade Secrets**

Counsel for Standard Car Truck, Inc. and Barber Tianrui Railway Supply has filed a Motion to Compel Response to Interrogatory No. 4 and Disclosure of the Griffin Trade Secrets on behalf of these two respondents, as well as on behalf of co-respondents Tianrui Group Company Limited and Tianrui Group Foundry Company Limited (collectively, "SCT"). (Motion No. 655-23). Complainant Amsted Industries Incorporated ("Amsted") and the Commission Investigative Staff ("Staff") oppose the motion. The motion is denied.

SCT's Interrogatory No. 4 reads, "Describe the Griffin Trade Secrets." Compl. Resp., Ex. E at 11. Displeased with Amsted's answer to this interrogatory (*id.*), SCT moves to compel complainant to "list" the Griffin Trade Secrets. Resps. Mem. at 1. SCT argues, "[g]iven that detailed allegations were made in the Complaint concerning (1) the development and licensing to third parties of the alleged Griffin Trade Secrets and (2) the importance of the Griffin Trade Secrets to the domestic industry requirement in this case, Complainant should be able to readily

provide this information.” Resps. Mem. at 2; *see* Mot. at 1 for Griffin Trade Secrets references in Complaint. Thus, respondents maintain, “[a]s it stands, SCT is forced to guess how Complainant believes that the Griffin Trade Secrets are central to this case.” Resps. Mem. at 3.

For its part, Amsted contends that Interrogatory No. 4 has been “sufficiently answered.” Compl. Resp. at 2. Amsted quotes its answer as follows:

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Compl. Resp. at 2-3, citing Ex. E.<sup>1</sup>

In addition, Amsted states that it has produced the facility layout drawing for Griffin Wheel’s Kansas City, Kansas, cast steel railway facility and allowed respondents to inspect that facility; produced portions of the Griffin Wheel Company & Griffin Canada, Inc. Standard

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<sup>1</sup> Amsted, however, leaves out ¶ 2 of its answer to Interrogatory No. 4 that reads, in part, “Upon receiving proper responses [to complainants’ own discovery requests] (including information, documents and access) to that written discovery and other discovery, Amsted will be in a position to more specifically identify and will *then more specifically identify the particular Griffin Wheel Trade Secrets that are at issue in this investigation, e.g., have been and are being misappropriated by Tianrui, Tianrui Foundry, SCT and Barber.*” Compl. Resp. at 11-12 (emphasis added).

Practice; and produced the Amsted Rail, Inc. Inspection and Test Plan, Griffin Wheel Quality Manuals, Keokuk Operations Manual, Griffin Wheel Kansas City Quality Manual, Griffin Wheel Columbus Quality Manual, and Winnipeg Quality Manual. Compl. Resp. at 3-4.

Amsted further states that the documents that it has produced describe the Griffin Wheel Trade Secrets. Further, “[t]here are not any other documents that describe the Griffin Wheel Trade Secrets and that are to be relied upon by Amsted.” Compl. Resp. at 4. It concludes (despite its answer in ¶ 2 to Interrogatory No. 4, as referenced in n.1, *supra*), “[t]his investigation is an unfair-competition-based investigation brought under Section 337(a)(1)(A) and involves the Respondents’ misappropriation of certain ABC trade Secrets.” Compl. Resp. at 5.<sup>2</sup>

In supporting Amsted’s position, the Staff offers the clearest view as to the nature of the present discovery dispute. The Staff submits that “a specific listing of the technical details of the Griffin Wheel trade secrets is not necessary to making a determination regarding the development, licensing, or domestic industry allegations asserted by Amsted that are based on these trade secrets.” Staff Resp. at 3.<sup>3</sup> The Staff bases its view, in large measure, upon the principle that “[u]nless the disclosure is necessary to a determination of the controversy and its non-disclosure to the discovering party would [cause] a great hardship, disclosure should not be required.” *Id.*, citing Roger A. Milgrim, *Milgrim on Trade Secrets*, § 14.02[3][a] at 14-93.

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<sup>2</sup> See also Compl. Resp. at 5 (“Here, Amsted’s domestic cast steel railway wheel operations are the target of Respondents[’] unfair acts or practices, *i.e.*, the target of the Respondents’ imported cast steel railway wheels that have resulted and are resulting from Respondents’ misappropriation of Amsted’s ABC Trade Secrets. See 19 U.S.C. § 1337(a)(1)(A).”

<sup>3</sup> The Staff also submits, “[i]f, however, Amsted were to allege that the Respondents misappropriated the Griffin Wheel trade secrets, the Staff would likely support a motion for a specific listing of them.” Staff Resp. at 4, n.1.

In that regard, the Staff notes that “Respondents do not explain in their Motion why the information Amsted already has produced is not sufficient for them to explore further in discovery the allegations concerning Amsted’s licensing of those trade secrets, or their application in the production of cast steel railway wheels in the United States.” Staff Resp. at 4 (fn. omitted). Also, the Staff notes Amsted’s representation that its Griffin Wheels production is complete. Thus, the Staff concludes, “it would appear that a specific listing of the technical details of the Griffin Wheel trade secrets is not necessary for the Respondents (or the Staff) to explore Amsted’s contentions concerning the development and licensing of these trade secrets, or their investment in an industry in the United States that used them.” *Id.* at 4-5.

The arguments offered by the Staff are well-taken. This court agrees with the Staff’s analysis and, in particular, with its assessment that Amsted is not alleging in this investigation that respondents misappropriated the Griffin Wheel trade secrets. *See* n.2, *supra*. Were that the case, the requested discovery would be ordered. However, inasmuch as this investigation involves only the alleged misappropriation of the ABC trade secrets, for the reasons mentioned above, SCT’s Motion to Compel Response to Interrogatory No. 4 and Disclosure of the Griffin Trade Secrets is denied. (Motion 655-23).

Within seven days of the date of this document, each party shall submit to the Office of Administrative Law Judges a statement as to whether or not it seeks to have any portion of the document redacted from the public version. The parties’ submissions may be made by facsimile and, or, by hard copy. Any party seeking to have a portion of this document redacted

from the public version must submit to this office a copy of this document with red brackets indicating the portion, or portions, asserted to contain confidential business information.

So Ordered.

Carl C. Charneski  
Carl C. Charneski  
Administrative Law Judge

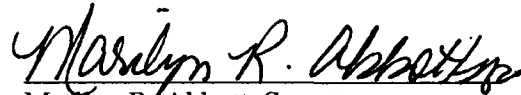
Issued: April 24, 2009

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**PUBLIC CERTIFICATE OF SERVICE**

I, Marilyn R. Abbott, hereby certify that the attached **ORDER** has been served by hand upon the Commission Investigative Attorney, Jeffrey T. Hsu, Esq., and the following parties as indicated, on JUL 27 2009.

  
Marilyn R. Abbott, Secretary  
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<p><b>FOR RESPONDENTS BARBER TIANRUI RAILWAY SUPPLY, LLC., TIANRUI GROUP CO., LIMITED AND TIANRUI GROUP FOUNDRY CO. LIMITED:</b></p> <p>Tom M. Schaumberg, Esq. <b>ADDUCI, MASTRIANI &amp; SCHAUMBERG, LLP</b> 1200 Seventeenth St., N.W. Fifth Floor Washington, D.C. 20036</p>	<p><input type="checkbox"/> Via Hand Delivery <input type="checkbox"/> Via Overnight Mail <input checked="" type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____</p>
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