

PUBLIC VERSION

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

In the Matter of _____)
)
CERTAIN AUTOMOTIVE VEHICLES)
AND DESIGNS THEREFORE)
_____)

Investigation No. _____

**VERIFIED COMPLAINT OF CHRYSLER GROUP LLC
UNDER SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED**

Complainant

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Proposed Respondents:

Xingyue Group Co., Ltd.
Gushan Industry Zone
Yongkang, Zhejiang Province, China 321307

Shanghai Xingyue Power Machinery Co. Ltd.
No. 1751, Zhouzhu Road,
Nanhui District
Shanghai City
Shanghai, China 201321

Shanghai Xingyue USA, Inc.
719 Nogales St.
City of Industry, CA 91748

Zhejiang Xingyue Vehicle Co. Ltd.
Gushan
Yongkang, Zhejiang Province, China 321307

Shanghai Tandem Industrial Co., Ltd.
53 Building, 3297 Hong Mei Road,
Shanghai, China 201103

Excalibur Motorsports
14020 Central Avenue, #530
Chino, CA 91710

Boat N RV Supercenter
2475 Westel Road
Rockwood, TN 37854

Recon Cycles
16979 FM 1314
Conore, TX 77302

Vehicles Online, Inc.
537 W. Cama St.
Charlotte, NC 28217

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APPENDICES

Appendix A: Certified Copy of Prosecution History for U.S. Patent No. D513,395

Appendix B: Copies of Relevant References Cited in Prosecution History for U.S. Patent No. D513,395

Appendix C: Certified Copy of Recorded Assignments for U.S. Patent No. D513,395

Appendix D: Certified Copy of U.S. Patent No. D513,395

I. INTRODUCTION

1. Complainant Chrysler Group LLC (“Chrysler” or “Complainant”) requests that the United States International Trade Commission (“the Commission”) institute an investigation into violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

2. Proposed Respondents, Xingyue Group Co., Ltd., Shanghai Xingyue Power Machinery Co. Ltd., Shanghai Xingyue USA, Inc., Zhejiang Xingyue Vehicle Co. Ltd., Shanghai Tandem Industrial Co., Ltd., Excalibur Motorsports, Boat N RV Supercenter, Recon Cycles, and Vehicles Online, Inc. have engaged in unfair acts in violation of Section 337 through the unlicensed importation into the United States, sale for importation and/or sale within the United States after importation of certain automotive vehicles that infringe U.S. Patent No. D513,395 (“the ’395 patent”).

3. The ’395 patent is valid and enforceable and all rights, title and interest belong to Chrysler by assignment. The ’395 patent discloses and claims the ornamental design for a vehicle body. The claimed design is embodied in Jeep’s Hurricane® concept vehicle. A domestic industry under Section 337(a)(3) exists through Jeep’s substantial investment and expenditures in the United States for plant and equipment, labor or capital, engineering, research and development and marketing of the Hurricane® concept vehicle that embodies the design claimed in the ’395 patent.

4. Chrysler seeks relief from the Commission in the form of an order permanently excluding all of Proposed Respondents’ imported automotive vehicles that infringe the ’395 patent from entering into the United States. Chrysler further seeks a cease and desist order pursuant to Section 337(f) directing the Proposed Respondents and their related companies to

halt the importation, sale, offer for sale, distribution, marketing, advertising, or soliciting of all infringing vehicles.

II. THE PARTIES

A. Complainant

5. Complainant Chrysler is a company organized and existing under the laws of the State of Delaware, with its principal place of business at 1000 Chrysler Drive, Auburn Hills, Michigan 48321.

6. Chrysler Group LLC is a U.S. vehicle manufacturer headquartered in the Detroit suburb of Auburn Hills, Michigan. Chrysler can trace its roots back to Chrysler Corporation, which was first organized in 1925. Chrysler Group LLC, formed in 2009 from a global strategic alliance with Fiat Group, produces Chrysler®, Jeep®, Dodge®, Mopar® and Global Electric Motorcars brand vehicles and products. With the resources, technology and worldwide distribution network required to compete on a global scale, the alliance builds on Chrysler's culture of innovation – first established by Walter P. Chrysler in 1925. Chrysler Group LLC's product lineup features some of the world's most recognizable vehicles, including the Chrysler® 300, Jeep® Wrangler® and Ram Truck.

7. Jeep® is one of Chrysler's most well-known brands. Chrysler spends a significant amount of money every year to promote and protect the Jeep® brand. Chrysler advertises Jeep® as, “[a] true original. Every Jeep® vehicle is authentic to its roots. You can spot a Jeep® vehicle a mile away with its trademark seven-slot grille, round headlamps and rugged stance. But owning a Jeep® vehicle is about more than just ruggedly refined good looks. The Jeep® brand wrote the book on 4x4. Having kept the flame of off-road capable vehicles burning for over 69 years, we're not about to let it go out. It's about shrugging off potholes,

defying hills and having the capability to master any terrain – paved or not. The Jeep® Trail Rated® badge is our promise, our assurance of courageous capability. A Trail Rated® Jeep® 4x4 is a dirt-throwing, snow-gripping, hill-defying, road-embracing, story-collecting machine. But just as important, it represents peace of mind and confidence.” See Exhibit 2.

8. Since 1988 Chrysler has created more than one hundred concept vehicles. “Concept vehicles have two major roles for the Chrysler Group: they showcase to management, the media and the public the potential future design direction for Chrysler Group cars and trucks, and they help to attract the best young designers in the world into its design studios. . . . Concepts can also be showcases for new design cues, which often find their way into production on future vehicles – even if the entire concept vehicle does not. . . . We’ve always said at Chrysler that we don’t just produce concepts for fun. We have proved year after year that our concepts are innovative and relevant.” See Exhibit 3.

9. One of those concept vehicles is the Jeep® Hurricane®. In 2003 Chrysler designers began work on the Jeep® Hurricane® concept vehicle. Over the next sixteen months, Chrysler employees spent an extraordinary amount of time and effort refining and perfecting the Hurricane’s® design. On November 15, 2004, Chrysler filed the application that became the ’395 patent. On January 9, 2005, Chrysler introduced the Hurricane® concept vehicle at the 2005 North American International Auto Show in Detroit. The ’395 patent covering the Hurricane® was issued on January 3, 2006.

10. Chrysler is committed to protecting its intellectual property rights. Chrysler’s website states, “Chrysler must protect its intellectual property, including its patents, trademarks and copyrights.” See Exhibit 4. In fact, Chrysler has set up a website specifically dedicated to the protection of its intellectual property rights, www.chryslerbrandprotection.com. See

Exhibit 5. The mission of this group is “to prevent and combat infringements of Chrysler Group LLC Intellectual Property Rights, to protect and reinforce our reputation as a premium-quality manufacturer while eliminating unfair practices in the market place.” See Exhibit 5.

B. Proposed Respondents

11. On information and belief, Respondent Xingyue Group Co., Ltd. is a Chinese corporation organized and existing under the laws of China, having a principal place of business at Gushan Industry Zone, Yongkang, Zhejiang Province, China 321307. See Exhibit 6.

12. Respondent Xingyue Group Co., Ltd. advertises itself as engaged in all kinds of go-karts and ATVs. See Exhibit 6. Respondent Xingyue Group Co., Ltd. manufactures the infringing vehicle as product XYJK800. See Exhibit 7. On information and belief, Respondent Xingyue Group Co., Ltd. imports the infringing vehicles. See Exhibit 8. As detailed in paragraph 62, United States Customs and Border Protection seized certain of the infringing vehicles for issues unrelated to this investigation. These vehicles were manufactured by Respondent Xingyue Group Co., Ltd. and were being imported into the United States. See Exhibit 8.

13. Xingyue Group Co., Ltd’s website states that it has twenty-three subsidiaries. See Exhibit 6.

14. On information and belief, Respondent Shanghai Xingyue Power Machinery Co. Ltd. is a Chinese corporation organized and existing under the laws of China, having a principal place of business at No. 1751, Zhouzhu Road, Nanhui District, Shanghai City, Shanghai, China 201321. See Exhibit 9. On information and belief, Respondent Shanghai Xingyue Power Machinery Co. Ltd. is a subsidiary of Respondent Xingyue Group Co., Ltd. See Exhibit 10.

15. Respondent Shanghai Xingyue Power Machinery Co. Ltd. advertises that it is a producer of ATVs and go-karts. It also advertises that it handles research and development to create designs that are popular with clients in the U.S. See Exhibit 10. On information and belief, Respondent Shanghai Xingyue Power Machinery Co. Ltd. sells the infringing vehicles on, at least, www.diytrade.com as model XYJK800 with the brand names Xingyue and GSMoon. See Exhibit 11.

16. On information and belief, Respondent Shanghai Xingyue USA, Inc. is a California corporation organized and existing under the laws of California, having a principal place of business at 719 Nogales St., City of Industry, CA 91748. See Exhibit 12. On information and belief, Respondent Shanghai Xingyue USA, Inc. is a subsidiary of Respondent Xingyue Group Co., Ltd. See Exhibit 10.

17. On information and belief, Respondent Shanghai Xingyue USA, Inc. imports the infringing vehicles. See Exhibit 13.

18. On information and belief, Respondent Zhejiang Xingyue Vehicle Co. Ltd. is a Chinese corporation organized and existing under the laws of China, having a principal place of business at Gushan, Yongkang, Zhejiang Province, China 321307. See Exhibit 14. On information and belief, Respondent Zhejiang Xingyue Vehicle Co. Ltd. is a subsidiary of Respondent Xingyue Group Co., Ltd. See Exhibit 14. On Respondent Xingyue Group Co., Ltd.'s website, it also refers to itself as Zhejiang Xingyue Vehicle Co., Ltd. See Exhibit 15.

19. On information and belief, Respondent Zhejiang Xingyue Vehicle Co. Ltd. imports the infringing vehicles. See Exhibit 16. Respondent Excalibur Motorsports claims to obtain its infringing GP800 F1 4X4 from Zhejiang Xingyue Vehicle Group. See Exhibit 16.

20. On information and belief, Respondent Shanghai Tandem Industrial Co., Ltd. is a Chinese corporation organized and existing under the laws of China, having a principal place of business at 53 Building, 3297 Hong Mei Road, Shanghai China 201103. See Exhibit 17.

21. Respondent Shanghai Tandem Industrial Co., Ltd. advertises that it has established relationships with several overseas companies that import ATVs and other small-motor vehicles from China. See Exhibit 18. On information and belief, Respondent Shanghai Tandem Industrial Co., Ltd. manufactures and/or imports the infringing vehicles. See Exhibits 17, 19-20. Respondent Shanghai Tandem Industrial Co., Ltd. sells the infringing vehicles as product TDUV800-2 on, at least, www.tandem-motor.com. See Exhibit 21.

22. On information and belief, Respondent Excalibur Motorsports is unincorporated and has a principal place of business at 14020 Central Avenue, #530, Chino, CA 91710. See Exhibit 22.

23. Respondent Excalibur Motorsports advertises that it has partnered with established, quality driven and reputable manufacturers in China. See Exhibit 23. On information and belief, Respondent Excalibur Motorsports runs a website at www.atv4usa.com, where it sells the infringing vehicle as XYJK800 / GP800 F1 4X4. See Exhibit 16. Respondent Excalibur Motorsports advertises that you can “order yours now.” See Exhibit 16. Respondent Excalibur Motorsports claims to obtain its XYJK800 / GP800 F1 4X4 from Zhejiang Xingyue Vehicle Group. See Exhibit 16.

24. On information and belief, Respondent Boat N RV Supercenter is a Tennessee corporation organized and existing under the laws of Tennessee, having a principal place of business at 2475 Westel Road, Rockwood, TN 37854. See Exhibit 24.

25. Respondent Boat N RV Supercenter advertises that “Boat-N-RV Warehouse is the largest recreational vehicle dealer in Northeast.” See Exhibit 25. Respondent Boat N RV Supercenter runs a website at www.boatnrv.com where it sells the infringing vehicles as 09 Fuzion XYJK800. See Exhibit 26. Respondent Boat N RV Supercenter advertises for any buyers to make an offer. See Exhibit 26. Additionally, Respondent Boat N RV Supercenter advertises that “our new line of ATVs are here!!!” See Exhibit 26. On information and belief, the 09 Fuzion XYJK800 is the same as product XYJK800 manufactured by Respondent Xingyue Group Co., Ltd.

26. On information and belief, Respondent Recon Cycles is unincorporated and has a principal place of business at 16979 FM 1314, Conore, TX 77302. See Exhibit 27.

27. Respondent Recon Cycles advertises itself as “dedicated to bringing high quality motorcycles & off-road vehicles to all customers.” See Exhibit 27. Respondent Recon Cycles runs a website at www.reconcycles.com, where it sells the infringing vehicles as the Jeepzter. See Exhibit 28. Respondent Recon Cycles advertises that it is “SOLD OUT” of the Jeepzter. See Exhibit 28. Additionally, it advertises that the Jeepzter is “street legal.” See Exhibit 28. On information and belief, Respondent Recon Cycles obtains the infringing Jeepzters from Respondent Xingyue Group Co., Ltd., because Respondent Recon Cycles uses pictures from Respondent Xingyue Group Co., Ltd.’s Product Guide for the XYJK800 to advertise its Jeepzters. See Exhibits 28-29.

28. On information and belief, Respondent Vehicles Online, Inc. is unincorporated and has a principal place of business at 537 W. Cama St., Charlotte, NC 28217. See Exhibit 30.

29. Respondent Vehicles Online, Inc. runs a website at www.atvstore.net where it sells the infringing vehicle as “New 800cc Jeep.” See Exhibit 31. Vehicles Online, Inc.

advertises that the “New 800cc Jeep” is “the coolest Jeep Clone you will ever see.” See Exhibit 32. Respondent Vehicles Online, Inc. advertises that the Jeepzter is “IN STOCK NOW!” See Exhibit 32. Additionally, Respondent Vehicles Online, Inc. advertises that the Jeepzter “is in stock in the USA. There are no deposits or waiting time of any kind. They are in stock.” See Exhibit 32. Respondent Vehicles Online, Inc. advertises that the Jeepzter has “everything required to be D.O.T. approved. . . . Comes with a Florida title and can be street legal in most states and be registered as a kit car. Buy now.” See Exhibit 32. Additionally, Respondent Vehicles Online, Inc. advertises its “fast delivery.” See Exhibit 33. On information and belief, the “New 800cc Jeep” sold by Respondent Vehicles Online, Inc. is Respondent Xingyue Group Co., Ltd.’s product XYJK800, because Respondent Vehicles Online, Inc.’s infringing vehicles are marked on the back of the vehicle with “XYJK800.” See Exhibit 32.

30. Other entities not yet identified may be engaged in the manufacture, widespread importation into the United States, sale for importation, and/or sale in the United States after importation of certain vehicles that infringe the ’395 patent. Chrysler may move to add one or more such manufacturers or importers to this investigation should they, or the scope of their involvement with infringing activities, become identified later through discovery or otherwise.

III. BACKGROUND INFORMATION ON THE PRODUCTS AT ISSUE

31. Chrysler introduced the Hurricane® concept vehicle at the 2005 North American International Auto Show in Detroit. The Hurricane’s® one-piece body is composed largely of lightweight structural carbon fiber. The Hurricane’s® principal designers were Aaron Pizzuti and John Sgalia, the named inventors of the ’395 patent. Several of their design drawings are attached to this Complaint as Confidential Exhibit 34. The Hurricane® went on to win several awards in 2005: the IDEA Silver Award, a Popular Science “Best of what’s new” award, and an

AutoWeek Editor's Choice award in the "Most Fun" category. See Exhibits 35-37. The Hurricane® concept vehicle even has its own Wikipedia page. See Exhibit 38.

32. "Jeep Hurricane is simply the most maneuverable, most capable and most powerful 4x4 ever built," said Trevor Creed, Senior Vice President - Chrysler Group LLC Design. "It pays homage to the extreme enthusiasts' Jeep vehicles in form and off-road capability, but is a unique interpretation of Jeep design. Simply stated, it is the extreme example for the Jeep brand. Hurricane represents the continued success of bold concept vehicles for the brands as a means of demonstrating Chrysler Group LLC's creative and mechanical expertise.

... Jeep Hurricane is an honest, minimalist approach to its design augmented with the Jeep signature seven-slot grille, two seats and no doors." See

http://www.jeep.com/en/autoshow/concept_vehicles/hurricane/. A picture of the Jeep®

Hurricane® appears below:



Additional pictures of the Jeep® Hurricane® are attached to the Complaint as Exhibit 39.

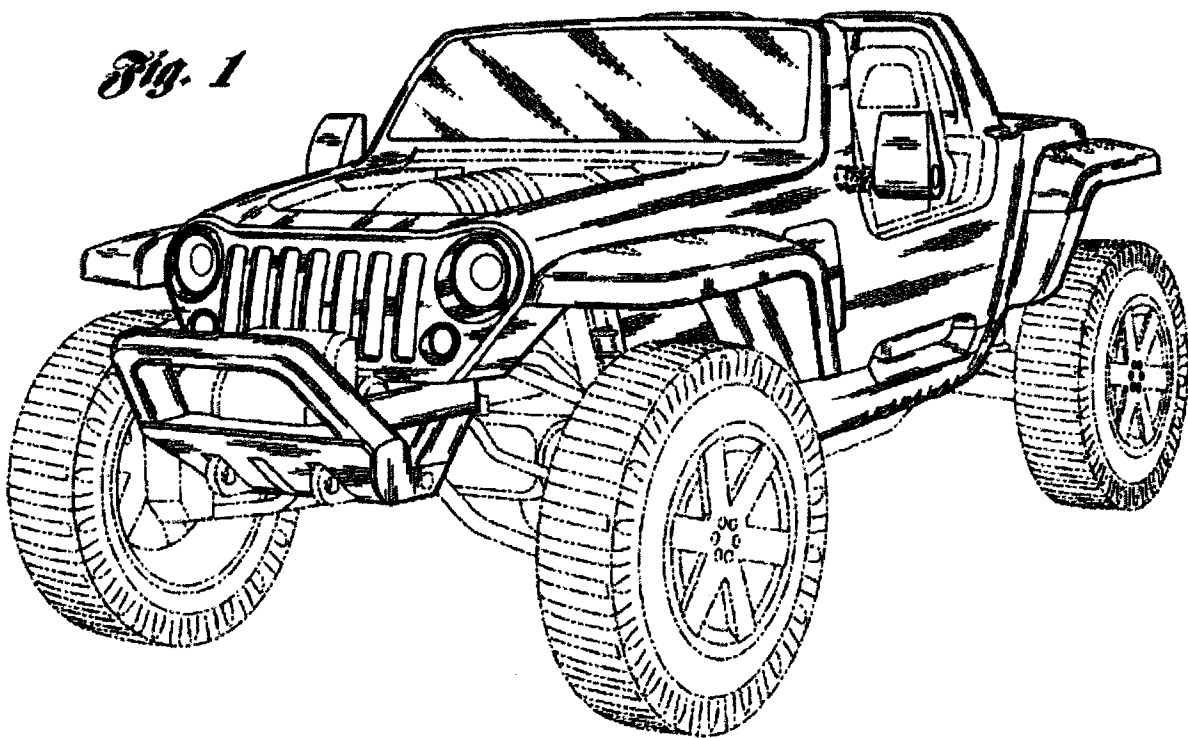
33. Chrysler's Hurricane® apparently caught the attention of the Proposed Respondents. The infringing vehicles, which are manufactured by Respondent Xingyue Group

Co., Ltd. as product XYJK800 and Respondent Shanghai Tandem Industrial Co., Ltd. as product TDUV800-2, are knockoffs of Jeep's Hurricane® design. Autoblog.com posted about the Jeepzter, one of the infringing vehicles, in an article entitled "Chinese Clone Wars: 'Jeepzter' Hurricane Replica." See Exhibit 40. The article notes that the Jeepzter is "[o]stensibly a replica of the Jeep Hurricane concept from 2005." Additionally, the article notes "[i]f you just want to have a Jeep Hurricane-looking thing sitting in your garage, though, now is your chance." The side-by-side comparisons of the Jeep® Hurricane®, '395 patent, and infringing vehicles show that Proposed Respondents copied the Jeep® Hurricane's® design in their infringing vehicles. See Exhibit 41.

IV. THE PATENT AT ISSUE

A. The '395 Patent

34. Chrysler owns by assignment the entire right, title and interest in the '395 patent entitled "Automobile Body," which issued on January 3, 2006. A certified copy of the '395 patent is attached as Appendix D. Certified copies of the recorded assignments are attached as Appendix C. The following figure from the '395 patent shows certain features of the unique design:



Pursuant to Commission Rule 210.12(c), a certified copy and three additional copies of the prosecution history of the '395 patent are attached in Appendix A. In addition, four copies of the '395 patent are attached to the Complaint and the applicable pages from each reference cited in the prosecution history are attached in Appendix B.

B. Foreign Counterparts to the '395 Patent

35. Pursuant to Commission Rule 210.12(a)(9)(v), Chrysler certifies that there are no patents or patent applications corresponding to the '395 patent that have been filed, issued, abandoned or withdrawn.

C. Licenses Under the '395 Patent

36. Pursuant to 19 C.F.R. § 210.12(a)(9)(iii), Chrysler certifies that there are no licenses under the '395 patent.

[REDACTED]

41. Chrysler has made a substantial investment in the exploitation of the '395 patent, including engineering and research and development. In addition to paying the salaries of its employees disclosed in paragraph 39 and Confidential Exhibit 43, Chrysler has expended significant money in order to engineer and manufacture the Hurricane® concept vehicle. To manufacture the Hurricane® concept vehicle that was shown to the public from January 2005 – October 2009, Chrysler partnered with Gaffoglio Family Metalcrafters, Inc. who craft the vehicles in Fountain Valley, California and began in 1979. See Confidential Exhibit 45 and Exhibit 50. Gaffoglio Family Metalcrafters, Inc. advertises its participation in the Hurricane® concept vehicle on its website and extensively features Chrysler vehicles on its website. See Exhibit 50. A purchase order from Chrysler to Gaffoglio Family Metalcrafters, Inc., showing an expenditure of [REDACTED] is attached to the Complaint as Confidential Exhibit 45.

42. Chrysler spent a significant amount of money showing the Hurricane® to the public. Chrysler transported the Hurricane® to a total of eighty-six locations spanning almost five years in order to show this patented vehicle to the public. A log kept by Chrysler of

locations where the Hurricane® was shown to the public is attached as Confidential Exhibit 46. Chrysler spent more than [REDACTED] in order to show the Hurricane® concept vehicle at these automobile shows. See Confidential Exhibit 42.

43. Chrysler's Hurricane® concept vehicle embodies the design claimed in the '395 patent, as shown in Exhibit 41.

VI. SPECIFIC INSTANCES OF IMPORTATION AND SALE

44. On information and belief, Proposed Respondents import, sell for importation, and/or sell within the United States after importation the infringing vehicles.

45. The specific instances of importation of infringing vehicles set forth below are representative examples of Proposed Respondents' unlawful importation of infringing vehicles.

46. On information and belief, Respondent Xingyue Group Co., Ltd. manufactures and sells the infringing vehicle as product XYJK800. See Exhibits 29 and 47. On information and belief, Respondent Xingyue Group Co., Ltd.'s product XYJK800 is imported into the United States. See Exhibit 8.

47. On information and belief, Respondent Shanghai Xingyue Power Machinery Co. Ltd. sells the infringing vehicles on, at least, www.diytrade.com. See Exhibit 11.

48. On information and belief, Respondent Shanghai Xingyue USA, Inc. imports the infringing vehicles. See Exhibit 13.

49. On information and belief, Respondent Zhejiang Xingyue Vehicle Co. Ltd. imports the infringing vehicles. See Exhibit 16. Respondent Excalibur Motorsports claims to obtain its GP800 F1 4X4 from Zhejiang Xingyue Vehicle Group. See Exhibit 16.

50. On information and belief, Respondent Shanghai Tandem Industrial Co., Ltd. manufactures and/or imports the infringing vehicles. See Exhibits 17, 19-20.

51. On information and belief, Respondent Shanghai Tandem Industrial Co., Ltd. sells the infringing vehicles as product TDUV800-2 on, at least, www.tandem-motor.com. See Exhibit 21.

52. On information and belief, Respondent Excalibur Motorsports runs a website at www.atv4usa.com, where it sells the infringing vehicle as XYJK800 / GP800. See Exhibit 16. Respondent Excalibur Motorsports claims to obtain its XYJK800 / GP800 F1 4X4 from Zhejiang Xingyue Vehicle Group. See Exhibit 16.

53. On information and belief, Respondent Boat N RV Supercenter runs a website at www.boatnrv.com where it sells the infringing vehicles as 09 Fuzion XYJK800. See Exhibit 26.

54. On information and belief, Respondent Recon Cycles runs a website at www.reconcycles.com, where it sells the infringing vehicles as the Jeepzter. See Exhibit 28. On information and belief, Respondent Recon Cycles obtains the infringing Jeepzters from Respondent Xingyue Group Co., Ltd., because Respondent Recon Cycles uses pictures from Respondent Xingyue Group Co., Ltd.'s Product Guide for the XYJK800 to advertise its Jeepzters. See Exhibits 28 - 29.

55. On information and belief, Respondent Vehicles Online, Inc. runs a website at www.atvstore.net, where it sells the infringing vehicles as the "New 800cc Jeep." See Exhibits 31 - 32.

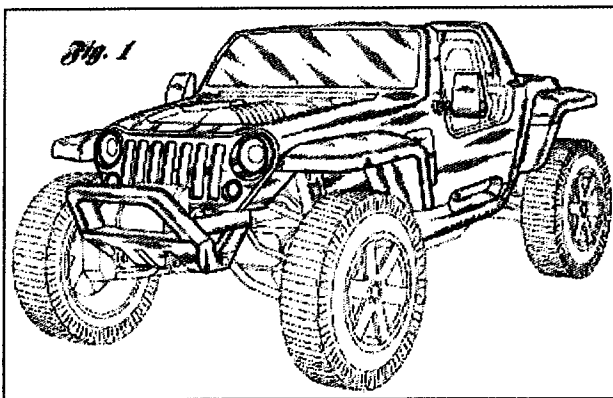
56. These above examples are exemplary in nature and are not intended to restrict the scope of any exclusion order or other remedy ordered by the Commission.

57. On information and belief, the infringing vehicles are imported under at least category 8703.21.00 of the Harmonized Tariff Schedule of the United States.

VII. UNLAWFUL AND UNFAIR ACTS COMMITTED BY PROPOSED RESPONDENTS – PATENT INFRINGEMENT

58. On information and belief, Proposed Respondents are unlawfully importing, selling for importation and/or selling after importation certain vehicles that embody Chrysler's patented design in the '395 patent. The ordinary observer would be left with the impression of a very general resemblance and would be deceived into taking the infringing vehicles for the design in the '395 patent.

59. Photographs of Proposed Respondents' infringing vehicles are attached as Exhibit 48. As the photographs indicate, the design of the infringing vehicles is the same or substantially the same to the eye of the ordinary observer as the ornamental design claimed in the '395 patent. The comparisons attached as Exhibit 41 exemplify how the design of the infringing vehicles is the same or substantially similar to the design claimed in the '395 patent. Shown below is Figure 1 of the '395 patent side-by-side with a picture of one of the infringing vehicles.



VIII. RELATED LITIGATION

60. On May 11, 2010, Chrysler filed a Complaint against USA Wholesale Scooters, Inc., Noel Farbman, Lee Schuco d/b/a New Dynamic Ventures and d/b/a USA Scooter Store, CCF Global Corporation d/b/a Zeus Marine & Off-Road Vehicles, d/b/a Zeus Utility & Off-

Road Vehicles, and d/b/a Zeus Marine Pro, Charley Flores, and Carmenza Flores-Rodriguez in the U.S. District Court for the Southern District of Florida alleging, *inter alia*, trademark infringement, counterfeiting and trademark dilution of Chrysler's Jeep® Trademarks, Jeep Grille® Trademarks, and Jeepster® Trademarks; federal unfair competition; cybersquatting; and infringement of the '395 patent. The defendants involved in the complaint in the Southern District of Florida are not related to any of the Proposed Respondents in this Complaint.

61. Other than the aforementioned action, there has been no other foreign or domestic court or agency litigation involving the '395 patent.

62. Although not related to the '395 patent, a case relating to some of the infringing vehicles was filed in the United States District Court for the District of Puerto Rico. *USA v. Four units all terrain vehicles (ATV) TDUV-800-2, Model, 3:09-cv-02209-FAB*, was filed by the United States Attorneys Office in Puerto Rico as a result of the seizure of four of the infringing vehicles by Customs and Border Protection in Puerto Rico. The infringing vehicles had been sold to a purchaser in the United States and were being imported from China when they were seized. Several documents relating to the importation and sale of the infringing vehicles were attached to a motion for summary judgment in that case. The docket, complaint and motion for summary judgment from that case are attached as Exhibit 8.

IX. RELIEF REQUESTED

63. WHEREFORE, by reason of the foregoing, Complainant Chrysler Group LLC respectfully requests that the United States International Trade Commission:

- (i) institute an immediate investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, with respect to the Proposed Respondents' violations of that section based on the importation into the

United States, sale for importation, and/or the sale within the United States after importation of Proposed Respondents' infringing vehicles;

- (ii) set a target date of no more than twelve months;
 - (iii) schedule and conduct a hearing on permanent relief pursuant to Section 337(c) for the purposes of receiving evidence and hearing argument concerning whether there has been a violation of Section 337, and following the hearing, to determine that there has been a violation of Section 337;
 - (iv) issue a permanent exclusion order, pursuant to 19 U.S.C. § 1337(d), forbidding entry into the United States of Proposed Respondents' products that infringe U.S. Patent No. D513,395;
 - (v) issue a permanent cease and desist order, pursuant to 19 U.S.C. § 1337(f), prohibiting the Proposed Respondents and related companies from engaging in the importation, sale for importation, marketing, distribution, offering for sale, the sale after importation of, or otherwise transferring within the United States, products that infringe U.S. Patent No. D513,395;
- and

- (vi) issue such other and further relief as the Commission deems just and proper under the law, based upon the facts determined by the investigation and the authority of the Commission.

May 14, 2010

Respectfully submitted,

By: 

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VERIFICATION

I, Ralph Edwin Smith, declare in accordance with 19 C.F.R. §§ 210.4 and 210.12(a), under penalty of perjury, that the following statements are true:

1. I am Chief Patent Counsel for Chrysler Group LLC and am duly authorized to sign this Complaint on behalf of Chrysler Group LLC;
2. I have read the foregoing Complaint;
3. To the best of my knowledge, information, and belief, based upon reasonable inquiry, the foregoing Complaint is well-founded in fact and is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
4. The allegations or other factual contentions have either evidentiary support or are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
5. The foregoing Complaint is not being filed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigation.

Executed this 14th day of May, 2010


Ralph Edwin Smith