

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. 27: RECOMMENDED DETERMINATION GRANTING IN PART
COMPLAINANT'S MOTION FOR ATTORNEY'S FEES AND
SANCTIONS

(July 17, 2009)

I. INTRODUCTION

On May 26, 2009, Complainant Magotteaux International S/A and Magotteaux, Inc. (collectively "Magotteaux") filed a motion for attorney's fees and sanctions pursuant to 19 C.F.R. § 210.27. (Motion Docket No. 644-039.) Magotteaux argues that Respondents AIA Engineering Limited ("AIA Engineering") and Vega Industries ("Vega") (collectively "AIAE") have "(1) taken impermissible liberties with the rules of this Court, (2) implemented a defense based on delay tactics, (3) made false representations of their intent to participate, and (4) otherwise done everything possible to extend, complicate and make this Investigation unnecessarily protracted." (Motion No. 644-039, Memo at 1.) Specifically, Magotteaux alleges that AIAE failed to provide an Answer to the Complaint and Notice of Investigation until long after it was due, that AIAE improperly attempted to stall the investigation, that AIAE refused to properly participate in discovery, and that AIAE has vacillated between participation and non-participation, thus increasing the efforts required from all other counsel without justification. (*Id.* at 8-19.) Thus, Magotteaux alleges that they are entitled to an award of attorney's fees of [REDACTED]. (*Id.* at 19.)

PUBLIC VERSION

On June 2, 2009, AIAE filed their opposition to Motion No. 644-039, alleging that Magotteaux's motion deceptively presented events out-of-order and out-of-context. (Opp. at 3.) AIAE also argues that Magotteaux has not identified any legal precedent for its demand (*Id.* at 6); that Magotteaux has attempted to shift the burden of proof to AIAE in defending against the demand for sanctions (*Id.* at 6-7); that Magotteaux did not provide evidence to support its monetary claims (*Id.* at 7-8); that Magotteaux did not provide a "safe harbor" period in which AIAE could have remedied any alleged non-compliance (*Id.* at 8); that Magotteaux filed the motion for sanctions too late (*Id.* at 8-9); that no sanctionable conduct occurred (*Id.* at 15-28); that the law does not support attorney fee's in this case (*Id.* at 28); and that sanctions and attorney's fees are not available as a sanction for non-compliance with an order compelling discovery. (*Id.* at 31.)

On June 5, 2009, the Commission Investigative Staff ("Staff") filed a response supporting Magotteaux's motion in part. (Staff Resp. at 2.) Staff argues that the Commission Rules only allow the recovery of attorney's fees that are *caused* by failure to comply with an order compelling discovery. (*Id.* at 10.) Thus, Staff supports the motion for sanctions with respect to the two motions for default filed by Staff and by Magotteaux. Staff does not support the motion with respect to: (1) fees for preparing and filing the first motion for default and (2) fees Magotteaux attributed to AIAE's conduct in discovery, such as production and review of documents, propounding and responding to discovery requests, preparation for depositions, preparing motions to compel and motions to strike, responding to expert reports, etc.. (*Id.* at 10-11.) In a footnote, Staff noted that "detailed billing records should be submitted to establish what on its face seems to be a large fee associated with responding to a motion for default and preparing a motion for default on the same grounds." (*Id.* at n.5.)

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On June 15, 2009, Magotteaux filed a motion for leave to file a reply and a reply to address certain points raised in AIAE's opposition and the Staff's reply. (Motion Docket No. 644-040.)

Also on June 15, 2009, contemporaneous with Motion No. 644-040, Magotteaux filed a supplemental submission to its motion for attorney's fees and sanctions containing detailed billing records in response to Staff's request.

On June 25, 2009, AIAE filed a memorandum in response to Magotteaux's motion for leave to file a reply, arguing that Magotteaux failed to give AIAE two-days notice, as required by Ground Rule 3.2, and that Magotteaux's motion was merely re-argument of their Motion No. 644-039. Ground Rule 3.2 states that:

All motions shall include a certification that the moving party has made reasonable, good-faith efforts to contact and resolve the matter with the other parties at least two business days prior to filing the motion, and shall state, if known, the position of the other parties on such motion.

Order No. 2, May 5, 2008 (emphasis in original). Magotteaux's Motion No. 644-040 contains no such certification, nor does it contain any explanation for the lack thereof. However, given AIAE's conduct thus far in this investigation there may have been good cause for Magotteaux to fail to meet Ground Rule 3.2 as it pertains to AIAE. The same does not apply, however, for Magotteaux's failure to consult with Staff. Thus, Motion No. 644-040 is DENIED.

Also on June 25, 2009, AIAE filed a memorandum in response to Magotteaux's supplemental submission of June 15, 2009, arguing that: (1) Magotteaux has not moved for leave to file a reply pursuant to Ground Rule 3.6; (2) Magotteaux did not inform AIAE of "this reply briefing" in violation of Ground Rule 3.2; (3) Magotteaux's supplemental submission is in conflict with its proposed reply; (4) the supplemental submission does not identify the entries

related to sanctionable activities for which attorney's fees are demanded; and (5) Magotteaux's billing records do not contain evidence that the amounts listed were actually billed.

II. PROCEDURAL HISTORY¹

On March 24, 2008, Magotteaux filed a complaint alleging, *inter alia*, that AIAE violated Section 337 by reason of the importation and sale of certain composite wear components and products containing same that infringe one or more of claims 1-22 of the '998 Patent. (*See* Complaint ¶¶ 29-43.) The investigation was instituted on April 21, 2008, and the Notice of Investigation was published in the Federal Register on April 25, 2008. (*See* 73 Fed. Reg. 22431 (April 25, 2008).)

On November 14, 2008, Magotteaux filed a motion for a default against AIAE based on their failure to answer the Complaint and Notice of Investigation. (Motion Docket No. 644-015). AIAE filed a response opposing the motion for default, specifically stating that they "must participate and defend themselves here, and they fully intend to do so." (*See* AIAE Response to Motion for a Default, at 2). On November 26, 2009, AIAE filed responses to the Complaint and Notice of Investigation and began to participate in discovery to a certain degree. (*See* AIAE Engineering Limited's Response to Amended Complaint and Notice of Investigation and Vega Industries' Response to Amended Complaint and Notice of Investigation.) On February 3, 2009, the ALJ denied Magotteaux's motion for a default because AIAE had responded to the Complaint and Notice of Investigation and had begun to actively participate in the investigation and in discovery. (*See* Order No. 18).

¹ A complete and detailed description of AIAE's conduct in this investigation is set forth in Order No. 26. (*See* Order No. 26 at 10-13.) Only those portions relevant to the instant motion are set forth in this section.

However, immediately following the ALJ's denial of default motion, AIAE drastically reduced its participation in discovery. AIAE refused to produce both fact and expert witnesses for deposition, refused to respond substantively to Magotteaux's and Staff's written discovery, and refused to respond substantively to the Staff's contention interrogatories. (See Motion Docket Nos. 644-027 ("Complainants Motion to Compel the Appearance of Respondents AIA Engineering Limited and Vega Industries Ltd.'s Witnesses for Deposition"); 644-031 ("Complainants Magotteaux International S/A and Magotteaux, Inc.'s Motion to Compel Production"); 644-032 ("Commission Investigative Staff's Motion to Compel Responses to Contention Interrogatories"); and 644-033 ("Commission Investigative Staff's Motion to Preclude Expert Testimony or to Compel Deposition of Expert").)

On March 19, 2009, the ALJ granted the outstanding motions to compel (Motion Nos. 644-027, 644-031, and 644-032) ordering AIAE to respond to written discovery by March 23, 2009, and to produce its fact and expert witnesses for deposition. The ALJ further warned AIAE that "[t]he ALJ will not hesitate, either *sua sponte* or in response to a motion, to make adverse inferences against AIAE should they refuse to cooperate and participate in discovery nor will the ALJ refrain from making the appropriate findings based on the adverse inferences, which includes a finding of default." (Order No. 23, at 4-5).

Ignoring the ALJ's specific order to comply and participate in discovery, AIAE continued to refuse to participate in discovery, failed to serve responses to the written discovery and failed to produce their witnesses for deposition. Rather, on March 23, 2009, AIAE filed a document entitled "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 of Position"), wherein AIAE informed the ALJ of the recently

filed a declaratory judgment action against Magotteaux in the U.S. District Court for the Middle District of Tennessee and argued that it “will be in a position to seek relief from Magotteaux’s allegations in a forum in which they can fully and fairly develop and present their substantial defenses”; “reserved” its right to appeal any decisions by the ALJ or the Commission; and gave notice that it “will not participate any further in this investigation.” (Statement of Position at 1-2).

On March 27, 2009, Staff filed Motion No. 644-037 for issuance of an initial determination finding AIAE in default and request for shortened response time. Staff argued that AIAE should be found in default pursuant to 19 C.F.R. §§ 210.16 and 210.17 for failure to file a pre-hearing brief, exhibits or witness statements; failure to participate in discovery, including complying with Order No. 23; and based on their statement of intention to no longer participate in this investigation. In addition, Staff argued that given AIAE’s conduct in this investigation, an adverse inference that AIAE has violated Section 337 was warranted.

Both Magotteaux and AIAE filed a response to the Staff’s motion, despite AIAE’s statements to the contrary in its Statement of Position. Magotteaux supported Staff’s motion and AIAE opposed it to the extent the finding of default was based on adverse inferences.

Based on the foregoing, the ALJ determined good cause existed to stay the evidentiary hearing scheduled to begin on April 13. (*See* Order No. 24) (March 31, 2009). Specifically, the ALJ cited AIAE’s statements that they will no longer participate in this investigation, which presumably included attending and participating in the evidentiary hearing, and failure to file a pre-hearing brief; the dispositive nature of Staff and Magotteaux’s motions for issuance of an initial determination finding AIAE in default; and the stated positions of Magotteaux and Staff in their pre-hearing briefs that a violation of Section 337 has occurred.

On April 13, Magotteaux filed a motion for default and seeking the additional adverse inferences (Motion Docket No. 644-038), and Staff filed a response in support of the motion. AIAE again filed a response despite its representations in its Statement of Position and in response to the Staff's motion that it would no longer participate in this investigation. AIAE again opposed a finding of default based on adverse inferences.

On May 8, 2009, the ALJ issued an Initial Determination Finding Respondents AIA Engineering Limited And Vega Industries In Default And Finding A Violation Of Section 337. (See Order No. 26.) On July 7, 2009, the Commission determined not to review the order. (See 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) (July 7, 2009).

III. DISCUSSION

As Staff correctly noted, it is not clear what basis Magotteaux seeks monetary sanctions, *e.g.* under Rule 210.27 or under Rules 210.25 and 210.33.² However, since Magotteaux makes no allegations or assertions under Rule 210.27, the ALJ will treat the instant motion as seeking sanctions and attorneys fees pursuant to Commission Rules 210.25 and 210.33 based on Magotteaux's explicit statement in its the Memorandum³ and arguments contained therein, including Magotteaux's arguments relating to AIAE's failure to comply with Order No. 23.

Commission Rule 210.25 allows for sanctions as follows:

Any party may file a motion for sanctions for abuse of process under § 210.4(d)(1), abuse of discovery under § 210.27(d)(3), failure to make or cooperate in discovery under § 210.33 (b) or (c), or violation of a protective order under § 210.34(c). A motion

² See Staff Resp. at 2, note 1.

³ "[Magotteaux], by and through their counsel, Vedder Price P.C., for their Memorandum of Points and Authorities in Support of Magotteaux's Motion for Sanction and Attorneys' Fees *pursuant to 19 C.F.R. §§ 210.25 and 210.33*, state as follows:" (Memo. at 1) (emphasis added).

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alleging abuse of process should be filed promptly after the requirements of § 210.4(d)(1)(i) have been satisfied. A motion alleging abuse of discovery, failure to make or cooperate in discovery, or violation of a protective order should be filed promptly after the allegedly sanctionable conduct is discovered.

19 C.F.R. § 210.25(a)(1). Commission Rule 210.25(f) further states, *inter alia*, that adjudication of a sanctions motion may be deferred until after issuance of a final initial determination on violation or termination of the investigation. The rule further states that “the ruling on the motion for sanctions must be in the form of a recommended determination and shall be issued no later than 30 days after issuance of the Commission’s final determination on violation of Section 337 or termination of the investigation.” 19 C.F.R. § 210.25(f).

Magotteaux specifically identifies Commission Rule 210.33 as a basis for the instant motion and is presumed to seek sanctions only for “failure to make or cooperate in discovery under § 210.33 (b) or (c). . . .” (*Id.*; see also Memo. at 1.) Commission Rule 210.33 specifies the sanctions available for failure to make or cooperate in discovery:

If a party or an officer, director, or managing agent of the party or person designated to testify on behalf of a party fails to obey an order to provide or permit discovery, the administrative law judge or the Commission may make such orders in regard to the failure as are just. In lieu of or in addition to taking action listed in paragraph (b) of this section and to the extent provided in Rule 37(b)(2) of the Federal Rules of Civil Procedure, the administrative law judge or the Commission, upon motion or sua sponte under §210.25, may require the party failing to obey the order or the attorney advising that party or both to pay reasonable expenses, including attorney's fees, caused by the failure, unless the administrative law judge or the Commission finds that the failure was substantially justified or that other circumstances make an award of expenses unjust. Monetary sanctions shall not be imposed under this section against the United States, the Commission, or a Commission investigative attorney.

19 C.F.R. § 210.33(c)(1) (emphasis added).⁴ Thus, sanctions are permitted by Commission Rule 210.33(c)(1) if a party fails to obey “an order to provide or permit discovery.” *Id.* Such sanctions are allowed to the extent that they are “reasonable expenses ... caused by the failure.” *Id.*

While AIAE’s conduct in this investigation has been inexcusable, not all of its conduct warrants sanctions under Rules 210.25 and 210.33. Here, as set forth *supra*, AIAE failed to obey an order to provide or permit discovery, and sanctions are permitted under Commission Rules §§ 210.25 and 210.33. Magotteaux fails to identify any other “order to provide or permit discovery” in its motion except for Order No. 23.⁵ Thus, only those attorneys fees associated with activities “caused by [AIAE’s] failure” to comply with Order No. 23 are recoverable as sanctions.

Of the expenses for which Magotteaux has requested attorney’s fees, only fees related to the motions for a finding of violation and default that were filed by the Staff and by Magotteaux were incurred as a result of AIAE’s failure to comply with Order No. 23. Indeed, the ALJ has already granted relief pursuant to Rule 210.16(a)(2) and 210.17 based in part on AIAE’s failure to comply with Order No. 23. (See Order No. 26) (May 8, 2009). As set forth *supra*, after issuance of Order No. 23 and AIAE’s stated position wherein it represented that it would no longer participate in this investigation, including complying with Order No. 23, both Staff and Magotteaux each filed motions for default against AIAE. As such, the ALJ finds that Magotteaux’s response to the Staff’s motion for default and its own motion for default and adverse inferences were “caused by” AIAE’s failure to comply with the ALJ’s Order No. 23.

Magotteaux requests a sum of [REDACTED] for the fees incurred in preparing and filing its motion for default and adverse inferences, which includes analysis of Staff’s motion for default.

⁴ Commission Rule 210.33(b) governs non-monetary sanctions. See 19 C.F.R. § 210.33(b)

⁵ Magotteaux mentions two additional orders, Order No. 12 to extend the procedural schedule, and Order No. 21 granting a motion to strike AIAE’s expert witnesses. (Motion No. 644-039 at 18.) These are not, however, orders “to provide or permit discovery.”

(Memo at 18.) Magotteaux has supported this sum by the declaration of Mr. John J. Gresens, who is a shareholder of Vedder Price P.C., counsel for Magotteaux, who declares that he has personal knowledge of the fees incurred in the course of preparing the second motion for default. (*Id.*, Ex. A at ¶¶1-4.) Mr. Gresens's declaration states that the amount calculated was based on invoices and billing records, and that any billing records that involved more than one activity were apportioned accordingly. (*Id.* at ¶9.) As additional support for its requested fees, Magotteaux filed a supplemental submission on June 15, 2009, which included copies of the billing records used by Mr. Gresens and are attached herein as Attachment A.

As for Magotteaux's remaining requests for attorneys fees, namely those related to the first motion for default, costs related to discovery, and costs related to pre-hearing preparation and submissions, the ALJ finds that Magotteaux has failed to show how these costs were caused by AIAE's failure to comply with Order No. 23.

The ALJ further finds AIAE's arguments opposing Magotteaux's request to be unpersuasive. AIAE has failed to show why its failure to comply with Order No. 23 was justified or that an award of attorney's fees would be unjust. Specifically, AIAE focuses the bulk of its opposition on Commission Rule 210.4. (*See generally* Opp. at 7-31.) However, aside from AIAE's own conclusion that "it appears most likely that it is advancing a claim for abuse of process under 19 C.F.R. § 210.4(d)", there is no further mention of sanctions pursuant to Rule 210.4(d) in Magotteaux's original motion or even in Staff's response. As such, the bulk of AIAE's arguments in its opposition are irrelevant to the extent they discuss Magotteaux failure to comply with Rule 210.4, a Rule under which it is not seeking sanctions.

AIAE further argues that Magotteaux has not identified any legal precedent for its demand, with the exception of Commission Rules 210.25 and 210.33. (*See* Opp. at 6) In the

same opposition, however, AIAE acknowledges that “[e]xcept for not complying with ... Order No. 23 granting motions to compel, none of [AIAE’s] actions alleged as sanctionable fall within 19 C.F.R. § 210.33.” (Opp. at 6 (emphasis added).) Thus, AIAE concedes that it has not complied with Order No. 23 and that such actions fall within Rule 210.33.

AIAE argues, however, that sanctions and attorney’s fees are not available as a sanction for non-compliance with Order No. 23. (Opp. at 31.) AIAE’s principal argument is that “Magotteaux fails to argue why a sanction of attorney’s fees is appropriate in addition to the sanction of adverse inferences and initial determination....” However, Commission Rule 210.33(c) specifically states that monetary sanctions are available “[i]n lieu of or *in addition to* taking action listed in paragraph (b) of this section.” (See 19 C.F.R. § 210.33(c) (emphasis added).) Thus, the Rules permit monetary sanctions in addition to the non-monetary sanctions of adverse inferences in Order No. 26. Given AIAE’s conduct in this investigation, which the ALJ has described as “inconsistent, egregious and disruptive,” the ALJ finds that monetary sanctions, in addition to the non-monetary sanctions already imposed, are warranted.

AIAE also opposed to the consideration of Magotteaux’s supplemental submission on various grounds. However, the supplemental submission submitted by Magotteaux contains no further legal arguments and, is, in fact, a detailed billing record. Such a submission cannot come as a surprise to AIAE as Magotteaux specifically stated in its original motion that it would submit detailed invoices if deemed necessary by the Commission. (See Motion at Ex. A, note 1.) The supplemental submission further stated that the submission was in direct response to Staff’s request that detailed billing records be submitted to support the requested fees. (See Supplemental Submission at 1.) Indeed, had Magotteaux failed to submit the detailed billing invoices, the ALJ would have ordered Magotteaux to make such a submission. Therefore, since

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AIAE has not suffered any prejudice from Magotteaux's supplemental submission of detailed billing invoices and since Magotteaux would have been required to do submit such records, the ALJ hereby finds Magotteaux's supplemental submission acceptable.

Based on the foregoing, the ALJ finds that the fees incurred by Magotteaux in preparing and filing its own motion for default and adverse inferences and response to Staff's motion for default were caused by AIAE's failure to comply with Order No. 23 and that Magotteaux should be compensated for the fees incurred as a result of such failure. AIAE has failed to justify its failure to comply with the order or demonstrate that the granting the attorneys fees is unjust.

As for the amount of attorney's fees to be awarded to Magotteaux, Magotteaux argues that it incurred fees in the sum of [REDACTED], which Staff noted "on its face seems to be a large fee associated with responding to a motion for default and preparing a motion for default based on the same grounds" and requested that Magotteaux submit billing records to support its figure. (Staff Resp. at 13, note 5.) The billing records show that as of March 23, 2009 (entry showing that a telephone conference with Staff regarding motion for default)⁶, Magotteaux's counsel spent significant resources on responding to Staff's motion and preparing its own motion. However, the billing records show that in addition to incurring expenses related to the motions for default, Magotteaux also incurred expenses not related to those motions, which are, at times, combined in a single entry, *e.g.* April 1, 2009 entry for "Review and revise Default Memorandum; review and revise findings of fact and conclusions of law in support of request for adverse inferences; review of and draft hearing tutorials; e-mail correspondence with client relating to Order No. 24; telephone conference with Staff relating to Order No. 24."⁷ Therefore, the ALJ recommends that should the Commission determine to grant monetary sanctions, the

⁶ See Attachment A, first set of April 23, 2009 invoices at 6 (March 23, 2009 entry from "Rigg, R." for 5.00 hours at [REDACTED]).

⁷ *Id.* at 9 (April 1, 2009 entry from "Gresens, J." for 8.50 hours at [REDACTED]).

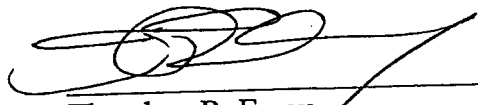
amount of attorney's fees to be awarded be only for the costs actually incurred relating to the aforementioned motions for default that are supported by the billing records in Attachment A.⁸

III. CONCLUSION

In accordance with the discussion of the issues contained herein, it is the RECOMMENDED DETERMINATION ("RD") of the ALJ that in the event the Commission finds adopts the ALJ's recommended determination, the Commission should grant Magotteaux attorney's fees for the costs incurred in responding to Staff's Motion for Initial Determination finding the AIAE Respondents in Default (Motion Docket No. 644-037) and in preparing Magotteaux's own Motion for Default and Adverse Inferences (Motion Docket No. 644-038.)

Within seven days of the date of this document, each party shall submit to the Office of the Administrative Law Judges a statement as to whether or not it seeks to have any portion of this document deleted from the public version. Any party seeking to have any portion of this document deleted from the public version thereof shall also submit to this office a copy of this document with red brackets indicating any portion asserted to contain confidential business information. The parties' submissions may be made by facsimile and/or hard copy by the aforementioned date. The parties' submissions concerning the public version of this document need not be filed with the Commission Secretary.

SO ORDERED.


Theodore R. Essex
Administrative Law Judge

⁸ The fees incurred may very well be for the requested amount of [REDACTED] as represented by Magotteaux in its motion. However, given that the billing records list costs incurred that are not related to the motions for default combined with those that are, the ALJ believes that Magotteaux is in the best position to point to the specific billing entries to support its requested fees should the Commission determine that such support is necessary.

ATTACHMENT A

Non-Confidential

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, DC

Before the Honorable Theodore R. Essex
Administrative Law Judge

In the Matter of

CERTAIN COMPOSITE WEAR
COMPONENTS AND PRODUCTS
CONTAINING SAME

Investigation No. 337-TA-644

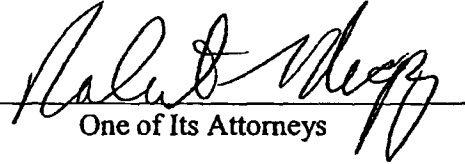
**COMPLAINANTS' SUPPLEMENTAL SUBMISSION TO ITS MOTION FOR
ATTORNEY'S FEES AND SANCTIONS**

Complainants Magotteaux International S/A and Magotteaux Inc., (collectively "Magotteaux") respectfully submit this Supplemental Submission to its Motion for Attorneys Fees and Sanctions. In its Motion for Attorney's Fees and Sanctions, Magotteaux included a Declaration of attorney John J. Gresens in support of its request for attorneys fees. Magotteaux also included a footnote that indicated that the declaration was based on detailed billing records and that if it was necessary to include such records, Magotteaux would submit the detailed billing records. ITC Investigative Staff, in its response to Magotteaux's Motion for Attorney's Fees and Sanctions indicated that Magotteaux should submit the detailed billing records. Therefore, in accordance with the preceding statements, Magotteaux submits herewith its Supplemental Submission to its Motion for Attorney's Fees and Sanction that includes confidential detailed billing records that support the previously filed Declaration of attorney John J. Gresens and the attorney's fees requested in its Motion.

Respectfully submitted,

MAGOTTEAUX S/A and MAGOTTEAUX,
INC.

By: _____


One of Its Attorneys

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Dated: June 15, 2009

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **Complainants' Supplemental Submission to its Motion For Attorney's Fees and Sanctions** was served June 15, 2009 upon the following interested parties as indicated:

The Honorable Marilyn R. Abbott
Secretary
U.S. International Trade Commission
500 E. Street, S.W., Room 112A
Washington, D.C. 20436
(Original + 6 copies)

- ☒ Via Hand Delivery
- ☐ Via U.S. Mail
- ☐ Via Overnight Mail
- ☐ Via Electronic Filing
- ☐ Via Facsimile
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The Honorable Theodore R. Essex
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Non-Confidential

EXHIBIT 1

Non-Confidential

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CHICAGO • NEW YORK CITY • WASHINGTON, D.C.

January 28, 2009

Invoice No. 325073

Matter No. 40292.00.0002

**Jean-Marc Xhenseval
Magotteaux International s.a.
B-4051 Voux-sous-Chevremont
Belgium**

**Summary of Bill for Period Through December 15, 2008
(See attached pages for detail)**

**ENFORCEMENT OF U.S. PATENT NO. 6,399,176 (NOW REISSUED)
BEFORE THE INTERNATIONAL TRADE COMMISSION AND THE U.S.
FEDERAL COURTS**

Redacted

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January 28, 2009

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REISSUED)
BEFORE THE INTERNATIONAL TRADE COMMISSION
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MAGOTTEAUX INTERNATIONAL S.A.
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January 28, 2009

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Invoice No. 325073
Matter No. 40292.00.0002

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January 28, 2009

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March 6, 2009

Invoice No. 328328

Matter No. 40292.00.0002

Jean-Marc Xhenseval
Magotteaux International s.a.
B-4051 Voux-sous-Chevremont
Belgium

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(See attached pages for detail)

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April 21, 2009

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Jean-Marc Xhenseval
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Belgium

Summary of Bill for Period Through February 28, 2009
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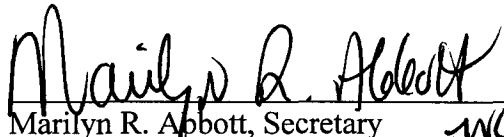
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**IN THE MATTER OF CERTAIN COMPOSITE WEAR
COMPONENTS AND PRODUCTS CONTAINING THE SAME**

Inv. No. 337-TA-644

PUBLIC CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **ORDER 27** has been served by hand upon, the Commission Investigative Attorney, **David O. Lloyd, Esq.**, and the following parties as indicated **JUL 20, 2009.**


Marilyn R. Abbott, Secretary *me*
U.S. International Trade Commission
500 E Street, SW, Room 112A
Washington, D.C. 20436

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

John J. Gresens, Esq.
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