

PUBLIC VERSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN WINDSHIELD WIPERS
AND COMPONENTS THEREOF**

Inv. No. 337-TA-928

**Inv. No. 337-TA-937
(Consolidated)**

ORDER No. 33: GRANTING IN PART VALEO'S THIRD MOTION TO STRIKE

(July 7, 2015)

I. INTRODUCTION

On June 9, 2015, Complainants Valeo North America, Inc. and Delmex de Juarez S. de R.L. de C.V. (collectively, "Valeo") filed a motion to strike certain testimony and exhibits. (Motion Docket No. 928-036.) On June 19, 2015, Respondents Trico Products Corporation and Trico Componentes SA de CV (collectively, "Trico"), filed a response in opposition to Valeo's motion to strike.¹

Valeo argues that certain portions of the direct witness statements of Gregory Davis ("Davis Statement") and Paul Wozniak ("Wozniak Statement") (attached, respectively, as Exhibits CX-1C and CX-2C to Valeo Br.) are improper because they were offered in violation of Order No. 23 (granting-in-part Valeo's motion to strike certain portions of the initial expert report of Gregory Davis)² and because they include testimony that was not previously disclosed in Trico's invalidity contentions. Trico responds that Valeo's motion is moot with respect to Q&A Nos. 72, 136, and 247 of the Davis Statement and Q&A Nos. 164-167 of the Wozniak

¹ Valeo's memorandum in support of Valeo's motion to strike and Trico's opposition thereto, are hereinafter referred to, respectively, as "Valeo Br." and "Trico Opp'n Br."

² See Order No. 23, Inv. No. 337-TA-928 (U.S.I.T.C. June 3, 2015).

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Statement, which Trico agreed to withdraw. Trico otherwise opposes Valeo's motion on the basis that the remaining testimony and exhibits were not stricken by Order No. 23 and/or were within the scope of Trico's initial or supplemental invalidity contentions. For the reasons below, Valeo's motion to strike is granted in part and denied in part.

II. DISCUSSION

A. New Matter

Valeo moves to strike Q&A Nos. 69-72 of the Davis Statement and Q&A Nos. 160-167 of the Wozniak Statement on the basis that they include "new matter" testimony that was rejected by Order No. 23. Trico responds that Order No. 23 strikes only those portions of Dr. Davis's expert report relating to intervening prior, not any and all arguments relating to "new matter" or "priority date" of the '798 patent.

I agree with Trico that Valeo's interpretation of Order No. 23 with respect to the "new matter" opinions is overbroad. As stated in Order No. 23, at p. 4, "Valeo's motion to strike ¶ 60 of the Davis Report is granted, but only with respect to the portion which discusses intervening prior art."

Trico withdrew Q&A No. 72 of the Davis Statement and Q&A Nos. 164-167 of the Wozniak Statement. With respect to Q&A Nos. 69-71 of the Davis Statement and Q&A Nos. 160-163 of the Wozniak Statement, they do not relate to intervening prior art and are not improper in view of Order No. 23.

Accordingly, Valeo's motion to strike Q&A Nos. 69-72 of the Davis Statement and Q&A Nos. 160-167 of the Wozniak Statement is MOOT or otherwise DENIED.³

³ This denial is limited to the reasons discussed in this section. One or more Q&A of the Wozniak Statement may still be stricken for reasons discussed elsewhere in this Order.

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B. Indefiniteness

Valeo moves to strike Q&A Nos. 245-247 of the Davis Statement on the basis that they include improper “indefiniteness” testimony relating to the “blade support element.” In its response to Valeo’s motion, Trico agreed to withdraw Q&A No. 247 and any reference to “blade support element” from Q&A Nos. 245-246, consistent with Order No. 23.

Accordingly, Valeo’s motion to strike Q&A Nos. 245-247 of the Davis Statement is MOOT or otherwise DENIED.

C. Lack of Written Description

Valeo moves to strike Q&A Nos. 40-41, 72, and 131-136 of the Davis Statement on the basis that they include improper “lack of written description” testimony that was rejected by Order No. 23. In its response to Valeo’s motion, Trico withdraws Q&A No. 72 and states that Q&As Nos. 131-136 relate to lack of enablement rather than lack of written description. In addition, Trico states that Q&A Nos. 40-41 do not express opinions that the asserted patents are invalid for lack of written description but merely describe Dr. Davis’s understanding of the legal concept of lack of written description.

I agree with Trico that Q&A Nos. 131-136 may relate to lack of enablement. As stated in Order No. 23, at p. 7, the lack of enablement ground of invalidity was properly disclosed in Trico’s invalidity contentions. *See also Certain Audio Digital-to-Analog Converters and Products Containing Same*, Final Initial and Recommended Determinations, Inv. No. 337-TA-499, 2004 WL 3121325, *33, *56 (U.S.I.T.C. Nov. 15, 2004) (analyzing respondents’ claims of lack of “enabling written description” or “enabling disclosure” under the statutory enablement requirement). With respect to Q&A Nos. 40-41, they merely discuss Dr. Davis’s understanding

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of the legal concept of lack of written description and do not express an opinion on invalidity of the asserted patents for lack of written description.

Accordingly, Valeo's motion to strike Q&A Nos. 40-41, 72, and 131-136 of the Davis Statement is MOOT or otherwise DENIED. Consistent with Order No. 23, Trico may not use these Q&As to support an allegation of lack of written description.

D. Claim Construction

Valeo moves to strike Q&A Nos. 71, 73, 76, 268, 269, 272-278, and 299 of the Davis Statement on the basis that they relate to claim construction opinions which were not disclosed during the *Markman* briefing and proceedings in this investigation. Trico responds that the claim construction opinions were properly disclosed in Dr. Davis's expert report and that the cases cited by Valeo are inapposite.

I agree with Trico that the cases cited by Valeo (*Minebea Co., Ltd. v. Papst*, 231 F.R.D. 3 (D.D.C. 2005) and *Burns v. United States*, Docket No. 93-2832, 1995 WL 27522 (N.D. Cal. Jan. 19, 1995)) are inapposite because they relate to last-minute disclosures of opinions that were not disclosed during the expert discovery stage. Valeo cited no case supporting its position that claim construction opinions are barred if they were not previously disclosed at the *Markman* stage.

Accordingly, Valeo's motion to strike Q&A Nos. 71, 73, 76, 268, 269, 272-278, and 299 of the Davis Statement is DENIED.

E. Figures and Images

Valeo argues that Q&A Nos. 29-30, 83, 85-90, 146-155, 157-159, 163-174, 177-183, 196-198, 200-202, 204-206, 208-209, 211-213, 215-217, 219-220, 222-223, 225, 227, 229, 231,

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233-235, 237-238, 240-241, 265-278, 281-283, 285, 287-288, 290-291, 293-294, 296-297, 299-300, 302-303, 305-306, 308-309, 311-312, 314, 316-317, and 319 of the Davis Statement and Q&A Nos. 7, 84, 92, 95, 97, 111, 113, 115-116, 129, and 131-133 of the Wozniak Statement improperly include figures and images that have yet to be admitted into evidence. Trico responds that the witness statements themselves have yet to be admitted into evidence and none of the exhibits from which the figures and illustrations are derived have been ruled inadmissible.

I agree with Trico that parties are permitted to include figures and images as part of their witness statements. If it later appears that any of the exhibits from which the figures and illustrations are derived is inadmissible, Valeo can renew its objections at that time.

Accordingly, Valeo's motion to strike Q&A Nos. 29-30, 83, 85-90, 146-155, 157-159, 163-174, 177-183, 196-198, 200-202, 204-206, 208-209, 211-213, 215-217, 219-220, 222-223, 225, 227, 229, 231, 233-235, 237-238, 240-241, 265-278, 281-283, 285, 287-288, 290-291, 293-294, 296-297, 299-300, 302-303, 305-306, 308-309, 311-312, 314, 316-317, and 319 of the Davis Statement and Q&A Nos. 7, 84, 92, 95, 97, 111, 113, 115-116, 129, and 131-133 of the Wozniak Statement is DENIED.⁴ However, Trico should label each of the figures and images as a Demonstrative Exhibit and amend its list of demonstrative exhibits.

F. Printed 3D Model

Valeo moves to strike RPX-38 and Q&A Nos. 156-159, 173, 177, 180-181, 265 of the Davis Statement which relate to a 3D Print model of the Weber WO 02/040328 prior art embodiment and testimony related thereto. Valeo argues that the 3D model is unreliable and was not previously produced by Trico to Valeo. Trico counters that the Davis Statement is properly

⁴ This denial is limited to the reasons discussed in this section. One or more Q&A of the Wozniak Statement may still be stricken for reasons discussed elsewhere in this Order.

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supported by Dr. Davis's expert report and that the 3D Print model is a demonstrative or physical exhibit of a simulated 3D CAD model that was produced to Valeo. In addition, Trico argues that Valeo generated its own 3D Print of the same simulated 3D CAD model and questioned Dr. Davis about it at his deposition. Furthermore, Trico provided the 3D Print during the inspection of Trico's physical and demonstrative exhibits.

I agree with Trico that the 3D Print Model is permissible as physical or demonstrative evidence. Valeo had sufficient notice of that demonstrative or physical exhibit through the simulated 3D CAD model produced by Trico and through Valeo's own 3D Print of the same simulated 3D CAD model. Parties often prepare demonstratives or use physical exhibits to aid a witness's testimony. There is no evidence that Trico did not timely produce such physical or demonstrative exhibits for inspection. In addition, Valeo does not argue that the Davis Statement includes new or unsupported testimony and Trico represents that the testimony at issue is fully supported by Dr. Davis's initial expert report. Furthermore, to the extent Valeo takes issue with the reliability of RPX-38 and Q&A Nos. 156-159, 173, 177, 180-181, 265 of the Davis Statement, I find that those arguments go to weight rather than admissibility of the exhibit at issue and the testimony related thereto.

Accordingly, Valeo's motion to strike RPX-38 and Q&A Nos. 156-159, 173, 177, 180-181, 265 of the Davis Statement is DENIED.

G. Inequitable Conduct

Valeo moves to strike Q&A Nos. 191 and 194 of the Davis Statement which relate to Valeo's alleged failure to disclose the Teindas reference (U.S. Patent No. 5,682,639) and the Raymond reference (French Patent No. 2630070) to the USPTO during prosecution of the

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asserted patents. Valeo argues that Q&A Nos. 191 and 194 relate to improper inequitable conduct testimony. Trico responds that Q&A Nos. 191 and 194 relate to whether the references at issue were considered by the USPTO during prosecution of the asserted patents and that “a jury may be instructed to evaluate whether the evidence before it is materially new, and if so, to consider that fact when determining whether an invalidity defense has been proved by clear and convincing evidence.” See Trico Opp’n Br. at 14-15 (citing *Microsoft Corp. v. i4i Ltd. P’ship*, 131 S. Ct. 2238, 2251 (2011)).

I agree with Trico that the fact that the Teindas and Raymond references were not considered by the USPTO during prosecution of the asserted patents may be relevant to invalidity. Accordingly, Valeo’s motion to strike Q&A Nos. 191 and 194 of the Davis Statement is DENIED. Nevertheless, Trico may not use these very same Q&As to support any allegation of inequitable conduct, and if Trico does seek to have them admitted to the record, it must properly establish their relevancy.

H. Undisclosed Prior Art

1. The ’780 Patent

Valeo moves to strike Exhibits RX-89 (Scholl et al. U.S. Patent No. 7,716,780 or the ’780 patent) and RX-90 (PCT Publication WO 03/080409 which relates to the ’780 patent) and Q&A Nos. 80-89 of the Wozniak Statement. Valeo argues that the exhibits and testimony relating to the ’780 patent were not previously disclosed in Trico’s invalidity contentions. Trico responds that the ’780 patent and its corresponding PCT publication are “not relied on as a prior art publication or patent in order to show invalidity under § 102(a) or (b). Rather, the Scholl

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evidence corroborates and details the design of the [

] See Trico Opp'n Br. at 17.

I agree with Trico that RX-89 and RX-90 may be permissible for other purposes, including impeachment and corroboration.⁵ In addition, I note that RX-90 was cited by the patent examiner during prosecution of the '044 patent and was discussed by Dr. Davis in his expert report. See Davis Report, at ¶ 55, attached as Exhibit CX-10C to Valeo Br.

With respect to Q&A Nos. 80-89 of the Wozniak Statement, however, I find that they are impermissible. Mr. Wozniak is a fact witness and was not identified as an expert by Trico pursuant to Ground Rule 10 and Order No. 10 setting the consolidated procedural schedule.⁶ Nor did Mr. Wozniak prepare an expert report in this investigation. See also Valeo's motion in limine No. 20 filed June 24, 2015 and Trico's opposition thereto filed July 1, 2015. Trico will not be permitted to backdoor undisclosed technical expert opinions through a fact witness with no personal knowledge of the opinions at issue.

The testimony provided by Mr. Wozniak in Q&A Nos. 80-89 relating to the '780 patent is not based on non-technical facts within his personal knowledge but impermissibly crosses into expert opinion territory. See *Certain Sulfentrazone, Sulfentrazone Compositions, and Processes for Making Sulfentrazone*, Inv. No. 337-TA-914, Order No. 34, 2015 WL 737624, *1 (U.S.I.T.C. Jan. 29, 2015) ("The testimony of witnesses who have not been qualified as experts must be limited to factual testimony within their personal knowledge, or lay opinions based on their personal knowledge.") (citing *Verizon Servs. Corp. v. Cox Fibernet Virginia Inc.*, 602 F.3d 1325, 1339-40 (Fed. Cir. 2010)); *Certain Wireless Communications Base Stations and Components*

⁵ RX-89 and RX-90 may not be used for invalidity purposes and they may only be admitted to the record if their foundation and relevancy is otherwise properly established.

⁶ See Order No. 10, Inv. No. 337-TA-928 (U.S.I.T.C. Jan. 21, 2015).

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Thereof, Inv. No. 337-TA-871, Order No. 29, 2013 WL 6355749, *1 (U.S.I.T.C. Nov. 22, 2013) (excluding witness's testimony who was not identified as an expert because it "cross[ed] the line into expert opinions"). *See also Baran v. Med. Device Technologies, Inc.*, 616 F.3d 1309, 1318 (Fed. Cir. 2010) (striking portions of witness's declaration on the basis that it was "opinion testimony based on scientific, technical, or other specialized knowledge within the scope of [Fed. R. Evid.] 702") (citations omitted). While Rule 701 of the Federal Rules of Evidence permits opinion testimony by lay witnesses, such opinion must be:

- (a) rationally based on the witness's perception;
- (b) helpful to clearly understanding the witness's testimony or to determining a fact in issue; and
- (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.

For example, in response to Q&A No. 80, Mr. Wozniak opines that:

The published Scholl et al. '409 PCT application and the subsequent U.S. patent disclose a wiper arm and blade connection that we refer to as the pinch-tab button, because it includes a hole in the coupling section of the wiper arm that receives a button on the top of the connecting element. But, the important thing is that the structure of the coupling section and connecting element described and claimed in the '044 and '798 patents can all be found in the pinch-tab button style connection.

Thus, in Q&A No. 80, Mr. Wozniak testifies about the technical disclosure of Scholl and compares it to the scope of the asserted patents. Such testimony is not factual or based on Mr. Wozniak's personal knowledge, but based on scientific, technical, or other specialized knowledge within the scope of Fed. R. Evid. 702. As such, it is impermissible. The only permissible portion is the first sentence of Mr. Wozniak's response to Q&A No. 80 ("This is a copy of U.S. Patent No. 7,716,780. This is the patent that claims priority back to the PCT '409

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application that was cited during the prosecution of the '054 application for the rejection of various claims under § § 102 and 103.”).

Accordingly, Valeo’s motion to strike is DENIED with respect to Exhibits RX-89 and RX-90 but GRANTED with respect to Q&A Nos. 80-89 of the Wozniak Statement, except for the portion of Q&A No. 80 as quoted above.

2. []

Valeo moves to strike Exhibits RX-81, RX-84, RX-85, RX-86, RX-87, RX-91, RX-92, RX-93, RX-94, RX-138C, RX-139C, RX-140C, and Q&A Nos. 107-141, 144, 148-149, 151, and 167 of the Wozniak Statement on the basis that Trico failed to provide claim charts relating to [] pursuant to Ground Rule 7.5.1(4). Trico responds that the parties agreed that Trico could incorporate Dr. Davis’s expert report in its supplemental invalidity contentions.

I agree with Trico that the format of Trico’s invalidity contentions and/or the lack of claim charts cannot justify the sweeping remedy requested by Valeo, namely, to exclude all the exhibits and testimony relating to []

With respect to claim charts RX-138C, RX-139C, and RX-140C, it is not clear from Valeo’s brief whether the information in the charts is entirely new or whether it is merely the presentation in chart format of previously disclosed information. Exhibit RX-138C (attached as Exhibit CX-11C to Valeo Br.) is clearly impermissible because it relates to an invalidity claim chart based on the Auto Express printed publication of the Peugeot 307 CC, and Order No. 20⁷ expressly prevents Trico from asserting that evidence as invalidating prior art. On the other hand, Exhibit RX-139C (attached as Exhibit CX-12C to Valeo Br.) relates to an invalidity claim

⁷ See Order No. 20, Inv. No. 337-TA-928 (U.S.I.T.C. May 22, 2015).

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chart based on the GMT-900 program and appears to be permissible based on Order No. 16⁸ and Order No. 20. Exhibit RX-140C (attached as Exhibit CX-13C to Valeo Br.) relates to an invalidity chart based on the public use of [] and also appears to be permissible based on Order No. 16 and on Trico's motion to supplement its invalidity contentions dated April 10, 2015. Accordingly, Valeo's motion to strike is GRANTED with respect to RX-138C but DENIED with respect to RX-139C and RX-140C.

Valeo's motion to strike is also DENIED with respect to Exhibits RX-81, RX-84, RX-85, RX-86, RX-87, RX-91, RX-92, RX-93, and RX-94, which may be admissible for other purposes such as impeachment or as corroborating evidence of Trico's other invalidity contentions.

With respect to Q&A Nos. 107-141, 144, 148-149, 151, and 167 of the Wozniak Statement, it appears that a substantial portion of his testimony is not based on non-technical facts within his personal knowledge but crosses into expert opinion testimony. *See supra* pp. 8-9. *See also* Valeo's motion *in limine* No. 20 filed June 24, 2015 and Trico's opposition thereto filed July 1, 2015. Trico will not be permitted to backdoor undisclosed technical expert opinions through a fact witness with no personal knowledge of the opinions at issue.

For example, in Q&A No. 113, Mr. Wozniak opines that:

From this picture, as well as those in the rest of the article, I can identify that the wiper is a flat blade. I can also see that the wiper arm is like a rod and then the end of wiper arm, or the coupling section, is wider than the rod. It is more rectangular and I can tell it is not a standard hook connector.

Thus, in Q&A No. 113, Mr. Wozniak testifies about the technical disclosure of the article at issue and the structure of the wiper blade and wiper arm disclosed therein. Such testimony is not factual but based on scientific, technical, or other specialized knowledge within the scope of Fed.

⁸ *See* Order No. 16, Inv. No. 337-TA-928 (U.S.I.T.C. Apr. 23, 2015).

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R. Evid. 702. As such, it is impermissible. *See also* Q&A Nos. 116, 129 except for the first sentence (“These are photographs from the Paris Auto Show in September 2002.”), 133 except for the first sentence (“Again, because of all of the other Peugeot 307 CC photographs and publications, this confirmed for me that the photographs and publications were of the Peugeot 307 CC and were from the September/October 2002 timeframe.”), 135-137, and 167.

Accordingly, Valeo’s motion to strike is DENIED with respect to Q&A Nos. 107-112, 114, 115, 117-128, 130-132, 134, 138-141, 144, 148-149, and 151 of the Wozniak Statement, but GRANTED with respect to Q&A Nos. 113, 116, 129 (except for the portion of the response as quoted above), 133 (except for the portion of the response as quoted above), 135-137, and 167.

3. The BMW Exhibits and Testimony

Valeo moves to strike Exhibits RX-82, RX-83, RPX-20, RPX-21, RPX-22, RX-138C, and Q&A Nos. 89-97, 107, and 135-136 of the Wozniak Statement on the basis that they relate to new grounds of invalidity that were not timely disclosed. Trico responds that the BMW evidence is not used as “prior art” but to show “how Valeo describes and instructs its customers with regard to the operation – assembly and disassembly – of [] See Trico Opp’n Br. at 18.

I agree with Trico that RX-82, RX-83, RPX-20, RPX-21, and RPX-22 may be relevant and permissible but they will only be admitted to the record for purposes other than invalidity (and if their relevancy is properly established) and may not be cited to support any Trico invalidity contention. Trico may not use the newly disclosed BMW information as invalidating prior art. As such, invalidity claim chart RX-138C is not permissible.

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Accordingly, Valeo's motion to strike is GRANTED with respect to RX-138C but DENIED with respect to RX-82, RX-83, RPX-20, RPX-21, and RPX-22.

With respect to Q&A Nos. 89-97, 107, and 135-136 of the Wozniak Statement, it appears that a substantial portion of his testimony is not based on facts within his personal knowledge but crosses into expert opinion testimony. *See supra* pp. 8-9. *See also* Valeo's motion *in limine* No. 20 filed June 24, 2015 and Trico's opposition thereto filed July 1, 2015. Trico will not be permitted to backdoor undisclosed technical expert opinions through a fact witness with no personal knowledge of the opinions at issue.

For example, in Q&A No. 90, Mr. Wozniak opines that "[t]he wiper arm is inserted at an angle into the seat as a preassembly position and rotated to a final assembly position where the securing sections snap into place." Thus, in Q&A No. 90, Mr. Wozniak testifies about the structure and operation of the BMW 5-series E60 wiper arm. Such testimony is not factual but based on scientific, technical, or other specialized knowledge within the scope of Fed. R. Evid. 702. As such, it is impermissible. *See also* Q&A Nos. 91, 95 except for the first sentence ("Yes, these are photographs of the BMW 5-series wiper blade for the E60 vehicle with the pinch-tab button connecting element that I purchased."), and 97 except for the first two sentences ("Yes, this is Valeo's 900-24-6B packaged wiper blade, which is an aftermarket replacement wiper blade for the BMW 5-series E60. You can see the Valeo name on the box, and the box shows installation instructions on the back.").

Accordingly, Valeo's motion to strike is DENIED with respect to Q&A Nos. 92-94, 96, and 107 of the Wozniak Statement, but GRANTED with respect to Q&A Nos. 89-91, 95 (except

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for the portion of the response as quoted above), 97 (except for the portion of the response as quoted above), and 135-136.⁹

I. Physical and Demonstrative Exhibits Relating to the Peugeot 307 CC

Valeo moves to strike Exhibits RPX-35, RPX-36, RPX-37, and RDX-15 on the basis that they were excluded by Order No. 20. Trico responds that the evidence should be allowed for other purposes such as impeachment or as corroborating evidence of Trico's other invalidity contentions.

As discussed in Order No. 26,¹⁰ the Peugeot 307 CC physical and demonstrative exhibits may be admissible for other purposes, including impeachment and corroboration, but as with any evidence, their relevancy must still be established for admission to the record.

Accordingly, Valeo's motion to strike is DENIED with respect to RPX-35, RPX-36, RPX-37, and RDX-15.

III. CONCLUSION

Valeo's third motion to strike is GRANTED IN PART and DENIED IN PART, as explained above.

⁹ Valeo's motion to strike is GRANTED with respect to Q&A Nos. 89 and 135-136 for the reasons discussed *supra* pp. 7-10.

¹⁰ See Order No. 26, Inv. No. 337-TA-928 (U.S.I.T.C. June 18, 2015).

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Within 7 days of the date of this order, the parties shall jointly submit: (1) a proposed public version of this order with any proposed redactions bracketed in red; and (2) a written justification for any proposed redactions specifically explaining why the piece of information sought to be redacted is confidential and why disclosure of the information would be likely to cause substantial harm or likely to have the effect of impairing the Commission's ability to obtain such information as is necessary to perform its statutory functions.¹¹

SO ORDERED.



Thomas B. Pender
Administrative Law Judge

¹¹ Under Commission Rules 210.5 and 201.6(a), confidential business information includes:

information which concerns or relates to the trade secrets, processes, operations, style of works, or apparatus, or to the production, sales, shipments, purchases, transfers, identification of customers, inventories, or amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or other organization, or other information of commercial value, the disclosure of which is likely to have the effect of either impairing the Commission's ability to obtain such information as is necessary to perform its statutory functions, or causing substantial harm to the competitive position of the person, firm, partnership, corporation, or other organization from which the information was obtained, unless the Commission is required by law to disclose such information.

See 19 C.F.R. § 201.6(a). Thus, to constitute confidential business information the disclosure of the information sought to be designated confidential must *likely have the effect of* either: (1) impairing the Commission's ability to obtain such information as is necessary to perform its statutory functions; or (2) *causing substantial harm* to the competitive position of the person, firm, partnership, corporation, or other organization from which the information was obtained.

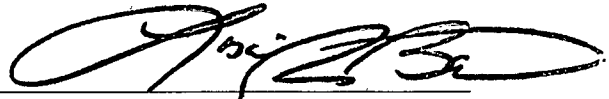
**IN THE MATTER OF CERTAIN WINDSHIELD WIPERS
AND COMPONENTS THEREOF**

**337-TA-928
337-TA-937
(Consolidated)**

CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **PUBLIC ORDER NO. 33** have been served upon, **The Office of Unfair Import Investigations** and the following parties on

JUL 14 2015



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, S.W., Room 112A
Washington, DC 20436

**FOR COMPLAINANTS VALEO NORTH AMERICA, INC. & DELMEX de JUAREZ S.
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