



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1132]

Certain Motorized Vehicles and Components Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 1, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of FCA US LLC of Auburn Hills, Michigan. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain motorized vehicles and components thereof by reason of: (1) infringement of U.S. Trademark Registration No. 4,272,873 (“the ’873 mark”); U.S. Trademark Registration No. 2,862,487 (“the ’487 mark”); U.S. Trademark Registration No. 2,161,779 (“the ’779 mark”); U.S. Trademark Registration No. 2,794,553 (“the ’553 mark”); and U.S. Trademark Registration No. 4,043,984 (“the ’984 mark”); (2) trademark dilution and unfair competition violating the complainant’s common law trademark rights; and (3) trade dress infringement. The complaint further alleges that an industry in the United States exists and that the alleged violations have the threat or effect of causing substantial injury to that industry as required by the applicable Federal Statutes.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of

the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone (202) 205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10 (2018).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on September 7, 2018, **ORDERED THAT** –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) whether there is a violation of subsection (a)(1)(A) of Section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of trade dress infringement, trademark dilution, or infringement of common law trademarks, the threat or effect of which is to destroy or substantially injure an industry in the United States;

(b) whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of the '873 mark; the '487 mark; the '779 mark; the '553 mark; and the '984 mark, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is "motorized vehicles, kits and assemblies for motorized vehicles, and replacement and aftermarket components for motorized vehicles";

(3) Pursuant to section 210.10(b)(3) of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.10(b)(3), the presiding Administrative Law Judge shall hold an early evidentiary hearing, find facts, and issue an early decision, within 100 days of institution except for good cause shown, as to whether the complainant is contractually barred from enforcing its intellectual property against the named respondents. In the alternative, the presiding Administrative Law Judge may decide this issue through summary determination proceedings if he or she determines that no material facts are in dispute. Notwithstanding any Commission Rules to the contrary, which are hereby waived, any such decision should be issued in the form of an initial determination (ID) under Rule 210.42(a)(3), 19 C.F.R. 210.42(a)(3). The ID will become the Commission's final determination 30 days after the date of service of the ID unless the Commission determines to review the ID. Any such review will be conducted in accordance with Commission Rules 210.43, 210.44, and 210.45, 19 C.F.R. 210.43, 210.44, and 210.45;

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

FCA US LLC
1000 Chrysler Drive
Auburn Hills, MI 48321

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Mahindra & Mahindra Ltd.
Mahindra Towers
Dr. G.M. Bhosle Marg, P.K. Kurne Chowk,
Worli, Mumbai 400 018, India

Mahindra Automotive North America, Inc.
275 Rex Boulevard
Auburn Hills, MI 48326

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(5) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and

Procedure, 19 C.F.R. 210.13. Pursuant to 19 C.F.R. 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: September 7, 2018.

Lisa Barton,

Secretary to the Commission.

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