



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1160]

Certain Replacement Automotive Service and Collision Parts and Components Thereof;

Commission Determination Not to Review an Initial Determination Terminating Respondent Direct Technologies International, Inc. Based on Consent Order; Issuance of Consent ORDER; Finding Declaration for Immediate Relief is Moot; Request for Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (the “Commission”) has determined not to review an initial determination (“ID”) (Order No. 36) terminating Direct Technologies International, Inc. on the basis of consent order. The Commission has determined to issue a consent order. The Commission has further determined to find that the complainants’ declaration seeking immediate relief against certain respondents previously found to be in default is moot. The Commission also requests written submissions from the complainants, interested government agencies, and interested persons on the issues of remedy, the public interest, and bonding concerning certain respondents found in default.

FOR FURTHER INFORMATION CONTACT: Benjamin S. Richards, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-5453. Copies of non-confidential documents filed in connection with this investigation are or will be 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 SW,

Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's Electronic Docket Information System ("EDIS") (<https://edis.usitc.gov>). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: On June 7, 2019, the Commission instituted the above-referenced investigation based on a complaint filed by Hyundai Motor America, Inc. of Fountain Valley, California and Hyundai Motor Company of Seoul, Republic of Korea (collectively, "Hyundai"). 84 FR 26703-04 (June 7, 2019). The complaint alleges a violation of 19 U.S.C. 1337, as amended ("Section 337"), in the importation, sale for importation, or sale in the United States after importation of certain gray market Hyundai parts in the categories of belts, body exterior and interior parts, brakes, wheel hubs, cooling system parts, drivetrain parts, electrical parts, emission parts, engine parts, exhaust parts, fuel/air pumps, oil/air/cabin air filters and parts, heat and A/C parts, ignition parts, steering parts, suspension parts, transmission parts, wheels and parts, wiper and washer parts, and accessories that infringe one or more of Hyundai's U.S. Trademark Registration Nos. 1,104,727; 3,991,863; 1,569,538; and 4,065,195. *Id.* at 26704. The complaint further alleges that a domestic industry exists in the United States. *Id.*

The Commission's notice of investigation named Direct Technologies International, Inc. ("DTI") of North Miami Beach, Florida; AJ Auto Spare Parts FZE ("AJ Auto") and John Auto Spare Parts Co. LLC ("John Auto"), both of Dubai, United Arab Emirates; and Cuong Anh Co. Ltd. ("Cuong Anh") of Ninh Binh Province, Vietnam as respondents. The Office of Unfair Import Investigations was not named as a party to this investigation.

On November 25, 2019, the Commission determined not to review an initial determination (Order No. 17) granting Hyundai's unopposed motion to find respondents AJ Auto, John Auto, and Cuong Anh (collectively, the "Defaulting Respondents") in default. Order No. 17 (Nov. 5, 2019), *not rev'd*, Comm'n Notice (Nov. 25, 2019).

On January 24, 2020, Hyundai filed a declaration seeking immediate entry of a limited exclusion order against the Defaulting Respondents and any of their affiliated companies, parents, subsidiaries, and related business entities, successors or assigns.

On March 5, 2020, the presiding administrative law judge ("ALJ") issued an initial determination (Order No. 36) granting a joint motion by Hyundai and DTI to terminate the investigation as to DTI on the basis of a consent order. The ALJ found that the consent order stipulation and proposed consent order complied with Commission Rule 210.21(c)(3) and (4) (19 CFR 210.21(c)(3) and (4)). The ALJ also found that termination of this investigation does not impose any undue burdens on the public health and welfare, competitive conditions in the United States economy, production of like or directly competitive articles in the United States, or United States consumers. No petitions for review of the ID were received.

The Commission has determined not to review the subject ID and has determined to issue a consent order. The Commission has further determined that Hyundai's declaration is now moot given the termination of DTI, the final remaining respondent in this investigation. Finally, the Commission has determined to request briefing on the issues of remedy, bonding, and the public interest.

Section 337(g)(1) (19 U.S.C. 1337(g)(1)) and Commission Rule 210.16(c) (19 CFR 210.16(c)) authorize the Commission, upon request, to issue a limited exclusion order or a cease and desist order or both against a respondent found in default, unless after consideration of the

public interest factors in Section 337(g)(1), it finds that such relief should not issue.

Accordingly, in connection with the final disposition of this investigation, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered with respect to the Defaulting Respondents, identified above. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm'n Op. at 7-10 (December 1994).

The statute requires the Commission to consider the effects of that remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission's action. See Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: Complainants, interested government agencies, and any other interested persons are encouraged to file written submissions on the issues of remedy, the public interest, and bonding.

In their initial submission, complainants are requested to identify the form of the remedy sought and to submit proposed remedial orders for the Commission's consideration.

Complainants are also requested to state the date that the asserted patents expire, the HTSUS subheadings under which the products at issue are imported, and to supply the identification information for all known importers of the products at issue in this investigation. Initial written submissions regarding remedy, bonding, and the public interest and proposed remedial orders must be filed no later than close of business on **April 9, 2020**. Reply submissions must be filed no later than the close of business on **April 16, 2020**. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements are currently waived. Submissions should refer to the investigation number ("Inv. No. 337-TA-1160") in a prominent place on the cover page and/or the first page. (*See Handbook on Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary at (202) 205-2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 210.6. Documents for which confidential treatment by the Commission is sought will be

treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel¹ solely for cybersecurity purposes. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 26, 2020.

Lisa Barton
Secretary to the Commission

¹ All contract personnel will sign appropriate nondisclosure agreements.

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