



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1386]

Certain Self-Balancing Electric Skateboards and Components Thereof; Notice of a Commission Determination not to Review an Initial Determination Finding the Only Remaining Respondent in Default; 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 has determined not to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 15) finding the only remaining respondent Floatwheel of Guilin City, GuangXi Province, China ("Floatwheel") in default. The Commission requests written submissions from the parties, interested government agencies, and other interested persons on the issues of remedy, the public interest, and bonding, under the schedule set forth below.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2737. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov.

General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.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 January 16, 2024, the Commission instituted this investigation based on a complaint filed by Future Motion, Inc. of Santa Cruz, California

(“Complainant,” or “Future Motion”). 89 FR 2644-45 (Jan. 16, 2024). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, or sale within the United States after importation of certain self-balancing electric skateboards and components thereof by reason of the infringement of one or more of claims 1, 2, 4-6, 8-10, 13-15, and 17-19 of U.S. Patent No. 9,400,505 (“the ’505 patent”). *Id.* at 2644. The Commission’s notice of investigation named as respondents Floatwheel; Changzhou Smilo Motors Co., Ltd. of Changzhou, Jiangsu Province, China (“Smilo”); Changzhou Gaea Technology Co., Ltd. of Changzhou, Jiangsu, China (“Gaea”); and Shanghai Loyal Industry Co., Ltd., d/b/a “SoverSky” of Shanghai, China (“SoverSky”) (collectively, “Respondents”). *Id.* at 2645. The Office of Unfair Import Investigations (“OUII”) was also named as a party in this investigation. *Id.*

On March 12, 2024, Complainant moved to withdraw its complaint and terminate this investigation with respect to respondents Smilo, Gaea, and SoverSky. Motion Docket No. 1386-06 (EDIS Doc. ID 815981). On March 13, 2024, the ALJ granted the unopposed motion. Order No. 13 (Mar. 13, 2024); *unreviewed by* Notice (April 12, 2024).

The complaint and notice of investigation were served on Floatwheel on January 17, 2024. *See* Order No. 8 at 5 (Feb. 6, 2024). Floatwheel failed to respond to the complaint and notice of investigation. On February 8, 2024, Complainant filed a motion for an order to show cause directing Floatwheel to demonstrate why it should not be found in default for failing to respond to the complaint and notice of investigation, or otherwise participate in the investigation.

On February 23, 2024, the presiding ALJ issued Order No. 10, ordering, *inter alia*, Floatwheel to show why it should not be found in default and why judgment should not be rendered against it for failing to respond to the complaint and notice of investigation. No response was filed to the show cause order.

On March 13, 2024, the ALJ issued the subject ID (Order No. 15) finding Floatwheel in default under Commission Rule 210.16 (19 CFR 210.16).

The ID further noted that because Floatwheel did not respond to the order to show cause, it had necessarily failed to make the requisite showing of good cause to avoid default. *Id.* at 2. In addition, the ID noted that Complainant filed proof of service of Order No. 10 on Floatwheel. *Id.* at 2 (citing Proof of Email Service of Order No. 10 (EDIS Doc. ID 814868) (email to tonyfloatwheel@gmail.com with Order No. 10 attached)). The ID also noted that Complainant's proof of service demonstrates that it served Order No. 10 on Floatwheel by email on February 23, 2024. *Id.* (citations omitted).

The ID concluded that Floatwheel is in default under 19 CFR 210.16, and that Floatwheel therefore has no right to appear, to be served with documents, or to contest the allegations in this investigation. *Id.* (citing 19 CFR 210.16(b)(4)). No party petitioned for review of the ID.

The Commission has determined not to review the subject ID. Floatwheel is hereby found in default.

Section 337(g)(1) (35 U.S.C. 1337(g)(1)) and Commission Rule 210.16(c) (19 CFR 210.16(c)) authorize the Commission to order relief against a respondent found in default, unless, after considering the public interest, it finds that such relief should not issue.

In connection with the final disposition of this investigation, the statute authorizes the issuance of, *inter alia*, (1) an exclusion order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) a cease and desist order that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. 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 (Dec. 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 order 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 determination. *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: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding.

In its initial submission, Complainant is also requested to identify the remedy sought and Complainant and OUII are requested to submit proposed remedial orders for the Commission's consideration. Complainant is further requested to provide the HTSUS subheadings under which the accused products are imported, and to supply the identification information for all known importers of the subject articles. The initial written submissions and proposed remedial orders must be filed no later than close of

business on April 29, 2024. Reply submissions must be filed no later than the close of business on May 6, 2024. 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 in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (March 19, 2020). Submissions should refer to the investigation number (Inv. No. 337-TA-1386) in a prominent place on the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary, (202) 205-2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly.

Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed with the Commission and served on any parties to the investigation within two business days of 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 personnel, solely for cybersecurity purposes.

All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

While temporary remote operating procedures are in place in response to COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant(s) complete service for any party/parties without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

The Commission vote for this determination took place on April 12, 2024.

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).

issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: April 12, 2024.

Lisa Barton,

Secretary to the Commission.