

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 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 "digital LiDAR ('Light Detection and Ranging') devices, components thereof, and systems containing the same, that utilize LiDAR technology which remotely senses the external environment";

(3) 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:*

Ouster, Inc., 350 Treat Avenue, San Francisco, CA 94110.

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

Hesai Group, 9th Floor, Building L2-B, 1588 Zhuguang Road, Qingpu District, Shanghai 201702, China

Hesai Technology Co., Ltd., 9th Floor, Building L2-B, 1588 Zhuguang Road, Qingpu District, Shanghai 201702, China

Hesai Inc., 3500 W Bayshore Rd., Palo Alto, CA 94303

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

(4) 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 CFR. 210.13. Pursuant to 19 CFR. 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant 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: May 11, 2023.

**Katherine Hiner,**

*Supervisory Attorney.*

[FR Doc. 2023-10478 Filed 5-16-23; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1291]

### Certain Replacement Automotive Lamps; Notice of Commission Determination To Review a Final Initial Determination Finding a Violation of Section 337; Schedule for Filing Written Submission on Remedy, the Public Interest, and Bonding; Extension of the Target Date

**AGENCY:** International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review in part a final initial determination ("Final ID") issued by the presiding administrative law judge ("ALJ") finding a violation of section 337 of the Tariff Act of 1930. The Commission requests briefing from the parties on the issues under review and from the parties, interested government agencies, and interested persons on remedy, the public interest, and bonding based on the schedule set forth below. The Commission has also determined to extend the target date for the completion of the above-captioned investigation to September 26, 2023.

#### FOR FURTHER INFORMATION CONTACT:

Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-5468. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). Hearing-impaired persons are advised

that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** On January 24, 2022, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), based on a complaint filed on behalf of complainants Kia Corporation of Seoul, Korea and Kia America, Inc. of Irvine, California (collectively, "Kia"). 87 FR 3584-85 (Jan. 24, 2022). The complaint, as supplemented and amended, alleges a violation of section 337 in the importation into the United States, the sale for importation, and the sale after importation within the United States after importation of certain replacement automotive lamps by reason of infringement of U.S. Design Patent Nos. D592,773; D635,701; D636,506; D650,931; D695,933; D705,963; D709,218; D714,975; D714,976; D720,871; D749,757; D749,762; D749,764; D774,222; D774,223; D776,311; D781,471; D785,833; D785,836; and D792,989. *Id.* at 3584. The notice of investigation names as respondents TYC Brother Industrial Co., Ltd. of Tainan, Taiwan; Genera Corporation (dba TYC Genera) of Brea, California; LKQ Corporation of Chicago, Illinois; and Keystone Automotive Industries, Inc. of Exeter, Pennsylvania (together, "Respondents"). The Office of Unfair Import Investigations is not participating in this investigation.

On February 7, 2022, the Chief ALJ ("CALJ") ordered an evidentiary hearing for both Inv. Nos. 337-TA-1291 and 337-TA-1292 on the economic prong pursuant to the Commission's pilot program for interim initial determinations ("IID"). Order No. 6 (Feb. 7, 2022). The combined evidentiary hearing was held on April 20, 2022. On July 1, 2022, the CALJ issued an IID finding that Kia has satisfied the economic prong of the domestic industry requirement with respect to all of the asserted design patents. On August 24, 2022, the Commission determined to review the IID. The investigation was reassigned to the presiding ALJ on July 6, 2022.

On January 24, 2023, the ALJ issued the Final ID finding a violation of section 337 by Respondents with respect to '773, '701, '506, '931, '933, '218, '975, '976, '871, '762, '764, '222, '223, '311, '833, '836, and '989 patents. Final ID at 1. The Final ID finds no violation with respect to the '963, '757, and '471 patents based on noninfringement and failure to satisfy

the technical prong of the domestic industry requirement. *Id.* at 1, 284–86. The Final ID also finds that no asserted patent is invalid as anticipated or obvious. *Id.* Concerning the economic prong of the domestic industry requirement, the Final ID reduced Kia's alleged investments due to Kia's failure to establish that certain of its alleged domestic industry products are representative of other alleged domestic industry products. *Id.* at 33–37.

On February 6, 2023, Respondents filed a petition for review challenging the Final ID's findings on the economic prong of the domestic industry requirement, infringement, and validity. Also on February 6, 2023, Kia filed a petition for review challenging the Final ID's findings of noninfringement and contingently petitioning regarding the Final ID's findings concerning non-satisfaction of the technical prong of the domestic industry requirement regarding the '963, '757, and '471 patents. On February 14, 2023, Kia and Respondents filed responses to each other's petitions.

Having examined the record of this investigation, including the ALJ's Final ID, the petitions for review, and the responses thereto, the Commission has determined to review the Final ID in its entirety. The Commission has also determined to extend the target date for the completion of the investigation until September 26, 2023.

In connection with its review, the Commission requests briefing on the following issues. The parties are requested to brief their positions with reference to the applicable law, the existing evidentiary record, and the parties' submissions during the investigation.

1. Please identify, with citations to the record prior to the Final ID, where Kia satisfied its burden of proof to establish infringement of each asserted patent by applying the ordinary observer test. As a part of your discussion, please discuss:

a. the impact, if any, of the Final ID's determination not to rely upon the testimony of Kia's expert in the Final ID's infringement analysis because such testimony is conclusory. Final ID at 33.

b. what evidence and argument beyond side-by-side images of the patented designs and accused products, if anything, is needed to satisfy the burden of proof, and whether Kia provided that proof, in this investigation. For example, was Kia required to provide a written explanation in its prehearing and/or post hearing briefs discussing how the accused products and each asserted patent are "substantially the same" from

the perspective of the ordinary observer?

2. Please identify, with citation to the record prior to the Final ID, where Kia satisfied its burden of proof to establish the technical prong of the domestic industry requirement for each asserted patent. As part of your discussion, please discuss what evidence and argument beyond side-by-side images of the patented designs and asserted domestic industry products, if anything, is needed to satisfy the burden of proof, and whether Kia provided that proof, in this investigation. For example, was Kia required to provide a written explanation in its prehearing and/or post hearing briefs discussing how the asserted domestic industry products and each asserted patent are "substantially the same" from the perspective of the ordinary observer?

3. Please discuss whether Kia satisfied its burden of proof to establish that it has satisfied the economic prong of the domestic industry requirement through significant investments in plant and equipment based on the revised patent-by-patent investments to account for the non-representative products. Please also identify, with citations to the record prior to the Final ID, where Kia satisfied its burden of proof as to the significance of the revised investments for each patent.

4. Please address whether the Final ID, in finding infringement or satisfaction of the technical prong as to the asserted design patents despite complainants' failure to provide a written explanation regarding similarity between the accused product and asserted design from the standpoint of the ordinary observer, is consistent with relevant legal authority. Please specifically address whether the Final ID, by providing such a written explanation in the first instance, presents issues under the Administrative Procedure Act.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue 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 (December 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or a 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 position 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:* The Commission requests that the parties to the investigation file written submissions on the issues identified in this notice. The Commission encourages parties to the investigation, interested government agencies, and any other interested parties to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding, which issued on January 24, 2023. The Commission further requests that Kia submit proposed remedial orders, state the date when the asserted patents expire, provide the HTSUS subheadings under which the subject articles are imported, and supply a list of known importers of the subject article. The written submissions, exclusive of any exhibits, must not exceed 50 pages, and must be filed no later than close of business on May 25, 2023. Reply submissions must not exceed 20 pages, and must be filed

no later than the close of business on June 1, 2023. 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-1291) 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](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. 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 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.

The Commission vote for this determination took place on May 11, 2023.

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: May 11, 2023.

**Katherine Hiner,**

*Supervisory Attorney.*

[FR Doc. 2023-10477 Filed 5-16-23; 8:45 am]

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## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-1588-1590 (Final)]

### Certain Preserved Mushrooms From the Netherlands, Poland, and Spain

#### Determinations

On the basis of the record<sup>1</sup> developed in the subject investigations, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"), that an industry in the United States is materially injured by reason of imports of certain preserved mushrooms from the Netherlands, Poland, and Spain, provided for in subheading 2003.10.01 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce ("Commerce") to be sold in the United States at less than fair value ("LTFV").<sup>2</sup>

#### Background

The Commission instituted these investigations effective March 31, 2022, following receipt of petitions filed with the Commission and Commerce by Giorgio Foods, Inc., Blandon, Pennsylvania. The Commission established a general schedule for the conduct of the final phase of its investigations on certain preserved mushrooms, following a preliminary determination by Commerce that imports of certain preserved mushrooms from France were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of September 21, 2022 (87 FR 57717). The Commission conducted its hearing on November 17, 2022. All persons who requested the opportunity were permitted to participate.

<sup>1</sup> The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

<sup>2</sup> 88 FR 18115, 88 FR 18118, and 88 FR 18120 (March 27, 2023).

The investigations schedules became staggered when Commerce did not postpone the final determination for its antidumping duty investigation of certain preserved mushrooms from France, while it did postpone the final determinations for its antidumping duty investigations of certain preserved mushrooms from the Netherlands, Poland, and Spain. On January 12, 2023, the Commission issued a final affirmative determination in its antidumping duty investigation of certain preserved mushrooms from France (88 FR 2971, January 18, 2023). Following notification of a final determination by Commerce that imports of certain preserved mushrooms from the Netherlands, Poland, and Spain were being sold at LTFV within the meaning of section 735(a) of the Act (19 U.S.C. 1673d(a)), notice of the supplemental scheduling of the final phase of the Commission's antidumping duty investigations was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 5, 2023 (88 FR 20187).

The Commission made these determinations pursuant to § 735(b) of the Act (19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on May 11, 2023. The views of the Commission are contained in USITC Publication 5419 (May 2023), entitled *Certain Preserved Mushrooms from the Netherlands, Poland, and Spain: Investigation Nos. 731-TA-1588-1590 (Final)*.

By order of the Commission.

Issued: May 11, 2023.

**Katherine Hiner,**

*Supervisory Attorney.*

[FR Doc. 2023-10439 Filed 5-16-23; 8:45 am]

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## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1292]

### Certain Replacement Automotive Lamps II; Notice of Commission Determination To Review a Final Initial Determination Finding a Violation of Section 337; Schedule for Filing Written Submissions on Remedy, the Public Interest, and Bonding; Extension of the Target Date

**AGENCY:** International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade