

final ID. On January 5, 2009, respondents filed a motion for leave to file a reply in support of their petition for review of the final ID. On January 9, 2009, complainants filed an opposition to respondents' motion. On January 15, 2009, the IA also filed an opposition to respondents' motion.

Having examined the record of this investigation, including the ALJ's ID and the submissions of the parties, the Commission has determined to review the ALJ's determination regarding the effective filing date of claim 1 of the '276 patent and to affirm his determination with additional reasoning. In addition, the Commission has determined to review the ALJ's ID with regard to whether claim 1 of the '276 patent is invalid for anticipation or obviousness with respect to certain references and to issue an order remanding the investigation to the ALJ for further proceedings related to anticipation and obviousness with respect to those references. The Commission has determined not to review any other determination in the ALJ's ID.

To accommodate the remand proceedings, the Commission has extended the target date of the above-captioned investigation to June 1, 2009, and instructed the ALJ to make his determination on remand by April 1, 2009. The parties are invited to file written submissions on the ALJ's remand determination within fourteen days after service of the ALJ's determination and to file responses to the written submissions within seven days after service of the written submissions. The parties should also address remedy, the public interest, and bonding in their submissions. Finally, the Commission has determined to deny respondents' motion for leave to file a reply in support of their petition for review of the final ID.

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 one or more cease and desist orders 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 *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

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 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 or disapprove 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 parties to the investigation are requested to file written submissions on the issues identified in this notice. 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. Such submissions should address the recommended determination by the ALJ on remedy and bonding. Complainants and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. Complainants are also requested to state the dates that the patents expire and the HTSUS numbers under which the accused products are imported. The written submissions and proposed remedial orders must be filed no later than the close of business fourteen days after service of the ALJ's remand determination. Reply submissions must be filed no later than the close of business seven days after service of the written submissions. The written

submissions may be no longer than 50 pages and the reply submissions may be no longer than 25 pages. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. 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. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

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 sections 210.42-46 of the Commission's Rules of Practice and Procedure (19 CFR 210.42-46).

Issued: January 30, 2009.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

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## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-394-A & 399-A (Second Review) (Remand)]

### Ball Bearings From Japan and the United Kingdom

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice of remand proceedings.

**SUMMARY:** The U.S. International Trade Commission ("Commission") hereby gives notice of the resumption of its remand proceedings with respect to its affirmative determinations in the five-year reviews of the antidumping duty orders on ball bearings from Japan and the United Kingdom. For further information concerning the conduct of this proceeding and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subpart A (19 CFR part 207).

**DATES:** *Effective Date:* January 30, 2009.  
**FOR FURTHER INFORMATION CONTACT:** Jim McClure, Office of Investigations, telephone 202-205-3191, or David Goldfine, Office of General Counsel, telephone 202-708-5452, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter 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 (<http://www.usitc.gov>).

**SUPPLEMENTARY INFORMATION:**

*Background.* In June 2006, the Commission determined that revocation of the antidumping duty orders on ball bearings from France, Germany, Italy, Japan, and the United Kingdom would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. The Commission's determinations for Japan and the United Kingdom were appealed to the Court of International Trade (the "Court"). On September 9, 2008, the Court issued a decision remanding the matter to the Commission for further proceedings. *NSK v. United States*, Slip Op. 08-95 (Ct. Int'l Trade, Sept. 9, 2008). In its opinion, the Court issued an order instructing the Commission to (1) "conduct a *Bratsk* analysis of non-subject imports as outlined in this opinion;" (2) "reassess supply conditions within the domestic industry," *i.e.*, the industry's restructuring efforts during the period of review, and (3) "reexamine its findings with regard to likely impact and its decision to cumulate imports from the United Kingdom in light of changes in its determinations that may result as a consequence of the foregoing remand instructions."

On October 8, 2008, in accordance with the Court's order, the Commission initiated remand proceedings in the above-captioned reviews. The notice of initiation for the remand proceeding was published in the **Federal Register** at 73 FR 63217 (Oct. 20, 2008). The Commission noted that it was re-opening the record to obtain information to conduct an analysis of non-subject imports as outlined in the Court's opinion. The Commission also noted that it was permitting parties to file comments pertaining to the specific issues that are the subject of the Court's

remand instructions and to comment on the new information obtained on remand. *Id.*

On October 9, 2008, the Commission filed a motion for reconsideration with the Court. In the motion, the Commission requested that the Court reconsider its decision in light of the Federal Circuit's decision, *Mittal Steel Point Lisas Limited v. United States*, Court No. 2007-1552 (September 18, 2008) ("*Mittal*"). In its motion, the Commission also requested that the Court issue a stay of the remand proceeding pending the Court's disposition of the Commission's motion for reconsideration. Defendant-Intervenor The Timken Company ("*Timken*") filed a similar motion for reconsideration and a motion to stay the remand proceeding.

On October 29, 2008, the Court granted the requests of the Commission and Timken to stay the Commission's remand proceeding pending its reconsideration of the Commission's and Timken's motions for reconsideration. Accordingly, the Commission stayed its remand proceeding on November 17, 2008 pending the Court's ruling on the motions for reconsideration.

On December 29, 2008, the Court denied the motions for reconsideration by the Commission and Timken. The Court has ordered the Commission to file its remand determination with the Court by May 4, 2009. Accordingly, the Commission is hereby resuming the remand proceeding in this review and announcing an amended schedule for the proceeding, as set forth herein.

*Participation in the proceeding.* Only those persons who were interested parties to the reviews (*i.e.*, persons listed on the Commission Secretary's service list) and parties to the appeal may participate in the remand proceeding. Such persons need not make any additional filings with the Commission to participate in the remand proceeding. Business proprietary information ("*BPI*") referred to during the remand proceeding will be governed, as appropriate, by the administrative protective order issued in the reviews.

*Written submissions.* The Commission is re-opening the record in this proceeding to obtain information to conduct an analysis of non-subject imports as outlined in the Court's opinion. The Commission will permit the parties to file comments pertaining to the specific issues that are the subject of the Court's remand instructions and, in this regard, may comment on the new information obtained on remand. Comments should be limited to no more

than fifteen (15) double-spaced and single-sided pages of textual material. The parties may not themselves submit any new factual information in their comments and may not address any issue other than those that are the subject of the Court's remand instructions. Any such comments must be filed with the Commission no later than March 23, 2009.

All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (Nov. 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the remand proceeding must be served on all other parties to the remand proceeding (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Parties are also advised to consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subpart A (19 CFR part 207) for provisions of general applicability concerning written submissions to the Commission.

Issued: January 30, 2009.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

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**INTERNATIONAL TRADE COMMISSION**

[Investigation No. 337-TA-654]

**In the Matter of Certain Peripheral Devices and Components Thereof and Products Containing Same; Notice of Commission Determination Not To Review an Initial Determination Granting a Joint Motion To Terminate the Investigation in Its Entirety on the Basis of Settlement and Terminating the Investigation**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.