



7020-02

INTERNATIONAL TRADE COMMISSION

Investigation No. 337-TA-887

Certain Crawler Cranes and Components Thereof; Commission Determination Not to Review an Initial Determination Granting In-Part Complainants' Motion to Amend the Complaint and Notice of Investigation

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 an initial determination ("ID") (Order No. 10) granting in-part the motion of Complainants' to amend the complaint and notice of investigation.

FOR FURTHER INFORMATION CONTACT: Amanda Pitcher Fisherow, 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 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, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.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: The Commission instituted this investigation on July 17, 2013, based on a complaint filed by Manitowoc Cranes, LLC ("Manitowoc") of Manitowoc, Wisconsin. 78 FR 42800-01 (July 17, 2013). The complaint alleges violations of section 337 of

the Tariff Act of 1930, as amended, 19 U.S.C. 1337, by reason of infringement of U.S. Patent No. 7,546,928 (“the ’928 patent”) and U.S. Patent No. 7,967,158, and that an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337. The complaint further alleges violations of section 337 by reason of trade secret misappropriation, the threat or effect of which is to destroy or substantially injure an industry in the United States or to prevent the establishment of such an industry. The Commission’s notice of investigation named Sany Heavy Industry Co., Ltd. of Changsha, China, and Sany America, Inc. of Peachtree City, Georgia as respondents.

On November 15, 2013, Manitowoc filed a motion seeking to amend the complaint and notice of investigation to assert (1) additional patent claims (*i.e.*, claims 6, 8, 10, 11 and 23-26 of the ’928 patent), (2) additional trade secrets, and (3) an additional unfair act. The additional trade secrets include: (1) Manitowoc’s pricing of its cranes within the domestic industry targeted by the Sany SCC8500 crane, including distributor discounts, profit margins, unit and dollar volumes, and manufacturing costs; (2) certain of Manitowoc’s manufacturing processes and procedures, including its boom fabrication procedures, its methods for processing large weldments, and its material testing standards; (3) Manitowoc’s engineering design standard for electrical schematics; (4) Manitowoc’s pricing arrangements with certain parts vendors; and (5) Manitowoc’s quality assurance metrics.

On November 27, 2013, the Office of Unfair Import Investigations (“OUII”) replied and supported the motion in-part. Also on November 27, 2013, Respondents filed a response in which they did not oppose the addition of the patent claims, but opposed the remaining amendments to the complaint and notice of investigation.

On December 13, 2013, the ALJ granted Complainants’ motion in-part. The ALJ granted

Complainants' motion with respect to the addition of the patent claims and the alleged trade secrets relating to (1) the pricing of Manitowoc's cranes; (2) certain manufacturing process and procedures, that include boom fabrication procedures, methods for processing large weldments, and material testing standards; (3) engineering design standards for electrical schematics; and (4) quality assurance metrics. The ALJ found that the parties would not be prejudiced by the addition of these claims. The ALJ denied Complainants' motion to assert the alleged trade secret relating to Manitowoc's pricing arrangements with certain parts vendors because Manitowoc was aware of the alleged misappropriation before it filed the original complaint. No petitions for review were filed.

The Commission has determined not to review the subject ID.

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 C.F.R. 210).

By order of the Commission.

Lisa R. Barton
Acting Secretary to the Commission

Issued: January 15, 2014.

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