

United States after importation of Deere's European version ("EV") self-propelled forage harvesters ("SPFHs") by reason of infringement of U.S. Registered Trademarks Nos. 1,254,339; 1,502,103; 1,503,576; 91,860; and 2,729,766. In the original investigation, the Commission determined that there was a violation of section 337 and issued, in relevant part, a general exclusion order covering EVSPFHs and cease and desist orders directed to certain of the Bourdeau respondents and other respondents.

On appeal to the United States Court of Appeals for the Federal Circuit, the Court vacated the determination of violation against the Bourdeau respondents and remanded for findings on whether domestic sales of EVSPFHs by official Deere dealers were authorized by Deere and whether all or substantially all of the SPFH's authorized by Deere for sale in the domestic market were of its North American version ("NA") SPFHs. *Bourdeau Bros., Inc. v. Int'l Trade Comm'n*, 444 F.3d 1317 (Fed. Cir. 2006).

Following receipt of the mandate, the Commission rescinded its remedial orders with respect to EVSPFHs and referred the investigation to the original presiding administrative law judge ("ALJ"). The ALJ considered and denied cross-motions for summary determination on the remanded issues, conducted an evidentiary hearing, and issued an initial determination on remand ("RID") of violation of section 337. The Bourdeau respondents petitioned for review. The Commission determined to review the ALJ's summary determination order and the RID. Based on additional rounds of briefing and its review of the entire record, the Commission issued a final determination that there was no violation of section 337. The Commission found that Deere failed to prove that sales of EVSPFHs in the United States by its official dealers were not authorized and also failed to prove that substantially all of the authorized sales of Deere SPFHs in the United States were NASPFHs.

Deere appealed. On appeal, the Court vacated and remanded for further proceedings. *Deere & Co. v. Int'l Trade Comm'n*, 605 F.3d 1350 (Fed. Cir. 2010). The Court upheld the Commission's consideration of official Deere dealer sales and found that substantial evidence supported the determination that sales of EVSPFHs in the United States by official U.S. and European Deere dealers were authorized. *Id.* at 1355–58. The Court further ruled, however, that the Commission misapplied the "all or substantially all"

test by using the wrong denominator and taking into consideration the ratio of authorized sales of EVSPFHs to the total number of EVSPFHs sold in the United States. *Id.* at 1358–62. The Court remanded for consideration, based on its instructions, of whether Deere satisfied the requirement that substantially all of its SPFH sales in the United States were of NASPFHs. *Id.* at 1362. The Court's mandate, issued July 19, 2010, was received by the Commission on July 23, 2010.

On October 14, 2010, the Commission requested briefing by the parties on the merits of the remand. Deere and the Bourdeau respondents completed briefing on December 10, 2010.

Based on the record of this investigation, including the Court's instructions on remand and the parties' briefing on remand, the Commission determined that Deere has established that substantially all of its U.S. SPFH sales were of NASPFHs and therefore has met its burden of proof on remand to satisfy the "all or substantially all" test for gray market trademark infringement and, accordingly, is entitled to a determination of violation of section 337 and the reinstatement of the exclusion order and cease and desist orders with respect to EVSPFHs issued by the Commission in the original investigation.

The Commission has terminated the investigation in accordance with the above findings on remand. 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 Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

Issued: January 13, 2012.

By order of the Commission.

**James R. Holbein,**

*Secretary to the Commission.*

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## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-773]

### Certain Motion-Sensitive Sound Effects Devices and Image Display Devices and Components and Products Containing Same; Termination 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. 61) granting a joint motion to terminate the above-captioned investigation as to respondents Toshiba Corporation of Tokyo, Japan, and Toshiba America Information Systems, Inc., of Irvine, California (collectively, "Toshiba") based on a settlement agreement. Because the Toshiba entities were the last remaining entities in the investigation, the consolidated investigation is terminated.

#### FOR FURTHER INFORMATION CONTACT:

Clark S. Cheney, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2661. 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 (<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 May 19, 2011, based on a complaint filed by Ogma, LLC ("Ogma"). 76 FR 29006 (May 19, 2011). The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain motion-sensitive sound effects devices and image display devices and components and products containing same by reason of infringement of certain claims of U.S. Patent Nos. 5,825,427 ("the '427 patent") and 6,150,947 ("the '947 patent").

The Commission instituted Inv. No. 337-TA-787 on July 18, 2011, based on another complaint filed by Ogma. 76 FR 42136 (July 18, 2011). The complaint in the latter investigation alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) by reason of infringement of the same patents asserted in the earlier 773 investigation, namely the '427 patent and the '947 patent. The complaint in the 787

investigation named numerous respondents, including Toshiba.

On July 19, 2011, the ALJ issued an order (Inv. No. 337-TA-787, Order No. 1) consolidating the 787 investigation with the 773 investigation. The consolidated investigation proceeded under the caption of the 773 investigation.

On December 13, 2011, Ogma and Toshiba filed a joint motion to terminate the investigation as to Toshiba based on a settlement agreement. On December 21, 2011, the ALJ issued the subject ID (Order No. 61) granting the motion to terminate the investigation as to Toshiba. Because the Toshiba entities were the last remaining respondents in the investigation, the ALJ also determined that the investigation should be terminated. No petitions for review of the ID were filed.

The Commission has determined not to review the ID. The consolidated investigation is terminated.

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: January 13, 2012.

**James R. Holbein,**

*Secretary to the Commission.*

[FR Doc. 2012-1030 Filed 1-19-12; 8:45 am]

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## DEPARTMENT OF JUSTICE

[OMB Number 1125-0002]

### Agency Information Collection Activities: Proposed Collection; Comments Requested: Notice of Appeal From a Decision of an Immigration Judge

**ACTION:** 30-Day Notice of Information Collection Under Review.

The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 76 Number 220, pages 70754-70755, on November 15, 2011, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until February 21, 2012. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530.

Additionally, comments may also be submitted to OMB via facsimile to (202) 395-5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

### Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Notice of Appeal from a Decision of an Immigration Judge.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form EOIR 26, Executive Office for Immigration Review, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* *Primary:* A party (either the U.S. Immigration and Customs Enforcement of the Department of Homeland Security or the respondent/applicant) who appeals a decision of an Immigration Judge to the Board of Immigration Appeals (Board). *Other:*

*None.* *Abstract:* A party affected by a decision of an Immigration Judge may appeal that decision to the Board, provided the Board has jurisdiction pursuant to 8 CFR 1003.1(b). An appeal from an Immigration Judge's decision is taken by completing the Form EOIR-26 and submitting it to the Board.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 19,201 respondents will complete the form annually with an average of thirty minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 9,600.5 total burden hours associated with this collection annually.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 2E-508, Washington, DC 20530.

**Jerri Murray,**

*Clearance Officer, PRA, United States Department of Justice.*

[FR Doc. 2012-1055 Filed 1-19-12; 8:45 am]

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## DEPARTMENT OF JUSTICE

[OMB Number 1123-0009]

### Agency Information Collection Activities: Information Collection Renewal; Comments Requested: Inspection of Records Relating to Visual Depictions of Simulated Sexually Explicit Performances

**ACTION:** 60-Day notice of information collection.

The Department of Justice (DOJ), Criminal Division, Child Exploitation and Obscenity Section (CEOS) will submit the following information collection renewal to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection renewal is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until March 20, 2012. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated number of respondents, estimated public burden or associated response time, suggestions, or need