

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337 and provisional acceptance of motion for temporary relief.

SUMMARY: Notice is hereby given that a complaint and motion for temporary relief were filed with the U.S. International Trade Commission on July 16, 2003, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of The Chamberlain Group, Inc. of Elmhurst, Illinois. A supplement to the complaint was filed on August 8, 2003. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain universal transmitters for garage door openers by reason of infringement of claims 1–8 of U.S. Patent No. RE 35,364 and claims 5–62 of U.S. Patent No. RE 37,986, and violation of section 1201(a)(2) of the Digital Millennium Copyright Act, 17 U.S.C. 1201(a)(2). The complaint further alleges that an industry in the United States exists as required by subsections (a)(1)(A) and (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and permanent cease and desist orders.

The motion for temporary relief requests that the Commission issue a temporary limited exclusion order and temporary cease and desist orders prohibiting the importation into and the sale within the United States after importation of certain universal transmitters for garage door openers that violate section 1201(a)(2) of the Digital Millennium Copyright Act, 17 U.S.C. 1201(a)(2), during the course of the Commission's investigation.

ADDRESSES: The complaint and motion for temporary relief, except for any confidential information contained therein, are 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., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained 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 at <http://www.usitc.gov>. The public record

for this investigation may be viewed on the Commission's electronic document information system (EDIS) at <http://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Karin J. Norton, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2606.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.10 of the Commission's rules of practice and procedure, 19 CFR 210.10 (2003). The authority for provisional acceptance of the motion for temporary relief is contained in § 210.58, 19 CFR 210.58.

Scope of Investigation: Having considered the complaint and the motion for temporary relief, the U.S. International Trade Commission, on August 20, 2003, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain universal transmitters for garage door openers by reason of violation of section 1201(a)(2) of the Digital Millennium Copyright Act, 17 U.S.C. § 1201(a)(2) the threat or effect of which is to destroy or substantially injure an industry in the United States; and

(b) whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation, of certain universal transmitters for garage door openers by reason of infringement of claims 1–8 of U.S. Patent No. RE 35,364 or claims 5–62 of U.S. Patent No. RE 37,986 and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) Pursuant to § 210.58 of the Commission's rules of practice and procedure, 19 CFR 210.58, the motion for temporary relief under subsection (e) of section 337 of the Tariff Act of 1930, which was filed with the complaint, is provisionally accepted and referred to the presiding administrative law judge for investigation.

(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—The Chamberlain Group, Inc., 845 Larch Avenue, Elmhurst, IL 60126–1196.

(b) The respondents are the following companies alleged to be in violation of

section 337, and are the parties upon which the complaint and motion for temporary relief are to be served:

Skylink Technologies, Inc., 2213 Dunwin Drive, Mississauga, Ontario, Canada L5L 1X1.
Capital Prospect, Ltd., Room 1316B, Veristrong Industrial Center, 36 Au Pui Wan Street, Fo Tan, New Territories, Hong Kong.
Philip Tsui, 2213 Dunwin Drive, Mississauga, Ontario, Canada L5L 1X1.

(c) Karin J. Norton, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(4) For the investigation so instituted, the Honorable Charles E. Bullock is designated as the presiding administrative law judge.

Responses to the complaint, the motion for temporary relief, and the notice of investigation must be submitted by the named respondents in accordance with §§ 210.13 and 210.59 of the Commission's rules of practice and procedure, 19 CFR 210.13 and 210.59. Pursuant to 19 CFR 201.16(d), 210.13(a), and 210.59, such responses will be considered by the Commission if received not later than 10 days after the date of service by the Commission of the complaint, the motion for temporary relief, and the notice of investigation. Extensions of time for submitting the responses to the complaint, motion for temporary relief, 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, in the motion for temporary relief, and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint, the motion for temporary relief, 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, the motion for temporary relief, and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or cease and desist order or both directed against such respondent.

By order of the Commission.

Issued: August 20, 2003.

Marilyn R. Abbott,
Secretary.

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