INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–406, Enforcement I (Remand)]

In the Matter of Certain Lens-Fitted Film Packages; Notice of Commission Decision To Terminate a Remand Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to terminate the above-captioned proceeding.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3104. 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 at *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 enforcement proceeding on July 31, 2001, based on a complaint filed by Fuji Photo Film Co., Ltd. (''Fuji''). Fuji sought to enforce a general exclusion order issued as a result of an investigation conducted by the Commission in 1999, Inv. No. 337–TA–406, *Certain Lens-Fitted Film Packages.* The investigation involved newly made and refurbished lens-fitted film packages and involved numerous Fuji patents, including U.S. Patent No. 4,884,087 (''the '087 patent''). The initial investigation also involved numerous respondents, twenty-six of whom were found to violate section 337 of the Tariff Act of 1930. Respondent VastFame Camera, Ltd. (''VastFame'') was not a party to the initial investigation, and its VN99 and VN991 cameras were not at issue in that investigation.

During the enforcement proceedings, VastFame pled as a defense that claim 15 of the '087 patent was invalid under 35 U.S.C. 102 and 103(a). The presiding administrative law judge refused to consider invalidity, ruling that no defense could be raised in the enforcement proceeding. The Commission adopted this ruling. VastFame appealed this ruling to the Federal Circuit, which reversed and remanded the case for further proceedings. *See VastFame Camera, Ltd.* v. *Int'l Trade Comm'n*, 386 F.3d 1108 (Fed. Cir. 2004). VastFame did not challenge the ALJ's determination that the VN99 and VN991 cameras infringe claim 15 of the '087 patent.

On June 23, 2005, the ALJ precluded VastFame from raising new invalidity defenses under 35 U.S.C. 112, and, on June 25–26, 2005, the ALJ conducted an evidentiary hearing on the remaining invalidity issues. The ALJ held that the asserted prior art references, Japanese Unexamined Utility Model Publication Nos. 53–127934 and 48–46622, do not anticipate claim 15 of the '087 patent and that they do not render the claimed invention obvious in combination with Dutch Patent No. 6,708,486.

On September 23, 2005, VastFame filed a petition for review, arguing that the ALJ improperly concluded that claim 15 is not invalid. On September 30, 2005, the Commission's investigative attorney filed a response to VastFame's petition, and on October 3, 2005, Fuji also filed a response. Both asserted that VastFame had not shown any clear error of fact, error of law, or abuse of discretion in the ALJ's final initial determination (ID) that would merit Commission review.

On October 27, 2005, after examining the record of this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission determined to review in part the ALJ's ID. Specifically, the Commission determined to review the portion of the ALJ's claim interpretation that relies on law of the case. On review, the Commission determined to take no position with respect to that analysis, but affirmed the ALJ's claim construction based on his independent finding that the preamble to claim 15 is a claim limitation.

The Commission requested that the parties provide written submissions indicating whether there are any further proceedings required by the Commission to complete this remand. All parties responded that no further proceedings were required. Accordingly, the Commission has terminated the remand proceedings.

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).

By order of the Commission.
Issued: November 23, 2005.

Marilyn R. Abbott,
Secretary to the Commission.

[FR Doc. 05–23493 Filed 11–29–05; 8:45 am]

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Bridger Coal Company

[Docket No. M–2005–073–C]

Bridger Coal Company, P.O. Box 68, Point of Rocks, Wyoming 82942 has filed a petition to modify the application of 30 CFR 75.1101–8 (Water sprinkler systems; arrangement of sprinklers) to its Bridger Underground Mine (MSHA I.D. No. 48–01646) located in Sweetwater County, Wyoming. The petitioner requests to modify the application of 30 CFR 75.1101–8 (Water sprinkler systems arrangement of sprinklers) if the belt controller and take-up control units comply with existing safety standards 30 CFR 75.340 and 75.1107–1(a)(3). The petitioner states that the units presently are electric and are located in transformer rooms which comply with the safety standards 75.340 and 75.1107–1(a)(3). The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Brooks Run Mining Company, LLC

[Docket No. M–2005–074–C]

Brooks Run Mining Company, LLC, 25 Little Birch Road, Sutton, West Virginia 25601 has filed a petition to modify the application of 30 CFR 75.1002 (Installation of electric equipment and conductors; permissibility) to its Saylor Mine (MSHA I.D. No. 46–09126) located in Braxton County, West Virginia. The petitioner requests a modification of the existing standard to permit a production stream to be maintained from the 2,400-volt continuous miners at the Saylor Mine. The petitioner has listed in this petition specific terms and conditions that will be followed when the proposed