

## BMW, Honda, Others Face ITC Probe Over Thermoplastic Parts

By **Matthew Bultman**

Law360, New York (May 1, 2017, 5:42 PM EDT) -- The U.S. International Trade Commission on Friday said it is launching an investigation into whether thermoplastic parts used in certain BMW, Honda and Toyota vehicle models have infringed five patents owned by Intellectual Ventures LLC.

Intellectual Ventures, a Washington-based patent holding company, filed the ITC complaint on March 21, seeking a cease-and-desist order and an exclusion order. It has also filed several infringement lawsuits in Delaware federal court involving the same patents.

The ITC identified 25 companies that will be part of the investigation, including Bayerische Motoren Werke AG, Honda Motor Co. Ltd. and Toyota Motor Corp., along with various subsidiaries. Some Japanese auto parts manufacturers, including Denso Corp. and Mitsuba Corp., were also named.

The patents cover inventions related to electric motors and components encapsulated in thermoplastic, a type of heat-resistant material. Intellectual Ventures licenses the patents to an Illinois company called Encap Technologies Inc.

Its complaint alleges that parts made or used by BMW and the other companies infringe.

In a letter to the ITC last month, the Alliance of Automobile Manufacturers Inc. and the Association of Global Automakers said that the complaint affects essentially the entire Toyota hybrid vehicle line and would implicate essentially 100 percent of the BMW vehicles with gasoline engines imported to the U.S.

The trade groups warned that an exclusion order such as the one sought by Intellectual Ventures would have a negative effect on consumers and the U.S. economy.

"The relief sought by complainant would bar from importation into the United States significant numbers of automobiles produced by three of the world's major automakers, BMW, Honda and Toyota, as well as electric motors for domestically produced automobiles," the groups wrote, adding that the "total volume of affected commerce would be measured in the hundreds of millions of U.S. dollars annually."

The ITC complaint came one day after Intellectual Ventures filed lawsuits against the same automakers and parts suppliers in Delaware federal court. The suits, which contain similar infringement allegations, also seek money damages, something that is not available at the ITC.

A spokesman for Toyota declined to comment on Monday. Representatives for the other respondents could not immediately be reached for comment.

The patents at issue are U.S. Patent No. 7,154,200; 7,067,944; 7,067,952; 7,683,509; and 7,928,348.

Intellectual Ventures is represented at the ITC by James M. Wodarski, Michael T. Renaud, Andrew H. DeVoogd, Nicholas W. Armington, Serge Subach, Brad M. Scheller and Aarti Shah of Mintz Levin Cohn Ferris Glovsky & Popeo PC.

Counsel information for the respondents was not immediately available on Monday.

The investigation is In the Matter of Certain Thermoplastic-Encapsulated Electric Motors, Components Thereof and Products and Vehicles Containing Same, number 337-TA-1052, before the U.S. International Trade Commission.

--Editing by Stephen Berg.