

UNITED STATES COURT OF INTERNATIONAL TRADE

**POWER TRAIN COMPONENTS, INC.,**

Plaintiff,

v.

**UNITED STATES,**

Defendant,

and

**THE TIMKEN COMPANY,**

Defendant-Intervenor.

**Before: Gregory W. Carman, Judge**

**Court No. 11-00153**

**OPINION & ORDER**

[Commerce's *Final Scope Ruling* is sustained.]

Dated: May 29, 2013

*Robert M. Klingon*, The Klingon Law Firm, of New York, NY, for Plaintiff.

*L. Misha Preheim*, Trial Attorney, Commercial Litigation Branch, Civil Division, United States Department of Justice, of Washington, DC, for Defendant, and *Nathaniel J. Halvorson*, Attorney, Office of the Chief Counsel for Import Administration, United States Department of Commerce, of counsel. With them on the briefs were *Tony West*, Assistant Attorney General, *Jeanne E. Davidson*, Director, *Patricia M. McCarthy*, Assistant Director.

*Terence P. Stewart*, *William A. Fennell*, and *Stephanie R. Manaker*, Stewart and Stewart, of Washington, DC, for Defendant-Intervenor.

CARMAN, JUDGE: Plaintiff Power Train Components, Inc. (“Plaintiff” or “PTC”) contests the scope ruling by the United States Department of Commerce (“Commerce”) that its wheel hub assemblies are within the scope in the antidumping duty order covering tapered roller bearings (“TRBs”) from the People’s Republic of China (“China”). *Tapered Roller Bearings from the People’s Republic of China: Final Scope Ruling on New Trend Engineering Ltd.’s Wheel Hub Assemblies, Memorandum from Wendy Frankel, Director, Office 8, to Gary Taverman, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations* (Apr. 18, 2011) (“*Final Scope Ruling*”), A/R<sup>1</sup> 48; *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People’s Republic of China*, 52 Fed. Reg. 22,667 (June 15, 1987) (“*TRB Order*”). Pursuant to Plaintiff’s motion for judgment on the agency record, the Court sustains Commerce’s *Final Scope Ruling*.

#### BACKGROUND

The antidumping duty order scope covers tapered roller bearings from China. *See TRB Order*, 52 Fed. Reg. at 22,667. The current scope description, as of the last administrative review, is:

[i]mports covered by the order are shipments of tapered roller bearings and parts thereof, finished and unfinished, from the PRC; flange, take up cartridge, and hanger units incorporating tapered roller bearings; and tapered roller housings (except pillow blocks)

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<sup>1</sup> A/R refers to Administrative Record.

incorporating tapered rollers, with or without spindles, whether or not for automotive use. These products are currently classifiable under Harmonized Tariff Schedule of the United States (“HTSUS”) item numbers 8482.20.00, 8482.91.00.50, 8482.99.15, 8482.99.45, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.99.80.15 and 8708.99.80.80. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

*Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People’s Republic of China*, 76 Fed. Reg. 3,086, 3,087 (Jan. 19, 2011) (“*Final Results*”).<sup>2</sup>

On March 5, 2010, New Trend Engineering Ltd. (“New Trend”) submitted a request for a scope determination that its imports of certain wheel hub assemblies from China are outside the scope of the TRB Order. *See New Trend Scope Request* (Mar. 5, 2010) (“*Scope Request*”), A/R 1. Defendant-Intervenor The Timken Company (“Timken”) opposed the scope request as the petitioner in the original antidumping investigation. *See Def.-Int. the Timken Company’s Opp’n to the Mot. for J. on the Agency R. of Pl. Power Train Components, Inc. (“Def.-Int.’s Opp’n”)* at 6, ECF No. 34. On June 15, 2010, Commerce issued a notice stating that it would open a scope inquiry pursuant to 19 C.F.R. § 351.225(e). *Def.’s Opp’n to Pl.’s Mot. for J. upon the Agency R. (“Def.’s Opp’n”)*

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<sup>2</sup> In the *Final Results*, there was a different scope determination discussed regarding a company called New Torch and its wheel hub units. In contrast to this determination, Commerce found that New Torch’s wheel hub units were outside the scope of the order because they do not contain TRBs. *Final Results*, 76 Fed. Reg. at 3,087.

at 5, ECF No. 36 (citing *Notice of Initiation of Scope Inquiry* (June 15, 2010) (“*Scope Initiation*”), A/R 8). On July 14, 2010, Plaintiff submitted its notice of appearance as an interested party and importer of like merchandise. Brief of Pl. Power Train Components, Inc. in Supp. of Its Mot. for J. on the Agency R. (“Pl.’s Mot.”) at 4, ECF No. 28 (referencing PTC Comments to Scope Inquiry)( July 14, 2010), A/R 15).<sup>3</sup>

New Trend’s wheel hub assemblies include “several varieties of generation three wheel hub assemblies that incorporate [tapered roller bearings (“TRBs’)]” which “are designed for front wheel use.” *Id.* at 5 (internal citations omitted). All the wheel hub assemblies

incorporat[e] two non-removable tapered roller bearings in an inner race and cup that is machined into the unit’s flange, an outer race machined into the assembly forging, and mounting studs for attachment of the assembly to an automobile. The two machined bearing races are characteristic of products known in the industry as generation three wheel hub assemblies. The generation three wheel hub assemblies subject to the request including [sic] front wheel models both with a splined spindle and without; and both with antilock braking (“ABS”) sensors and without.

*Id.* at 3 (internal citations omitted).

Commerce divided the subject wheel hub assemblies into two groups—with and without ABS sensors—and analyzed each group individually. Commerce

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<sup>3</sup> After New Trend submitted its scope request, PTC filed its own scope request for a substantially similar product, but Commerce merged PTC’s request into New Trend’s scope proceeding. *See* Def.’s Opp’n at 4.

determined that wheel hub assemblies without ABS elements are within the scope pursuant to 19 C.F.R. § 351.225(k)(1) (“(k)(1) Factors”),<sup>4</sup> meeting the “description of wheel hub *units* and tapered roller housings included in the scope of the Petition, the ITC Report, and the Order.” *Id.* at 4 (citing *Tapered Roller Bearings from the People’s Republic of China: Preliminary Scope Ruling on New Trend Engineering Ltd.’s Wheel Hub Assemblies, Memorandum from Wendy Frankel, Director Office 8, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations* at 12 (Dec. 18, 2010) (“*Preliminary Scope Ruling*”), A/R 30). Commerce noted that the International Trade Commission (“ITC” or “Commission”) specifically identified “wheel hub units,” which are the same as wheel hub assemblies,<sup>5</sup> as part of the scope. Def.’s Opp’n at 3 (citing *Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered*

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<sup>4</sup> When considering whether a particular product is included within the scope of an order, first the (k)(1) Factors are considered, and if they are found to be dispositive, the inquiry is complete. The (k)(1) Factors are:

The descriptions of the merchandise contained in the petition, the initial investigation, and the determinations of the Secretary [of the Department of Commerce] (including prior scope determinations) and the [International Trade] Commission.

19 C.F.R. § 351.225(k)(1).

<sup>5</sup> The terms “units” and “assemblies” are used interchangeably within the industry, and Commerce highlighted that “New Trend itself has used the terms interchangeably during the scope proceeding.” *Preliminary Scope Ruling* at 6; see Def.-Int.’s Opp’n at 6, n.3.

*Rollers from Hungary, the People's Republic of China, and Romania, USCIT Publ. 1983, Inv. Nos. 731-TA-341, 344, and 345 (final)* at A-6 (June 1987) (“ITC Report”), A/R 4, Attach. 2.) Commerce then determined that wheel hub assemblies with ABS elements are within the scope pursuant to 19 C.F.R. § 351.225(k)(2) (“(k)(2) Factors”).<sup>6</sup> Pl.’s Mot. at 4.

Plaintiff challenges Commerce’s scope determinations and explains that the wheel hub assemblies “are not mere tapered roller housings, or tapered roller housed bearings,” but “they also incorporate enough additional structures and functions that they do not *constitute* tapered roller housings or housed bearings” thereby removing them from the TRB scope. *Id.* at 12 (citations omitted) (emphasis in original).

Defendant-Intervenor Timken, who was petitioner in the underlying investigation, supports Commerce’s scope determinations, advancing the argument that it listed wheel hub assemblies as “part of the scope” in its underlying petition. Def.-Int.’s Opp’n at 4 (citing *Antidumping Duty Petition: Tapered Roller Bearings, Rollers and*

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<sup>6</sup> When considering whether a particular product is included within the scope of an order, if the (k)(1) Factors are not dispositive, then the (k)(2) Factors are considered:

- (2) When the above criteria are not dispositive, the Secretary will further consider:
- (i) The physical characteristics of the product;
  - (ii) The expectations of the ultimate purchasers;
  - (iii) The ultimate use of the product;
  - (iv) The channels of trade in which the product is sold; and
  - (v) The manner in which the product is advertised and displayed.

19 C.F.R. § 351.225(k)(2).

*Other Parts from Japan, Italy, Yugoslavia, Romania, Hungary, The People's Republic of China* at 9-10 (Aug. 25, 1986) (“*Petition*”), A/R 4, Attach. 1).

#### STANDARD OF REVIEW

The Court has jurisdiction pursuant to 28 U.S.C. § 1581(c) (2006). For scope determinations, the Court sustains determinations, findings or conclusions of Commerce unless they are “unsupported by substantial evidence on the record, or otherwise not in accordance with law.” 19 U.S.C. § 1516a(b)(1)(B)(i). The possibility of drawing two inconsistent conclusions from the evidence does not prevent Commerce’s finding from being supported by substantial evidence. *Consolo v. Fed. Marit. Comm’n*, 383 U.S. 607, 620 (1966). “Substantial evidence” means “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Consol. Edison v. NLRB*, 305 U.S. 197, 229 (1938).

#### DISCUSSION

It is well-established that the cornerstone in any scope determination is the language of the order itself. *Walgreen Co. of Deerfield, IL v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010) (citing *Duferco Steel, Inc. v. United States*, 296 F.3d 1087, 1097 (Fed. Cir. 2002)). Commerce may not impermissibly expand the scope of the order. *Id.* at 1354. Issues regarding scope arise because “the descriptions of subject merchandise contained in [Commerce’s] determinations must be written in general terms.” 19 C.F.R.

§ 351.225(a). Accordingly, scope inclusions are written in broad terms and then specific exclusions are carved out from the general terms. Some exclusions are qualified and some are not.

In considering whether a particular product is within the scope of an order, Commerce will take into account the descriptions of the merchandise contained in the petition, the investigation, and the determinations of Commerce and the ITC. *Final Scope Ruling* at 3 (citing 19 C.F.R. § 351.225(k)(1)). If it determines that these descriptions are dispositive, then Commerce will issue a final scope ruling. *Id.* But if the descriptions are not dispositive, then Commerce will consider the factors set forth in 19 C.F.R. § 351.225(k)(2). *Id.* (citing 19 C.F.R. § 351.225(e)).

#### **I. Administrative Review**

Commerce noted that “the scope’s language in the [TRB] Order (i.e., tapered roller housings with spindles for automotive use) is broad and includes multiple products that have varied applications.” *Final Scope Ruling* at 7; *see Petition* at 10 (“In all, there are over 160 types in approximately 26,000 bearing combinations. . . . This petition covers all types of TRBs (including self-contained bearing packages).”). While admitting that “the scope [language] does not explicitly list ‘wheel hub assemblies,’” Commerce found “that New Trend’s wheel hub assemblies without ABS elements are tapered roller housings in that the outer flange is a flanged housing that incorporates

TRBs,” which are covered by the scope of the TRB Order. *Final Scope Ruling* at 5. In contrast, while admitting that the subject products “*incorporate tapered roller housings and housed bearings,*” Plaintiff asserted that its wheel hub assemblies “also incorporate enough additional structures and functions that they do not *constitute* tapered roller housings or housed bearings.” Pl.’s Mot. at 12 (emphasis in original) (internal citations omitted). Commerce considered Plaintiff’s argument and determined that

wheel hub units with additional features and functions retain the essential function of wheel hub units covered by the Order; that is, they continue to reduce friction. Thus, the additional features found on wheel hub units are engineering and design variations which do not alter the fundamental nature of the subject TRB.

*Preliminary Scope Ruling* at 7.

New Trend’s scope inquiry involved various subject wheel hub assemblies, but Commerce divided the subject wheel hub assemblies into two categories for scope determination purposes. New Trend’s wheel hub assemblies are described as follows:

Although there are several different types of wheel hub assemblies that are subject to this scope request, all of them incorporate two non-removable TRBs in an inner race and cup that are machined into the unit’s flange, an outer race machined into the assembly forging, wheel and brake “pilots” for aligning the wheels and brake rotors, and mounting wheel studs. The majority of the assemblies consist of a flanged outer hub with two TRBs, into which has been pressed a flanged spindle having a splined inner surface and mounting studs. The wheel hub assemblies are “sealed for life,” “greased at factory,” and “the bearing preload is set at factory.” . . . Certain of the products do not have a splined spindle and certain of the products include ABS capability. New Trend’s wheel hub assemblies may be categorized

into the following types of merchandise: (1) splined and non-splined without ABS elements and (2) splined and non-splined with ABS elements.

*Final Scope Ruling* at 4 (internal citations omitted). Accordingly, given the broad language of the scope and the apparently indiscernible characteristics of TRB incorporation into the subject product, Commerce initiated a formal scope inquiry pursuant to 19 C.F.R. § 351.225(e) and received comments from New Trend, Plaintiff and Defendant-Intervenor. *See* Def.'s Opp'n at 5. Because there is no objection to Commerce's division of the subject products, the Court's review will follow Commerce's trajectory, first looking at wheel hub assemblies without ABS under the ambit of the (k)(1) Factors, and then looking at the wheel hub assemblies with ABS under the ambit of the (k)(2) Factors, checking for support on the record for Commerce's scope determinations.

## II. Administrative Determinations

### A. *Wheel Hub Assemblies without ABS Pursuant to the (k)(1) Factors*

Commerce determined that wheel hub assemblies without ABS are included in scope based upon the language of the petition and the ITC Report pursuant to the (k)(1) Factors. Commerce found that "New Trend's wheel hub units without ABS elements meet the physical description of subject merchandise as *explicitly* stated in the Order" because "New Trend's wheel hub assemblies without ABS elements are essentially

tapered roller housings with spindles.” *Preliminary Scope Ruling* at 8 (emphasis in original); see *Final Scope Ruling* at 5.

To sustain a (k)(1) determination, the Court reviews the record for support that Commerce’s determination that wheel hub assemblies without ABS elements are in-scope. The petition was filed by Defendant-Intervenor, Timken. To illustrate its desired scope description, Timken attached advertisement sheets to its petition, which included depictions of wheel hub units identified as being “part of the scope of this petition.” Def.-Int. Opp’n at 4 (citing *Petition* at 10). Commerce also considered the ITC Report, which specifically stated that “wheel hub units are a type of tapered roller housing.” *Final Scope Ruling* at 6, 9. Commerce reasoned:

The ITC specifically identified wheel hub units as one category of in-scope products and described them as “self-contained tapered roller bearing packages.” According to the ITC, these “self-contained tapered roller bearing packages include cartridge bearing units and wheel hub units” and “the next generation of the self-contained units will have flanged inner and outer rings as part of the assembly.”

*Final Scope Ruling* at 7 (citing *ITC Report* at A-6). The “next generation of the self-contained units” that “have flanged inner and outer rings as part of the assembly” as referenced by the ITC describes the wheel hub assemblies imported by New Trend, which are considered third generation. *Final Scope Ruling* at 7. Because the “next generation of wheel hub units with their flanged inner and outer rings as part of the assembly” are still “a type of self-contained tapered roller bearing package, subject to

the scope,” Commerce determined that the ITC Report supported a finding that wheel hub units are within the scope of the TRB Order. *Id.* Upon review of the record, the Court finds that Commerce’s determination that wheel hub assemblies without ABS are within the scope based upon a review of TRB Order, petition and ITC Report—the (k)(1) Factors—is supported by the record and otherwise in accordance with law.

Regarding Plaintiff’s argument that the subject product falls under a different HTSUS than those listed in the scope, the Court notes that the language of the scope expressly states “[a]lthough the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope of the order is dispositive,” *Final Results*, 76 Fed. Reg. at 3,087, and agrees with Commerce that “HTSUS items numbers do not define the scope, rather the scope’s written description is dispositive of its coverage,” *Final Scope Ruling* at 15. *See also Novosteel SA v. United States*, 284 F.3d 1261, 1270 (Fed. Cir. 2002) (“[o]ur precedent has . . . indicated, meanwhile, that a reference to an HTSUS number is not dispositive about the scope of an antidumping or countervailing-duty order”) (internal citations omitted).

**B. Wheel Hub Assemblies with ABS Pursuant to the (k)(2) Factors**

An ABS sensor is “an electronic component that generates a small electric signal that indicates the speed of revolution of each respective wheel.” Pl.’s Mot. at 17 (citing Awtar Aff. ¶ 11, A/R 15, Ex. B). Plaintiff asserts that “incorporating the ABS

sensor into the wheel hub . . . changes the essential character of the wheel hub.” *Id.* at 17. Plaintiff argues that Commerce should have found the subject wheel hub assemblies with ABS elements out of scope pursuant to the (k)(1) Factors and should have never “resorted to” the (k)(2) Factors. *Id.* Defendant-Intervenor points out, however, that the scope descriptions do not include “any language that limits scope to mechanical ‘systems’ or that excludes electromechanical ‘systems’ . . . . so there is no factual basis in the record for [Commerce] to distinguish between products based on this criterion.” Def.-Int.’s Opp’n at 17.

Commerce acknowledges “ambiguity” over ABS elements, Def.’s Opp’n at 6, because they were neither “expressly covered by the Order” nor “discussed in the ITC Report,” *Preliminary Scope Ruling* at 8. Accordingly, Commerce decided that the (k)(1) Factors do “not unambiguously address the ABS component of Power Train’s merchandise.” Def.’s Opp’n at 16. Because the (k)(1) Factors are not dispositive for wheel hub assemblies with ABS elements, Commerce resorted to the criteria set forth in 19 C.F.R. § 351.225(k)(2).

In reviewing a scope ruling, a court must grant “significant deference to Commerce’ own interpretation of those orders,” *Duferco Steel*, 296 F.3d at 1094-95, because “Commerce’s discretion [is] at the very heart of its expertise,” *Walgreen Co.*, 620 F.3d at 1355. With this in mind, the Court cannot say that Commerce’ decision to

conduct a further, more in-depth analysis regarding a product's character and function is unreasonable. The Court reviews Commerce's analyses of each of the (k)(2) Factors for wheel hub assemblies with ABS elements for substantial evidence on the record.

Plaintiff relies on *Legacy Classic Furniture, Inc. v. United States*, 807 F. Supp. 2d 1353, 35 CIT \_\_\_ (2011) in support of its challenge. See Pl.'s Reply Br. at 3, ECF No. 42. That scope case is distinguishable because its subject product—the Heritage Court Bench— fit ambiguously in the scope description of the order and unambiguously in a listed exclusion. In the instant case, there is no exclusion for wheel hub assemblies, with or without ABS elements. This case is more akin to *Color Television Receivers from Taiwan: Notice of Final Scope Ruling Couch Master International Corporation*, where the subject merchandise was “neither specifically included . . . nor excluded,” and subsequently Commerce determined that “additional features that do not change the primary nature of an ‘in-scope’ product do not serve to move that product outside of the scope order.” 63 Fed. Reg. 805, 806 (Jan. 7, 1998).

### **1. Physical Characteristics of the Product**

Regarding the factor of physical characteristics of the product, Commerce concluded that

[r]ecord evidence demonstrates that New Trend's wheel hub assemblies with ABS elements share the same physical characteristics as TRBs covered by the Order. Specifically, all of New Trend's wheel hub assemblies incorporate the cup, cone, cage, and rollers associated

with TRBs. . . . Additionally, record evidence demonstrates that New Trend's wheel hub assemblies with ABS elements share the same physical characteristics of tapered roller housings (considered TRBs under the scope of the Order) because all of them incorporate two non-removable tapered roller bearings that are sealed into a cast, flanged housing, taking the place of the typical tapered roller bearing cup. The flange houses the TRBs to reduce friction.

*Preliminary Scope Ruling* at 9; see Def.'s Opp'n at 18-20. Plaintiff argues that the addition of the ABS sensor changes the fundamentals of this product removing it from the scope, but Commerce found the ABS sensor "to be an additional design and engineering element of the wheel hub unit that enhances the product's functionality but does not alter the fundamental physical nature of the wheel hub unit as described above."

*Preliminary Scope Ruling* at 9. Commerce determined that "the mere addition of a sensor does not take an otherwise subject product out of the scope of the order." Def.'s Opp'n at 19-20.

The Court agrees with Commerce that the essential physical characteristics of in-scope TRBs and wheel hub assemblies with ABS elements—the cup, cone, cage and rollers—are the same. The Court notes that an electronic sensor imparts an additional physical characteristic to wheel hub assemblies with ABS, which is not shared by non-ABS wheel hub assemblies. While the contrary conclusion—that an electronic component does indeed change the physical characteristic of a product—could have been drawn, the Court is mindful of its standard of review and cannot say a reasonable mind would not accept as adequate Commerce's determination that the addition of a

sensor does not take an otherwise subject product out of the order. The Court therefore sustains Commerce as to the physical characteristics of the wheel hub assemblies with ABS sensors.

## 2. Expectations of the Ultimate Purchasers

Regarding the factor of customer expectations of the product, Commerce reasoned that “TRBs are designed and sized for specific applications in a variety of products and industries, including both industrial applications and automotive equipment. . . . [T]he ultimate purchasers expect that wheel hub units, with or without ABS elements, will function as part of a complete wheel hub bearing unit to reduce friction between moving parts.” *Preliminary Scope Ruling* at 10 (citing *Petition* at 8-9; *ITC Report* at 5). According to the ITC Report, the US market for TRBs has historically been the automotive market, with 85% of all TRBs sold to original equipment manufacturers (“OEMs”), and the remainder going to the aftermarket. *Preliminary Scope Ruling* at 10-11 (citing *ITC Report* at A-24). Commerce posited that “purchasers of wheel hub units, regardless of whether they contain ABS elements, would install them in an automobile.” *Preliminary Scope Ruling* at 10; see *Def.-Int.’s Opp’n* at 20. Plaintiff argues that “[w]ithout the ABS sensor, they would not be expected to allow on-board electronic safety systems to operate.” *Pl.’s Mot.* at 22.

While recognizing that the expectations of the ultimate purchasers of wheel hub assemblies with ABS elements may exceed the baseline expectations of the ultimate purchaser of mere wheel hub units, the Court cannot say a reasonable mind would not accept as adequate Commerce's determination that the ultimate purchasers' expectations, regardless of any bonus features, is to purchase a product that reduces friction between moving parts.

### 3. Ultimate Use of the Product

Regarding the factor of ultimate use of the product, as with the above factor, Commerce again emphasized that "New Trend's wheel hub assemblies and TRBs covered under the Order have a similar ultimate use: reduction of friction between moving parts." *Preliminary Scope Ruling* at 10; see Def.-Int.'s Opp'n at 21. While admitting that "the ABS sensor serves an additional purpose," Commerce emphasized that it "does not replace the original fundamental use of the wheel hub units/tapered roller housings covered by the scope of the Order and as described in the ITC Report." *Id.* In a similar vein with the expectations of the ultimate purchasers, discussed *supra*, while the wheel hub assembly with ABS may exceed the ultimate use of a mere TRB, the Court finds that Commerce's determination that wheel hub assemblies with ABS elements and in-scope TRBs have the same ultimate use of reducing friction between moving parts is supported by record evidence.

**4. Channels of Trade in Which the Product Is Sold**

Regarding the factor of channels of trade in which the product is sold, Commerce determined that “New Trend’s wheel hub assemblies with ABS elements are sold in the same channels of trade as TRBs and other wheel hub units covered under the Order.”

*Preliminary Scope Ruling* at 11. Plaintiff does not contest Commerce’s finding of this criterion. *See* Def.’s Opp’n at 22 (“Power Train does not object to this finding in its brief before this Court.”).

**5. The Manner in Which the Product Is Displayed and Advertised**

Regarding the factor of the manner in which the product is displayed and advertised, Commerce determined that “integrated wheel hub assemblies, which includes [sic] ABS elements . . . . are all advertised and displayed similarly to TRBs and wheel hubs without ABS elements covered by the Order.” *Preliminary Scope Ruling* at 12. Plaintiff does not contest Commerce’s finding of this criterion. *See* Def.’s Opp’n at 22 (“Power Train does not object to this finding in its brief before this Court.”).

Upon review of the record, the Court finds that Commerce’s determination that wheel hub assemblies with ABS elements are within the scope based upon a review of the (k)(2) Factors is supported by the record and otherwise in accordance with law.

CONCLUSION

For the foregoing reasons, it is hereby

**ORDERED** that Commerce's *Final Scope Ruling* is sustained; and it is further

**ORDERED** that the stay entered by the Court on Plaintiff's motion for oral argument (ECF No. 45) is hereby lifted; and it is further

**ORDERED** that Plaintiff's motion for oral argument (ECF No. 43) is hereby denied.

Judgment to enter accordingly.

/s/ Gregory W. Carman  
Gregory W. Carman, Judge

Dated: May 29, 2013  
New York, New York