

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

In the Matter of:

**Taotao USA, Inc.,
Taotao Group Co., Ltd., and
Jinyun County Xiangyuan Industry
Co., Ltd.,**

Respondents.

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**Docket No.
CAA-HQ-2015-8065**

RESPONDENTS' RESPONSE TO COMPLAINANT'S REQUESTS FOR ADMISSIONS

**I.
PRELIMINARY STATEMENT**

Respondents, Taotao USA, Inc. ("Taotao USA"), Taotao Group Co., Ltd. ("Taotao Group") and Jinyun County Xianyuan Industry Co., Ltd. ("JCXI"), have not, at this time, fully completed their discovery and investigation in this action. All information contained herein is based solely upon such information and evidence as is presently available and known to Respondents upon information and belief at this time. Further discovery, investigation, research and analysis may supply additional facts, and meaning to currently known information. Respondents reserve the right to amend any and all responses herein as additional facts are ascertained, legal research is completed, and analysis is undertaken. The responses herein are made in a good faith effort to supply as much information as is presently known to Respondents.

**II.
GENERAL OBJECTIONS**

1. Respondents object to the requests that impose or seek to impose any requirement or discovery obligation greater than or different from those under the Federal Rules of Civil Procedure and the applicable Local Rules and Orders of the Court.

2. Respondents object to the requests to the extent they seek disclosure of information protected under the attorney-client privilege, deliberative process privilege, attorney work product doctrine, or any other applicable privilege or immunity. Should any such disclosure by Respondents occur, it is inadvertent and shall not constitute a waiver of any privilege or immunity.

3. Respondents object to these Requests to the extent that they seek information that is neither relevant to the claims or defenses of any party to this Complaint, nor reasonably calculated to lead to the discovery of admissible evidence.

4. In response to these Requests, Respondents do not concede that any of the responses or information contained herein is relevant or admissible. Respondents reserve the right to object, on the grounds of competency, privilege, relevance, materiality, or otherwise, to the use of this information for any purpose, in whole or in part, in this action or in any other action.

Subject to and without waiving the foregoing objections, Respondents provide the following responses:¹

REQUEST NO. 1

The following documents that have been marked as Complainant's exhibits and given bates numbers, and were filed with Complainant's Initial Prehearing Exchange dated August 25, 2016, are true, accurate, and complete copies of the original documents, except for the exhibit marks and bates numbers:

- a. CX001
- b. CX002
- c. CX003

¹ Each request not expressly admitted to, is denied.

- d. CX004
- e. CX005
- f. CX006
- g. CX007
- h. CX008
- i. CX009
- j. CX010
- k. CX030
- l. CX031
- m. CX043
- n. CX044
- o. CX045
- p. CX046
- q. CX047
- r. CX048
- s. CX049
- t. CX050
- u. CX051
- v. CX052
- w. CX067
- x. CX154

RESPONSE TO REQUEST NO. 1:

- a. Admit.

- b. Admit.
- c. Admit.
- d. Admit.
- e. Admit.
- f. Admit.
- g. Admit.
- h. Admit.
- i. Admit.
- j. Admit.
- k. Respondents unable to admit or deny this request because it seeks admission of certificates and documents issued, and indorsed, by the Secretary of the State of Texas. As such, Respondents lack sufficient information and knowledge to truthfully respond after a reasonable inquiry. Respondents further object to this request because the documents are irrelevant, duplicative, and outside the scope of discovery. Particularly, the identity of Taotao USA, Inc.'s officers and agents is not a fact issue to be determined at the hearing, and Respondents have already admitted that Taotao USA, Inc. is a Texas corporation. *See* Respondent Taotao USA, Inc.'s Amended Answer and Request for Hearing ¶ 4.

Subject to and without waiving the foregoing objections, to the extent that this request for admission pertains to forms contained on pages marked EPA-000566 to EPA-000589, Respondents admit that those pages are true, accurate and complete copies of the original documents, except for exhibit marks, bates numbers, and the stamps, and other markings, by the Office of the Secretary of State of Texas.

l. Respondents are unable to admit or deny this request because it seeks admission of certificates and documents issued, and indorsed, by the Secretary of the State of Texas. *See* CX031, EPA-000590, EPA-000591 and EPA-000597. As such, Respondents lack sufficient information and knowledge to truthfully respond after a reasonable inquiry. Respondents further object to this request because the documents are irrelevant, duplicative, and outside the scope of discovery. Particularly, the identity of Taotao USA, Inc.'s officers and agents is not a fact issue to be determined at the hearing.

Subject to and without waiving the foregoing objections, to the extent that this request for admission pertains to forms contained on pages marked EPA-000592 to EPA-000596, Respondents admit that those pages are true, accurate and complete copies of the original documents, except for exhibit marks, bates numbers, and the stamps, and other markings, by the Office of the Secretary of State of Texas.

m. Admit.

n. Admit.

o. Admit.

p. Admit.

q. Admit.

r. Admit.

s. Admit.

t. Admit.

u. Admit.

v. Admit.

w. Respondents object to this request as it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Respondents admits that, except for the exhibit marks and bates numbers, the document appears to be a true, accurate, and complete copy of the original document.

x. Admit.

REQUEST NO. 2

Respondents provided the documents marked Complainant's exhibits CX001, CX002, CX003, CX004, CX005, CX006, CX007, CX008, CX009, and CX010 to EPA for the purpose of obtaining EPA Certificates of Conformity for the engine families identified in the documents.

RESPONSE TO REQUEST NO. 2:

Respondents admit that Respondent Taotao USA, Inc.'s contract certification specialist, James Xu, manager of Stanley Marketing & Consulting LLC, provided the documents marked exhibits CX001 to CX004 to EPA for the purpose of obtaining EPA Certificates of Conformity for the engine families identified in the documents.

REQUEST NO. 3

The following documents that have been marked as Complainant's exhibits and given bates numbers, and were filed with Complainant's Rebuttal Prehearing Exchange dated October 13, 2016, are true, accurate, and complete copies of the original documents, except for the exhibit marks and bates numbers:

- a. CX161
- b. CX162
- c. CX163

RESPONSE TO REQUEST NO. 3:

- a. Admit
- b. Admit
- c. Admit

REQUEST NO. 4

Taotao USA, Inc. provided the documents marked as Complainant's exhibits CX161, CX162, and CX163, to the EPA.

RESPONSE TO REQUEST NO. 4:

Admit.

REQUEST NO. 5

The following document that has been marked as Complainant's exhibit and given bates numbers, and was filed with Complainant's First Motion to Supplement the Prehearing Exchange dated November 28, 2016, is a true, accurate, and complete copy of the original document, except for the exhibit marks and bates numbers:

- a. CX171

RESPONSE TO REQUEST NO. 5:

- a. Admit.

REQUEST NO. 6

One (1) kilowatt is equal to 1.34102 horsepower.

RESPONSE TO REQUEST NO. 6:

Respondents object to the foregoing request for admission because it seeks information that is equally available to Complainant. Respondents further object on the grounds that this request for admission is ambiguous as it fails to specify a type of horsepower. Subject to and

without waiving the foregoing objections, Respondents admit that one (1) kilowatt is equal to 1.34102 imperial horsepower.

REQUEST NO. 7

The “Carry-Over Application for 2014 Model Year EPA Certificate” for engine family ETAOC.049MC2, marked as Complainant's Exhibit CX001 and filed with Complainant' s Initial Prehearing Exchange dated August 25, 2016, identifies the rated power of vehicles in engine family ETAOC.049MC2 as 2.2 kilowatts. *See* CX001, EPA-000008.

RESPONSE TO REQUEST NO. 7:

Respondents object to this request because it is cumulative and the Carry-Over Application speaks for itself. Subject to and without waiving the foregoing objection, Respondents admit that the Carry-Over Application for 2014 Model Year EPA Certificate for engine family ETAOC.049MC2, identifies the rated power of vehicles as 2.2 kilowatts at 7000rpm.

REQUEST NO. 8

The “Carry-Over Application for 2013 Model Year EPA Certificate” for engine family DTAOC.150MC2, marked as Complainant's Exhibit CX002 and filed with Complainant 's Initial Prehearing Exchange dated August 25, 2016, identifies the rated power of vehicles in engine family DTAOC.150MC2 as 5.5 kilowatts. *See* CX002. EPA-000044.

RESPONSE TO REQUEST NO. 8:

Respondents object to this request because it is cumulative and the Carry-Over Application speaks for itself. Subject to and without waiving the foregoing objection, Respondents admit that the Carry-Over Application for 2013 Model Year EPA Certificate for

engine family DTAOC.150MC2, identifies the rated power of vehicles as 5.5 kilowatts at 7000rpm.

REQUEST NO. 9

The “Application for 2013 Model Year EPA Certificate” for engine family DTAOC.049MC2, marked as Complainant’s Exhibit CX003 and filed with Complainant’s Initial Prehearing Exchange dated August 25, 2016, identifies the rated power of vehicles in engine family DTAOC.049MC2 as 2.2 kilowatts. *See* CX003. EPA-000087.

RESPONSE TO REQUEST NO. 9:

Respondents object to this request because it is cumulative and the Application speaks for itself. Subject to and without waiving the foregoing objection, Respondents admit that the Carry-Over Application for 2013 Model Year EPA Certificate for engine family DTAOC.049MC2, identifies the rated power of vehicles as 2.2 kilowatts at 7000rpm.

REQUEST NO. 10

The “Carry-Over Application for 2012 Model Year EPA Certificate” for engine family CTAOC.049MC1, marked as Complainant’s Exhibit CX004 and filed with Complainant’s Initial Prehearing Exchange dated August 25, 2016, identifies the rated power of vehicles in engine family CTAOC.049MC1 as 2.2 kilowatts. *See* CX004, EPA-000123.

RESPONSE TO REQUEST NO. 10:

Respondents object to this request because it is cumulative and the Carry-Over Application speaks for itself. Subject to and without waiving the foregoing objection, Respondents admit that the Carry-Over Application for 2012 Model Year EPA Certificate for engine family CTAOC.049MC1, identifies the rated power of vehicles as 2.2 kilowatts at 7000rpm.

REQUEST NO. 11

The “Carry-Over Application for 2014 Model Year EPA Certificate” for engine family ETAOX0.12A1T, marked as Complainant's Exhibit CX005 and filed with Complainant's Initial Prehearing Exchange dated August 25, 2016, identifies the rated power of vehicles in engine family ETAOX0.12A1T as either 8 kilowatts or 4.5 kilowatts. *See* CX005, EPA-000158.

RESPONSE TO REQUEST NO. 11:

Respondents object to this request because it is cumulative and the Carry-Over Application speaks for itself. Subject to and without waiving the foregoing objection, Respondents admit that the Carry-Over Application for 2014 Model Year EPA Certificate for engine family ETAOX0.12A1T, identifies the rated power of 124cc vehicles as 8 kilowatts at 9000rpm and 107cc vehicles as 4.5 kilowatts at 8000rpm.

REQUEST NO. 12

The “Carry-Over Application for 2014 Model Year EPA Certificate” for engine family ETAOX0.12A1T, marked as Complainant’s Exhibit CX005 and filed with Complainant's Initial Prehearing Exchange dated August 25, 2016, projects that one half of the vehicles in engine ETAOX0.12A1T will have a rated power of 8 kilowatts. *See* CX005, EPA-000158, EPA-000172.

RESPONSE TO REQUEST NO. 12:

Respondents object to this request because it is cumulative and the Carry-Over Application speaks for itself. Subject to and without waiving the foregoing objection, Respondents admit that the Carry-Over Application for 2014 Model Year EPA Certificate for engine family ETAOX0.12A1T, projects that approximately one half of the vehicles in engine ETAOX0.12A1T will have a rated power of 8 kilowatts at 9000rpm.

REQUEST NO. 13

The "Carry-Over Application for 2014 Model Year EPA Certificate" for engine family ETAOX0.12A1T, marked as Complainant's Exhibit CX006 and filed with Complainant's Initial Prehearing Exchange dated August 25, 2016, projects that one half of the vehicles in engine ETAOX0.12A1T will have a rated power of 4.5 kilowatts. *See* CX005, EPA-000158, EPA-000172.

RESPONSE TO REQUEST NO. 13:

Respondents object to this request because it is cumulative and the Carry-Over Application speaks for itself. Subject to and without waiving the foregoing objection, Respondents admit that the Carry-Over Application for 2014 Model Year EPA Certificate for engine family ETAOX0.12A1T, projects that approximately one half of the vehicles in engine ETAOX0.12A1T will have a rated power of 4.5 kilowatts at 8000rpm.

REQUEST NO. 14

The "Carry-Over Application for 2013 Model Year EPA Certificate" for engine family DTAOX0.15G2T, marked as Complainant's Exhibit CX006 and filed with Complainant's Initial Prehearing Exchange dated August 25, 2016, identifies the rated power of vehicles in engine family DTAOX0.15G2T as either 5.5 kilowatts or 4.8 kilowatts. *See* CX006, EPA-000194.

RESPONSE TO REQUEST NO. 14:

Respondents object to this request because it is cumulative and the Carry-Over Application speaks for itself. Subject to and without waiving the foregoing objection, Respondents admit that the Carry-Over Application for 2013 Model Year EPA Certificate for engine family DTAOX0.15G2T, identifies the rated power of 149cc vehicles as 5.5 kilowatts at 7000rpm and 124cc vehicles as 4.8 kilowatts at 8000rpm.

REQUEST NO. 15

The “Carry-Over Application for 2013 Model Year EPA Certificate” for engine family DTAOX0.15G2T, marked as Complainant' s Exhibit CX006 and filed with Complainant's Initial Prehearing Exchange dated August 25, 2016, projects that two-thirds of the vehicles in engine family DTAOX0.15G2T will have a rated power of 5.5 kilowatts. *See* CX006, EPA-000194, EPA-000208.

RESPONSE TO REQUEST NO. 15:

Respondents object to this request because it is cumulative and the Carry-Over Application speaks for itself. Subject to and without waiving the foregoing objection, Respondents admit that the Carry-Over Application for 2013 Model Year EPA Certificate for engine family DTAOX0.15G2T, projects that approximately two-thirds of the vehicles in engine family DTAOX0.15G2T will have a rated power of 5.5 kilowatts at 7000rpm.

REQUEST NO. 16

The “Carry-Over Application for 2013 Model Year EPA Certificate” for engine family DTAOX0.15G2T, marked as Complainant' s Exhibit CX006 and filed with Complainant' s Initial Prehearing Exchange dated August 25, 2016, projects that one-third of the vehicles in engine family DTAOX0.15G2T will have a rated power of 4.8 kilowatts. *See* CX006, EPA-000194, EPA-000208.

RESPONSE TO REQUEST NO. 16:

Respondents object to this request because it is cumulative and the Carry-Over Application speaks for itself. Subject to and without waiving the foregoing objection, Respondents admit that the Carry-Over Application for 2013 Model Year EPA Certificate for

engine family DTAOX0.15G2T, projects that approximately one-third of the vehicles in engine family DTAOX0.15G2T will have a rated power of 4.8 kilowatts at 8000rpm.

REQUEST NO. 17

The “Carry-Over Application for 2013 Model Year EPA Certificate” for engine family DTAOX. 124AAA, marked as Complainant' s Exhibit CX007 and filed with Complainant's Initial Prehearing Exchange dated August 25, 2016, identifies the rated power of vehicles in engine family DTAOX.124AAA as either 5 kilowatts or 3.4 kilowatts. *See* CX 007, EPA-000227.

RESPONSE TO REQUEST NO. 17:

Respondents object to this request because it is cumulative and the Carry-Over Application speaks for itself. Subject to and without waiving the foregoing objection, Respondents admit that the Carry-Over Application for 2013 Model Year EPA Certificate for engine family DTAOX.124AAA, identifies the rated power of 124cc vehicles as 5 kilowatts at 7000rpm and 86cc vehicles as 3.4 kilowatts at 8000rpm.

REQUEST NO. 18

The “Carry-Over Application for 2013 Model Year EPA Certificate” for engine family DTAOX.124AAA, marked as Complainant's Exhibit CX007 and filed with Complainant' s Initial Prehearing Exchange dated August 25, 2016, projects that one-half of the vehicles in engine family DTAOX.124AAA will have a rated power of 5 kilowatts. *See* CX007, EPA-000227, EPA-000240.

RESPONSE TO REQUEST NO. 18:

Respondents object to this request because it is cumulative and the Carry-Over Application speaks for itself. Subject to and without waiving the foregoing objection,

Respondents admit that the Carry-Over Application for 2013 Model Year EPA Certificate for engine family DTAOX.124AAA, projects that one-half of the vehicles in engine family DTAOX.124AAA will have a rated power of 5 kilowatts at 7000rpm.

REQUEST NO. 19

The “Carry-Over Application for 2013 Model Year EPA Certificate” for engine family DTAOX.124AAA, marked as Complainant’s Exhibit CX007 and filed with Complainant’s Initial Prehearing Exchange dated August 25, 2016, projects that one-half of the vehicles in engine family DTAOX.124AAA will have a rated power of 3.4 kilowatts. *See* CX007, EPA-000227, EPA-000240.

RESPONSE TO REQUEST NO. 19:

Respondents object to this request because it is cumulative and the Carry-Over Application speaks for itself. Subject to and without waiving the foregoing objection, Respondents admit that the Carry-Over Application for 2013 Model Year EPA Certificate for engine family DTAOX.124AAA, projects that one-half of the vehicles in engine family DTAOX.124AAA will have a rated power of 3.4 kilowatts at 8000rpm.

REQUEST NO. 20

The “Carry-Over Application for 2013 Model Year EPA Certificate” for engine family DTAOX0.12A1T, marked as Complainant’s Exhibit CX008 and filed with Complainant’s Initial Prehearing Exchange dated August 25, 2016, identifies the rated power of vehicles in engine family DTAOX0.12A1T as either 8 kilowatts or 4.5 kilowatts. *See* CX008, EPA-000259.

RESPONSE TO REQUEST NO. 20:

Respondents object to this request because it is cumulative and the Carry-Over Application speaks for itself. Subject to and without waiving the foregoing objection,

Respondents admit that the Carry-Over Application for 2013 Model Year EPA Certificate for engine family DTAOX0.12A1T, identifies the rated power of 124cc vehicles as 8 kilowatts at 9000rpm and 107cc vehicles as 4.5 kilowatts at 8000rpm.

REQUEST NO. 21

The “Carry-Over Application for 2013 Model Year EPA Certificate” for engine family DTAOX0.12A1T, marked as Complainant' s Exhibit CX008 and filed with Complainant's Initial Prehearing Exchange dated August 25, 2016, projects that one-half of the vehicles in engine family DTAOX0.12A1T will have a rated power of 8 kilowatts. *See* CX008, EPA-000259, EPA-000273.

RESPONSE TO REQUEST NO. 21:

Respondents object to this request because it is cumulative and the Carry-Over Application speaks for itself. Subject to and without waiving the foregoing objection, Respondents admit that the Carry-Over Application for 2013 Model Year EPA Certificate for engine family DTAOX0.12A1T, projects that one-half of the vehicles in engine family DTAOX0.12A1T will have a rated power of 8 kilowatts at 9000rpm.

REQUEST NO. 22

The “Carry-Over Application for 2013 Model Year EPA Certificate” for engine family DTAOX0.12A1T, marked as Complainant' s Exhibit CX008 and filed with Complainant's Initial Prehearing Exchange dated August 25, 2016, projects that one-half of the vehicles in engine family DTAOX0.12A1T will have a rated power of 4.5 kilowatts. *See* CX008, EPA-000259, EPA-000273.

RESPONSE TO REQUEST NO. 22:

Respondents object to this request because it is cumulative and the Carry-Over Application speaks for itself. Subject to and without waiving the foregoing objection, Respondents admit that the Carry-Over Application for 2013 Model Year EPA Certificate for engine family DTAOX0.12A1T, projects that one-half of the vehicles in engine family DTAOX0.12A1T will have a rated power of 4.5 kilowatts at 8000rpm.

REQUEST NO. 23

The “Carry-Over Application for 2015 Model Year EPA Certificate” for engine family FTAOX0.15G2T, marked as Complainant's Exhibit CX009 and filed with Complainant's Initial Prehearing Exchange dated August 25, 2016, identifies the rated power of vehicles in engine family FTAOX0.15G2T as 5.5 kilowatts. *See* CX009. EPA-000295.

RESPONSE TO REQUEST NO. 23:

Respondents object to this request because it is cumulative and the Carry-Over Application speaks for itself. Subject to and without waiving the foregoing objection, Respondents admit that the Carry-Over Application for 2015 Model Year EPA Certificate for engine family FTAOX0.15G2T, identifies the rated power of vehicles as 5.5 kilowatts at 7000rpm.

REQUEST NO. 24

The “Carry-Over Application for 2016 Model Year EPA Certificate” for engine family GTAOX0.15G2T, marked as Complainant' s Exhibit CX010 and filed with Complainant's Initial Prehearing Exchange dated August 25, 2016, identifies the rated power of vehicles in engine family GTAOX0.15G2T as 5.5 kilowatts. *See* CX010, EPA-000328.

RESPONSE TO REQUEST NO. 24:

Respondents object to this request because it is cumulative and the Carry-Over Application speaks for itself. Subject to and without waiving the foregoing objection, Respondents admit that the Carry-Over Application for 2016 Model Year EPA Certificate for engine family GTA0X0.15G2T, identifies the rated power of vehicles as 5.5 kilowatts at 7000rpm.

REQUEST NO. 25

Two (2) vehicles purportedly belonging to engine family FTA0X0.15G2T, identified in Count 9 of the Amended Complaint filed by Complainant against Respondents on June 14, 2006, were seized, destroyed, exported, or otherwise remediated. See CX154, EPA-002040.

RESPONSE TO REQUEST NO. 25:

Admit.

REQUEST NO. 26

Sixty-four (64) vehicles purportedly belonging to engine family GTA0X0.15G2T, identified in Count 10 of the Amended Complaint filed by Complainant against Respondents on June 14, 2006, were seized, destroyed, exported, or otherwise remediated. See CX154, EPA-002040, EPA-002043.

RESPONSE TO REQUEST NO. 26:

Admit.

REQUEST NO. 27

All vehicles purportedly belonging to engine families ETAOC.049MC2 (Count 1), DTAOC.150MC2 (Count 2), DTAOC.049MC2 (Count 3), CTAOC.049MC1 (Count 4), ETAOX0.12A1T (Count 5), DTAOX0.15G2T (Count 6), DTAOX.124AAA (Count 7), and

DTAOX0.12A1T (Count 8), were imported into the United States on or before December 6, 2013.

RESPONSE TO REQUEST NO. 27:

Admit.

REQUEST NO. 28

One-thousand two-hundred and fifty-one (1,251) vehicles purportedly belonging to engine family FTAOX0.15G2T, identified in Count 9 of the Amended Complaint, were imported into the United States after December 6, 2013, but before November 3, 2015. *See* CX060, EPA-000659; CX154, EPA-002028 through EPA-002040.

RESPONSE TO REQUEST NO. 28:

Admit.

REQUEST NO. 29

Thirty-nine (39) vehicles purportedly belonging to engine family FTAOX0.15G2T, identified in Count 9 of the Amended Complaint, were imported into the United States after November 2, 2015. *See* CX154, EPA-002028 through EPA-002040.

RESPONSE TO REQUEST NO. 29:

Admit.

REQUEST NO. 30

Three-hundred and ninety-one (391) vehicles purportedly belonging to engine family GTAOX0.15G2T, identified in Count 10 of the Amended Complaint, were imported into the United States after November 2, 2015. *See* CX154, EPA-002039 through EPA-002045.

RESPONSE TO REQUEST NO. 30:

Admit.

Respectfully submitted,



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COUNSEL FOR RESPONDENTS

CERTIFICATE OF SERVICE

This is to certify that the foregoing instrument in the Matter of Taotao USA, Inc., et al., Docket No. CAA-HQ-2015-8065, was filed and served on the Presiding Officer this day through the Office of Administrative Law Judge's E-Filing System.

I certify that a copy of the foregoing Motion was sent this day via electronic mail for service on Complainant's counsel.

08/28/17
Date



William Chu