

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Geason Enterprises, L.L.C.,
GE Ventures, L.P., Hammerhead
Off-Road, Inc., TJ Power Sports L.L.C.,
Shanghai Howhit Machinery Manufacture
Co. Ltd., and Shanghai Tong Jian Sports
Equipment Co., Ltd.

Docket No.
CAA-HQ-2013-8050

RECEIVED BY OALJ
2013 SEP 30 PM 3:55

HOWHIT'S ANSWER TO THE COMPLAINT AND REQUEST FOR HEARING

NOW COMES, Shanghai Howhit Machinery Manufacture Co. Ltd. ("Howhit") by and through their counsel, Morgan, Lewis & Bockius, LLP, and, hereby answers the Complaint filed by the United States Environmental Protection Agency ("EPA"). Howhit respectfully requests a hearing upon the issues raised in the Complaint and this Answer pursuant to 40 C.F.R. §22.15(c).

For easy cross-reference, Howhit follows the same order and paragraph number in its Answer as in the Complaint.

Preliminary Statement

1. Paragraph 1 of the Complaint contains a preliminary statement regarding the statutory authority to issue the Complaint. These are statements and/or conclusions of law to which no response is required. To the extent a response is required, Howhit hereby denies the allegations in Paragraph 1.

2. Paragraph 2 of the Complaint contains a preliminary statement regarding the statutory authority and delegations of authority to issue the Complaint. These are statements and/or conclusions of law to which no response is required. To the extent a response is required, Howhit hereby denies the allegations in Paragraph 2.

3. Howhit admits the Respondents named in the complaint are accurately set forth.

4. Howhit has insufficient knowledge or information to admit or deny the allegations in Paragraph 4 and therefore denies same.

5. Howhit has insufficient knowledge or information to admit or deny the allegations in Paragraph 5 and therefore denies same.

6. Howhit has insufficient knowledge or information to admit or deny the allegations in Paragraph 6 and therefore denies same.

7. Howhit has insufficient knowledge or information to admit or deny the allegations in Paragraph 7 and therefore denies same.

8. Howhit has insufficient knowledge or information to admit or deny the allegations in Paragraph 8 and therefore denies same.

9. The allegations in Paragraph 9 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit has insufficient knowledge or information to admit or deny the allegations in Paragraph 9 and therefore denies same.

10. Howhit admits the allegations in Paragraph 10.

11. Howhit has insufficient knowledge or information to admit or deny the allegations in Paragraph 11 and therefore denies same.

12. The Complaint fails to sufficiently identify the “vehicles at issue in this case” such that Howhit may determine whether it is the “designated manufacturer” of those vehicles and, therefore, Howhit has insufficient knowledge or information to admit or deny the allegations in Paragraph 12 and therefore denies same. Howhit further denies the allegations in Paragraph 12 to the extent that they allege that Howhit manufactured all of the “vehicles at issue in this case.”

13. Howhit admits that it manufactures vehicles in China. The terms of any alleged agreement and its characterization in Paragraph 13 are conclusions of law to which no response is required. To the extent a response is required, Howhit otherwise hereby denies the allegations.

14. Howhit has insufficient knowledge or information to admit or deny the allegations in Paragraphs 14(a) and 14(b) and therefore denies same.

Jurisdiction

15. Paragraph 15 of the Complaint consists of statements of law, legal conclusions, and/or statements to which no response is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 15.

16. Paragraph 16 of the Complaint consists of statements of law, legal conclusions, and/or statements to which no response is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 16.

17. Howhit has insufficient knowledge or information to admit or deny the allegations in Paragraph 17 regarding what EPA and DOJ have jointly determined and therefore denies same.

18. Paragraph 18 of the Complaint consists of statements of law, legal conclusions, and/or statements to which no response is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 18.

Governing Law

19. Paragraph 19 of the Complaint consists of statements of law, legal conclusions, and/or statements to which no response is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 19.

20. Paragraph 20 of the Complaint contains references to statutes and regulations that are sometimes quoted in whole, sometimes in part, and sometimes summarized or otherwise characterized. These selective quotations and characterizations of statutes and regulations are legal conclusions as to which no response is required. Howhit further explains its response to each subparagraph below.

- a. Howhit admits that 40 C.F.R. § 1051.801 and 40 C.F.R. § 1051.115(c) define “adjustable parameter” in a manner similar to Paragraph 20(a).
- b. Howhit denies that 40 C.F.R. § 1051.801 defines “all-terrain vehicle” in the manner set forth in Paragraph 20(b).
- c. Howhit admits that 42 U.S.C. § 7550(6) defines “commerce” in a manner similar to Paragraph 20(c).
- d. Howhit denies that 40 C.F.R. § 1051.230 defines “engine family” in the manner set forth in Paragraph 20(d).
- e. Howhit admits that 40 U.S.C. § 7550(1) defines “manufacturer” in a manner similar to Paragraph 20(e) but denies that 40 C.F.R. § 1051.801 defines “manufacturer” in the manner set forth in Paragraph 20(e).
- f. Howhit denies that 40 C.F.R. § 1051.801 defines “model year” in the manner set forth in Paragraph 20(f).
- g. Howhit admits that 42 U.S.C. § 7550(2) defines “motor vehicle” in a manner similar to Paragraph 20(g).
- h. Howhit denies that 42 U.S.C. § 7550(10) defines “nonroad engine” in a manner similar to Paragraph 20(h).

- i. Howhit admits that 42 U.S.C. § 7550(11) defines “nonroad vehicle” in a manner similar to Paragraph 20(i).
- j. Howhit admits that 40 C.F.R. § 1051.801 defines “off-highway motorcycle” in a manner similar to Paragraph 20(j) and assumes that the Complaint’s reference to 40 C.F.R. § 1051.80 is a typographical error and that EPA intended to refer to 40 C.F.R. § 1051.801.
- k. Howhit denies that 40 C.F.R. § 1051.115(d) defines “other adjustments” in the manner set forth in Paragraph 20(k).
- l. Howhit admits that 42 U.S.C. § 7602(e) defines “person” in a manner similar to Paragraph 20(l).
- m. Howhit denies that 40 C.F.R. § 1051.801 defines “recreational vehicle” in the manner set forth in Paragraph 20(m).

Certification Requirements

21. The allegations in Paragraph 21 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 21.

22. The allegations in Paragraph 22 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 22.

23. The allegations in Paragraph 23 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 23.

24. The allegations in Paragraph 24 state legal conclusions to which no answer is

required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 24.

25. The allegations in Paragraph 25 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 25.

26. The allegations in Paragraph 26 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 26.

27. The allegations in Paragraph 27 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 27.

28. The allegations in Paragraph 28 purport to state legal conclusions based on EPA's draft guidance to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 28.

29. The allegations in Paragraph 29 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 29.

30. The allegations in Paragraph 30 appear to state legal conclusions but provide no citation and no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 30.

31. The allegations in Paragraph 31 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 31.

32. The allegations in Paragraph 32 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 32.

33. The allegations in Paragraph 33 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 33.

34. The allegations in Paragraph 34 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 34.

35. The allegations in Paragraph 35 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 35.

Labeling Requirements

36. The allegations in Paragraph 36 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 36.

37. The allegations in Paragraph 37 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 37.

Recordkeeping Requirements

38. The allegations in Paragraph 38 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 38.

39. The allegations in Paragraph 39 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 39.

40. The allegations in Paragraph 40 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 40.

41. The allegations in Paragraph 41 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 41.

Civil Penalties

42. The allegations in Paragraph 42 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 42.

43. The allegations in Paragraph 43 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 43.

44. The allegations in Paragraph 44 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 44.

Alleged Violations of Law

45. The allegations in Paragraph 45 state legal conclusions to which no answer is required. To the extent that Howhit is required to respond, Howhit hereby denies the allegations in Paragraph 45. Howhit has insufficient knowledge or information to admit or deny the

allegations with respect to the Other Respondents.

46. The allegations in Paragraph 46 state legal conclusions to which no answer is required. To the extent that Howhit is required to respond, Howhit hereby denies the allegations in Paragraph 46. Howhit has insufficient knowledge or information to admit or deny the allegations with respect to the Other Respondents.

47. Howhit has insufficient knowledge or information to admit or deny the allegations in Paragraph 47 and therefore denies same. Howhit further denies the allegations in Paragraph 47 to the extent that they suggest that Howhit manufactured all of the vehicles at issue in this case.

48. Howhit has insufficient knowledge or information to admit or deny the allegations in Paragraph 48 and therefore denies same.

49. Howhit has insufficient knowledge or information to admit or deny the allegations in Paragraph 49 and therefore denies same.

50. To the degree that Paragraph 50 summarizes the allegations contained within the Complaint, it consists of statements of law, legal conclusions, and/or statements to which no response is required. To the extent that Paragraph 50 states factual allegations regarding the basis of EPA's allegations, Howhit has insufficient knowledge or information to admit or deny the allegations in Paragraph 50 and therefore denies same. Howhit denies any remaining allegations contained in Paragraph 50.

51. Paragraph 51 of the Complaint consists of statements of law, legal conclusions, and/or statements to which no response is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 51.

COC Violations

52. To the extent that Paragraph 52 contains allegations of fact, Howhit has insufficient knowledge or information to admit or deny those allegations and therefore denies same. Howhit notes that the Complaint provides no meaningful identification of the specific vehicles at issue in this Court (*e.g.*, date of import, location of import, or VIN number). The allegations in Paragraph 52 also consist of statements of law, legal conclusions, and/or statements to which no response is required. To the extent a further response is required regarding the allegations, Howhit hereby denies those allegations for the following additional reasons:

- a. The allegations in Paragraph 52(a) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 52(a).
- b. The allegations in Paragraph 52(b) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 52(b).
- c. The allegations in Paragraph 52(c) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 52(c).
- d. The allegations in Paragraph 52(d) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 52(d).

53. To the extent that Paragraph 53 contains allegations of fact, Howhit has insufficient knowledge or information to admit or deny those allegations and therefore denies same. Howhit notes that the Complaint provides no meaningful identification of the specific vehicles at issue in this

Count (*e.g.*, date of import, location of import, or VIN number). The allegations in Paragraph 53 also consist of statements of law, legal conclusions, and/or statements to which no response is required. To the extent a further response is required regarding the allegations, Howhit hereby denies those allegations for the following additional reasons:

- a. The allegations in Paragraph 53(a) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 53(a).
- b. The allegations in Paragraph 53(b) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 53(b).
- c. The allegations in Paragraph 53(c) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 53(c). Additionally, Howhit states that the allegations contained in Paragraph 53(c) affirmatively identify manufacturers other than Howhit and, thus, Count Two is facially defective as to Howhit.
- d. The allegations in Paragraph 53(d) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 53(d).
- e. The allegations in Paragraph 53(e) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 53(e).

- f. The allegations in Paragraph 53(f) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 53(f).

54. To the extent that Paragraph 54 contains allegations of fact, Howhit has insufficient knowledge or information to admit or deny those allegations and therefore denies same. Howhit notes that the Complaint provides no meaningful identification of the specific vehicles at issue in this Court (*e.g.*, date of import, location of import, or VIN number). The allegations in Paragraph 54 also consist of statements of law, legal conclusions, and/or statements to which no response is required. To the extent a further response is required regarding the allegations, Howhit hereby denies those allegations for the following reasons:

- a. The allegations in Paragraph 54(a) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 54(a).
- b. The allegations in Paragraph 54(b) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 54(b).
- c. The allegations in Paragraph 54(c) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 54(c).
- d. The allegations in Paragraph 54(d) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 54(d).

- e. The allegations in Paragraph 54(e) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 54(e).

55. To the extent that Paragraph 55 contains allegations of fact, Howhit has insufficient knowledge or information to admit or deny those allegations and therefore denies same. Howhit notes that the Complaint provides no meaningful identification of the specific vehicles at issue in this Court (*e.g.*, date of import, location of import, or VIN number). The allegations in Paragraph 55 also consist of statements of law, legal conclusions, and/or statements to which no response is required. To the extent a further response is required regarding the allegations, Howhit hereby denies those allegations for the following reasons:

- a. The allegations in Paragraph 55(a) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 55(a).
- b. The allegations in Paragraph 55(b) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 55(b).
- c. The allegations in Paragraph 55(c) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 55(c).
- d. The allegations in Paragraph 55(d) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 55(d).

- e. The allegations in Paragraph 55(e) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 55(e).
- f. The allegations in Paragraph 55(f) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 55(f).

56. To the extent that Paragraph 56 contains allegations of fact, Howhit has insufficient knowledge or information to admit or deny those allegations and therefore denies same. Howhit notes that the Complaint provides no meaningful identification of the specific vehicles at issue in this Court (*e.g.*, date of import, location of import, or VIN number). The allegations in Paragraph 56 also consist of statements of law, legal conclusions, and/or statements to which no response is required. To the extent a further response is required regarding the allegations, Howhit hereby denies those allegations for the following reasons:

- a. The allegations in Paragraph 56(a) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 56(a).
- b. The allegations in Paragraph 56(b) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 56(b).
- c. The allegations in Paragraph 56(c) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 56(c).

- d. The allegations in Paragraph 56(d) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 56(d).
- e. The allegations in Paragraph 56(e) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 56(e).
- f. The allegations in Paragraph 56(f) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 56(f).

57. To the extent that Paragraph 57 contains allegations of fact, Howhit has insufficient knowledge or information to admit or deny those allegations and therefore denies same. Howhit notes that the Complaint provides no meaningful identification of the specific vehicles at issue in this Count (*e.g.*, date of import, location of import, or VIN number). The allegations in Paragraph 57 also consist of statements of law, legal conclusions, and/or statements to which no response is required. To the extent a further response is required regarding the allegations, Howhit hereby denies those allegations for the following reasons:

- a. The allegations in Paragraph 57(a) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 57(a).
- b. The allegations in Paragraph 57(b) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 57(b).

- c. The allegations in Paragraph 57(c) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 57(c).

58. To the extent that Paragraph 58 contains allegations of fact, Howhit has insufficient knowledge or information to admit or deny those allegations and therefore denies same. Howhit notes that the Complaint provides no meaningful identification of the specific vehicles at issue in this Court (*e.g.*, date of import, location of import, or VIN number). The allegations in Paragraph 58 also consist of statements of law, legal conclusions, and/or statements to which no response is required. To the extent a further response is required regarding the allegations, Howhit hereby denies those allegations for the following reasons:

- a. The allegations in Paragraph 58(a) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 58(a).
- b. The allegations in Paragraph 58(b) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 58(b).
- c. The allegations in Paragraph 58(c) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 58(c).
- d. The allegations in Paragraph 58(d) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 58(d).

- e. The allegations in Paragraph 58(e) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 58(e).

59. To the extent that Paragraph 59 contains allegations of fact, Howhit has insufficient knowledge or information to admit or deny those allegations and therefore denies same. Howhit notes that the Complaint provides no meaningful identification of the specific vehicles at issue in this Court (*e.g.*, date of import, location of import, or VIN number). The allegations in Paragraph 59 also consist of statements of law, legal conclusions, and/or statements to which no response is required. To the extent a further response is required regarding the allegations, Howhit hereby denies those allegations for the following reasons:

- a. The allegations in Paragraph 59(a) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 59(a).
- b. The allegations in Paragraph 59(b) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 59(b).
- c. The allegations in Paragraph 59(c) state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 59(c).

Labeling Violations

60. To the extent that Paragraph 60 contains allegations of fact, Howhit has insufficient knowledge or information to admit or deny those allegations and therefore denies same. Howhit notes that the Complaint provides no meaningful identification of the specific vehicles at issue in this

Count (*e.g.*, date of import, location of import, or VIN number). The allegations in Paragraph 60 also state legal conclusions to which no response is required. To the extent a further response is required regarding the allegations, Howhit hereby denies those allegations.

61. The allegations in Paragraph 61 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 61.

62. The allegations in Paragraph 62 state legal conclusions to which no answer is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 62.

Recordkeeping Violations

63. To the extent that Paragraph 63 contains allegations of fact, Howhit has insufficient knowledge or information to admit or deny those allegations and therefore denies same. Howhit notes that the Complaint provides no meaningful identification of the specific vehicles at issue in this Count (*e.g.*, date of import, location of import, or VIN number). The allegations in Paragraph 63 also state legal conclusions to which no response is required. To the extent a further response is required regarding the allegations, Howhit hereby denies those allegations.

64. To the extent that Paragraph 64 contains allegations of fact, Howhit has insufficient knowledge or information to admit or deny those allegations and therefore denies same. Howhit notes that the Complaint provides no meaningful identification of the specific vehicles at issue in this Count (*e.g.*, date of import, location of import, or VIN number). The allegations in Paragraph 64 also state legal conclusions to which no response is required. To the extent a further response is required regarding the allegations, Howhit hereby denies those allegations.

65. To the extent that Paragraph 64 contains allegations of fact, Howhit has insufficient knowledge or information to admit or deny those allegations and therefore denies same. Howhit notes that the Complaint provides no meaningful identification of the specific vehicles at issue in this Court (e.g., date of import, location of import, or VIN number). The allegations in Paragraph 65 also state legal conclusions to which no response is required. To the extent a further response is required regarding the allegations, Howhit hereby denies those allegations.

Relief Sought: Civil Penalty

66. The allegations on proposed civil penalties contained in Paragraph 66 consist of statements of law, legal conclusions, and/or statements to which no response is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 66.

67. The allegations on proposed civil penalties contained in Paragraph 67 consist of statements of law, legal conclusions, and/or statements to which no response is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 67.

68. The allegations on proposed civil penalties contained in Paragraph 68 consist of statements of law, legal conclusions, and/or statements to which no response is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 68.

69. The allegations on proposed civil penalties contained in Paragraph 69 consist of statements of law, legal conclusions, and/or statements to which no response is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 69.

70. The allegations on proposed civil penalties contained in Paragraph 70 consist of statements of law, legal conclusions, and/or statements to which no response is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 70.

71. The allegations on proposed civil penalties contained in Paragraph 71 consist of statements of law, legal conclusions, and/or statements to which no response is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 71.

72. The allegations on proposed civil penalties contained in Paragraph 72 consist of statements of law, legal conclusions, and/or statements to which no response is required. To the extent that a response is required, Howhit hereby denies the allegations in Paragraph 72.

Opportunity to Request a Hearing

In accordance with the Administrative Procedure Act, 5. U.S.C. Section 552 et seq., and 40 C.F.R. Section 22.15, Howhit hereby requests a Hearing.

Answer

Howhit's basis for contesting the Complaint and the proposed penalty are set forth in this Answer and its affirmative defenses below. Howhit reserves the right to allege additional facts and assert additional defenses, upon discovery or learning of new information.

DEFENSES

FIRST SEPARATE DEFENSE

Howhit incorporates hereto by reference, all denials and averments in the preceding Answer and makes them part of these affirmative defenses.

SECOND SEPARATE DEFENSE

The Complaint fails to identify with specificity the vehicles or records that serve as the basis for the claimed violations. This failure prevents Howhit from presenting an informed defense against the Complaint. The Complaint's lack of specificity further violates Howhit's procedural and substantive rights under EPA regulations and violates Howhit's right to due process and to be advised of violations alleged against it.

THIRD SEPARATE DEFENSE

The Complaint fails to allege that Howhit has sufficient minimum contacts with the United States to subject it to EPA's jurisdiction.

FOURTH SEPARATE DEFENSE

The Complaint fails to allege facts sufficient to demonstrate that Howhit domestically manufactures, manufactures for sale in the United States, imports, or holds certificates of conformity for the vehicles at issue in this case and, therefore, EPA has failed to allege facts to establish that Howhit has committed a violation over which EPA has jurisdiction.

FIFTH SEPARATE DEFENSE

The Complaint alleges that each Respondent has responsibility for each violation, even where EPA concedes the manufacturer to be an unnamed respondent (*see* Compl. Count Five) and even though EPA concedes that at least two named manufacturers were involved in manufacturing (*see* Compl. ¶¶ 10, 11). The Complaint therefore fails to give fair notice as to which specific counts each Respondent is alleged to be liable.

SIXTH SEPARATE DEFENSE

EPA is barred and/or limited from bringing this action and/or seeking a penalty pursuant to the Statute of Limitations, including but not necessarily limited to 28 U.S.C. §2462, and/or pursuant to the doctrine of laches.

SEVENTH SEPARATE DEFENSE

EPA's claims are barred in whole or in part by the doctrines of accord and satisfaction, waiver, consent, equitable estoppel, release, unclean hands, and laches.

EIGHTH SEPARATE DEFENSE

To the degree even applicable to Howhit, Howhit acted in good faith to comply with the Clean Air Act and all applicable regulations and permits.

NINTH SEPARATE DEFENSE

To the degree even applicable to Howhit, Howhit did not purposefully, knowingly or willfully violate the Clean Air Act, any regulations promulgated thereto, or any of its permits.

TENTH SEPARATE DEFENSE

The alleged violations asserted by EPA in Counts 1 through 11 of its Complaint did not result in any actual or potential harm to human health or the environment.

ELEVENTH SEPARATE DEFENSE

The Complaint fails to state a claim upon which a Class II Civil Penalty can be levied.

TWELFTH SEPARATE DEFENSE

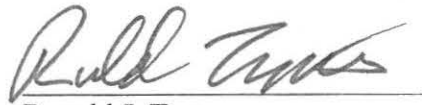
The claims brought by EPA reflect damages that are wholly speculative, conjectural, unreasonable, excessive and/or arbitrary and capricious.

THIRTEENTH SEPARATE DEFENSE

Howhit did not derive, or is not deriving, any economic benefit from the various alleged violations.

WHEREFORE, in view of the foregoing, Howhit respectfully requests that, after the appropriate proceedings, including the hearing requested herein, the Administrative Law Judge dismiss the Complaint in its entirety.

Respectfully submitted,



Ronald J. Tenpas

Jessica M. Zetwick

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Counsel for Shanghai Howhit Machinery

Manufacture Co., Ltd.

Dated: September 30, 2013

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Geason Enterprises, L.L.C.,
GE Ventures, L.P., Hammerhead
Off-Road, Inc., TJ Power Sports L.L.C.,
Shanghai Howhit Machinery Manufacture
Co. Ltd., and Shanghai Tong Jian Sports
Equipment Co., Ltd.

Docket No.
CAA-HQ-2013-8050

CERTIFICATE OF SERVICE

Pursuant to 40 CFR § 22.5(a)(3), I hereby certify that a true and correct original and two copies of this Answer to the Complaint and Request Hearing were served upon the following via courier.

U.S. Environmental Protection Agency
Office of the Hearing Clerk
Office of Administrative Law Judges
Ronald Regan Building, Rm. M1200
1300 Pennsylvania Ave., N.W.
Washington, D.C. 20004

Pursuant to 40 CFR § 22.5(a)(3), I hereby certify that a true and correct copy of this Answer to the Complaint and Request Hearing was served upon the following individuals via overnight mail and e-mail.

Meetu Kaul
U.S. EPA, Air Enforcement Division
1200 Pennsylvania Ave., N.W.
William Jefferson Clinton Building South, Room 3151A
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