

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of:)	
)	
Taotao USA, Inc.,)	
Taotao Group Co., Ltd., and)	Docket No.
Jinyun County Xiangyuan Industry)	CAA-HQ-2015-8065
Co., Ltd.,)	
)	
Respondents.)	

**MOTION FOR LEAVE TO RESPOND TO COMPLAINANT’S MOTION REQUESTING OFFICIAL
NOTICE**

COME NOW Respondents Taotao USA, Inc. (Taotao USA), Taotao Group Co., Ltd. (Taotao Group), and Jinyun County Xiangyuan Industry Co. Ltd. (“JCXI”) and file their Response to Complainant’s Motion Requesting Official Notice (“Response”), together with this Motion for Leave to Respond to Complainant’s Motion Requesting Official Notice, respectfully requesting leave to file their Response after the deadline to respond to motions. Granting this motion will not prejudice Complainant because after Complainant filed the Motion Requesting Official Notice (the “Motion”), the hearing in this matter was postponed to October 17, 2017, allowing Complainant sufficient time to file its Reply, while still leaving reasonable time for the Tribunal to rule on the Motion. *See* Order on Respondents’ Motion for Continuance of the Hearing (June 27, 2017).

Complainant filed the Motion on June 23, 2017, but did not hold a conference with Respondents’ counsel prior to the filing of the Motion. *See* Prehearing Order at 6 (May 11, 2016). The Motion is confusing and appears to request a judicial notice of facts that are subject to reasonable dispute. *See* the Motion at 1-2; *see also* Respondents’ Motion to Dismiss for Lack of Subject Matter Jurisdiction. Further, the Motion merely lists certain policies and requests judicial notice of the policies, without identifying what facts Complainant seeks the Presiding Officer to judicially notice. *See* the Motion at 2. It is therefore unclear whether Complainant is requesting a

judicial notice of the existence and authenticity of the listed EPA policies, a judicial notice that said policies are customarily used to determine penalties in administrative proceedings, a judicial notice that the agency is specialized in applying the policies in penalty calculations, or whether said policies must be considered in determining the penalty in this matter. *See id.* at 2.

For the foregoing reasons, Respondents' move the Presiding Officer to grant them leave to file an untimely response to the Motion to (1) object to the request in so far as it seeks judicial notice of facts that are subject to reasonable dispute, and (2) request that Complainant clear up any confusion by specifying the precise facts the Motion seeks to establish, thereby providing Respondents the opportunity to adequately determine whether they have any objections to the relief sought within. Respondents were entitled to said opportunity pursuant to the Prehearing Order. *See* Prehearing Order at 6.

Respectfully Submitted,



08/10/17

Date

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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 instrument was sent this day via electronic mail to the following e-mail addresses for service on Complainant's counsel: Edward Kulschinsky at Kulschinsky.Edward@epa.gov, Robert Klepp at Klepp.Robert@epa.gov, and Mark Palermo at Palermo.Mark@epa.gov.

08/10/17
Date



William Chu