



INTERNATIONAL TRADE COMMISSION

Investigation No. 337-TA-874

Certain Products Having Laminated Packaging, Laminated Packaging, and Components Thereof

Commission Decision to Review an Initial Determination; Termination of the Investigation With a Finding of No Violation of Section 337

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 15), which, *inter alia*, found that the complainant did not satisfy the economic prong of the domestic industry requirement. On review, the Commission has determined to reverse the ALJ's findings regarding the Commission's authority to direct the issuance of an early ID. The Commission has also determined that the complainant has not satisfied the economic prong of the domestic industry requirement. Accordingly, the investigation is terminated with a finding of no violation of section 337.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2532. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the

Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 28, 2013, based on a complaint and amended complaint filed by Lamina Packaging Innovations, Inc. of Longview, Texas ("Lamina") alleging a violation of section 337 by virtue of the infringement of certain claims of nine patents. *78 Fed. Reg.* 19,007. The subject products are certain laminated packaging materials, products packaged with such materials, and components thereof, and are alleged to infringe certain claims of U.S. Patent Nos. 6,207,242 ("the '242 patent") and 7,348,067 ("the '067 patent"). The notice of investigation named fifteen respondents: Remy Cointreau USA, Inc. of New York, New York; Pernod Ricard USA LLC of Purchase, New York; Moet Hennessy USA of New York, New York; Champagne Louis Roederer of Reims, France; Maisons Marques & Domaines USA Inc. of Oakland, California; Freixenet USA of Sonoma, California; L'Oreal USA, Inc. of New York, New York ("L'Oreal"); Hasbro, Inc. of Pawtucket, Rhode Island; Cognac Ferrand USA, Inc. of New York, New York, WJ Deutsch & Son of White Plains, New York; Diageo North America, Inc. of Norwalk, Connecticut; Sidney Frank Importing Co., Inc. of New Rochelle, New York ("Sidney Frank"); Beats Electronics LLC of Santa Monica, California; and Camus Wine & Spirits Group of Cognac, France ("Camus"). Camus, Sidney Frank, and L'Oreal have since been terminated from this investigation on the basis of settlement agreements with Lamina. Notice at 2 (May 30, 2013) (terminating Camus and Sidney Frank); Notice at 2 (July 2, 2013) (terminating L'Oreal).

The Commission's notice of institution directed the presiding Administrative Law Judge ("ALJ") to conduct an early hearing and to issue an early decision on whether Lamina "has satisfied the economic prong of the domestic industry requirement." 78 *Fed. Reg.* at 19,008.

The ALJ conducted a hearing on the domestic-industry issue on May 16-17, 2013. On July 5, 2013, the ALJ issued an initial determination, which found that Lamina had not demonstrated the existence of a domestic industry as required by 19 U.S.C. § 1337(a)(2), (a)(3). Order No. 15 ("the ID").

On July 12, 2013, the parties filed petitions for review. On July 17, 2013, the parties filed replies to the others' petitions.

The Commission has determined to review the ID. On review, the Commission has determined to reverse the ALJ's findings regarding the Commission's authority to direct the issuance of an early ID. The Commission has also determined that the complainant has not satisfied the economic prong of the domestic industry requirement. Accordingly, the investigation is terminated with a finding of no violation of section 337. The Commission's reasoning in support of its determinations will be set forth more fully in a forthcoming opinion.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in sections 210.42-.210.45 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42-210.45).

By order of the Commission.

Lisa R. Barton
Acting Secretary to the Commission

Issued: August 6, 2013

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