



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1107]

Certain LED Lighting Devices and Components Thereof; Issuance of a General Exclusion Order; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued a general exclusion order (“GEO”) denying entry of certain LED lighting devices and components thereof. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Benjamin S. Richards, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-5453. 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 SW, Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://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 April 10, 2018, based on a complaint filed on behalf of Fraen Corporation (“Fraen”) of Reading, Massachusetts. 83 FR 15399-15400 (Apr. 10, 2018). The complaint alleges violations of

section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain LED lighting devices and components thereof by reason of infringement of one or more claims of U.S. Patent No. 9,411,083 (“the ’083 patent”) and U.S. Patent No. 9,772,499 (“the ’499 patent”). *Id.* The complaint further alleges that a domestic industry exists. *Id.* The Commission’s notice of investigation named as respondents Chauvet & Sons, LLC of Sunrise, Florida; ADJ Products, LLC of Los Angeles, California; Elation Lighting, Inc. of Los Angeles, California; Golden Sea Professional Equipment Co., Ltd. of Guangdong, China; Artfox USA, Inc. of City of Industry, California; Artfox Electronics Co., Ltd. of Guangdong, China; Guangzhou Chaiyi Light Co., Ltd. d/b/a Fine Art Lighting Co., Ltd. of Guangdong, China; Guangzhou Xuanyi Lighting Co., Ltd. d/b/a XY E-Shine of Guangdong, China; Guangzhou Flystar Lighting Technology Co., Ltd. of Guangdong, China; and Wuxi Changsheng Special Lighting Apparatus Factory d/b/a Roccer of Jiangsu, China. *Id.* The Office of Unfair Import Investigations (“OUII”) is also participating in the investigation. *Id.*

On June 13, 2018, the ALJ issued an initial determination terminating Chauvet & Sons, LLC from the investigation on the basis of a license agreement. Order No. 14 at 1 (June 13, 2018), *unreviewed*, Notice (July 9, 2018).

On July 12, 2018, the ALJ issued an initial determination terminating ADJ Products, LLC and Elation Lighting, Inc. from the investigation on the basis of a license agreement. Order No. 17 at 1 (July 12, 2018), *unreviewed*, Notice (Aug. 8, 2018). In the same initial determination, the ALJ terminated Golden Sea Professional Equipment Co., Ltd. from the investigation based on the provisions of 19 C.F.R. 210.21(a). *Id.*

On July 20, 2018, the ALJ issued an initial determination terminating Artfox USA, Inc. from the investigation on the basis of a license agreement. Order No. 18 at (July 20, 2018), *unreviewed*, Notice (Aug. 14, 2018). In the same initial determination, the ALJ terminated Artfox Electronics Co., Ltd. from the investigation based on the provision of 19 C.F.R. 210.21(a). *Id.*

On August 28, 2018, the ALJ issued an initial determination (“ID”) finding the remaining respondents—Fine Art, E-Shine, Flystar, and Roccer (collectively, “defaulting respondents”)—in default for failure to respond to the complaint, notice of investigation, and her order to show cause why they should not be found in default. Order No. 20 (Aug. 28, 2018), *unreviewed*, Notice (Sep. 17, 2018).

On September 14, 2018, Fraen moved for summary determination of violation of section 337 by the defaulting respondents. In addition, Fraen requested a recommended determination for the Commission to issue a general exclusion order and set a bond at 100 percent. On September 26, 2018, OUII filed a response in support of Fraen’s motion and requested remedy.

On May 16, 2019, the ALJ issued the subject ID granting Fraen’s motion for summary determination of violation of section 337 by the defaulting respondents. Specifically, the ALJ found, *inter alia*, that Fraen established infringement of claim 1 of the ’083 patent and claim 1 of the ’499 patent; that Fraen established that the importation requirement of 337(a)(1)(B)(i) is satisfied as to each defaulting respondent and each accused product; and that Fraen satisfied both the technical and economic prongs of the domestic industry requirement. The ALJ also included her recommendation that the Commission issue a general exclusion order and impose a 100

percent bond during the presidential review period. No petitions for review were filed.

On June 28, 2019, the Commission issued a Notice stating that the Commission determined to review the ID in part and, on review, to take no position on whether Fraen satisfied the domestic industry requirement under subparagraphs (A) and (C) of section 337(a)(3). 84 FR 32218. The Commission's determination resulted in finding a violation of section 337. *Id.* at 32219. The Notice also requested written submissions on remedy, the public interest, and bonding. *See id.* at 32219-20.

On July 15, 2019, Fraen submitted a brief on remedy, the public interest, and bonding, requesting that the Commission issue a GEO and set a bond of 100 percent during the Presidential review period. Fraen did not request a cease and desist order. On the same day, OUII also submitted a brief on remedy, the public interest, and bonding, supporting the ALJ's recommendation to issue a GEO and impose a bond of 100 percent. On July 22, 2019, both Fraen and OUII submitted replies to the other's opening brief. No other submissions were filed in response to the Notice.

The Commission finds that the statutory requirements for relief under section 337(d)(2) are met with respect to the defaulting respondents. *See* 19 U.S.C. 1337(d)(2). In addition, the Commission finds that the public interest factors enumerated in section 337(d)(1) do not preclude issuance of statutory relief. *See id.* 1337(d)(1).

The Commission has determined that the appropriate remedy in this investigation is a GEO prohibiting the unlicensed entry of certain LED lighting devices and components thereof that infringe claim 1 of the '083 patent or claim 1 of the '499 patent. The Commission has also determined that the bond during the period of Presidential review pursuant to 19 U.S.C. 1337(j)

shall be in the amount of 100 percent of the entered value of the imported articles that are subject to the GEO. The Commission's order was delivered to the President and to the United States Trade Representative on the day of its issuance.

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 Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

Issued: August 21, 2019.

Lisa Barton,

Secretary to the Commission.

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