



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1216]

Certain Vacuum Insulated Flasks and Components Thereof; Notice of a Commission Determination not to Review an Initial Determination Granting Complainants' Motion to Amend the Complaint and the Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 12) of the presiding chief administrative law judge (“CALJ”) granting complainants’ motion to amend the complaint and the notice of investigation.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone (202) 205-2392. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.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: On September 3, 2020, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based on a complaint filed by Steel Technology LLC d/b/a Hydro Flask and Helen of Troy Limited (collectively, “Complainants”). 85 FR 55030-31 (Sep. 3, 2020). The complaint alleges a violation of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain vacuum insulated flasks and components thereof by reason of infringement of: (1) the sole claim of U.S. Design

Patent Nos. D806,468; D786,012 (“the ’012 patent”); and D799,320; and (2) U.S. Trademark Registration Nos. 4,055,784; 5,295,365; 5,176,888; and 4,806,282. The complaint also alleges the existence of a domestic industry. The notice of investigation names the following as respondents: Everich and Tomic Houseware Co., Ltd. of Hangzhou, China (“Everich”); Cangnan Kaiyisi E-Commerce Technology, Co., Ltd. of Wenzhou, Zhejiang, China; Shenzhen Huichengyuan Technology Co., Ltd. of Shenzhen, Guangdong, China; Sinbada Impex Co., Ltd. of Hefei, Anhui, China; Yongkang Huiyun Commodity Co., Ltd. of Jinhua, Zhejiang, China; Wuyi Loncin Bottle Co., Limited of Jinhua, Zhejiang, China; Yiwu Honglu Daily Necessities Co., Ltd. of Yiwu City, Zhejiang, China; Zhejiang Yuchuan Industry & Trade Co., Ltd. of Jinhua, Zhejiang, China; Zhejiang Yongkang Unique Industry & Trade Co., Ltd. of Jinhua, Zhejiang, China; Suzhou Prime Gifts Co., Ltd. of Suzhou, Jiangsu, China; Hangzhou Yuehua Technology Co., Ltd. of Hangzhou, Zhejiang, China; Guangzhou Yawen Technology Co., Ltd. of Guangzhou, China; Yiwu Yiju E-commerce Firm of Yiwu City, Zhejiang Province, China; Jinhua Ruizhi Electronic Commerce Co., Ltd. of Jinhua City, Zhejiang Province, China; Womart (Tianjin) International Trade Co., Ltd. of Tianjin, China; Shenzhen Yaxin General Machinery Co., Ltd. of Shenzhen, China; Dunhuang Group a.k.a. DHgate of Beijing, China; Eddie Bauer, LLC of Bellevue, Washington; PSEB Holdings, LLC of Wilmington, Delaware; and HydroFlaskPup of Phoenix, Arizona. *Id.* at 55031. The Commission’s Office of Unfair Import Investigations (“OUII”) is also named as a party in this investigation. *Id.*

On October 16, 2020, Complainants moved to amend the complaint and notice of investigation to: “(1) assert the ’012 patent against additional infringing products sold by Everich; (2) incorporate into the complaint the information and additional paragraphs included in Complainants’ Supplemental Letter to the Commission of August 18, 2020; and (3) correct the corporate names of four non-appearing respondents.” *Mot.* at 1. Specifically, the requested amendment seeks to amend the complaint and notice of investigation to correctly name Yiwu

Yiju E-Commerce Firm as “Yiwu Houju E-Commerce Firm,” Jinhua Ruizhi Electronic Commerce Co., Ltd. as “Jinhua City Ruizhi E-Commerce Co., Ltd.,” Womart (Tianjin) International Trade Co., Ltd. as “Wo Ma Te (Tianjin) International Trade Co., Ltd.,” and Shenzhen Yaxin General Machinery Co., Ltd. as “Shenzhen City Yaxin General Machinery Co., Ltd.” *Id.* On October 28, 2020, Everich filed an opposition to the motion with respect to Complainants’ first proposed amendment, but took no position as to the second and third proposed amendments. Opp. at 2. n.1. According to the motion, respondents Eddie Bauer, LLC and Dunhuang Group took no position. Mot. at 3. On October 28, 2020, OUII filed a response in support of the motion.

On November 6, 2020, the CALJ issued the subject ID (Order No. 12) granting Complainants’ motion. Based on the review of the evidence, the ID finds that good cause exists to amend the complaint and the notice of institution of investigation. The ID also finds that amending the complaint and notice of investigation will promote judicial efficiency and is not prejudicial to any party. No party petitioned for review of the ID.

The Commission has determined not to review the subject ID.

The Commission vote for this determination took place on November 24, 2020.

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: November 24, 2020.

William Bishop,

Supervisory Hearings and Information Officer.