



[Investigation No. 337-TA-1232]

Certain Chocolate Milk Powder and Packaging Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on October 29, 2020, under section 337 of the Tariff Act of 1930, as amended, on behalf of Meenaxi Enterprise Inc. of Edison, New Jersey. A supplement was filed on November 10, 2020. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain chocolate milk powder and packaging thereof by reason of infringement of U.S. Trademark Registration No. 4,206,026 (“the ’026 trademark”). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a general exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigation, U.S. International Trade Commission, telephone (202) 205-2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10 (2020).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on November 24, 2020, ORDERED THAT –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(C) 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 products identified in paragraph (2) by reason of infringement of the '026 trademark; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “chocolate milk powder in consumer-sized container with the Bournvita label”;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Meenaxi Enterprise Inc.

86-88 Executive Ave.

Edison, NJ 08817

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Bharat Bazar Inc.

34301 Alvarado Niled Road

Union City, CA 94086

Madras Group Inc. d/b/a Madras Groceries

1177 West El Camino Real

Sunnyvale, CA 94087

Coconut Hill Inc. d/b/a Coconut Hill

554 Murphy Ave.

Sunnyvale, CA 94086

Organic Food Inc. d/b/a Namaste Plaza Indian Super

Market

3269 Walnut Ave.

Fremont, CA 94538

India Cash & Carry Inc. d/b/a India Cash & Carry

1032 E. El Camino Real

Sunnyvale, CA 94087

New India Bazar Inc. d/b/a New India Bazar

2368 Bentley Ridge Dr

San Jose, CA 94538

Aapka Big Bazar

831-833 Newark Avenue

Jersey City, NJ 07306

Siya Cash & Carry Inc. d/b/a Siya Cash & Carry

832 Newark Avenue

Jersey City, NJ 07306

JFK Indian Grocery LLC d/b/a D-Mart Super Market

3000 Kennedy Blvd

Jersey City, NJ 07306

Trinethra Indian Super Markets

39207 Cedar Blvd

Newark, CA 94560

Apna Bazar Cash & Carry Inc. d/b/a Apna Bazar Cash & Carry

1700 Oak Tree Road

Edison, NJ 08820

Subzi Mandi Cash & Carry Inc. d/b/a Subzi Mandi Cash & Carry

1347 Stelton Road

Piscataway, NJ 08854

Subhlaxmi Grocers

550 Stelton Road

Piscataway, NJ 08854

Patidar Cash & Carry Inc. d/b/a Patidar Cash & Carry

128 Durham Ave.

South Plainfield, NJ 07080

Keemat Grocers

3311 Highway 6 S

Sugarland, TX 77478

KGF World Food Warehouse Inc. d/b/a World Food Mart

14625 Beechnut St.

Houston, TX 77083

Telfair Spices

1219 Museum Square Dr. Suite 100

Sugarland, TX 77479

Indian Groceries and Spices Inc. d/b/a iShopIndia.com

10701 W. North Avenue

Suite 100

Milwaukee WI 53226

Rani Foods LP d/b/a Rani's World Foods

16721 Hollister Street

Suite Q

Houston TX 77066

Tathastu Trading LLC
100 Ryan St. Ste 21
South Plainfield, NJ 07080

Choice Trading LLC
7000 Kennedy Blvd East
Guttenberg, NJ 07093

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.13. Pursuant to 19 C.F.R. 201.16(e) and 210.13(a), as amended in 85 Fed. Reg. 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: November 25, 2020.

Katherine Hiner,
Supervisory Attorney.

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