INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1155 (Bond Return)]

Certain Luxury Vinyl Tile and Components Thereof; Notice of Commission Determination
Not to Review an Initial Determination Granting Complainants’ Motion for Return of
Bonds Due to Settlement; Return of Bond


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. 37) granting complainants’
motion for return of bonds posted by Timeless Designs Import LLC (“Timeless Designs”) on
behalf of respondent Jiangsu Divine Building Technology Development Co. Ltd. (“Divine”)
during the period of Presidential review. The bonds at issue are hereby returned to Timeless
Designs.

FOR FURTHER INFORMATION CONTACT: Lynde Herzbach, Office of the General
Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436,
telephone (202) 205-3228. 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 May 16, 2019, the Commission instituted this
investigation based on a complaint filed by Mohawk Industries, Inc. of Calhoun, Georgia;
Flooring Industries Ltd. Sarl of Bertrange, Luxembourg; and IVC US Inc. of Dalton, Georgia
(collectively, “Complainants”). 84 FR 22161 (May 16, 2019). The complaint, as supplemented,
(“section 337”) in the importation into the United States, the sale for importation, or the sale
within the United States after importation of certain luxury vinyl tiles by reason of infringement
of certain claims of U.S. Patent Nos. 9,200,460; 10,208,490; and 10,233,655 (collectively, “the
Asserted Patents”). Id. The complaint further alleges that a domestic industry exists. Id. The
Commission’s notice of investigation names forty-five respondents, including Divine of Jiangsu,
China. Id. The Office of Unfair Import Investigations ("OUII") also participated in the
investigation. Id.

On May 15, 2020, the presiding ALJ issued an ID granting a motion for summary
determination of a violation of section 337. On September 16, 2020, the Commission affirmed
the ID’s finding of a violation. Comm’n Op. at 19-20 (Sept. 16, 2020); Order No. 36 (May 15,
2020). The Commission issued a general exclusion order (“GEO”) with respect to the Asserted
Patents. Id. The Commission also set a bond of $0.08 per square foot of infringing luxury vinyl
tile products and components thereof imported during the period of Presidential review. Id.

On January 27, 2021, Complainants filed a motion for the return of bonds posted by
Timeless Designs on behalf of Divine pursuant to the GEO during the presidential review period
based on a settlement agreement between Complainants and Divine. Timeless Designs is
Divine’s customer. On February 10, 2021, Complainants filed a supplement to the pending
motion to include a redacted copy of the settlement agreement referenced therein between
Complainants and Divine. On February 11, 2021, OUII filed a response supporting the motion
as supplemented.

On March 26, 2021, the ALJ issued the subject ID, which grants Complainants’ motion
for the return of bonds pursuant to Commission Rule 210.50(d)(1) (19 CFR 210.50(d)(1)). Order
No. 37 (Mar. 26, 2021). The ID notes that the presidential review period expired on November
16, 2020, and the motion, as supplemented, was filed on February 10, 2021, within 90 days of
the expiration of the presidential review period. Id. The ID also notes that, pursuant to
Commission Rule 210.50(d)(1), a respondent – not the complainant – is expected to file a motion
for return of its bond. The ID finds, however, that as the motion was filed on behalf of, and with approval by, the respondent, Divine, and the settlement between the parties is comprehensive, there is no substantive or procedural reason to deny the request to return the bond. *Id.*

No party petitioned for review of the subject ID.

The Commission has determined not to review the subject ID. The bonds at issue are hereby ordered to be returned to Timeless Designs.

The Commission vote for this determination took place on May 12, 2021.


By order of the Commission
Issued: May 12, 2021.

Lisa Barton,
Secretary to the Commission.

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