



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1232 (Enforcement II)]

Certain Chocolate Milk Powder and Packaging Thereof; Notice of a Commission

Determination Not to Review an Initial Determination Granting a Motion for Summary

Determination of Violation of the General Exclusion Order and Cease and Desist Orders;

Request for Briefing on the Recommended Remedy for Violation of the Cease and Desist

Orders

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined not to review an enforcement initial determination (“EID”) (Order No. 9) of the presiding administrative law judge (“ALJ”) granting a motion for summary determination of violation of the General Exclusion Order (“GEO”) and Cease and Desist Orders (“CDOs”). The Commission requests written submissions from the parties, interested government agencies, and other interested persons on the recommended remedy for violation of the CDOs, under the schedule set forth below.

FOR FURTHER INFORMATION CONTACT: Panyin Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-3042. 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: The Commission instituted the original investigation on December 1, 2020, based on a complaint filed on behalf of Meenaxi Enterprise Inc.

(“Meenaxi”) of Edison, New Jersey. 85 FR 77237-38 (Dec. 1, 2020). The complaint alleged violations of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, 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 mark”). The Commission’s notice of investigation named several respondents, including but not limited to Bharat Bazar Inc. of Union City, California (“Bharat Bazaar”); Coconut Hill Inc. d/b/a Coconut Hill of Sunnyvale, California (“Coconut Hill”); Organic Food d/b/a Namaste Plaza Indian Super Market (“Organic Food”) of Fremont, California; and New India Bazar Inc. d/b/a New India Bazar of San Jose, California (“New India”). *Id.* at 77237. The Office of Unfair Import Investigations (“OUII”) was also a party to the investigation. *Id.*

In the underlying investigation, all respondents were found in default. *See* Order No. 6 (Feb. 10, 2021), *unreviewed by* Comm’n Notice (Mar. 2, 2021); Order No. 23 (May 19, 2022), *unreviewed by* Comm’n Notice (Jun. 14, 2022). On May 24, 2021, Meenaxi moved for summary determination of violation of section 337 by the respondents found in default by Order No. 6 and requested a GEO. On December 1, 2021, the former chief administrative law judge granted the motion as an initial determination (“ID”) (Order No. 15), but noted discrepancies with respect to respondent Organic Food, calling into question whether that respondent was ever properly served with the complaint and notice of investigation and with the CALJ’s order to show cause why the respondents should not be found in default, Order No. 5 (Jan. 13, 2021). *See* Order No. 15 at 1, n.1. No petitions for review of the ID were filed. The Commission determined *sua sponte* to review Order No. 15 and ordered reconsideration of Order No. 6 as to Organic Food and/or any other respondents who may not have been properly served with documents in the underlying

investigation. *See* Comm’n Notice at 3 (Jan. 18, 2022). The Commission remanded the investigation to an ALJ for further proceedings. *Id.*

On remand, the current chief administrative law judge (“CALJ”) issued Order No. 18, granting Meenaxi’s unopposed motion for leave to amend the complaint and notice of investigation to (i) substitute Organic Food with proposed respondent Organic Ingredients Inc. d/b/a Namaste Plaza Indian Super Market (“Organic Ingredients”) of San Diego, California; (ii) correct the address of respondent New India; (iii) correct the address of respondent Bharat Bazar; and (iv) supplement the complaint with Exhibits 9-a, 9-b, and 9-c, concerning Organic Food and/or Organic Ingredients. Order No. 18 at 1-5 (Mar. 11, 2022), *unreviewed by* Comm’n Notice (Apr. 12, 2022); *see also* 87 FR 22940-41 (Apr. 18, 2022). Meenaxi also demonstrated that Bharat Bazar actually had been served with all of the documents in the investigation (prior to remand) despite incorrectly spelling Bharat Bazar’s address as being on “Niled Road” instead of “Niles Road.” *See* Order No. 18 at 4.

The CALJ conducted remand proceedings as to Organic Ingredients and New India to respond to the amended complaint and notice of investigation, and then ordered them to respond to an order to show cause why they should not be found in default. *See* Order No. 19 (Mar. 11, 2022); Order No. 21 at 2-3 (May 3, 2022). On May 19, 2022, the CALJ issued an ID finding Organic Ingredients and New India in default. Order No. 23 (May 19, 2022), *unreviewed by* Comm’n Notice (June 14, 2022). Accordingly, the Commission found all respondents in default (collectively with the respondents previously found in default, the “Defaulting Respondents”).

Subsequently, on June 15, 2022, following the remand determination of default, Meenaxi again moved for summary determination of violation by the Defaulting Respondents and requested a GEO. On July 6, 2022, OUII filed a response supporting the motion.

On August 3, 2022, the CALJ issued a remand ID (“RID”) (Order No. 27), granting the second motion for summary determination and finding a violation of section 337 with respect to the ’026 mark. The RID found that all Defaulting Respondents met the importation requirement

and that Meenaxi satisfied the domestic industry requirement. *See* 19 U.S.C. 1337(a)(1-3). No party petitioned for review of the ID.

On September 19, 2022, the Commission determined not to review the RID. *See* 87 FR 58130-32 (Sept. 23, 2022). On November 15, 2022, the Commission issued a final determination finding a violation, issuing a GEO prohibiting the unlicensed importation of chocolate milk powder and packaging thereof that infringe the '026 mark, and terminating the investigation. *See* 87 FR 70864-66 (Nov. 21, 2022). The GEO prohibits the unlicensed importation of “chocolate milk powder in consumer-sized container with the Bournvita label.” *Id.* That same day, the Commission issued an opinion explaining the basis for its final determination.

On November 9, 2023, the Commission determined to institute an enforcement proceeding (“Enforcement I”) under Commission Rule 210.75 to investigate alleged violations of the GEO by four respondents: (1) Organic Ingredients; (2) New India; (3) Bharat Bazar; and (4) Coconut Hill (collectively the “Enforcement Respondents”). *See* 88 FR 78786-87 (Nov. 16, 2023); 89 FR 15220 (Mar. 1, 2024). OUII was also named as a party. *Id.*

On January 10, 2024, the presiding ALJ issued an order directing the Enforcement Respondents to show cause why they should not be found in default and why judgment should not be rendered against them for failing to respond to the enforcement complaint and notice of investigation. *See* Enforcement I, Order No. 6 (Jan. 10, 2024). Enforcement I, Order No. 6, directed the Enforcement Respondents to make any showing of good cause by no later than February 2, 2024. *Id.* at 3. No party responded to Order No. 6. *See* Enforcement I, Order No. 8 at 1 (Feb. 13, 2024).

On March 14, 2024, the Commission determined that the four Enforcement Respondents were in default. *See* Order No. 8 (Feb. 13, 2024), *unreviewed by* Comm’n Notice (Mar. 14, 2024). On March 15, 2024, Meenaxi filed a motion requesting summary determination of

violation of the GEO and the issuance of CDOs against the four Enforcement Respondents. *See* Enforcement I, Initial Determination (“EID-1”) at 5.

On August 16, 2024, the ALJ granted Meenaxi’s motion and recommended issuance of CDOs. *See* Enforcement I, Order No. 9 (Aug. 16, 2024). On November 18, 2024, the Commission issued a final determination finding that all four Enforcement Respondents had violated the GEO and issued CDOs against each of the four Enforcement Respondents. 89 *Fed. Reg.* 92,722-723 (Nov. 18, 2024).

On February 24, 2025, Meenaxi filed a complaint requesting that the Commission institute a second enforcement proceeding to investigate alleged violations of the GEO and CDOs by the same four Enforcement Respondents: (1) Organic Ingredients; (2) New India; (3) Bharat Bazar; and (4) Coconut Hill Inc. *See* EID at 5. On March 26, 2025, the Commission determined to institute an enforcement proceeding under Commission Rule 210.75 to investigate alleged violations of the GEO and CDOs by the four Enforcement Respondents. *See* 90 FR 14,381-382 (Apr. 1, 2025). OUII is also named as a party. *Id.* Meenaxi filed proof that the notice was served on each of the four Enforcement Respondents. *See* July 29, 2025 Letter from Anil Gandhi to Secretary Barton, EDIS Doc. ID 857933.

On May 9, 2025, the ALJ issued an order directing the Enforcement Respondents to show cause why they should not be found in default and why judgment should not be rendered against them for failing to respond to the second enforcement complaint and notice of investigation. Enforcement II, Order No. 5 (May 9, 2025). Order No. 5 directed the Enforcement Respondents to make any showing of good cause by no later than June 13, 2025. *Id.* at 3. No party responded to Order No. 5, the show-cause order. Meenaxi filed proof that Order No. 5 was served on each of the four Enforcement Respondents. *See* May 19, 2025 Letter from Anil Gandhi to Secretary Barton, EDIS Doc. ID 851448, 851447. On July 15, 2025, the Commission determined that the four Enforcement Respondents were in default. Order No. 6 (June 16, 2025), *unreviewed by* Comm’n Notice (July 15, 2025). Meenaxi filed proof that Order No. 6 was served on each of the

four Enforcement Respondents. *See* July 29, 2025 Letter from Anil Gandhi to Secretary Barton, EDIS Doc. ID 857933.

On July 10, 2025, Meenaxi filed a motion for summary determination of violation of the GEO and CDOs by the four Enforcement Respondents and requested issuance of civil penalties against the four Enforcement Respondents. *See* EID at 6. Meenaxi argued that the Enforcement Respondents have violated the Commission's GEO and CDOs by continuing to import, sell for importation, advertise, market, distribute, offer to sell, and sell the "Bournvita" products that infringe the '026 mark. EID at 18.

On December 15, 2025, the presiding ALJ issued the subject EID (Order No. 9), granting Meenaxi's motion and recommending issuance of the requested civil penalties. The ALJ concluded that the unrebutted evidence demonstrates that the Enforcement Respondents have imported and/or sold after importation chocolate milk powder products bearing the "Bournvita" label in violation of the GEO and CDOs. No party filed a petition seeking review of EID.

Having reviewed the record of the investigation, including the enforcement complaint, EID, and the parties' submissions to the ALJ, the Commission has determined not to review the ALJ's findings that the Enforcement Respondents have violated the GEO and CDOs.

In connection with the final disposition of this enforcement proceeding, the statute authorizes issuance of civil penalties for violation of CDOs. 19 U.S.C. 1337(f)(2); *see also*, *Certain Two-Way Glob. Satellite Commc'n Devices, Sys. & Components Thereof*, Inv. No. 337-TA-854 (Enforcement), Comm'n Op. at 26 (July 1, 2014); *Certain Ink Cartridges & Components Thereof*, Inv. No. 337-TA-565 (Enforcement), Comm'n Op. at 17 (Aug. 28, 2009). When calculating a proportionate penalty, the Commission considers, *inter alia*, the six factors set forth in *Certain Erasable Programmable Read Only Memories ("EPROMs")*, Inv. No. 337-TA-276 (Enforcement), Comm'n Op. at 23-24, 26 (July 19, 1991). Accordingly, the Commission is interested in receiving written submissions that address the form of remedy and the amount of civil penalties, if any, that should be ordered.

WRITTEN SUBMISSIONS: The parties to the investigation are requested to file written submissions on the form of remedy and the amount of any civil penalty to be imposed for the violation of the CDOs by the defaulting four Enforcement Respondents. The parties' submissions should cite all evidence in support of such amounts and shall address the factors set forth in *EPROMs*. The parties' submissions regarding the *EPROMs* public interest factor should discuss the potential effect of a civil penalty on the public health and welfare. Parties are also requested to provide detailed information regarding sales of infringing products after the effective date of the CDOs relevant to calculating the amount of civil penalties and the total number of days in violation of the CDOs. Specifically, for each day of sale after violation of the CDOs, please provide the following information: (1) identity of the products sold; (2) number of products sold; and (3) value of the products sold. The written submissions must be filed no later than close of business on **February 10, 2025**. Reply submissions must be filed no later than the close of business on **February 17, 2025**. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above pursuant to 19 CFR 210.4(f). Submissions should refer to the

investigation number (“Inv. No. 337-TA-1232 Enforcement II”) in a prominent place on the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary, (202) 205-2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed with the Commission and served on any parties to the investigation within two business days of any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

The Commission’s vote on this determination took place on January 27, 2026. 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: January 27, 2026.

Lisa Barton,

Secretary to the Commission.

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