

In the Matter of

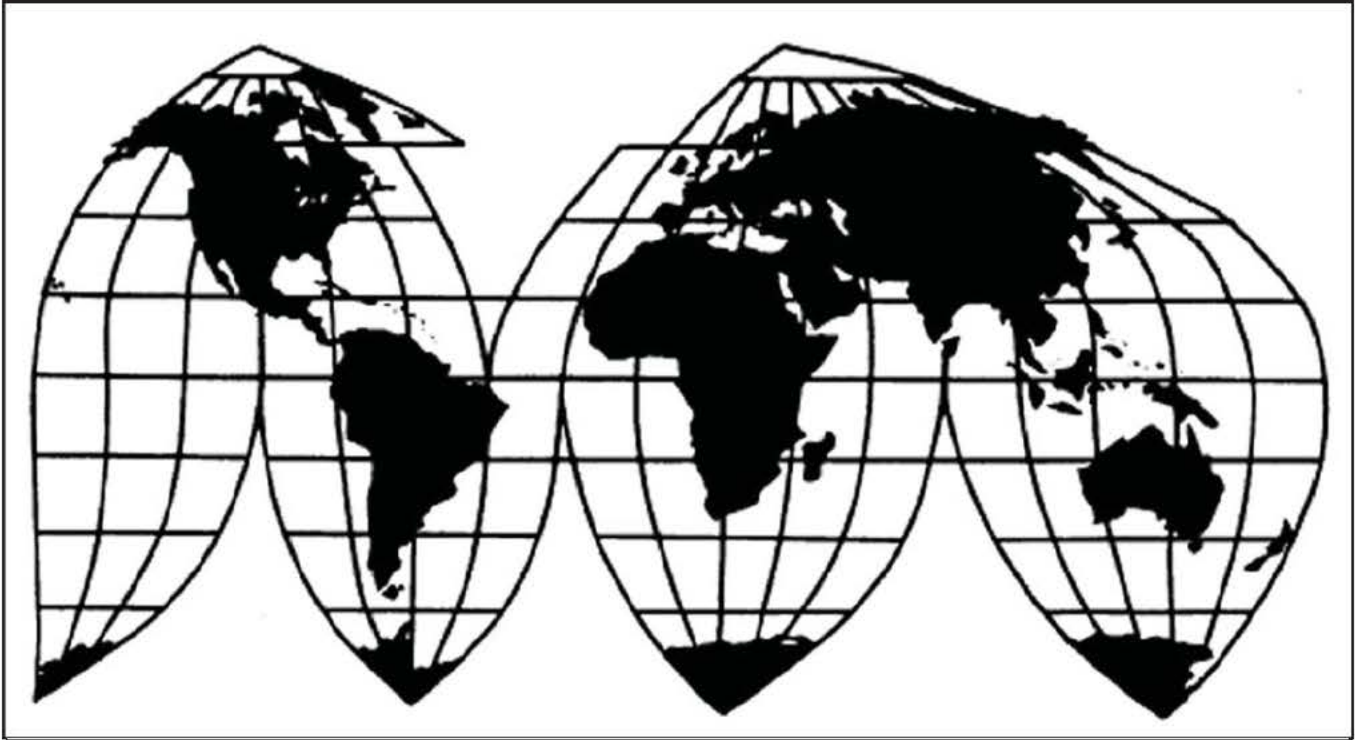
**Certain Handbags, Luggage,
Accessories, and Packing Thereof**

Investigation No. 337-TA-754

Publication 4387

March 2013

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN HANDBAGS, LUGGAGE,
ACCESSORIES, AND PACKAGING
THEREOF**

Investigation No. 337-TA-754

**NOTICE OF COMMISSION FINAL DETERMINATION OF VIOLATION
OF SECTION 337; TERMINATION OF INVESTIGATION;
ISSUANCE OF GENERAL EXCLUSION ORDER**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has found a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("section 337") in the above-captioned investigation. The Commission has determined to issue a general exclusion order. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2301. 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, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://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 January 5, 2011, based on a complaint filed by Louis Vuitton Malletier S.A. of Paris, France and Louis Vuitton U.S. Manufacturing, Inc., San Dimas, California (collectively "Louis Vuitton"), as amended on December 10, 2010, alleging violations of section 337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain handbags, luggage, accessories, and packaging thereof by reason of infringement of U.S. Trademark Registration Nos. 297,594 ("the '594 mark"); 1,643,625 ("the '625 mark"); 1,653,663 ("the '663 mark"); 1,875,198 ("the '198 mark"); 2,773,107 ("the '107 mark"); 2,177,828 ("the '7,828 mark"); 2,181,753 ("the '753 mark"); and 1,519,828 ("the '9,828 mark"). 76 *Fed. Reg.* 585-6 (Jan. 5, 2011). Louis Vuitton later withdrew its allegations as to its '198

mark in the Second Amended Complaint filed March 24, 2011. *See* 76 *Fed. Reg.* 24522 (May 2, 2011). The complaint further alleges the existence of a domestic industry.

The Commission's Notice of Investigation named as respondents T&T Handbag Industrial Co., Ltd. of Guangzhou, China ("T&T Handbag"); Sanjiu Leather Co., Ltd. of Guangzhou, China ("Sanjiu"); Meada Corporation (d/b/a/ Diophy International) of El Monte, California ("Meada"); Pacpro, Inc. of El Monte, California ("Pacpro"); Jianyong Zheng (a/k/a/ Jui Go Zheng, Jiu An Zheng, Jian Yong Zheng, Peter Zheng) of Arcadia, California; Alice Bei Wang (a/k/a Alice B. Wang) of Arcadia, California ("Alice B. Wang"); Trendy Creations, Inc. of Chatsworth, California ("Trendy Creations"); The Inspired Bagger of Dallas, Texas ("Bagger"); House of Bags of Los Angeles, California ("House of Bags"); Ronett Trading, Inc. (d/b/a/ Ronett Wholesale & Import) of New York, New York ("Ronett"); EZ Shine Group, Inc. of New York, New York ("EZ Shine"); Master of Handbags of Los Angeles, California ("Master of Handbags"); Choicehandbags.com, Inc. (d/b/a/ Choice Handbags) of Los Angeles, California ("Choice Handbags"); and Rasul Enterprises, LLC (d/b/a/ The Handbag Warehouse) of Dallas, Texas ("Rasul"). On April 27, 2011, the Commission determined not to review an ID amending the Notice of Investigation: (1) to add Jiu An Zheng and Jiu Gao Zheng in place of Jianyong Zhen; (2) to add Rimen Leather Co., Ltd, Guangzhou Rimen Leather Goods Company Limited, and Guangzhou Rui Ma Leatherware Co., Ltd. (collectively "Rimen") in place of Sanjiu; and (3) to add Monhill, Inc. ("Monhill") and Zhixian Lu as respondents. 76 *Fed. Reg.* 24522 (May 2, 2011).

On June 28, 2011, the Commission determined not to review an ID (Order No. 7) granting Louis Vuitton's motion for summary determination that it has satisfied the domestic industry requirement. Notice (June 28, 2011).

On August 17, 2011, the Commission determined not to review an ID finding respondents Trendy Creations, House of Bags, Ronett, EZ Shine, Master of Handbags, Choice Handbags, and Rasul in default. *See* Notice (Aug. 17, 2011) (Order No. 11). On August 26, 2011, the Commission determined not to review an ID terminating the investigation as to various respondents based on two different settlement agreements and consent order stipulations between Louis Vuitton and each of the settling respondents, the first settlement agreement relating to respondents Meada, Pacpro, Jiu Gao Zheng, Alice B. Wang, Trendy Creations, and Monhill and the second settlement agreement relating to the Chinese respondents and other related entities, *i.e.*, Zhixian Lu, Jiu An Zheng, Rimen, Jian Yong Zheng, a/k/a Jianyong Zheng, Jiuyou Zheng, Jianbin Zhen, Shengfeng Lin, Wenzhou DIOPHY Trading Company Limited, and Wenzhou BOLIAO Leather Goods. Notice (Aug. 26, 2011) (Order No. 12). On November 2, 2011, the Commission determined not to review-in-part an ID finding T&T Handbag and Bagger in default Notice (Nov. 2, 2011) (Order No. 14) (unreviewed in relevant part).

On August 17, 2011, Louis Vuitton filed a motion pursuant to section 210.18 of the Commission Rules of Practice and Procedure (19 C.F.R. § 210.18) for summary determination of violation of section 337 and requesting issuance of a general exclusion order ("GEO"). On August 30, 2011, the Commission investigative attorney ("IA") filed a response supporting the motion.

On March 5, 2012, the ALJ issued an initial determination (Order No. 16) (“ID”) granting Louis Vuitton’s motion for summary determination of violation of section 337. The ID also contained the ALJ’s recommended determination of remedy and bonding. Specifically, the ALJ recommended issuance of a general exclusion order. The ALJ further recommended that the Commission set a bond of 100 percent during the period of Presidential review.

On April 12, 2012, the Commission determined not to review the ID and called for briefing on remedy, the public interest, and bonding. *77 Fed. Reg. 22802-3* (Apr. 17, 2012). On April 26, 2012, Louis Vuitton submitted an initial brief on remedy, the public interest, and bonding, requesting that the Commission issue a GEO and set a bond of 100 percent during the period of Presidential review. In its brief, Louis Vuitton indicated that it is no longer pursuing relief as to the ‘625 mark or the ‘663 mark. Louis Vuitton also submitted a proposed GEO. Also on April 12, 2012, the IA submitted an initial brief on remedy, the public interest, and bonding, supporting Louis Vuitton’s request for a GEO and a bond of 100 percent. The IA’s also submitted a proposed GEO. On May 3, 2012, the IA filed a reply brief.

The Commission has determined that the appropriate form of relief is the following: (1) a GEO under 19 U.S.C. § 1337(d)(2), prohibiting the unlicensed entry of excluded handbags, luggage, accessories, and packaging that infringe any of the ‘594 mark, the ‘107 mark, the ‘7,828 mark, the ‘753 mark, and the ‘9,828 mark.

The Commission has further determined that consideration of the public interest factors enumerated in section 337(d) (19 U.S.C. § 1337(d)) does not preclude issuance of the GEO. The Commission has determined that the bond for temporary importation during the period of Presidential review (19 U.S.C. § 1337(j)) shall be in the amount of 100 percent of the value of the imported articles that are subject to the order. The Commission’s order was delivered to the President and 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 sections 210.42-50 of the Commission’s Rules of Practice and Procedure (19 C.F.R. §§ 210.42-50).

By order of the Commission.



Lisa R. Barton
Acting Secretary to the Commission

Issued: May 30, 2012

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN HANDBAGS, LUGGAGE,
ACCESSORIES, AND PACKAGING
THEREOF**

Investigation No. 337-TA-754

GENERAL EXCLUSION ORDER

The Commission has determined that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the unlawful importation and sale of certain handbags, luggage, accessories, or packaging thereof that infringe one or more of U.S. Trademark Registration Nos. 297,594; 2,773,107; 2,177,828; 2,181,753; and 1,519,828 registered to Louis Vuitton Malletier S.A. and Louis Vuitton U.S. Manufacturing, Inc. (collectively "Louis Vuitton").

Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determinations on the issues of remedy, the public interest, and bonding. The Commission has determined that a general exclusion from entry for consumption is necessary because there is a pattern of violation of section 337 and it is difficult to identify the source of infringing products. Accordingly, the Commission has determined to issue a general exclusion order prohibiting the unlicensed importation of infringing handbags, luggage, accessories, and packaging.

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. § 1337(d)(1) do not preclude issuance of the general exclusion order, and

that there shall be a bond during the period of Presidential review in the amount of 100 percent of the entered value of the articles in question.

Accordingly, the Commission hereby **ORDERS** that:

1. Handbags, luggage, accessories, and packaging that infringe U.S. Trademark Registration Nos. 297,594; 2,773,107; 2,177,828; 2,181,753; and 1,519,828 or any marks confusingly similar thereto or that are otherwise misleading as to source, origin, or sponsorship are excluded from entry into the United States for consumption, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption, except if imported by, or licensed from, or with the permission of the trademark owner or as provided by law, until such date as the trademarks are abandoned, cancelled, or rendered invalid or unenforceable.

2. For the purpose of assisting U.S. Customs and Border Protection in the enforcement of this Order, and without in any way limiting the scope of the Order, the Commission has attached to this Order copies of the relevant trademark registrations as Exhibit 1 and a copy of a photograph of an authentic Louis Vuitton handbags, luggage, accessories, or packaging that features the trademarks at issue as Exhibit 2.

3. For the purpose of assisting U.S. Customs and Border Protection in the enforcement of this Order, and without in any way limiting the scope of the Order, the Commission notes that there may be numerous ways to manipulate the trademarks at issue so as to create infringements. In an effort to provide some guidance to U.S. Customs and Border Protection in the enforcement of this Order, the Commission has attached to his Order copies of photographs featuring different products that were determined to infringe the trademarks at issue as Exhibit 3.

4. Notwithstanding paragraph 1 of this Order, the aforesaid handbags, luggage, accessories, and packaging are entitled to entry into the United States for consumption, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption, under bond in the amount of 100 percent of the entered value of the products pursuant to subsection (j) of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(j), and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (70 Fed. Reg. 43251), from the day after this Order is received by the United States Trade Representative and until such time as the United States Trade Representative notifies the Commission that this Order is approved or disapproved but, in any event, not later than sixty (60) days after the date of receipt of this Order. Note, however, that this provision does not exempt seizure of infringing articles under the trademark laws enforced by U.S. Customs and Border Protection, most notably 19 U.S.C. § 1526(e) and 19 U.S.C. § 1595a(c)(2)(C) in connection with 15 U.S.C. § 1124.

5. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to handbags, luggage, accessories, and packaging that are imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.

6. Louis Vuitton shall file a written statement with the Commission, made under oath, each year on the anniversary of the issuance of this Order stating whether it continues to use each of the aforesaid trademarks in commerce in the United States in the class of its registration, whether any of the aforesaid trademarks has been abandoned,

canceled, or rendered invalid or unenforceable, and whether Louis Vuitton continues to satisfy the domestic industry requirements of Section 337(a)(2) and (3).

7. The Commission may modify this Order in accordance with the procedures described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

8. The Commission Secretary shall serve copies of this Order upon each party of record in this investigation and upon the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and U.S. Customs and Border Protection.

9. At the discretion of U.S. Customs and Border Protection and pursuant to procedures it establishes, persons seeking to import handbags, luggage, accessories, or packaging that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under this Order. At its discretion, U.S. Customs and Border Protection may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.

10. Notice of this Order shall be published in the *Federal Register*.

By order of the Commission.



Lisa R. Barton
Acting Secretary to the Commission

Issued: May 30, 2012

**CERTAIN HANDBAGS, LUGGAGE, ACCESSORIES AND
PACKAGING THEREOF**

337-TA-754

CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served by hand upon the Commission Investigative Attorney, Juan S. Cockburn, Esq., and the following parties as indicated, on **May 30, 2012**



Lisa R. Barton, Acting Secretary
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

**On Behalf of Complainants Louis Vuitton Malletier
S.A.; Louis Vuitton U.S. Manufacturing Inc.:**

Michael J. Allan, Esq.
STEPTOE & JOHNSON LLP
1330 Connecticut Ave., NW
Washington, DC 20036

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

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**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.**

In the Matter of

**CERTAIN HANDBAGS, LUGGAGE,
ACCESSORIES, AND PACKAGING
THEREOF**

Investigation No. 337-TA-754

COMMISSION OPINION

I. BACKGROUND

The Commission instituted this investigation on January 5, 2011, based on a complaint filed by Louis Vuitton Malletier S.A. of Paris, France and Louis Vuitton U.S. Manufacturing, Inc., San Dimas, California (collectively “Louis Vuitton”) on December 3, 2010, alleging violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“section 337”), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain handbags, luggage, accessories, and packaging thereof by reason of infringement of U.S. Trademark Registration Nos. 297,594 (“the ‘594 mark”); 1,643,625 (“the ‘625 mark”); 1,653,663 (“the ‘663 mark”); 1,875,198 (“the ‘198 mark”); 2,773,107 (“the ‘107 mark”); 2,177,828 (“the ‘7,828 mark”); 2,181,753 (“the ‘753 mark”); and 1,519,828 (“the ‘9,828 mark”). The complaint was amended on December 10, 2010. 76 *Fed. Reg.* 585-6 (Jan. 5, 2011). Louis Vuitton later withdrew its allegations as to its ‘198 mark in the Second Amended Complaint filed March 24, 2011. See 76 *Fed. Reg.* 24522 (May 2, 2011).¹

¹ Louis Vuitton noted in its motion for summary determination of violation that, although the ALJ recommended issuance of a GEO covering all of Louis Vuitton’s trademarks at issue, *i.e.*, the ‘594 mark, the ‘625 mark, the ‘663 mark, the ‘107 mark, the 7,828 mark,

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The Notice of Investigation named as respondents T&T Handbag Industrial Co., Ltd. of Guangzhou, China (“T&T”); Sanjiu Leather Co., Ltd. of Guangzhou, China; Meada Corporation (d/b/a/ Diophy International) of El Monte, California (“Meada”); Pacpro, Inc. of El Monte, California; Jianyong Zheng (a/k/a/ Jui Go Zheng, Jiu An Zheng, Jian Yong Zheng, Peter Zheng) of Arcadia, California; Alice Bei Wang (a/k/a Alice B. Wang) of Arcadia, California; Trendy Creations, Inc. of Chatsworth, California; The Inspired Bagger of Dallas, Texas; House of Bags of Los Angeles, California; Ronett Trading, Inc. (d/b/a/ Ronett Wholesale & Import) of New York, New York; EZ Shine Group, Inc. of New York, New York; Master of Handbags of Los Angeles, California; Choicehandbags.com, Inc. (d/b/a/ Choice Handbags) of Los Angeles, California; and Rasul Enterprises, LLC (d/b/a/ The Handbag Warehouse) of Dallas, Texas. On April 27, 2011, the Commission determined not to review an initial determination (“ID”) amending the Notice of Investigation: (1) to add Jiu An Zheng and Jiu Gao Zheng in place of Jianyong Zhen; (2) to add Rimen Leather Co., Ltd, Guangzhou Rimen Leather Goods Company Limited, and Guangzhou Rui Ma Leatherware Co., Ltd. (collectively “Rimen”) in place of Sanjiu Leather Co., Ltd; and (3) to add Monhill, Inc. and Zhixian Lu as respondents. 76 *Fed. Reg.* 24522 (May 2, 2011). The Commission eventually found all of the respondents in default or terminated them from the investigation based on settlement or consent orders. *See* Notice (Aug. 17, 2011) (Order No. 11); Notice (Aug. 26, 2011) (Order No. 12); Notice (Nov. 2, 2011) (Order No. 14) (unreviewed in relevant

the ‘753 mark, and the ‘9,828 mark, it is no longer seeking a GEO covering the ‘625 and ‘663 marks. Louis Vuitton explained that the ‘625 and ‘663 marks are duplicative of the ‘594 mark, and when they expired on May 7, 2011 and August 13, 2011, respectively, it decided not to renew the registrations for those marks. *Id.*

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part).

On June 28, 2011, the Commission determined not to review an ID (Order No. 7) granting Louis Vuitton's motion for summary determination that it has satisfied the domestic industry requirement.²

Louis Vuitton agreed to file a motion for summary determination of violation based on the defaulting respondents by August 16, 2011. Louis Vuitton filed its motion one day late on August 17, 2011, moving for leave to file out of time. The Commission investigative attorney ("IA") filed a response on August 30, 2011, supporting Louis Vuitton's motion. The ALJ denied Louis Vuitton's unopposed motion to file its summary determination motion one day late in Order No. 13, which he issued on September 1, 2011. Also on September 1, 2011, the ALJ issued Order No. 14, finding the last remaining respondents, T&T and Bagger, in default and terminating the investigation. On September 7, 2011, Louis Vuitton filed a motion for reconsideration of Order No. 13. On September 8, 2011, the ALJ issued a notice stating that he had terminated the investigation and that "once the initial determination was certified to the Commission," he no longer had jurisdiction over it. Notice at 1 (Sept. 8, 2011).

The Commission issued a notice on September 16, 2011, determining that Order No. 14 was a final ID, thereby making all issues ripe for Commission review. Notice (Sept. 16, 2011). On November 2, 2011, the Commission reviewed Order No. 14 in part, and on review, reversed the termination of the investigation. Notice (Nov. 2, 2011). The Commission also reversed Order No. 13. *Id.* The Commission further issued an order remanding the investigation to the ALJ to consider Louis Vuitton's summary

² The complete procedural history of the investigation is detailed in Order No. 16. Order No. 16 at 1-4.

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determination motion. Commission Order (Nov. 2, 2011). On February 13, 2012, the ALJ issued Order No. 15, extending the target date by three months to June 5, 2012. On March 7, 2012, the Commission determined not to review Order No. 15.

On March 5, 2012, the ALJ issued an ID (Order No. 16) (“ID/RD”) granting Louis Vuitton’s motion for summary determination of violation of section 337. The ID also contained the ALJ’s recommended determination on remedy and bonding. On April 12, 2012, the Commission determined not to review the ID. *See* Notice (Apr. 12, 2012). In the Notice, the Commission requested briefing from the active parties on remedy, the public interest, and bonding. On April 26, 2012, Louis Vuitton submitted its initial brief on remedy, the public interest, and bonding, requesting that the Commission issue a general exclusion order (“GEO”) and set a bond of 100 percent during the period of presidential review. Louis Vuitton’s submission included a proposed GEO. Also on April 26, 2012, the IA submitted his initial brief on remedy, the public interest, and bonding, supporting Louis Vuitton’s request for a GEO and a bond of 100 percent. The IA’s submission also included a proposed GEO. On May 3, 2012, the IA filed a reply brief, accompanied by a revised proposed GEO reflecting Louis Vuitton’s abandonment of its claims with respect to the ‘625 mark and the ‘663 mark.

II. REMEDY

The Commission finds that the facts in evidence support the issuance of a GEO. Furthermore, we find that issuing these remedial orders in this investigation would not be contrary to the public interest.

The statutory authority of the Commission to issue a general exclusion order is codified in 19 U.S.C. § 1337(d)(2), which recites in relevant part:

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- (d) Exclusion of articles from entry . . .
- (2) The authority of the Commission to order an exclusion from entry of articles shall be limited to persons determined by the Commission to be violating this section unless the Commission determines that -
- (A) a general exclusion from entry of articles is necessary to prevent circumvention of an exclusion order limited to products of named persons; or
- (B) there is a pattern of violation of this section and it is difficult to identify the source of infringing products.

As the ALJ found in Order No. 16, the evidence supports issuance of a GEO under prong (B).³ With respect to there being a “pattern of violation,” the evidence shows that infringing and counterfeit goods are sold throughout the United States, with such infringing sales [REDACTED] See Declaration of Jiu Gao Zheng (June 10, 2011) (“Zheng Decl.”) at ¶4. For instance, infringing and counterfeit goods have been found in major markets such as New York and Los Angeles, as well as in secondary markets, including Memphis, Tennessee and Columbus, Ohio. See Declaration of Kenneth Klug (Aug. 16, 2011) (“Klug Decl.”) at ¶10, Ex. M (Photographs of Knock-Off Monogram Design Products in Los Angeles), Ex. N (Photographs of Knock-Off Monogram Design Products in New York City). These goods are also available through a wide variety of retailers, including kiosks, stores, swap meets, flea markets, trade shows, and via Internet retailers, e.g., iOffer.com, eBay.com, and Overstock.com. See Declaration of Michael J. Allan (Aug. 16, 2011) (“Allan Decl.”) at ¶47, Ex. 46 (iOffer screenshot); Klug Decl. at ¶10, Ex. O (eBay.com screenshot), Ex. P (Overstock.com

³ Although 19 U.S.C. § 1337(g)(2) governs the consideration of whether to issue a GEO in default cases, this provision applies only when no respondent appears to contest the investigation. In this case, since several respondents did appear and were later terminated based on consent orders or settlement agreements, section 337(g)(2) does not apply. See *Certain Sildenafil or Any Pharmaceutically Acceptable Salt Thereof, Such As Sildenafil Citrate, and Products Containing Same*, Inv. No. 337-TA-489, Comm’n Op. at 4 (July 26, 2004) (Public Version) (finding that section 337(g)(2) does not apply unless no respondents appear).

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screenshot). The evidence further shows that respondent Meada and its predecessors have sold infringing products [REDACTED] [REDACTED].⁴ See Allan Decl. at ¶¶17, 50, Ex. 16 (Meada's Responses to Interrogatories at No. 8), Ex. 49 ([REDACTED] [REDACTED]); Klug Decl. at ¶¶11, 13, Ex. Q (Photographs from Diophy Booth at ASD Trade Show), Ex. T ([REDACTED]).

The Commission has considered evidence of widespread foreign manufacture of infringing products as a factor in establishing a pattern of violation. *Certain Battery-Powered Ride-On Toy Vehicles and Components Thereof*, Inv. No. 337-TA-314, Comm'n Op. 1991 ITC LEXIS 1011, at *19-20 (Aug. 1991). Here, the evidence shows that, for example, respondent Rimen can manufacture infringing merchandise at a volume of up to 200,000 units, per style, per month, for sale to customers over the Internet. See Allan Decl. at ¶65, Ex. 64 (Ex. 60 to Complaint (Rimen screenshot)).

The Commission has also considered the efforts of the intellectual property holder in policing its rights as a factor in establishing a pattern of violation, including the related Commission investigation and other litigation activities. See *Certain Hair Irons and Components Thereof*, Inv. No. 337-TA-637 ("Hair Irons"), Initial Determination (Order. No. 14) (Mar. 10, 2009) at 27 (unreviewed). Here, the evidence shows that Louis Vuitton has engaged in extensive civil and criminal enforcement activities within the United States, including filing a complaint in this investigation, sending [REDACTED] cease and desist letters since 2007, and bringing [REDACTED] trademark enforcement

⁴ Meada, for instance, has sold [REDACTED] infringing products covering [REDACTED] [REDACTED]. See Allan Decl. at ¶¶10, 41 (Ex. 14 to Wang Dep. Tr. (Meada Sales Sheet)), Ex. 9 (Wang Dep. Tr. at 209:25-211:6, 216:4-13)).

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actions in United States District Courts. *See* Klug Decl. at ¶¶5, 6, Ex. A (Press Release on Anti-Counterfeiting Policy). In particular, Louis Vuitton notes that in the last four years, [REDACTED] arrests have been made in the United States related to counterfeiting of Louis Vuitton's trademarks and there have been [REDACTED] criminal proceedings involving sales of counterfeit Louis Vuitton goods in the United States. Klug Decl. at ¶6.

The evidence also demonstrates the difficulty in identifying the source of the counterfeit and infringing goods. Specifically, the fact that many of the respondents failed to appear and participate in discovery lends difficulty to the task of identifying the source of infringing goods. Moreover, the sales of infringing products over the Internet, which "inherently allows for anonymity[.]" makes identifying the source of products difficult. *Hair Irons*, Comm'n Op., 2010 WL 5642161, at *15 (Dec. 2010); *see* Klug Decl. at ¶15, Ex. V (Diophy.com screenshots); Allan Decl. at ¶¶35, 43, 44, 70, Exs. 42, 43, 69 (www.tthandbag.com screenshots), Ex. 34 (www.thehandbagwarehouse.com screenshots).

The evidence further shows that the businesses of manufacturers and sellers of infringing and counterfeit merchandise are easily formed and dissolved, such that even the respondents that participated in this investigation could not identify the manufacturers and distributors of the infringing and counterfeit goods they sold. ID/RD at 22; *see* Allan Decl., at ¶¶2, 11, 19-24, 29, 33, 34, Ex. 10 (Meada Articles of Incorporation), Ex. 18 (Pacpro Articles of Incorporation); Ex. 19 (Pacpro's Responses to Interrogatories, at No. 1), Ex. 20 (Pacpro Statement of Information), Ex. 21 (Pacpro Statement of Information 2009)), Ex. 22 (Pacpro Statement of Information 2010), Ex. 23 (Diophy Int'l Trading

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USA, Inc. Articles of Incorporation), Ex. 28 (T&T Handbag Company Articles of Incorporation), Ex. 32 (T&T Handbag Company Certificate of Dissolution), Ex. 33 (Ex. 55 to Complaint (Rimen Screenshot)); Klug Decl., at ¶¶7, 16, Ex. C (Ex. 10 to Complaint (Civil Mediation Agreement)), Ex. W (Ex. 50 to Complaint (Rimen Registration Certificate)), Ex. X (Ex. 56 to Complaint (Sanjiu Company Registration Record)).

Respondents Alice Wang and Mr. Zheng, when asked to identify the name and location of their manufacturers, [REDACTED]

[REDACTED]. See Allan Decl. at ¶10, Ex. 9 (Wang Dep. Tr. at 103:7-15, 107:2-5, 185:9-18, 187:16-188:9), Ex. 29 (Zhang Dep. Tr. at 106:15-21, 108:3-7, 119:13-120:4, 120:16-20, 127:13-22); Zhang Decl. at ¶4.⁵

The evidence also demonstrates that there is a low barrier to entry in the manufacture of infringing and counterfeit handbags, luggage, accessories, and packaging. See *Certain Toner Cartridges and Components Thereof*, Inv. No. 337-TA-740, Comm'n Op. at 5 (Oct. 5, 2011) (Public Version) (considering a low technical and financial barrier to entry in determining that a GEO was warranted). Specifically, the evidence shows that the cost to manufacture and export infringing handbags from China to the United States is between \$1.25 and \$4.00 per item. See Klug Decl. at ¶24. The evidence further shows that manufacture infringing or counterfeit goods does not require either sophisticated equipment or skilled labor, but rather may be accomplished using inexpensive materials and "scissors and sewing machines." See Klug Decl. at ¶¶19, 21. Based on the evidence presented, the Commission finds that there has been a pattern of violation concerning the

⁵ Notably, neither Ms. Wang nor Mr. Zheng identified Rimen as a manufacturer [REDACTED]. See Allan Decl. at ¶¶34, 65, Ex. 64 (Ex. 60 to Complaint (Rimen Screenshot)), Ex. 33 (Ex. 55 to Complaint (Rimen Screenshot))

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infringement of the asserted Louis Vuitton marks and that it is difficult to identify the source of infringing products, and therefore, that Louis Vuitton has satisfied prong (B) of 19 U.S.C. § 1337(d)(2).

III. PUBLIC INTEREST

Section 337(d)(1) requires that the Commission consider the effect upon the public interest of any remedial order that it determines to issue. 19 U.S.C. § 1337(d)(1). Both Louis Vuitton and the IA assert that there is no evidence that would argue against issuance of a GEO in this case. We agree.

Before issuing any remedial order, sub-section (d) of Section 337 directs the Commission to consider the effect of such exclusion on: (1) the public health and welfare; (2) competitive conditions in the U.S. economy; (3) the production of like or directly competitive products in the United States; and (4) U.S. consumers. 19 U.S.C. § 1337(d); *Certain High-Brightness Light Emitting Diodes & Prods. Containing Same*, Inv. No. 337-TA-556, Comm'n Op. at 31-32 (May 31, 2007).

None of the factors enumerated above raise any concerns that would militate against issuing the GEO in this investigation. With respect to the public health and welfare, there is no evidence in the record that excluding infringing handbags, luggage, and accessories would cause any harm to the public. The products at issue in this case are not the sort of products that typically implicate public interest concerns. With respect to the economic factors that the Commission must consider, it is obvious that there are numerous suppliers in the United States capable of meeting domestic consumer demand for handbags, luggage, and accessories, and there is no evidence that issuance of a GEO would adversely affect the production of similar or directly competitive articles in the

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United States.⁶ Neither is there any evidence to suggest that issuance of a GEO would negatively impact competitive conditions in the United States by giving Louis Vuitton a monopoly in the market for handbags, luggage, accessories, etc. due to the large number of competitors in the market for these goods.

Based on the foregoing analysis, the Commission has determined that a GEO would not negatively affect the public interest factors set forth in 19 U.S.C. § 1337(d)(1).

IV. BONDING

Section 337(j) provides for entry of infringing articles during the sixty (60) day period of Presidential review under a bond and states that the bond is to be set at a level “sufficient to protect the complainant from any injury.” 19 U.S.C. § 1337(j)(3); *see also* 19 C.F.R. § 210.50(a)(3).

With respect to his recommended bond of 100 percent of the entered value, the ALJ noted that such a bond is appropriate where reliable price information is not available, specifically because none of the defaulting respondents participated in discovery. ID/RD at 23. The Commission has set the bond at 100 percent in similar circumstances in which there is insufficient reliable price information to set a bond based on price differential. *See Certain Inkjet Ink Supplies and Components Thereof*, Inv. No. 337-TA-730, Order No. 14 at 32 (Aug. 3, 2011); *Certain Oscillating Sprinklers, Sprinkler Components and Nozzles*, Inv. No. 337-TA-448, USITC Pub. No. 3498, Limited Exclusion Order at 4-6 (Mar. 2002). We therefore agree with the ALJ’s

⁶ Louis Vuitton does not argue that the goods the Commission should consider in its public interest analysis include only handbags, luggage, accessories, etc. that display the asserted trademarks. Even if the Commission’s focus were so limited, however, the evidence shows that Louis Vuitton is engaged in extensive manufacturing and sales of products displaying the asserted marks, and is thus capable of supplying the United States market with the excluded goods. *See* Order No. 7 (June 10, 2011) (unreviewed).

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recommendation that the bond should be set at 100 percent of the value of entered goods during the period of Presidential review.

V. CONCLUSION

For the reasons stated above, the Commission has determined to issue a GEO excluding handbags, luggage, accessories, and packaging that infringe any of the '594 mark, the '107 mark, the '7,828 mark, the '753 mark, and the '9,828 mark. Moreover, the Commission has determined to set a bond of 100 percent of the entered value of the goods imported during the period of Presidential review.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'L. Barton', enclosed within a large, loopy oval shape.

Lisa R. Barton

Acting Secretary to the Commission


Issued: June 13, 2012

**CERTAIN HANDBAGS, LUGGAGE, ACCESSORIES AND
PACKAGING THEREOF**

337-TA-754

CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached has been served by hand upon the Commission Investigative Attorney, Juan S. Cockburn, Esq., and the following parties as indicated, on **June 14, 2012**



Lisa R. Barton, Acting Secretary
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

**On Behalf of Complainants Louis Vuitton Malletier
S.A.; Louis Vuitton U.S. Manufacturing Inc.:**

Michael J. Allan, Esq.
STEPTOE & JOHNSON LLP
1330 Connecticut Ave., NW
Washington, DC 20036

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

PUBLIC VERSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN HANDBAGS, LUGGAGE,
ACCESSORIES AND PACKAGING THEREOF**

Inv. No. 337-TA-754

**ORDER NO. 16: INITIAL DETERMINATION GRANTING COMPLAINANTS'
MOTION FOR SUMMARY DETERMINATION OF VIOLATION
AND RECOMMENDED DETERMINATION ON REMEDY AND
BONDING**

(March 5, 2012)

On August 17, 2011, Complainants Louis Vuitton Malletier S.A. and Louis Vuitton U.S. Manufacturing, Inc. (collectively, “Louis Vuitton”) filed a motion for summary determination (754-010) of violation of section 337 and further moved for the issuance of a general exclusion order. On August 30, 2011, the Commission Investigative Staff (“Staff”) filed a response in support of the motion. The undersigned denied Louis Vuitton’s motion, determining it had been filed late without good cause. (*See* Order No. 13 (Sept. 1, 2011).) The Commission reversed and remanded for consideration of Louis Vuitton’s summary determination motion and request for entry of a general exclusion order, or alternatively, to provide Louis Vuitton with the opportunity for an evidentiary hearing. (*See* Notice of Comm’n Determination to Review-in-Part the ALJ’s Final Initial Determination Finding Respondents T&T Handbag Industrial Co. Ltd. and The Inspired Bagger in Default and Terminating the Investigation (Nov. 2, 2011).)¹

I. Background

Louis Vuitton filed a complaint alleging violations of section 337 based on the importation into the United States, the sale for importation and the sale within the United States after importation of certain handbags, luggage, accessories, and packaging thereof on December 3, 2010. *See* 76 Fed. Reg. 585-586 (Jan. 5, 2011). An amended complaint was filed December 10, 2010 and supplemental materials were filed on December 16, 2010. *Id.*

On December 29, 2010, the Commission voted to institute this Investigation and on January 5, 2011, the Notice of Investigation was published in the Federal Register. *Id.* Specifically, the Commission instituted this Investigation to determine “whether there is a violation of subsection [(a)(1)(C)]² of section 337 in the importation into the United States, the

¹ The Commission also reversed the portion of Order No. 14 terminating the Investigation.

² The Notice in the Federal Register mistakenly reports that a violation of subsection (a)(1)(B) is alleged. Section (a)(1)(B) relates to infringement of patents and copyrights, while section (a)(1)(c) covers trademark infringement. *See* 19 U.S.C. § 1337.

sale for importation, or the sale within the United States after importation of certain handbags, luggage, accessories and packaging thereof that infringe” U.S. Trademark Registration No. 297,594; U.S. Trademark Registration No. 1,643,625; U.S. Trademark Registration No. 1,653,663; U.S. Trademark Registration No. 1,875,198³; U.S. Trademark Registration No. 2,773,107; U.S. Trademark Registration No. 2,177,828; U.S. Trademark Registration No. 2,181,753; U.S. Trademark Registration No. 1,519,828 and “whether an industry in the United States exists as required by subsection (a)(2) of section 337.” *Id.*

The Notice of Investigation named the following respondents: T&T Handbag Industrial Co. Ltd. (“T&T”); Sanju Leather Co., Ltd.; Meada Corporation (d/b/a Diophy International); Pacpro, Inc.; Jianyong Zheng (a/k/a Jiu Gao Zheng; Jiu An Zheng; Jian Yong Zheng; Peter Zheng); Alice Bei Wang (a/k/a Alice B. Wang); Trendy Creations, Inc.; The Inspired Bagger; House of Bags; Ronett Trading, Inc. (d/b/a Ronett Wholesale & Import); EZ Shine Group, Inc.; Master of Handbags; Choicehandbag.com, Inc. (d/b/a Choice Handbags); and Rasul Enterprises, LLC (d/b/a The Handbag Warehouse). *Id.* On April 11, 2011, former Chief Administrative Law Judge Luckern issued an initial determination granting Louis Vuitton’s motion to amend the amended complaint to add Monhill, Inc., Zhixian Lu, Jiu An Zheng, Jiu Gao Zheng⁴, Rimem Leather Co., Ltd., Guangzhou Rimem Leather Goods Company Limited, and Guangzhou Rui Ma Leatherware Co., Ltd.⁵ as respondents. (*See* Order No. 6 (Apr. 11, 2011).)⁶

³ Louis Vuitton withdrew its allegations as to the ’198 mark in the second amended complaint filed March 24, 2011. *See* 76 Fed. Reg. 24,522 (May 2, 2011).

⁴ Jiu An Zheng and Jiu Gao Zheng were added in place of Jianyong Zheng. (*See* Order No. 6 at 2.)

⁵ Rimem Leather Co., Ltd., Guangzhou Rimem Leather Goods Company Limited, and Guangzhou Rui Ma Leatherware Co., Ltd. are actually a single entity and collectively referred to herein as “Rimem.” Rimem was added in place of Sanjiu Leather Co., Ltd. (*See* Order No. 6 at 3.)

⁶ The Commission determined not to review this initial determination. (*See* Notice of Comm’n Determination Not to Review An Initial Determination Granting Complainant’s Motion to Amend the Complaint and Notice of Investigation to Substitute Respondents and Add Respondents (Apr. 27, 2011); *see also* 76 Fed. Reg. 24,522 (May 2, 2011).)

On June 10, 2011, Judge Luckern issued an initial determination finding that Louis Vuitton satisfied the domestic industry requirement. (*See* Order No. 7 (June 10, 2011).) The Commission determined not to review said initial determination on June 28, 2011. (*See* Notice of Comm'n Determination Not to Review an Initial Determination Finding that Complainants Have Satisfied the Domestic Industry Requirement (June 28, 2011).) Upon Judge Luckern's retirement, this Investigation was transferred to the undersigned. (*See* Notice to the Parties (Aug. 4, 2011).)

During the course of this Investigation, all of the respondents have settled^{7,8} or been found in default.⁹ On July 21, 2011, Judge Luckern found House of Bags, Ronett Trading, Inc., EZ Shine Group, Inc., Master of Handbags, Choice Handbags, and Handbag Warehouse in default. (*See* Order No. 11, Initial Determination Finding Certain Respondents in Default (July 21, 2011).)^{10,11} On September 1, 2011, the undersigned found T&T and The Inspired Bagger in default. (*See*, Order No. 14, Initial Determination Finding T&T Handbag Industrial Co., Ltd and The Inspired Bagger in Default and Terminating the Investigation (Sept. 1, 2011).)¹² None of the Defaulting Respondents have contested Louis Vuitton's allegations that they have violated and

⁷ Louis Vuitton entered into two settlement agreements. The first involved domestic Respondents: Maeda Corporation; Pacpro, Inc.; Jiu Gao Zheng (a/k/a Victor Zheng, Peter Zheng); Alice Bei Wang; Trendy Creations, Inc; and Monhill, Inc. (*See* Order No. 12, Terminating The Investigation as to Certain Respondents (Aug. 3, 2011).) The second agreement covered Respondents that are entities or individuals in China: Zhixian Lu; Jiu An Zheng; Rimen; Jian Yong Zheng (a/k/a Jianyong Zheng); Jiuyou Zheng; Jianbin Zheng; Shengfeng Lin; Wenzhou Diophy Trading Company Limited; and Wenzhou Bolihao Leather Goods Company Limited. *Id.*

⁸ All of the domestic Respondents executed consent orders with Louis Vuitton. (*See* Order No. 12 (Aug. 3, 2011); *see also* Mem. at 4-5.) Of the Respondents located in China, Zhixian Lu, Jiu An Zheng and Rimen have signed consent order stipulations. *Id.*

⁹ Those respondents found in default shall be referred to herein as the "Defaulting Respondents."

¹⁰ Trendy Creations, Inc., was found in default in Order No. 11 but thereafter entered into a settlement agreement with Louis Vuitton and signed a consent order. *See* Joint Motion for Partial Termination of Investigation Based on Settlement Agreement (754-009), at Ex. H. Therefore, alleged violations by Trendy Creations are not addressed herein.

¹¹ The Commission determined not to review this initial determination. (*See* Notice of Comm'n Determination Not to Review an Initial Determination Finding Certain Respondents in Default (Aug.17, 2011).)

¹² The Commission determined not to review the portion of this initial determination finding T&T and The Inspired Bagger in Default. (*See* Notice of Comm'n Determination to Review-in-Part the ALJ's Final Initial Determination Finding Respondents T&T Handbag Industrial Co. Ltd. and The Inspired Bagger in Default and Terminating the Investigation (Nov. 2, 2011).) The Commission reversed the ALJ's termination of the investigation. *Id.*

continue to violate section 337. The only active party in this Investigation, other than Louis Vuitton, is Staff.

II. Violation of Section 337

A. Standard for Summary Determination

Pursuant to Commission Rule 210.18(b), summary determination “shall be rendered if the pleadings and any depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact.” 19 C.F.R. § 210.18(b). The moving party, Louis Vuitton, bears the burden of establishing that there is an absence of genuine issues of material fact and that it is entitled to judgment as a matter of law. *Id.*; *Certain Cigarettes and Packaging Thereof*, Inv. No. 337-TA-643, Comm’n Op. at 5 (Oct. 2009). Because the Respondents remaining in this Investigation defaulted, they have waived the right to contest Louis Vuitton’s allegations, and the facts alleged in the complaint are presumed true under Commission Rule 210.16 (c). 19 C.F.R. § 210.16(b)-(c). Where, as here, the complainant requests that the Administrative Law Judge recommend a general exclusion order, the complainant must establish a section 337 violation “by substantial, reliable, and probative evidence.” *Certain Energy Drink Prods.*, Inv. No. 337-TA-678, Order No. 34, 2010 WL 1502174, (Mar. 30, 2010); *Certain Sildenafil or Any Pharmaceutically Acceptable Salt Thereof, Such as Sildenafil Citrate, and Prods. Containing Same*, Inv. No. 337-TA-489, Comm’n Op. on Remedy, the Public Interest, and Bonding at 4 (U.S.I.T.C Feb. 6, 2004).

B. Trademark Infringement

Louis Vuitton asserts that handbags, luggage, accessories and packaging thereof manufactured, imported into, and/or sold in the United States by the Defaulting Respondents infringe seven of Louis Vuitton's trademarks covering the toile monogram. The toile monogram mark was created in 1896 and features an "entwined LV monogram and various design motifs displayed in a repeated fashion, at regularly spaced intervals, in horizontal lines covering the entire surface of the products on which the mark is used." (Mem. at 7.) The 297,594 mark covers the entire toile monogram. (Allan Decl., Exs. 2, 73.) The components of the toile monogram are covered individually by the 1,519,828 mark (the interlocked LV), the 2,177,828 mark (the pinwheel design), the 2,773,107 mark (the diamond with inset pinwheel), and the 2,181,753 mark (the circle with inset flower design). (*Id.* at Exs. 5-8, 73.) The 1,653,663 and 1,643,625 marks relate to the yellow color of the components of the toile monogram and the deep chestnut color of the background.¹³ (*Id.* at Exs. 3, 4.)

Louis Vuitton divides the accused products into three groups: "the counterfeit monogram," "the knock off monogram design," and "the additional infringement." The counterfeit monogram is allegedly an exact copy of the toile monogram mark. (Mem. at 22; *see* Klug Decl., Ex. L.) The knock-off monogram design features "a horizontal pattern of interlocking initials and geometric shapes in repeated fashion, at regularly spaced intervals, covering the entire surface of the products." (Mem. at 11.) The accused products typically employ Louis Vuitton's traditional chestnut and yellow color combination. (*Id.* at 12.) The additional infringement contains the same repeating pattern of geometric shapes as the knock-off monogram design, but also includes a slightly distorted overlapping LV. (*Id.* at 17-18.)

¹³ The '663 mark and '625 mark disclaim the exclusive right to use the overall shape of the bag depicted in their illustrations. (*See* Allan Decl., Exs. 3-4.)

Trademark infringement is analyzed under a two prong test: “[f]irst, we look to see whether [Complainants’] mark merits protection, and second, whether [Respondents’] use of a similar mark is likely to cause consumer confusion.” *Louis Vuitton Malletier v. Dooney & Bourke, Inc.*, 454 F.3d 108, 115 (2d. Cir. 2006). In support of its motion for summary determination of trademark infringement, Louis Vuitton offers declarations from (1) Eric Lichtmess, Director of Advertising for Louis Vuitton North America; (2) Kenneth Klug, Director of Criminal Enforcement, North America for Louis Vuitton Malletier S.A.; and (3) Michael J. Allan, Counsel for Louis Vuitton. Appended to each declaration are photos of authentic products, photos of the accused products, invoices, and screenshots of the websites of some of the named respondents.

1. Valid Enforceable Mark

Under the Lanham Act, federal registration is prima facie evidence of validity, ownership and the exclusive right to use a mark. 15 U.S.C. § 1057(b). Federal registration of a mark becomes conclusive evidence of validity, ownership and exclusive right to use if (1) a registered mark is used continuously for five years after registration; (2) there has been no final decision adverse to the registrant’s claim of ownership; and (3) an affidavit of incontestability is submitted to the Patent and Trademark Office. *See* 15 U.S.C. §§ 1065, 1115(b).

The toile monogram marks consist of seven registered trademarks that have each been on the Principal Register for more than five years. (Mem. at 21; Allan Decl., Exs. 2-8.) None of the toile monogram marks have been invalidated in any U.S. court or administrative proceeding. (Mem. at 21; Staff at 6; Klug Decl., Ex. B.) Nothing in the record calls into question the validity of Louis Vuitton’s trademarks. Accordingly, the undersigned finds that the asserted marks are valid and enforceable.

2. Likelihood of Confusion

a. Counterfeit Marks

Analysis of the likelihood of confusion between authentic and counterfeit marks is unnecessary because counterfeits inherently cause confusion. *Chanel, Inc. v. Gardner*, 07 Civ. 6679, 2011 U.S. Dist. LEXIS 6088, at *12 (S.D.N.Y. Jan. 21, 2011); *Gucci Am. Inc. v. Duty Free Apparel, Ltd.*, 286 F. Supp. 2d 284, 287 (S.D.N.Y. 2003) (“Indeed, confusing the consumer is the whole purpose of creating counterfeit goods.”). To prevail on its claim that the toile monogram marks have been counterfeited, Louis Vuitton must prove that the Defaulting Respondents sold products bearing a mark identical to, or substantially indistinguishable from, the registered marks. 15 U.S.C. § 1127.

Louis Vuitton and Staff contend that “there is no question” that T&T sold counterfeit products in the United States. (Mem. at 21; Staff at 7.) The undersigned agrees. The evidence shows that T&T is expressly engaged in the business of selling counterfeit Louis Vuitton products on its website. (Mem. at 18; Allan Decl., Exs. 42-43.) Those T&T products bear Louis Vuitton’s toile monogram marks and contain labels stating that the bags were made in France by Louis Vuitton.¹⁴ (Mem. at 18-19; Klug Decl., Ex. L.) Because T&T sold products bearing marks indistinguishable from Louis Vuitton’s toile monogram marks, the undersigned finds that there is no genuine issue of material fact with respect to whether T&T has counterfeited Louis Vuitton’s toile monogram marks.

¹⁴ T&T also uses Louis Vuitton’s toile monogram marks as a border on its webpage selling the counterfeit bags. (See Allan Decl., Ex. 69.)

b. Infringing Marks

The test for trademark infringement is whether the accused mark is “likely to cause confusion, or to cause mistake or to deceive.” 15 U.S.C. § 1114(1); *Certain Digital Multimeters and Prods. with Multimeter Functionality*, Inv. No. 337-TA-588, Initial Determination at 11 (Jan. 14, 2008). To determine whether a reasonable consumer is likely to be confused as to the source or sponsorship of the products, the Commission balances the following factors:

- a) the degree and similarity between the designation and the trademark or trade name in
 - i) appearance;
 - ii) the pronunciation of words used;
 - iii) verbal translation of the pictures or designs involved;
 - iv) suggestion
- b) the intent of the actor in adopting the designation;
- c) the relation in use and manner of marketing between the goods and services marketed by the actor and those by the other; and
- d) the degree of care likely to be exercised by purchasers.

See Restatement of Torts § 729 (1938)¹⁵; *Certain Digital Multimeters* at 11. “These factors imply no mathematical precision, but are simply a guide to help determine whether confusion is likely.” *Homeowners Grp., Inc., v. Homeowners Mktg Specialists, Inc.*, 931 F.2d 1100, 1107 (6th Cir. 1991). Not all factors are relevant or equally emphasized in each case. *Lamparello v.*

¹⁵ The Commission has consistently applied the “Factors in Confusing Similarity” from the Restatement of Torts since adopting them in 1981. *See Certain Coin Operated Audio Visual Games*, Inv. No. 337-TA-87, 0081 WL 667399, Comm’n Op. (June 25, 1981); *Certain Hair Irons and Components Thereof*, Inv. No. 337-TA-637, Order No. 14 at 18 (Mar. 10, 2009). Trademark law was excised from the Restatement of Torts with the publication of the Restatement (Second) of Torts in 1978. *See* Restatement (Second) of Torts, Division 9, Introductory Note. The likelihood of confusion factors have been expanded upon in the Restatement (Third) of Unfair Competition and by every federal court of appeals. *See Certain Purple Protective Gloves*, Inv. No. 337-TA-500, Order No. 17 at 13 (Sept. 23, 2004); Restatement (Third) of Unfair Competition §§ 21-23 (1995). Essentially, the Restatement (Third) of Unfair Competition adds four factors to the test from § 729 of the Restatement of Torts: (1) the strength or distinctiveness of the senior user’s mark; (2) where the goods or services are not competitive, the likelihood that prospective buyers would expect the senior user to expand into the field of the junior user; (3) where the goods or services are sold in different territories, the extent to which the senior user’s designation is known in the junior user’s territory; and (4) evidence of actual confusion. Restatement (Third) of Unfair Competition §§21-23 (1995); 4 J. Thomas McCarthy, *Trademarks and Unfair Competition* § 23:19. Each court of appeals applies its own set of factors similar to those found in the Restatement of Unfair Competition. *See, e.g., Autozone Inc. v. Strick*, 543 F.3d 923, 929 (7th Cir. 2008); *AMF Inc. v. Sleekcraft Boats*, 599 F.2d 341, 348-349 (9th Cir. 1979); *In re E.I. DuPont de Nemours & Co.*, 476 F. 2d 1357 (C.C.P.A 1973).

Falwell, 420 F.3d 309, 314-315 (4th Cir. 2005). The Commission may consider additional factors (e.g., strength of the mark, actual confusion), and all factors must be evaluated in the context of the ultimate question of likelihood of confusion as to the source or sponsorship of the product. See *Certain Purple Protective Gloves*, Inv. No. 337-TA-500, Order No. 17 at 13 (Sept. 23, 2004) (finding likelihood of confusion based, in part, on trademark's distinctiveness); *Certain Hair Irons* at 22 (finding likelihood of confusion based, in part, on evidence of actual confusion).

Louis Vuitton and Staff submit that the balance of the Restatement factors weigh in favor of a finding of trademark infringement. (Mem. at 34; Staff at 9-11.) Louis Vuitton focuses almost exclusively on evidence of intent and actual confusion, asserting that summary determination is appropriate based on these factors alone. (Mem. at 24-28.) Staff, for its part, contends that summary determination is warranted by the similarities in the marks and evidence of actual confusion. (Staff at 10.) All of the evidence submitted by Louis Vuitton as to intent and actual confusion relate to the actions of settled respondents or non-parties and thus, cannot be used to support a finding of violation by the defaulting respondents. See *Certain Plastic Molding Machines With Control Systems Having Programmable Operating Interfaces Incorporating General Purpose Computers and Components Thereof II*, Inv. No. 337-TA-462, Comm'n Op. at 19-20, USITC Pub. No. 3609 (July 2003) (determining that the activities of settled respondents cannot provide a basis for a section 337 violation because "[a] finding respecting violation is, in our view, inconsistent with a settlement of a case, since settlement is a means plainly designed to avoid the necessity (and expense to the government and parties) of a determination on matters no longer in issue before the agency."). While the undersigned is

convinced that there is a likelihood of confusion, the determination is based on the similarities between the marks and the strength of Louis Vuitton's registered marks.

i. Similarity of Marks

The similarity of marks is often the critical question in a likelihood of confusion analysis. *Fortune Dynamic, Inc. v. Victoria's Secret Stores Brand Mgmt, Inc.*, 618 F.3d 1025, 1031-32 (9th Cir. 2010). Similarities are evaluated in the context of the overall commercial impression conveyed by the infringing mark, and “[w]hile individual features may be dissimilar, the total effect may be one of similarity.” *See* Restatement Torts § 729, Comment on Clause (a). It is axiomatic that side-by-side comparison is not the test; rather, “the Court must ask . . . whether [differences] are likely to be memorable enough to dispel confusion on serial viewing.” *Louis Vuitton Malletier v. Burlington Coat Factory Warehouse Corp.*, 426 F.3d 532, 538 (2d. Cir. 2005); *Levi Strauss & Co. v. Blue Bell, Inc.*, 632 F.2d 817, 822 (9th Cir. 1980).

Louis Vuitton and Staff contend that the marks on the Defaulting Respondents' products are “plainly similar in overall appearance and commercial impression” to the toile monogram marks because they feature similar geometric patterns and color combinations as the genuine products.¹⁶ (Mem. at 32; Staff at 9-11.) After examining photographs of the accused and authentic products, the undersigned concludes that both the “knock-off monogram” and the “additional infringement monogram” create a commercial impression similar to that of Louis Vuitton's registered marks. The Defaulting Respondents' products all feature repeated geometric designs evocative of Louis Vuitton's toile monogram marks and use the chestnut and yellow color combination. (*See* Lichtmess Decl., Ex. A; Klug Decl., Exs. F-J; Allan Decl., Exs.

¹⁶ As further evidence of confusing similarity, Louis Vuitton cites two favorable decisions finding infringement by products like those sold by the Defaulting Respondents and [

] (Mem. at 30-31 (citing *T. Anthony Ltd. v. Malletier*, 93-Civ-6900, 1993 WL 659682, at *3 (S.D.N.Y. Nov. 24, 1993); *Louis Vuitton Malletier S.A. v. LY USA, Inc.*, 06-CV-13463 (S.D.N.Y. 2008)).)

34, 41, 67.) Where the genuine Louis Vuitton products have an interlocked LV, the Defaulting Respondents' products show a cursive P, or in the case of the "additional infringement," a distorted LV. The pinwheel, diamond with inset pinwheel, and circle with inset flower of a genuine Louis Vuitton product are depicted on the Defaulting Respondents' products as plus signs, diamonds, stars, and flowers, all with a variety of shapes inset. (See Klug Decl., Exs. F (House of Bags), G (Ronett Trading), H (EZ Shine), I (Master of Handbags), J (Choice Handbags); see also Allan Dec., Ex. 34 (Handbag Warehouse), Exs. 41, 67 (The Inspired Bagger).)

Though the shapes used on the accused handbags differ from those composing the toile monogram marks, exact identity is not required when goods fall within the same category of product. *Burlington Coat Factory Warehouse Corp.*, 426 F.3d at 583 n.3. Moreover, an overall impression of similarity is conveyed despite obvious differences in the quality of the products.¹⁷ The accused products use shapes and colors meant to evoke the toile monogram marks on the exact same category of product – handbags. *De Beers LV Trademark Ltd. v. DeBeers Diamond Syndicate, Inc.*, 440 F. Supp. 2d 249, 278-79 (S.D.N.Y. 2006) (although a marked difference in quality between authentic and accused products can reduce the likelihood of confusion, quality is one of the less probative factors in a likelihood of confusion analysis); *Virgin Enters. Ltd.*, 335 F.3d at 152 ("The issue of the quality of the secondary user's product goes more to the harm that confusion can cause the plaintiff's mark and reputation than to the likelihood of confusion."). The undersigned finds that the similarity in overall commercial impression between the Defaulting Respondents' products and Louis Vuitton's products weighs in favor of a finding of likelihood of confusion.

¹⁷ Louis Vuitton's products are made from high quality smooth matte leather, whereas the accused products are made from shiny PVC plastic.

ii. Intent

The intent to derive benefit from the reputation of the asserted trademarks constitutes strong evidence of confusion. *Brookfield Commc'n v. W. Coast Entm't Corp.*, 174 F.3d 1036, 1059 (9th Cir. 1999). A lack of intent to derive a benefit from the reputation of a trademark, however, is largely irrelevant in determining likelihood of confusion. *Id.* Louis Vuitton argues that the “overwhelming evidence of intent alone is sufficient to render a finding of trademark infringement.” (Mem. at 27.) The undersigned disagrees. The substance of Louis Vuitton’s argument focuses on “the Diophy Respondents,” all of whom entered into a settlement agreement with Louis Vuitton ten days before the Motion for Summary Determination was filed. (See Order No. 12.) As Staff notes, the activities of a settled respondent cannot provide a basis for a determination of violation of section 337. (Staff at 10 n.10; *Certain Digital Multimeters* at 5.) Louis Vuitton has not offered any evidence related to the intent of the Defaulting Respondents nor has Louis Vuitton argued that the intent can be inferred from the strength of its mark(s) and the similarity between marks.¹⁸ See 4 J. Thomas McCarthy, *Trademarks and Unfair Competition* § 23:116; *K-Swiss, Inc. v. USA Aisiqui Shoes, Inc.*, 291 F. Supp. 2d 1116, 1125 (E.D. Cal. 2003). Accordingly, the undersigned accords this factor no weight in the likelihood of confusion analysis.

¹⁸ While the Complaint alleges that bad faith “is evidenced by the infringing design itself” (*i.e.*, the use of the toile monogram and the chestnut and yellow color), this argument was not included in Louis Vuitton’s motion for summary determination. (See 2d Amended Compl. ¶ 47.) The Complaint also alleges that bad faith is evident in the appropriation of design elements from certain Louis Vuitton styles, including the use of a multi-color mark on a white or black background and superimposing images of cherries and flower blossoms over the toile monogram. (See 2d Amended Compl. ¶¶ 49, 50.) The products in the record originating from the Defaulting Respondents do not have these design elements.

iii. Manner of Marketing, Degree of Care, and Post-Purchase Confusion

Louis Vuitton ignores the Restatement factor addressing the manner of marketing of the accused and authentic goods,¹⁹ and dismisses the factor focusing on purchaser sophistication²⁰ in a single sentence, stating it is “largely irrelevant in a post-purchase confusion case.” (Mem at 33.) This sentence is the first and only time that Louis Vuitton addresses post-purchase confusion in its entire motion.²¹ Because the manner of marketing and degree of care factors focus on point of sale confusion, they are generally inapplicable in cases of post-purchase confusion where the actionable harm is confusion among the general public viewing the mark after purchase. *Gen. Motors Corp. v. Keystone Auto. Indus., Inc.*, 453 F.3d 351, 357 (6th Cir. 2006.); *Ferrari S.P.A. v. Roberts*, 944 F.2d 1235, 1245 (6th Cir. 1991). Louis Vuitton, despite its burden on summary determination to demonstrate it is entitled to relief, sets forth no argument as to post-purchase confusion and offers no evidence relating to its existence.²² Thus, the undersigned declines to make any findings related to the existence of post-purchase confusion.

¹⁹ Proximity in product use, marketing, and channels of distribution increase the likelihood of consumer confusion, while differences in the manner of marketing of the authentic and accused products weigh against a finding of likelihood of confusion. See Restatement Torts §729, Comment on Clause (c); *Team Tires Plus, Ltd. v. Tires Plus, Inc.*, 394 F.3d 831, 834 (10th Cir. 2005); *Estee Lauder Inc. v. The Gap, Inc.*, 108 F.3d 1503, 1512 (2d Cir. 1997).

²⁰ When a consumer exercises a high degree of care in selecting a product, likelihood of confusion is reduced. *Bd. of Supervisors for La. State Univ. Ag. and Mech. Coll. v. Smack Apparel, Co.* 550 F.3d 465, 483 (5th Cir. 2008). The degree of purchaser care typically corresponds to the price of the product in question. 4 McCarthy § 23:96; see *Kemp v. BumbleBee Seafoods, Inc.*, 398 F.3d 1049, 1055 (8th Cir. 2005) (with more expensive goods there is less confusion because they are purchased after careful consideration); *Smack Apparel*, 550 F.3d at 483 (inexpensive goods are often bought on impulse and the risk of confusion is increased).

²¹ The Complaint alleges that there is likely to be “consumer confusion as to the source of the infringing products and/or whether Louis Vuitton is somehow affiliated with or connected to the Proposed Respondents.” (See 2d Amended Compl. ¶ 53.) While this sentence may be broad enough to encompass post-purchase confusion and dilution, Louis Vuitton has not offered evidence of either.

²² Generally, a proponent of post-purchase confusion will argue that the public and the registered owner of a mark are harmed in a variety of ways, including: (1) the public and future purchasers may be deceived if expertise is required to distinguish between the authentic product and the knock off; (2) the purchaser of an authentic product may be harmed if the widespread existence of knockoffs decreases the original’s value by making the previously scarce commonplace; (3) consumers desiring high quality products may be harmed if the original manufacturer decreases its investment in quality in order to compete more economically with less expensive knockoffs; (4) the original manufacturer’s reputation for quality may be damaged if individuals mistake a knock-off for the original; (5) the original manufacturer’s reputation for rarity may be harmed by the influx of knockoffs onto the market; and

iv. Actual Confusion

Though not required to prevail on its trademark infringement claim, actual confusion is routinely considered by the Commission as proof of trademark infringement as it is “undoubtedly the best evidence of likelihood of confusion.” *Daddy’s Junky Music Stores, Inc. v. Big Daddy’s Family Music Center*, 109 F.3d 275, 284 (6th Cir. 1997); *Certain Strip Lights*, Inv. No. 337-TA-287, 1989 WL 608725 (June 27, 1989). Louis Vuitton and Staff contend that there is “substantial evidence” of actual confusion on the record. (Mem. 27-28; Staff at 10.) The undersigned concludes, however, that the evidence of actual confusion is unconvincing. [

] Handbag Express is not a defaulting respondent and has never been a party to this Investigation. There is no evidence linking Handbag Express to any of the Defaulting Respondents. As noted above, it is well settled that a violation of section 337 can only be established based on the acts of the Respondents in the investigation. *Certain Ink Markers and Packaging Thereof*, Inv. No. 337-TA-522, Order No. 30, Initial Determination, 2005 WL 2866049 (July 25, 2005). [

] Because actual confusion is not required for a finding of trademark infringement, the undersigned accords this factor no weight in the

(6) the original manufacturer may be harmed if sales decline due to the public’s fear that what they are purchasing may not be the original. *Gen. Motors*, 453 F.3d at 358 (6th Cir. 2006); *Hermes Int’l v. Lederer de Paris Fifth Ave., Inc.*, 219 F.3d 104, 108-109 (2d. Cir. 2000). Louis Vuitton does not advance any of these arguments.

likelihood of confusion analysis. *Louis Vuitton Malletier S.A. v. Haute Diggity Dogg, LLC*, 507 F.3d 252, 263 (4th Cir. 2007).

v. Strength of the Mark

Strong and famous marks are afforded wider latitude of legal protection. *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 1374 (Fed. Cir. 2005); *Virgin Enters. Ltd. v. Nawab*, 335 F.3d 141, 148 (2d Cir. 2003). The strength and fame of the toile monogram marks is beyond dispute. Louis Vuitton has been using the mark consistently for over a century on luxury handbags, luggage, and accessories. (Mem. at 7-8.) [

] The undersigned finds that the strength and fame of the toile monogram marks weighs in favor of a likelihood of confusion.

vi. Conclusion on Likelihood of Confusion

Because the toile monogram marks are valid and enforceable and the Defaulting Respondents' use creates a likelihood of confusion, the undersigned finds that Louis Vuitton is entitled to summary determination of trademark infringement.

C. Importation

To prove a violation of section 337, Louis Vuitton must show by "reliable, probative and substantial evidence" that the Defaulting Respondents imported, sold for importation or sold after importation into the United States the accused products bearing the marks at issue. *Certain Energy Drinks*, Inv. No. 337-TA-678, Order No. 34 at 22. Louis Vuitton and Staff contend that

no genuine issue of material fact exists as to whether the Defaulting Respondents imported or sold the accused products.²³ (Mem. at 14-15; Staff at 11.)

Louis Vuitton argues that importation has been established by the fact that the Defaulting Respondents defaulted. (Mem. at 37.) Indeed, “the facts alleged in the complaint will be presumed to be true with respect to the defaulting respondent.” 19 C.F.R. § 210.16(c)(1); *see also Certain Toner Cartridges and Components Thereof*, Inv. No. 337-TA-740, Order No. 26 at 11. Louis Vuitton and Staff further contend that the record is replete with evidence that each of the Defaulting Respondents have sold infringing merchandise after importation. (Mem. at 37; Staff at 11-12.) Louis Vuitton has provided invoices for, and photographs of, the infringing handbags it purchased from the Defaulting Respondents.²⁴ (*See* Statement of Undisputed Facts (“SUF”) ¶ 140 (citing Klug Decl. at ¶ 9, Ex. F (House of Bags)); SUF ¶ 143 (citing Klug Decl. at ¶ 9, Ex. G (Ronett)); SUF ¶ 145 (citing Klug Decl. at ¶ 9, Ex. H (EZ Shine)); SUF ¶ 147 (citing Klug Decl. at ¶ 9, Ex. I (Master of Handbags)); SUF ¶ 149 (citing Klug Decl. at ¶ 9, Ex. J (Choice Handbags)); SUF ¶¶ 136, 139 (citing Allan Decl. at ¶¶ 42, 68, Exs. 41, 67 (The Inspired Bagger)); SUF ¶ 154 (citing Klug Decl. at ¶ 9, Ex. L (T&T)).) The country of origin labels affixed to the products indicated they were “Made in China,” or purport to be “Made in France,” but are shipped from China. (*See* SUF ¶ 141 (House of Bags); ¶ 144 (Ronett); ¶ 146 (EZ Shine); ¶ 148 (Master of Handbags); ¶ 150 (Choice Handbags); ¶¶ 137, 139 (The Inspired Bagger); ¶¶ 155, 156 (T&T).) In view of the above, the undersigned finds that Louis Vuitton has satisfied its burden of establishing importation.

²³ On the issue of importation, Louis Vuitton’s motion focuses in-part on the actions of those Respondents who have settled. These arguments were not considered in determining the existence of a violation of section 337.

²⁴ With respect to Handbag Warehouse, Louis Vuitton offers evidence that the accused products were sold in the United States through the internet and that Handbag Warehouse supplied The Inspired Bagger with infringing goods. (SUF ¶¶ 151-152; Klug Decl. at ¶ 9, Ex. K; Allan Decl. at ¶ 36, Ex. 35.)

D. Conclusion

For the reasons stated hereinabove, there is no genuine issue of material fact relating to any element of a section 337 violation, and Louis Vuitton is entitled to summary determination as a matter of law. Therefore, it is the INITIAL DETERMINATION of the undersigned that Louis Vuitton's motion for summary determination (754-010) of violation be GRANTED with respect to the following Respondents: House of Bags, Ronett Trading, EZ Shine Group, Master of Handbags, Choice Handbags, Handbag Warehouse, T&T Handbag Industrial, and The Inspired Bagger. The undisputed substantial, reliable, and probative evidence shows that, with respect to said Respondents, a violation of section 337 of the Tariff Act of 1930, as amended, has occurred with respect to U.S. Trademark Registration Nos. 297,594; 1,643,625; 1,653,663; 2,773,107; 2,177,828; 2,181,753; and 1,519,828.

This Initial Determination is hereby certified to the Commission. Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review of the Initial Determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders on its own motion a review of the Initial Determination or certain issues herein.

RECOMMENDED DETERMINATION ON REMEDY AND BOND

I. REMEDY AND BONDING

The Commission's Rules provide that subsequent to an initial determination on the question of violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, the Administrative Law Judge shall issue a recommended determination concerning the appropriate remedy in the event that the Commission finds a violation of section 337, and the amount to the bond to be posted by respondents during Presidential review of the Commission action under section 337(j). See 19 C.F.R. 210.42(a)(1)(ii).

The Commission has broad discretion in selecting the form, scope and extent of the remedy in a section 337 proceeding. *Viscofan, S.A. v. Int'l Trade Comm'n*, 787 F.2d 544, 548 (Fed. Cir. 1986). Under Section 337(d)(1), if the Commission determines as a result of an investigation that there is a violation of section 337, the Commission is authorized to issue exclusion orders. 19 U.S.C. § 1337(d)(1). The Commission may issue a limited exclusion order, excluding the goods of the person(s) found in violation, or a general exclusion order, excluding all infringing goods regardless of source. *Certain Purple Protective Gloves*, Inv. No. 337-TA-500, Comm'n. Op. at 5 (Dec. 22, 2004).

Louis Vuitton requests that the undersigned recommend the issuance of a general exclusion order.²⁵ (Mem. at 39.) Staff supports Louis Vuitton's request. (Staff at 13-14.)

A. General Exclusion Order

Where there are defaulting respondents, and violation has been proven by "substantial, reliable and probative evidence," the Commission has the authority to issue a general exclusion

²⁵ Louis Vuitton indicated in its Complaint that it would also be seeking permanent cease and desist orders, but failed to request this relief in its motion. (See 2d Amended Compl. at 37.)

order if the requirements of Section 337(d)(2) are met.²⁶ *Certain Digital Multimeters, and Prods. with Multimeter Functionality*, Inv. No. 337-TA-588, Order No. 22 at 4; 26 (Jan. 14, 2008); *Certain Ink Markers*, Inv. No. 337-TA-522, Comm'n Op on Violation of Section 337, and on Remedy, the Public Interest and Bonding at 4 (Dec. 3, 2007). Section 337(d)(2) provides that a general exclusion order shall issue if it "is necessary to prevent circumvention of an exclusion order limited to products of named persons; or there is a pattern of violation of this section and it is difficult to identify the source of infringing products." 19 U.S.C. 1337(d)(2); *Certain Airless Paint Spray Pumps and Components Thereof*, Inv. No. 337-TA-90, Comm'n Op., at 18-19, 216 U.S.P.Q 465, 473 (Nov. 1981). A general exclusion order is appropriate if either statutory criterion is met. *Certain Toner Cartridges and Components Thereof*, Inv. No. 337-TA-740, Order No. 26 at 22 (June 1, 2011).

While the factors set forth in *Spray Pumps*²⁷ once guided the general exclusion order analysis, the analysis has recently refocused on the statutory language. *Id.* at 22; *Certain Ground Fault Circuit Interrupters and Prods. Containing Same*, Inv. No. 337-TA-615, Comm'n Op., 2009 WL852257, at *11 (Mar. 26, 2009); *see Certain Coaxial Cable Connectors & Components Thereof and Prods. Containing Same*, Inv. No. 337-TA-650, Initial Determination (not reviewed in relevant part), 2009 WL 3694421, at *71 n.42 (Oct. 13, 2009) (declining to implement *Spray Pumps* factors). Thus, while Louis Vuitton set forth evidence according to the *Spray Pumps* factors, the analysis contained herein focuses on the requirements identified in section

²⁶ Because certain respondents contested the current Investigation before electing to default or entering into settlement agreements, the Commission's authority to issue a general exclusion order arises under 337(d)(2). *See Certain Ink Markers*, Inv. No. 337-TA-522, Comm'n Op on Violation of Section 337, and on Remedy, the Public Interest and Bonding at 4 (Dec. 3, 2007).

²⁷ Under the *Spray Pumps* framework, the Commission based the determination of whether to issue a general exclusion order on whether a complainant had proven "a widespread pattern of unauthorized use" and other "business conditions from which one might reasonably infer that foreign manufacturers other than the respondents to the investigation may attempt to enter the U.S. market with infringing articles." *Spray Pumps*, 216 U.S.P.Q at 473. The Commission also provided illustrative examples of evidence sufficient to prove each prong. *Id.*

3377(d)(2). *See Certain Hair Irons and Components Thereof*, Inv. No. 337-TA-637, Order No. 14 at 26 (Mar. 10, 2009).

Because the undersigned determined *supra* that “substantial, reliable, and probative evidence” supports a finding of violation, analysis under section 337(d)(2) may proceed. As detailed herein, Louis Vuitton has offered substantial evidence of a pattern of violation of Section 337 and the near impossibility of accurately identifying the sources of the infringing products. Accordingly, the undersigned finds that a general exclusion order is warranted.

Louis Vuitton and Staff assert that the prevalence of infringing merchandise in the marketplace is evidence of a pattern of trademark violation.²⁸ Louis Vuitton notes that infringing products are found virtually everywhere in the United States, from Los Angeles, CA to Derry, NH. (Mem. at 43; SUF ¶¶ 165-166.) Infringing products have been found in stores, kiosks, flea markets, and trade shows in the United States, and are routinely offered for sale on major internet sites, including Overstock.com and eBay.com. (Mem. at 43-44; Staff at 14; SUF ¶¶ 167-168; Allan Decl., Ex. 46; Klug Decl., Exs. M-P.) The undersigned agrees that the overwhelming presence of counterfeit and infringing goods in the United States and the existence of countless sellers of the accused products support a finding of widespread violation. *See Certain Hydraulic Excavators and Components Thereof*, Inv. No. 337-TA-582, Comm’n Op., 2009 LEXIS 3356 (Feb. 3, 2009) (basing a pattern of violation, in part, on the identification of thousands of gray market products present in the United States); *Certain Toner Cartridges*, at 30 (basing a pattern of violation, in part, on the sheer number of manufacturers and resellers of the accused products).

²⁸ While evidence related to settled respondents cannot be used to support a finding of violation of section 337 as to defaulting respondents, it may be taken into consideration when determining whether a widespread pattern of violation justifies a general exclusion order. *Certain Ink Markers*, Inv. No. 337-TA-522, Initial Determination at 11 (July 25, 2005).

The undersigned finds that a pattern of violation of section 337 is further evinced by Louis Vuitton's extensive civil and criminal enforcement activities within the United States.

Specifically, [

] Continued infringement despite Louis Vuitton's diligence in policing its marks provides ample support for a finding of widespread violation. *Certain Toner Cartridges*, at 35 (relying on evidence of efforts to police violations as support for a general exclusion order); *Certain Cigarettes and Packaging Thereof*, Inv. No. 337-TA-643, Comm'n Op. at 25 (Oct. 1, 2009) (finding pattern of violation where infringing activity continued despite complainant's enforcement efforts).

Regarding the difficulty faced in identifying the source of counterfeit and infringing goods, Louis Vuitton argues that because many of the respondents in this Investigation defaulted and did not participate in discovery, source identification is "virtually impossible."²⁹ (Mem. at 52.) Staff submits that this difficulty is exacerbated by the fact that companies involved in selling the infringing goods frequently change their name and corporate form. (Staff at 15.) Louis Vuitton also notes that counterfeit and infringing products are routinely sold on the

²⁹ Louis Vuitton also argues that by defaulting, the Defaulting Respondents actually increase the risk of circumvention of a limited exclusion order. (Mem. at 53 ("Given their default, and refusal to provide this basic discovery, there is no practical way to prevent circumvention of a limited order because Louis Vuitton cannot know the identity of any new business set up by either T&T Industrial or the Inspired Bagger in order to avoid a limited order.").)

internet, which facilitates anonymity and allows infringers to evade U.S. law enforcement.³⁰
(Mem. at 51-52.)

The undersigned agrees with Staff and Louis Vuitton that the “difficult to identify” component of section 337(d)(2)(B) is satisfied. Indeed, identifying the source of the infringing products is next to impossible, as even the respondents that participated in this Investigation could not identify the manufacturers and distributors of the infringing merchandise they sold. (Mem. at 41-42; SUF ¶¶ 85-87.) Moreover, the inherent nature of counterfeited goods is the concealment of the actual source of the products. *Certain Toner Cartridges*, at 34-35. Because the counterfeited products bear Louis Vuitton’s toile monogram marks and contain labels stating that the bags were “Made in France by Louis Vuitton,” the undersigned notes that it is all but impossible to determine their actual source. (Klug Decl., Ex. L.) The use of the internet to distribute products, and the ease with which infringing companies are formed and dissolved, makes source identification of the infringers and counterfeiters of the toile monogram marks that much more difficult. *Certain Hair Irons*, at 29 (noting that distribution over the internet lends itself to anonymity and creates difficulty in ascertaining the source of the products); *Certain Toner Cartridges*, at 33 (the source of a product is easily obscured when businesses can be quickly established and dismantled).

Because a pattern of violation of section 337 is present and it is difficult to accurately identify the sources of the infringing products, the undersigned recommends that the Commission issue a general exclusion order.

³⁰ While Louis Vuitton argues that issuing a general exclusion order is consistent with the public interest, such factors are not to be considered by the ALJ when rendering a determination on violation unless expressly ordered by the Commission. (19 C.F.R. § 210.50(b)(1).)

B. Bond During Presidential Review

Pursuant to section 337(j)(3), the Administrative Law Judge and the Commission must determine the amount of bond to be required of a respondent during the 60-day Presidential Review period following the issuance of permanent relief, in the event that the Commission determines to issue a remedy. The purpose of the bond is to protect the complainant from any injury. 13 C.F.R. §§ 210.42(a)(1)(ii), 210.50(a)(3).

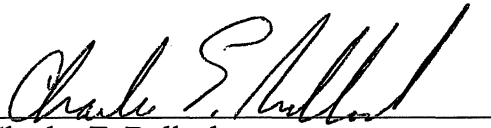
When reliable price information is available, the Commission has often sent the bond to eliminate the differential between the domestic product and the imported, infringing product. *See Certain Microsphere Adhesives, Processes for Making Same, and Prods. Containing Same, Including Self-Stick Repositionable Notes*, Inv. No. 337-TA-336, Comm'n Op. at 24 (1995). Louis Vuitton and Staff do not set forth any argument related to the amount of Bond.

Since none of the Defaulting Respondents participated in discovery, reliable price information is not available. In similar circumstances, the Commission has set the bond at 100% of the entered value of the imported infringing products. *See Certain Inkjet Ink Supplies and Components Thereof*, Inv. No. 337-TA-730, Order 14 at 32 (Aug. 3, 2011); *Certain Oscillating Sprinklers, Sprinkler Components and Nozzles*, Inv. No. 337-TA-448, USITC Pub. No. 3498, Limited Exclusion Order at 4-6 (Mar. 2002). The undersigned finds that there is insufficient reliable price information to set a bond based on price differential and recommends a bond of 100% during the Presidential review period.

Within seven days of the date of this document, each party shall submit to the Office of the Administrative Law Judges a statement as to whether or not it seeks to have any portion of this document deleted from the public version. The parties' submissions must be made by hard copy by the aforementioned date and must include a copy of this document with red brackets

indicating any portion asserted to contain confidential business information to be deleted from the public version, along with a list indicating each page on which such a bracket is to be found. The parties' submissions concerning the public version of this document need not be filed with the Commission.

SO ORDERED.



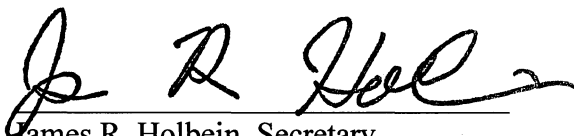
Charles E. Bullock
Chief Administrative Law Judge

**CERTAIN HANDBAGS, LUGGAGE, ACCESSORIES AND
PACKAGING THEREOF**

337-TA-754

CERTIFICATE OF SERVICE

I, James R. Holbein, hereby certify that the attached **PUBLIC VERSION ORDER NO. 16** has been served by hand upon the Commission Investigative Attorney, Juan S. Cockburn, Esq., and the following parties as indicated, on March 13, 2012.



James R. Holbein, Secretary
U.S. International Trade Commission
500 E Street, SW
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On Behalf of Complainants Louis Vuitton Malletier S.A.;
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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN HANDBAGS, LUGGAGE,
ACCESSORIES, AND PACKAGING
THEREOF**

Investigation No. 337-TA-754

**NOTICE OF COMMISSION DETERMINATION TO REVIEW-IN-PART THE ALJ'S
FINAL INITIAL DETERMINATION FINDING RESPONDENTS T&T HANDBAG
INDUSTRIAL CO. LTD. AND THE INSPIRED BAGGER IN DEFAULT AND
TERMINATING THE INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review-in-part the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 14) finding T&T Handbag Industrial Co., Ltd. of Guangzhou, China ("T&T") and The Inspired Bagger of Dallas, Texas ("Bagger") in default and terminating the investigation. On review, the Commission has determined to reverse the portion of the ID terminating the investigation. The Commission has also determined to reverse Order No. 13, denying a motion of complainants Louis Vuitton Malletier S.A. of Paris, France and Louis Vuitton U.S. Manufacturing, Inc. of San Dimas, California (collectively "Louis Vuitton") for leave to file a motion for summary determination of violation and for entry of a general exclusion order ("GEO") out of time. The investigation is remanded to the ALJ for consideration of the summary determination motion, or in the alternative, to provide Louis Vuitton the opportunity for an evidentiary hearing.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2301. 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, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://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 January 5, 2011, based on a complaint filed by Louis Vuitton, as amended on December 10, 2010, alleging violations of Section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain handbags, luggage, accessories, and packaging thereof by reason of infringement of certain claims of U.S. Trademark Registration Nos. 297,594; 1,643,625; 1,653,663; 1,875,198 (“the ‘198 mark”); 2,773,107; 2,177,828; 2,181,753; and 1,519,828. 76 *Fed. Reg.* 585-6 (Jan. 5, 2011). Louis Vuitton later withdrew its allegations as to its ‘198 mark in the Second Amended Complaint filed March 24, 2011. *See* 76 *Fed. Reg.* 24522 (May 2, 2011). The complainant named numerous respondents, including T&T and Bagger. The Commission has previously either found all of the remaining respondents in default or has terminated them from the investigation based on settlement and consent orders. *See* Notice (Aug. 17, 2011) (Order No. 11); Notice (Aug. 26, 2011) (Order No. 12).


On June 23, 2011, Louis Vuitton moved for an order directing T&T and Bagger to show cause why they should not be found in default. Louis Vuitton further requested entry of an ID finding T&T and Bagger in default and stated that it would be requesting a general exclusion order. The Commission investigative attorney (“IA”) consented to the motion. On August 16, 2011, Louis Vuitton attempted to file a motion for summary determination of violation and entry of a GEO, but the motion was not accepted due to late filing. Louis Vuitton filed an unopposed motion to file its summary motion one day late on August 17, 2011. The ALJ denied this motion in Order No. 13, which he issued on September 1, 2011. Also on September 1, 2011, the ALJ issued Order No. 14, finding T&T and Bagger in default and terminating the investigation. On September 7, 2011, Vuitton filed a motion for reconsideration of Order No. 13, which the ALJ declined to consider.

On September 16, 2011, the Commission determined that Order No. 14 is a final ID pursuant to Commission Rule 210.42(a) (19 C.F.R. § 210.42(a)). Notice (Sept. 16, 2011). On September 15, 2011, Louis Vuitton filed a petition for review of Order No. 14 and requested reconsideration of Order No. 13. On September 22, 2011, the IA, the only other party left in the investigation, filed a response, supporting in part Louis Vuitton’s petition for review.

The Commission has determined to review Order No. 14 in part and, on review, to reverse the termination of the investigation. The Commission has also determined to reverse Order No. 13. The Commission remands the investigation to the ALJ for him to consider Louis Vuitton’s motion for summary determination of violation and request for entry of a general exclusion order or, in the alternative, to provide Louis Vuitton the opportunity for an evidentiary hearing.

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 section 210.43 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.43).

By order of the Commission.



James R. Holbein
Secretary to the Commission

Issued: November 2, 2011

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436**

In the Matter of

**CERTAIN HANDBAGS, LUGGAGE,
ACCESSORIES, AND PACKAGING
THEREOF**

Investigation No. 337-TA-754

ORDER: REVERSAL-IN-PART AND REMAND OF INITIAL DETERMINATION

The Commission instituted this investigation on January 5, 2011, based on a complaint filed by Louis Vuitton Malletier S.A. of Paris, France and Louis Vuitton U.S. Manufacturing, Inc. of San Dimas, California (collectively “Louis Vuitton”), as amended on December 10, 2010, alleging violations of Section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain handbags, luggage, accessories, and packaging thereof by reason of infringement of U.S. Trademark Registration Nos. 297,594; 1,643,625; 1,653,663; 1,875,198 (“the ‘198 mark”); 2,773,107; 2,177,828; 2,181,753; and 1,519,828. 76 *Fed. Reg.* 585-6 (Jan. 5, 2011). Louis Vuitton later withdrew its allegations as to its ‘198 mark in the Second Amended Complaint filed March 24, 2011. *See* 76 *Fed. Reg.* 24522 (May 2, 2011). The complainant named numerous respondents, including T&T Handbag Industrial Co., Ltd. of Guangzhou, China (“T&T”) and The Inspired Bagger of Dallas, Texas (“Bagger”). The Commission has previously either found all of the remaining respondents in default or has terminated them from the investigation based on settlement and consent orders. *See* Notice (Aug. 17, 2011) (Order No. 11); Notice (Aug. 26, 2011) (Order No. 12).

On June 23, 2011, Louis Vuitton moved for an order directing T&T and Bagger to show

cause why they should not be found in default. Louis Vuitton further requested entry of an ID finding T&T and Bagger in default. The Commission investigative attorney (“IA”) supported the motion. On July 21, 2011, pursuant to Commission Rule 210.16, the former presiding administrative law judge (“ALJ”) issued Order No. 10, instructing T&T and Bagger to show cause why they should not be found in default by August 5, 2011. *See* Order No. 10 (July 21, 2011). No response was received from T&T or Bagger.

According to the amended procedural schedule, Louis Vuitton was due to file its motion for summary determination on violation on August 16, 2011. Order No. 8 (July 5, 2011). Due to missteps involving its copy vendor and messenger service, Louis Vuitton’s motion did not arrive at the Commission’s Office of Docket Services until shortly after it had closed at 5:15 p.m. on August 16. On August 17, 2011, Louis Vuitton moved for leave to file one day out-of-time its Motion for Summary Determination of Violation and for Entry of a General Exclusion Order. *See* Unopposed Motion of Complainants Louis Vuitton Malletier S.A. and Louis Vuitton U.S. Manufacturing, Inc. for Leave to File Motion for Summary Determination of Violation and for Entry of a General Exclusion Order Out Of Time (August 17, 2011). The currently presiding ALJ denied Louis Vuitton’s motion. *See* Order No. 13 (Sept. 1, 2011). Also on September 1, 2011, the ALJ issued Order No. 14, an ID finding T&T and Bagger in default. The ID further stated that the investigation is terminated. Prior to the ALJ rejecting Louis Vuitton’s summary determination motion, the IA timely filed a response to the motion on August 30, 2011. *See* Response of the Commission Investigative Staff to Complainants’ Motion for Summary Determination of Violation and for Entry of a General Exclusion Order (Aug. 30, 2011). On September 7, 2011, Vuitton filed a motion for reconsideration of Order No. 13, containing three Declarations in support. The ALJ declined to consider this motion. Notice to the Parties


Regarding Request for Reconsideration (Sept. 8, 2011).

On September 16, 2011, the Commission determined that Order No. 14 is a final initial determination pursuant to Commission Rule 210.42(a), thereby making all issues decided by the ALJ ripe for review. Notice (Sept. 16, 2011). On September 15, 2011, Louis Vuitton filed a petition for review of Order No. 14 and requested reconsideration of Order No. 13. On September 22, 2011, the IA filed a response, supporting in part Louis Vuitton's petition for review.

Upon consideration of this matter, the Commission hereby ORDERS that:

1. Order No. 13 is reversed and Louis Vuitton's motion for summary determination of violation and for entry of a general exclusion order is accepted.
2. Order No. 14 is reversed-in-part with respect to the termination of the investigation.
3. The matter is remanded to the presiding administrative law judge Chief Judge Charles E. Bullock to consider Louis Vuitton's motion for summary determination of violation and for entry of a general exclusion order.
4. Notice of this Order shall be served on the parties to this investigation.

By order of the Commission.


James R. Holbein
Secretary to the Commission


Issued: November 2, 2011

**CERTAIN HANDBAGS, LUGGAGE, ACCESSORIES AND
PACKAGING THEREOF**

337-TA-754

CERTIFICATE OF SERVICE

I, James R. Holbein, hereby certify that the attached **NOTICE** has been served by hand upon the Commission Investigative Attorney, Juan S. Cockburn, Esq., and the following parties as indicated, on **November 2, 2011**.



James R. Holbein, Secretary
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

**On Behalf of Complainants Louis Vuitton Malletier S.A.
and Louis Vuitton U.S.:**

Michael J. Allan, Esq.
STEPTOE & JOHNSON LLP
1330 Connecticut Ave., NW
Washington, DC 20036

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Respondents:

T&T Handbag Industrial Co., Ltd.
Room 4202, Tower B, KingGu Building
HeGuang Road, TianHe District
Guangzhou, China

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

The Inspired Bagger
8444 Endicott Lane
Dallas, TX 75227

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN HANDBAGS, LUGGAGE,
ACCESSORIES AND PACKAGING THEREOF

Inv. No. 337-TA-754

**ORDER NO. 14: INITIAL DETERMINATION FINDING RESPONDENTS T&T
HANDBAG INDUSTRIAL CO. LTD. AND THE INSPIRED
BAGGER IN DEFAULT AND TERMINATING THE
INVESTIGATION**

(September 1, 2011)

On June 23, 2011, Complainants Louis Vuitton Malletier S.A. and Louis Vuitton U.S. Manufacturing, Inc. ("Louis Vuitton") moved (754-006) for an order directing Respondents T&T Handbag Industrial Co. Ltd. ("T&T") and The Inspired Bagger ("Bagger")¹ to show cause why they should not be found in default for failure to respond to the Amended Complaint and Notice of Investigation, or otherwise participate in this Investigation. Louis Vuitton further requested entry of an Initial Determination finding T&T and Bagger in default. The Commission Investigative Staff consented to the requested relief.

On July 21, 2011, pursuant to Rule 210.16 of the Commission's Rules of Practice and Procedure, former Chief Administrative Law Judge Luckern issued Order No. 10, whereby T&T and Bagger were ordered to show why they should not be found in default by August 5, 2011. *See* 19 C.F.R. § 210.16; *see also* Order No. 10 (July 21, 2011). No response was received from T&T or Bagger.

¹ T&T and Bagger are the last two Respondents remaining in this Investigation. The other Respondents have either settled and have signed consent order stipulations or have been found in default.

Commission Rule 210.16 provides in pertinent part, as follows:

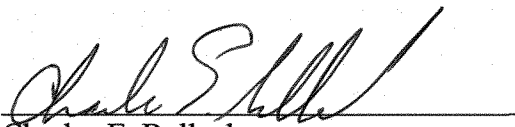
A party shall be found in default if it fails to respond to the complaint and notice investigation in the manner prescribed in § 210.13 or § 210.59(c), or otherwise fails to answer the complaint and notice, and fails to show cause why it should not be found in default.

19 C.F.R. § 210.16(a)(1). The Commission's Rules further provide that "[a] party found in default shall be deemed to have waived its right to appear, to be served with documents, and to contest the allegations at issue in the investigation. *See* 19 C.F.R. § 210.16(b)(3).

Accordingly, it is the INITIAL DETERMINATION of the undersigned that Respondents T&T and Bagger be found in default, thereby terminating this Investigation. In light of this determination, T&T and Bagger are deemed to have waived their right to appear, be served with documents, and to contest the allegations at issue in this Investigation.

Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review of the Initial Determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders on its own motion a review of the Initial Determination or certain issues contained herein.

SO ORDERED.

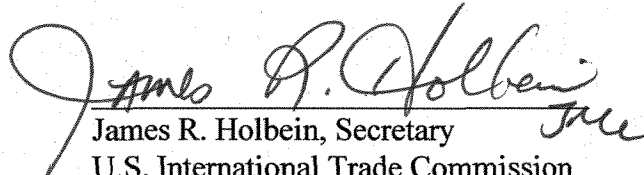

Charles E. Bullock
Acting Chief Administrative Law Judge

**CERTAIN HANDBAGS, LUGGAGE, ACCESSORIES AND
PACKAGING THEREOF**

337-TA-754

CERTIFICATE OF SERVICE

I, James R. Holbein, hereby certify that the attached **ORDER NO. 14** has been served by hand upon the Commission Investigative Attorney, Juan S. Cockburn, Esq., and the following parties as indicated, on September 2, 2011.


James R. Holbein, Secretary
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

**On Behalf of Complainants Louis Vuitton Malletier S.A.;
Louis Vuitton U.S. Manufacturing, Inc.:**

Michael J. Allan, Esq.
STEPTOE & JOHNSON LLP
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Washington, DC 20036
P-202-429-6749
F-202-429-3902

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

Respondents:

T&T Handbag Industrial Co., Ltd.
Room 4202, Tower B, KingGu Building
HeGuang Road, TianHe District
Guangzhou, China

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 INTERNATIONAL

The Inspired Bagger
8444 Endicott Lane
Dallas, TX 75227

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

PUBLIC MAILING LIST

Heather Hall
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9443 Springboro Pike
Miamisburg, OH 45342

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- Via Overnight Mail
- Via First Class Mail
- Other: _____

Kenneth Clair
Thomson West
1100 Thirteen Street, NW, Suite 200
Washington, DC 20005

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN HANDBAGS, LUGGAGE,
ACCESSORIES, AND PACKAGING
THEREOF**

Investigation No. 337-TA-754

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION FINDING CERTAIN RESPONDENTS IN DEFAULT**

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 the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 11) finding respondents Trendy Creations, Inc. of Chatsworth, California ("Trendy Creations"); House of Bags of Los Angeles, California ("House of Bags"); Ronett Trading, Inc. (d/b/a/ Ronett Wholesale & Import) of New York, New York ("Ronett"); EZ Shine Group, Inc. of New York, New York ("EZ Shine"); Master of Handbags of Los Angeles, California ("Master of Handbags"); Choicehandbags.com, Inc. (d/b/a/ Choice Handbags) of Los Angeles, California ("Choice Handbags"); and Rasul Enterprises, LLC (d/b/a/ The Handbag Warehouse) of Dallas, Texas ("Rasul") in default.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2301. 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, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://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 January 5, 2011, based on a complaint filed by Louis Vuitton Malletier S.A. of Paris, France and Louis Vuitton U.S. Manufacturing, Inc., San Dimas, California (collectively "Louis Vuitton"), based on an Amended Complaint filed December 10, 2010, alleging violations of Section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain handbags, luggage, accessories, and packaging thereof by reason of infringement of certain claims of U.S. Trademark Registration Nos. 297,594; 1,643,625; 1,653,663; 1,875,198; 2,773,107; 2,177,828;

2,181,753; and 1,519,828. 76 *Fed. Reg.* 585-6 (Jan. 5, 2011). The complaint named numerous respondents, including Trendy Creations, House of Bags, Ronett, EZ Shine, Master of Handbags, Choice Handbags, and Rasul.

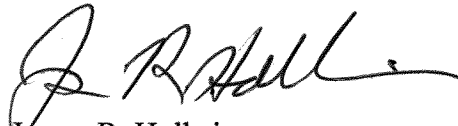
On January 25, 2011, respondents Trendy Creations, House of Bags, Ronett, EZ Shine, Master of Handbags, Choice Handbags, and Rasul filed a notice electing to default, requesting that the ALJ treat the notice as a motion for default. On February 4, 2011, complainant Louis Vuitton filed a conditional opposition to the motion, asking that the motion be denied at least until further discovery could be taken to determine the identity of potential additional respondents that may be related to the currently named respondents. On July 5, 2011, Louis Vuitton indicated that it does not object to the motion. The Commission investigative attorney did not file a response.

On July 21, 2011, the ALJ issued the subject ID, finding respondents Trendy Creations, House of Bags, Ronett, EZ Shine, Master of Handbags, Choice Handbags, and Rasul in default. No petitions for review of this ID were filed.

The Commission has determined not to review the ID.

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 sections 210.16 (a)(2) and (b)(2) and 210.42 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.16 (a)(2) and (b)(2) and 210.42).

By order of the Commission.



James R. Holbein
Secretary to the Commission


Issued: August 17, 2011

**CERTAIN HANDBAGS, LUGGAGE, ACCESSORIES AND
PACKAGING THEREOF**

337-TA-754

CERTIFICATE OF SERVICE

I, James R. Holbein, hereby certify that the attached **NOTICE** has been served by hand upon the Commission Investigative Attorney, Juan S. Cockburn, Esq., and the following parties as indicated, on August 17, 2011 .


James R. Holbein, Secretary
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

**On Behalf of Complainants Louis Vuitton Malletier S.A.
and Louis Vuitton U.S.:**

Michael J. Allan, Esq.
STEPTOE & JOHNSON LLP
1330 Connecticut Ave., NW
Washington, DC 20036

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

**On Behalf of Respondents Alice Bei Wang; Meada
Corporation; Pacpro, Inc.; Trendy Creations, Inc.;
House of Bags; Ronett Trading, Inc.; EZ Shine Group,
Inc.; Master of Handbags; Choicehandbag.com, Inc.;
Zhixian Lu; and Rasul Enterprises, LLC:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20036

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Respondents:

T&T Handbag Industrial Co., Ltd.
Room 4202, Tower B, KingGu Building
HeGuang Road, TianHe District
Guangzhou, China

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- INTERNATIONAL

Rimen Leather Co., Ltd., Guangzhou Rimen Leather Goods
Company Limited, Guangzhou Rui Ma Leatherware Co.,
Ltd.
Eastern Industrial Area, #107 National Highway
Xinhua Street, Huadu District,
Guangzhou, China 510800

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- INTERNATIONAL

Jiu Gao Zheng, Jiu An Zheng
886 S. Golden West Avenue
Arcadia, CA 91007-6563

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- INTERNATIONAL

Jiu An Zheng
Dongxiang Lu No. 22
Hongqiao Town, Leqing City
Zhejiang Province, China

- Via Hand Delivery
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- Via First Class Mail
- INTERNATIONAL

The Inspired Bagger
8444 Endicott Lane
Dallas, TX 75227

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Monhill, Inc.
1108 W. Valley Blvd., #6-370
Alhambra, CA 91803

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- INTERNATIONAL

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

CERTAIN HANDBAGS, LUGGAGE,
ACCESSORIES AND PACKAGING
THEREOF

Inv. No. 337-TA-754

Order No. 11: Initial Determination Finding Certain Respondents In Default

In a filing dated January 25, 2011, and titled "Notice of Election To Default" respondents Trendy Creations, Inc., House of Bags, Ronett Trading, Inc., EZ Shine Group, Inc., Master of Handbags, Choicehandbag.com, Inc. and Rasul Enterprise, LLC, having considered the ongoing burden and expense of participation in this proceeding, hereby elected to raise no further defense in this investigation and default, citing Certain Ink Cartridges & Components Thereof, Inv. No. 337-TA-565, Comm'n Notice (Oct. 25, 2006) ("Ink Cartridges"). Accordingly, said respondents requested that the administrative law judge treat said Notice as a Motion for Default, citing Ink Cartridges, Inv. No. 337-TA-565, Order No. 17, at 1 (Oct. 3, 2006).¹ Complainants, in fn. 1 of a motion to amend the procedural schedule filed July 5, 2011, stated that they do not object to Motion No. 754-1. Accordingly said respondents are found in default.

On July 21, 2011, each of the parties received a copy of this order.

This initial determination, pursuant to Commission rule 210.42(c), is hereby CERTIFIED to the Commission. Pursuant to Commission rule 210.42(h)(3), this initial determination shall become the determination of the Commission within thirty (30) days after the date of service

¹ The administrative law judge in a notice dated January 26, 2011, treated said filing as Motion No. 754-1.

hereof unless the Commission grants a petition for review of this initial determination pursuant to Commission rule 210.43, or orders on its own motion a review of the initial determination or certain issues therein pursuant to Commission rule 210.44.

On July 21, 2011, each of the parties received a copy of this order.



Paul J. Luckern
Chief Administrative Law Judge

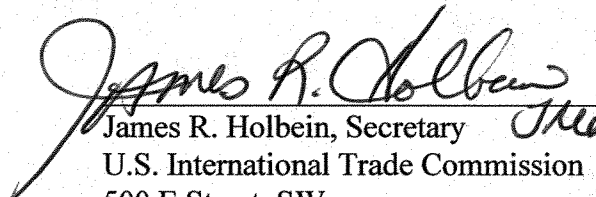
Issued: July 21, 2011

**CERTAIN HANDBAGS, LUGGAGE, ACCESSORIES AND
PACKAGING THEREOF**

337-TA-754

CERTIFICATE OF SERVICE

I, James R. Holbein, hereby certify that the attached **Order** has been served by hand upon the Commission Investigative Attorney, Juan S. Cockburn, Esq., and the following parties as indicated, on July 21, 2011.


James R. Holbein, Secretary
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

**On Behalf of Complainants Louis Vuitton Malletier S.A.;
Louis Vuitton U.S. Manufacturing, Inc.:**

Michael J. Allan, Esq.
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P-202-429-6749
F-202-429-3902

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 Other: _____

**For Respondents Alice Bei Wang (a/k/a Alice B. Wang);
Meada Corporation (d/b/a Diophy International); Trendy
Creations, Inc.; House of Bags; Ronett Trading, Inc. (d/b/a
Ronett Wholesale & Import); EZ Shine Group, Inc.;
Master of Handbags; Choicehandbag.com, Inc. (d/b/a
Choice Handbags); Rasul Enterprises, LLC (d/b/a The
Handbag Warehouse); Pacpro, Inc.:**

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Respondents:

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Guangzhou, China

- Via Hand Delivery
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- INTERNATIONAL

Rimen Leather Co., Ltd., Guangzhou Rimen Leather Goods
Company Limited, Guangzhou Rui Ma Leatherware Co., Ltd.
Eastern Industrial Area, #107 National Highway
Xinhau Street, Huadu District
Guangzhou, China 510800

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- Via Overnight Mail
- Via First Class Mail
- INTERNATIONAL

Jiu Gao Zheng, Jiu An Zheng
886 S. Golden West Avenue
Arcadia, CA 91007

- Via Hand Delivery
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- Other: _____

Jiu An Zheng
Dongxiang Lu No. 22
Hongqiao Town, Leqing City
Zhejiang Province, China

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- Other: _____