

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC**

In the Matter of

**CERTAIN FOLDABLE REUSABLE
DRINKING STRAWS AND COMPONENTS
AND ACCESSORIES THEREOF**

Investigation No. 337-TA-1183

GENERAL EXCLUSION ORDER

The United States International Trade Commission (“Commission”) has determined that there is a violation of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), in the unlawful importation, sale for importation, or sale within the United States after importation of certain foldable reusable drinking straws and components and accessories thereof that infringe one or more of claims 1-12 and 14-17 of U.S. Patent No. 10,123,641 (“the ’641 patent”).

Having reviewed the record of this investigation, including the written submissions of the parties, the Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that a general exclusion from entry for consumption is necessary to prevent circumvention of an exclusion order limited to products of named persons or 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 certain foldable reusable drinking straws and components and accessories thereof.

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

during the Presidential review period shall be in the amount of one hundred percent (100%) of the entered value of the articles in question.

Accordingly, the Commission **ORDERS** that:

1. Foldable reusable drinking straws and components and accessories thereof (as defined in paragraph 2) that infringe one or more of claims 1-12 and 14-17 of the '641 patent are excluded from entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, for the remaining term of the patent, except under license of, or with the permission of, the patent owner or as provided by law.
2. The foldable reusable drinking straws and components and accessories thereof that are subject to this Order (*i.e.*, “covered articles”) are as follows: individual foldable reusable drinking straws and components thereof, cases used to store the foldable reusable drinking straws, and tools used for cleaning the foldable reusable drinking straws.
3. Notwithstanding paragraph 1 of this Order, covered articles are entitled to entry for consumption into the United States, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption under bond in the amount of one hundred percent (100%) of the entered value of the products, pursuant to subsection (j) of section 337 (19 U.S.C. § 1337(j)) and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (*70 Fed. Reg.* 43,251), from the day after this Order is received by the United States Trade Representative 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. All entries of covered articles made pursuant to this paragraph are to be reported to U.S. Customs and Border Protection (“CBP”), in advance of the date of the entry, pursuant to procedures CBP establishes.
4. At the discretion of CBP and pursuant to procedures that it establishes, persons seeking to import articles 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 paragraph 1 of this Order. At its discretion, CBP 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.
 5. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to covered articles 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. 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).
 7. The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to COVID-19, the Office of the Secretary is not able to serve

parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR §§ 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

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

By order of the Commission

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', with a stylized flourish at the end.

Lisa R. Barton
Secretary to the Commission

Issued: January 28, 2021