

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

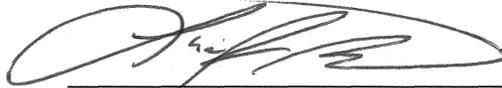
Issued: May 30, 2012

**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.:**

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