



complainant Dart Industries, Inc.

This Action and Order provides for the final disposition of investigation No. 337-TA-152 by the Commission.,

### Background

A complaint was filed with the Commission on June 9, 1983, alleging, inter alia, the unfair methods of competition and unfair acts described above. On July 1, 1983, the Commission determined to institute an investigation into those allegations to determine whether there is a violation of subsection (a) of section 337 and published notice thereof. 48 Fed. Reg. 32095 (July 13, 1983).

On April 13, 1984, the Commission's presiding officer issued an initial determination finding a violation of section 337. The Commission determined~ not to review the initial determination and, accordingly, the initial determination became the Commission's determination. 19 C.F.R. § 210.53(h). Notice thereof was published in the Federal Register, 49 Fed. Reg. 21807 (May 23, 1984). In the same notice, the Commission requested submissions on the appropriate relief to be issued, on the public interest factors (19 U.S.C. §§ 1337(d) and (f)), and on the amount of bond during the 60-day Presidential review period (19 U.S.C. § 1337(g)).

### Action

Having reviewed the record in this investigation, including the initial determination of the presiding officer and the submissions on relief, the public interest, and bonding, the Commission, on July 12, 1984, determined that -

1. The appropriate relief is
  - (a) an exclusion order pursuant to 19 U.S.C. S 1337(d), limited to the respondents,

excluding from entry packaging for plastic food storage containers which bears the trademarks "Tupper-ware", "Handolier", "Wonderlier", and/or "Classic Sheer", or colorable imitations thereof, and

- (b) cease and desist orders to the respondents (I) prohibiting use of the aforementioned trademarks on respondents' packaging, (ii) prohibiting respondents from using the subject trademarks in advertising, (iii) prohibiting respondents from advertising the interchangeability of respondents' products with complainant's products, (iv) prohibiting respondents from aiding and/or encouraging others to use the subject trademarks in connection with respondents' products, and (v) prohibiting respondents from aiding and/or encouraging others to advertise the interchangeability of respondents' products with complainant's products;
2. The public interest factors enumerated in subsections (d) and (f) of section 337 of the Tariff Act of 1930 do not preclude the issuance of the exclusion order and the cease and desist orders referred to in paragraph 1 above; and
3. The bond provided for in subsection (g)(3) of section 337 of the Tariff Act of 1930 during the period this matter is before the President shall be in the amount of 100 percent of the entered value of the imported packaging, provided that if the imported packaging contains plastic food storage containers the bond shall be in the amount of 100 percent of the entered value of the imported packaging and containers.

#### Order

Accordingly, it is hereby ORDERED THAT -

1. Packages for plastic food storage containers (whether or not such packages contain plastic food storage containers) manufactured by or on behalf of, imported by or on behalf of, or consigned to Jui Feng Plastic Mfg. Co., Ltd.; Famous Associates, Inc.; Lamarle Hong Kong, Ltd.; International Porcelain, Inc. d/b/a International Sources; Peter Marcar; Morris A. Lauterman; David Y. Lei; David Y. Lei, Morris A. Lauterman, Peter Marcar d/b/a Lamarle; Lamarle, Inc.; Lamarle B.V.; and/or Griffith Bros. Ltd., or any successors, assigns, affiliated persons or companies, parents, subsidiaries or other related business entities of the aforementioned respondents, which bear the trademarks "Tupperware", "Handolier", "Wonderlier", and/or "Classic Sheer", or colorable imitations thereof, are excluded from entry into the United States, except where such importation is licensed by the owner of the trademarks;
2. Plastic food storage containers manufactured by or on behalf of, imported by or on behalf of, or consigned to any one or more of the aforementioned respondents, which are not imported in packages bearing the trademarks "Tupperware", "Handolier", "Wonderlier", and/or "Classic

Sheer", or colorable imitations thereof, are not subject to exclusion under this Order;

3. The articles to be excluded from entry into the United States shall be entitled to entry under bond in the amount of 100 percent of the entered value of the imported articles from the day after this order is received by the President pursuant to 19 U.S.C. § 1337(g) until such time as the President notifies the Commission that he approves or disapproves this action, but, in any event, not later than 60 days after the date of receipt, provided that if the imported packaging contains plastic food storage containers the bond shall be in the amount of 100 percent of the entered value of the imported packaging and containers;
4. Jui Feng Plastic Mfg. Co., Ltd.; Famous Associates, Inc.; Lamarle Hong Kong, Ltd.; International Porcelain, Inc. d/b/a International Sources; Peter Marcar; Morris A. Lauterman; David Y. Lei; David Y. Lei, Morris A. Lauterman, Peter Marcar d/b/a Lamarle; Lamarle, Inc.; Lamarle B.V.; and Griffith Bros. Ltd., shall cease and desist from engaging in the United States in registered trademark infringement, false designation of source, false advertising, and passing off, as provided in the cease and desist orders, attached hereto and made part hereof by reference;
5. The Secretary shall publish notice of this Action and Order in the Federal Register;
6. The Secretary shall serve a copy of this Action and Order and of the Commission opinion in support thereof 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 the Secretary of Treasury; and
7. The Commission may amend this Order in accordance with the procedure described in 19 C.F.R. § 211.57.

By order of the Commission.

Kenneth R. Mason  
Secretary

Issued: July 13, 1984