

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN INSULATED BEVERAGE
CONTAINERS, COMPONENTS,
LABELS, AND PACKAGING
MATERIALS THEREOF**

Inv. No. 337-TA-1084

INSTITUTION OF INVESTIGATION

Institution of Investigation pursuant to 19 U.S.C.1337

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 28, 2017, under section 337 of the Tariff Act of 1930, as amended, on behalf of YETI Coolers, LLC of Austin, Texas. An amended complaint was filed on October 27, 2017. A supplement to the amended complaint was filed on October 31, 2017. The amended complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain insulated beverage containers, components, labels, and packaging materials thereof by reason of infringement of U.S. Trademark Registration No. 5,233,441 (“the ’441 trademark”); U.S. Trademark No. 4,883,074 (“the ’074 trademark”); U.S. Copyright Registration No. VA 1-974-722 (“the ’722 copyright”); U.S. Copyright Registration No. VA 1-974-732 (“the ’732 copyright”); U.S. Copyright Registration No. VA 1-974-735 (“the ’735 copyright”); U.S. Design Patent No. D752,397 (“the ’397 design patent”); U.S. Design Patent No. D780,533 (“the ’533 design patent”); U.S. Design Patent No. D781,146 (“the ’146 design patent”); and U.S. Design Patent No. D784,775 (“the ’775 design patent”). The amended complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The amended complaint also alleges violations of section 337 based on the importation into the United States, or in the sale of certain insulated beverage containers, components, labels, and packaging materials thereof by reason of false advertising and passing off, the threat or effect of which is to destroy or substantially injure an industry in the United States.

The complainant requests that the Commission institute an investigation and, after the investigation, issue limited exclusion order and cease and desist orders.

ADDRESSES: The amended complaint, as supplemented, except for any confidential information contained therein, is 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., Room 112, Washington, D.C. 20436, telephone (202) 205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

SUPPLEMENTARY INFORMATION:

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10 (2017).

SCOPE OF INVESTIGATION: Having considered the amended complaint, the U.S. International Trade Commission, on November 15, 2017, ORDERED THAT –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) whether there is a violation of subsection (a)(1)(A) in the importation or sale of certain insulated beverage containers, components, labels, and packaging materials thereof by reason of false advertising or passing off, the threat or effect of which is to destroy or substantially injure an industry in the United States;

(b) whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain insulated beverage containers, components, labels, and packaging materials thereof by reason of infringement of one or more of the '722 copyright; the '732 copyright; the '735 copyright; the claim of the '397 design patent; the claim of the '533 design patent; the claim of the '146 design patent; and the claim of the '775 design patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(c) whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain insulated beverage containers, components, labels, and packaging materials thereof by reason of infringement of one or more of the '441 trademark and the '074 trademark; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

YETI Coolers, LLC
7601 Southwest Parkway
Austin, Texas 78735

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Alibaba (China) Technology Co., Ltd.
26/F Tower One, Times Square
1 Matheson Street, Causeway Bay
Hong Kong

Alibaba Group Holding Limited
c/o Alibaba Group Services Limited
26/F Tower One, Times Square
1 Matheson Street, Causeway Bay
Hong Kong

Alibaba.com Hong Kong Limited
26/F Tower One, Times Square
1 Matheson Street, Causeway Bay
Hong Kong

Alibaba.com Singapore E-Commerce Private Limited
26/F Tower One, Times Square
1 Matheson Street, Causeway Bay
Hong Kong

Bonanza.com, Inc.
3131 Western Ave, Suite 428
Seattle, WA 98121

ContextLogic, Inc. d/b/a/ Wish
1 Sansome Street, 40th Floor
San Francisco, CA 94104

Dunhuang Group
6F Dimeng Commercial Building
No. 3-2 Hua Yuan Road
Haidian District Beijing 100191
China

Hangzhou Alibaba Advertising Co., Ltd.
26/F Tower One, Times Square
1 Matheson Street, Causeway Bay
Hong Kong

Huizhou Dashu Trading Co., Ltd.
2001 Unit 2, #203 Building, Jinshanhu
Garden
Huanhu Third Road, Huicheng District
Huizhou City, Guangdong Province
China

Huagong Trading Co., Ltd.
WANGSHIZHUANG, QINGHE County,
Hebei, QINGH,
Hebei, China

Tan Er Pa Technology Co., Ltd.
Floor 9 10, No. 29 Qianlu
Manfeng Village Shajing
Kwai Chung N.T.
Hong Kong

Shenzhen Great Electronic Technology Co.,
Ltd.
Room 3108A, Modern International,
Jintian Rd, Futian District, Shenzhen,
China 518000

SZ Flowerfairy Technology Ltd.
115 Room, No. 12, Building Pinshangyuan
Xixiang Street, Baoan District, Shenzhen
China

(c) The Office of Unfair Import Investigations, U.S. International Trade
Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the amended complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.13. Pursuant to 19 C.F.R. 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the amended complaint and the notice of investigation. Extensions of time for submitting responses to the amended complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the amended complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the amended complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', written in a cursive style.

Lisa R. Barton
Secretary to the Commission

Issued: November 17, 2017