

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN LUXURY VINYL TILE AND
COMPONENTS THEREOF**

**Investigation No. 337-TA-1155
(Bond Return)**

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN
INITIAL DETERMINATION GRANTING COMPLAINANTS' MOTION
FOR RETURN OF BONDS DUE TO SETTLEMENT; RETURN OF BOND**

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 an initial determination ("ID") (Order No. 37) granting complainants' motion for return of bonds posted by Timeless Designs Import LLC ("Timeless Designs") on behalf of respondent Jiangsu Divine Building Technology Development Co. Ltd. ("Divine") during the period of Presidential review. The bonds at issue are hereby returned to Timeless Designs.

FOR FURTHER INFORMATION CONTACT: Lynde Herzbach, Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 205-3228. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.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: On May 16, 2019, the Commission instituted this investigation based on a complaint filed by Mohawk Industries, Inc. of Calhoun, Georgia; Flooring Industries Ltd. Sarl of Bertrange, Luxembourg; and IVC US Inc. of Dalton, Georgia (collectively, "Complainants"). 84 FR 22161 (May 16, 2019). The complaint, as supplemented, alleges a violation 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, or the sale within the United States after importation of certain luxury vinyl tiles by reason of infringement of certain claims of U.S. Patent Nos. 9,200,460; 10,208,490; and 10,233,655 (collectively, "the Asserted Patents"). *Id.* The complaint further alleges that a domestic industry exists. *Id.* The Commission's notice of investigation names forty-five respondents, including Divine of Jiangsu, China. *Id.* The Office of Unfair Import Investigations ("OUII") also participated in the investigation. *Id.*

On May 15, 2020, the presiding ALJ issued an ID granting a motion for summary determination of a violation of section 337. On September 16, 2020, the Commission affirmed the ID's finding of a violation. Comm'n Op. at 19-20 (Sept. 16, 2020); Order No. 36 (May 15, 2020). The Commission issued a general exclusion order ("GEO") with respect to the Asserted Patents. *Id.* The Commission also set a bond of \$0.08 per square foot of infringing luxury vinyl tile products and components thereof imported during the period of Presidential review. *Id.*

On January 27, 2021, Complainants filed a motion for the return of bonds posted by Timeless Designs on behalf of Divine pursuant to the GEO during the presidential review period based on a settlement agreement between Complainants and Divine. Timeless Designs is Divine's customer. On February 10, 2021, Complainants filed a supplement to the pending motion to include a redacted copy of the settlement agreement referenced therein between Complainants and Divine. On February 11, 2021, OUII filed a response supporting the motion as supplemented.

On March 26, 2021, the ALJ issued the subject ID, which grants Complainants' motion for the return of bonds pursuant to Commission Rule 210.50(d)(1) (19 CFR 210.50(d)(1)). Order No. 37 (Mar. 26, 2021). The ID notes that the presidential review period expired on November 16, 2020, and the motion, as supplemented, was filed on February 10, 2021, within 90 days of the expiration of the presidential review period. *Id.* The ID also notes that, pursuant to Commission Rule 210.50(d)(1), a respondent – not the complainant – is expected to file a motion for return of its bond. The ID finds, however, that as the motion was filed on behalf of, and with approval by, the respondent, Divine, and the settlement between the parties is comprehensive, there is no substantive or procedural reason to deny the request to return the bond. *Id.*

No party petitioned for review of the subject ID.

The Commission has determined not to review the subject ID. The bonds at issue are hereby ordered to be returned to Timeless Designs.

The Commission vote for this determination took place on May 12, 2021.

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 Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: May 12, 2021