

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN ARTIFICIAL EYELASH
EXTENSION SYSTEMS, PRODUCTS,
AND COMPONENTS THEREOF**

Investigation No. 337-TA-1226

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW
AN INITIAL DETERMINATION GRANTING COMPLAINANT’S MOTION FOR
LEAVE TO AMEND THE COMPLAINT AND NOTICE OF INVESTIGATION**

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. 10) of the presiding administrative law judge (“ALJ”) granting the complainant’s motion for leave to amend the complaint and notice of investigation.

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 October 28, 2020, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based on a complaint filed by Lashify, Inc. of Glendale, California (“Complainant”). *See* 85 FR 68366-67. The complaint, as supplemented, alleges a violation of section 337 based upon the importation into the United States, sale for importation, or sale after importation into the United States of certain artificial eyelash extension systems, products, and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 10,660,388 and 10,721,984 and U.S. Design Patent Nos. D877,416 and D867,664. The complaint also alleges the existence of a domestic industry. The notice of investigation names nine respondents, including CVS Health Corporation of Woonsocket, Rhode Island and Ulta Beauty, Inc. of Bolingbrook, Illinois. *See id.* The Office of Unfair Import Investigations is also a party to the investigation. *See id.*

On January 8, 2021, Complainant filed a motion seeking leave to amend the complaint and notice of investigation to substitute: (1) CVS Pharmacy, Inc. in place of CVS Health Corporation and (2) Ulta Salon, Cosmetics & Fragrance, Inc. in place of Ulta Beauty, Inc. No responses to the motion were filed.

On January 22, 2021, the ALJ issued the subject ID (Order No. 10) granting Complainant's motion for leave to amend the complaint and notice of investigation to reflect the substitutions. Order No. 10 (Jan. 22, 2021). The subject ID finds that Complainant's motion is supported by good cause pursuant to Commission Rule 210.14(b) (19 CFR 210.14(b)) and that there is no prejudice if the motion is granted. No party petitioned for review of the subject ID.

The Commission has determined not to review the subject ID. CVS Pharmacy, Inc. and Ulta Salon, Cosmetics & Fragrance, Inc. are named as respondents in this investigation; and CVS Health Corporation and Ulta Beauty, Inc. are terminated from the investigation.

The Commission vote for this determination took place on February 10, 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: February 10, 2021