

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN EYE COSMETICS
AND PACKAGING THEREFOR**

Investigation No. 337-TA-1407

**NOTICE OF COMMISSION REQUEST FOR WRITTEN SUBMISSIONS ON REMEDY,
THE PUBLIC INTEREST, AND BONDING**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) requests submissions from the parties, interested government agencies, and other interested persons on the issues of remedy, the public interest, and bonding, under the schedule set forth below.

FOR FURTHER INFORMATION CONTACT: B. Rashmi Borah, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 205-2518. Copies of non-confidential documents filed in connection with the 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 July 16, 2024, the Commission instituted the present investigation based on a complaint, as supplemented, filed by Amarte USA Holdings, Inc. of Redding, California (“Complainant”), alleging violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, due to the importation into the United States, sale for importation, or sale in the United States after importation of certain eye cosmetics and packaging thereof that allegedly infringe U.S. Trademark Registration No. 4,328,655, as well as unfair competition and false advertising, the threat or effect of which is to destroy or substantially injure an industry in the United States. 89 FR 57942-43 (July 16, 2024). The complaint alleges that a domestic industry exists. The notice of investigation names the following respondents: Kaibeauty of Taipei City, Taiwan (“Kaibeauty”); I’ll Global Co., Ltd. of Seoul, South Korea (“I’ll Global”); Hikari Laboratories, Ltd. Of Bnei Atarot, Israel (“Hikari”); Kelz Beauty of Budapest, Hungary (“Kelz Beauty”); Bourne & Morgan Ltd. of London, United Kingdom (“Bourne & Morgan”); Iman Cosmetics of London, United Kingdom (“Iman Cosmetics”); MZ Skin Ltd. of Hertfordshire, United Kingdom (“MZ Skin”); Strip Lashed of South Yorkshire,

United Kingdom (“Strip Lashed”); and Unilever PLC of Merseyside, United Kingdom, Unilever United States, Inc. of Englewood Cliffs, New Jersey, and Carver Korea Co., Ltd. of Seoul, South Korea (collectively, “Unilever”). The Office of Unfair Import Investigations (“OUII”) is also named as a party to the investigation.

On October 7, 2024, the Commission partially terminated the investigation with respect to Unilever based on a settlement agreement. Order No. 9 (Sept. 6, 2024), *unreviewed by* Comm’n Notice (Oct. 7, 2024). On October 8, 2024, the Commission partially terminated the investigation with respect to Strip Lashed based on a consent order and consent order stipulation. Order No. 10 (Sept. 10, 2024), *unreviewed by* Comm’n Notice (Oct. 8, 2024). On November 1, 2024, the Commission partially terminated the investigation with respect to MZ Skin based on a settlement agreement. Order No. 14 (Oct. 15, 2024), *unreviewed by* Comm’n Notice (Nov. 1, 2024). On November 22, 2024, the Commission partially terminated the investigation with respect to Iman Cosmetics based on withdrawal of the complaint. Order No. 15 (Nov. 1, 2024), *unreviewed by* Comm’n Notice (Nov. 22, 2024). On January 14, 2025, the Commission partially terminated the investigation with respect to Bourne & Morgan based on a consent order and consent order stipulation, as corrected. Order No. 17 (Dec. 23, 2024), *unreviewed by* Comm’n Notice (Jan. 14, 2025).

On January 26, 2025, Complainant filed a declaration under Commission Rule 210.16 (19 CFR 210.16) requesting the immediate entry of limited exclusion orders against Kaibeauty, I’ll Global, Hikari, and Kelz Beauty (collectively, “the Defaulting Respondents”). EDIS Doc. ID. 841793 (Jan. 26, 2025). Complainant indicated pursuant to 19 CFR 210.17(c)(2) that it is not seeking a general exclusion order. *Id.* No response to Complainant’s declaration was received.

On January 31, 2025, the Commission found the Defaulting Respondents in default pursuant to Commission Rule 210.16. Order No. 19 (Jan. 7, 2025), *unreviewed by* Comm’n Notice (Jan. 31, 2025).

In connection with the final disposition of the investigation, the statute authorizes issuance of, *inter alia*, (1) an exclusion order that could result in the exclusion of the subject articles from entry into the United States; and/or (2) cease and desist orders that could result in the respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm’n Op. at 7-10 (Dec. 1994).

The statute requires the Commission to consider the effects of that remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion order would have on: (1) the public health and welfare, (2) competitive conditions

in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of the investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission's determination. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

WRITTEN SUBMISSIONS: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding.

In its initial submission, Complainant is also requested to identify the remedy sought, and Complainant and OUII are requested to submit proposed remedial orders for the Commission's consideration. Complainant is further requested to state the length of time the remedial order will be in place, to provide the HTSUS subheadings under which the accused products are imported, and to supply the identification information for all known importers of the products at issue in the investigation. Complainant is further requested to identify and explain, from the record, articles that it contends are "packaging therefor" the subject products, and thus potentially covered by the proposed remedial orders, if imported separately from the subject products. *See* 89 FR 57942-43. Failure to provide this information may result in waiver of any remedy directed to "packaging therefor" the subject products, in the event any violation may be found. The initial written submissions and proposed remedial orders must be filed no later than close of business on **March 6, 2025**. Reply submissions must be filed no later than the close of business on **March 13, 2025**. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above pursuant to 19 CFR 210.4(f). Submissions should refer to the investigation number ("**Inv. No. 337-TA-1407**") in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf). Persons with questions regarding filing should contact the Secretary, (202) 205-2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve

those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed with the Commission and served on any parties to the investigation within two business days of any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of the investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

The Commission vote for this determination took place on February 20, 2025.

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.

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: February 20, 2025