

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 FINAL DETERMINATION;
ISSUANCE OF A LIMITED EXCLUSION ORDER;
TERMINATION OF INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined to issue a limited exclusion order (“LEO”) barring entry of certain eye cosmetics and packaging therefor that are imported by or on behalf of the following respondents previously found in default: Kaibeauty of Taipei City, Taiwan; I’ll Global Co., Ltd of Seoul, South Korea; Hikari Laboratories, Ltd. of Bnei Atarot, Israel; and Kelz Beauty of Budapest, Hungary (collectively, “the Defaulting Respondents”). The investigation is terminated.

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 (“section 337”), 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 (“the Asserted Trademark”), 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, in addition to the Defaulting Respondents, the following respondents: 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.

The Commission partially terminated the investigation as to the non-defaulting respondents based on settlement agreements, consent orders, or withdrawal of the complaint. *See* Order No. 9 (Sept. 6, 2024), *unreviewed by* Comm’n Notice (Oct. 7, 2024) (terminating Unilever based on settlement); Order No. 10 (Sept. 10, 2024), *unreviewed by* Comm’n Notice (Oct. 8, 2024) (terminating Strip Lashed based on a consent order); Order No. 14 (Oct. 15, 2024), *unreviewed by* Comm’n Notice (Nov. 1, 2024) (terminating MZ Skin based on settlement); Order No. 15 (Nov. 1, 2024), *unreviewed by* Comm’n Notice (Nov. 22, 2024) (terminating Iman Cosmetics based on withdrawal of the complaint); Order No. 17 (Dec. 23, 2024), *unreviewed by* Comm’n Notice (Jan. 14, 2025) (terminating Bourne & Morgan based on a consent order). Accordingly, only the Defaulting Respondents remain in the investigation.

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).

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 the Defaulting Respondents. EDIS Doc. ID. 841793 (Jan. 26, 2025). Complainant indicated pursuant to 19 CFR 210.16(c)(2) that it is not seeking a general exclusion order. *Id.* No response to Complainant’s declaration was received.

On February 20, 2025, the Commission issued a notice requesting written submissions on remedy, the public interest and bonding from the parties and from any other interested third party or government agencies. *See* 90 FR 10640-41 (Feb. 25, 2025) (“Remedy Notice”). On March 6, 2025, Complainant and OUII filed written submissions in response to the Commission’s Remedy Notice. On March 13, 2025, OUII filed a reply to Complainant’s submission. No other responses were submitted in response to the Remedy Notice.

When the conditions in section 337(g)(1)(A)-(E) (19 U.S.C. 1337(g)(1)(A)-(E)) have been satisfied, section 337(g)(1) and Commission Rule 210.16(c) (19 CFR 210.16(c)) direct the Commission, upon request, to issue a limited exclusion order or a cease and desist order or both against a respondent found in default, based on the allegations regarding a violation of section 337 in the Complaint, which are presumed to be true, unless after consideration of the public interest factors in section 337(g)(1), it finds that such relief should not issue.

Having examined the record of this investigation, including the parties’ submissions in response to the Remedy Notice, the Commission has determined pursuant to section 337(g)(1) (19 U.S.C. 1337(g)(1)) that the appropriate remedy in this investigation is an LEO prohibiting the unlicensed entry of certain eye cosmetics and packaging therefor that infringe Complainant’s

Asserted Trademark, or constitute unfair competition under 15 U.S.C. 1125(a), the threat or effect of which is to destroy or substantially injure an industry in the United States and that are imported by or on behalf of the Defaulting Respondents. The Commission has determined that the public interest factors enumerated in section 337(g)(1) do not preclude the issuance of the LEO. Although Complainant requested the Commission to issue cease and desist orders (“CDOs”) directed to the Defaulting Respondents, the Commission has determined not to issue CDOs because of the lack of evidence or allegations that the Defaulting Respondents maintain commercially significant inventories and/or engage in significant commercial operations in the United States.

Chair Karpel agrees that section 337(g)(1) is the appropriate authority for issuance of relief in this investigation, but disagrees with the determination not to issue the CDOs requested by Complainant. Specifically, Chair Karpel supports issuance of both the requested LEO and the requested CDOs against the Defaulting Respondents because the criteria for issuance of such relief under section 337(g)(1)(A)-(E) are met as to these respondents. (19 U.S.C. 1337(g)(1)(A)-(E); *see* Order No. 19 (Jan. 7, 2025), *unreviewed by* Comm’n Notice (Jan. 31, 2025). Here, in addition to an exclusion order, Amarte has requested CDOs as to these Defaulting Respondents in its remedy submissions before the Commission. Given that sections 337(g)(1)(A)-(E) are satisfied, in Chair Karpel’s view, the statute directs the Commission to issue the requested CDOs, subject to consideration of the public interest. Chair Karpel further finds that the public interest factors enumerated in section 337(g)(1) do not preclude the issuance of the CDOs directed to the Defaulting Respondents. Accordingly, Chair Karpel supports issuance of the CDOs, in addition to the issuance of the LEO discussed above, under section 337(g)(1).

The Commission has further determined that the bond during the period of Presidential review pursuant to section 337(j) (19 U.S.C. 1337(j)) shall be in the amount of 100 percent of the entered value of the imported articles that are subject to the LEO. The investigation is terminated.

The Commission vote for this determination took place on April 9, 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.



Lisa R. Barton
Secretary to the Commission

Issued: April 9, 2025