

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 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 May 20, 2024, under section 337 of the Tariff Act of 1930, as amended, on behalf of Amarte USA Holdings, Inc. of Redding, California. An amended complaint was filed on May 31, 2024, a second amended complaint was filed on June 7, 2024, and a supplement was filed on June 28, 2024. The second 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 eye cosmetics and packaging therefor by reason of the infringement of U.S. Trademark Registration No. 4,328,655 (“the ’655 mark”). The second amended complaint also alleges that an industry in the United States exists as required by the applicable Federal Statute. The second amended complaint further alleges violations of section 337 based upon the importation into the United States, or in the sale of certain eye cosmetics and packaging therefor by reason of unfair competition and false advertising, 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 a general exclusion order, or in the alternative a limited exclusion order, and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. 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>.

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 (2024).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on July 10, 2024, 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)(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 products identified in paragraph (2) by reason of infringement of the '655 mark, and whether an industry in the United States exists as required by subsection (a)(2) of section 337; and

(b) Whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States, or in the sale of certain products identified in paragraph (2) by reason of unfair competition or false advertising, the threat or effect of which is to destroy or substantially injure an industry in the United States;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is "eye cosmetics, *i.e.*, eye creams, eye palettes, eye kits, eye patches, eye serums and eye lashes";

(3) 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:

Amarte USA Holdings, Inc.
1731 California St.
Redding, California 96001

(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:

Unilever PLC
Port Sunlight
Wirral
Merseyside CH62 4ZD
United Kingdom

Unilever United States, Inc.
800 Sylvan Avenue
Englewood Cliffs, New Jersey 07632

Carver Korea Co., Ltd.
81 Tojeong-ro 31-gil
Mapo-gu,
Seoul (Daeheung-dong), South Korea

Bourne & Morgan Ltd.
71-75 Shelton Street
Covent Garden
London, United Kingdom
WC2H 9JQ

MZ Skin Ltd.
5 Elstree Gate, Elstree Way
Borehamwood, Hertfordshire
United Kingdom, WD61JD

Kaibeauty
104 Nanjing W. Rd.
Zhongshan District
Taipei City, Taiwan 10491

I'll Global Co., Ltd.
3F, Samdeok bldg., 315
Sinbanporro, Seocho-gu
Seoul, South Korea 06546

Hikari Laboratories Ltd.
207 Rishonim Street
Bnei Atarot 60991, Israel

Iman Cosmetics
P.O. Box 6867
London, Greater London, E14 5AN
United Kingdom; and
363 7th Ave Suite 8
New York, NY 10001

Strip Lashed
38 Main Street
Rawmarsh
Rotherham
South Yorkshire
S62 50W
United Kingdom

Kelz Beauty
Almassy Ter 11
1077
Budapest, Hungary

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

(4) 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 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), as amended in 85 Fed. Reg. 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the 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 complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the 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 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.



Lisa Barton
Secretary to the Commission

Issued: July 11, 2024