

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of)

CERTAIN INK MARKERS AND)
PACKAGING THEREOF)

Inv. No. 337-TA-522

**NOTICE OF DECISION NOT TO REVIEW AN INITIAL DETERMINATION FINDING
RESPONDENTS HENG BAO, YANGTSE AND LISHUI LAIKE IN DEFAULT**

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) issued by the presiding administrative law judge (ALJ) in the above-captioned investigation finding respondents Cixi City Heng Bao Pen Manufacturer of Zhengqi Town, China (“Heng Bao”), Cixi Guancheng Yangtse River Pen Company of Zhejiang, China (“Yangtse”), and Lishui Laike Pen Co., Ltd. of HuaiNan, China (“Lishui Laike”) in default.

FOR FURTHER INFORMATION CONTACT: Irene H. Chen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone 202-205-3112. Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <http://edis.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: The Commission instituted this investigation under section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, as amended, on August 18, 2004, based on a complaint filed on behalf of Sanford, L.P. of Freeport, Illinois (“complainant”). 69 Fed. Reg. 52029. The complaint, as supplemented, alleged violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ink markers and packaging thereof by reason of infringement of U.S. Trademark Registration Nos. 807,818 and 2,721,523 and also by reason of infringement of trade dress. The notice of investigation identified 12 respondents, including Heng Bao, Yangtse, and Lishui Laike. On November 10, 2004, the presiding ALJ (Judge Luckern) granted a motion to

add three respondents to the investigation. The Commission determined not to review that ID.

On November 1, 2004, the complainant moved pursuant to 19 U.S.C. § 337(g) and Commission rule 210.16(b)(1) (19 C.F.R. 210.16(b)(1)) for issuance of orders directing four respondents, Heng Bao, Yangtse, Lishui Laike, and Lineplus Corporation (“Lineplus”), to show cause why they should not be found in default. The complainant noted that Heng Bao, Yangtse, Lishui Laike, and Lineplus had not responded to the complaint and notice of investigation. On August 30, 2004, the Commission investigative attorney filed a response supporting complainant’s motion for an order to show cause only with respect to Heng Bao, Yangtse and Lishui Laike, arguing that letters filed by Lineplus adequately respond to the complaint and notice of investigation.

On October 5, 2004, the ALJ issued Order No. 8, which ordered Heng Bao, Yangtse, Lishui Laike, and Lineplus to show cause by December 17, 2004, why they should not be found in default. Citing the certificate of service, the ALJ noted that the Commission had sent the complaint and notice of investigation to Heng Bao, Yangtse and Lishui Laike, and that these documents were not returned as undeliverable. The ALJ also found that the two letters filed by Lineplus in response to the complaint and notice of institution were not in compliance with Commission rule 210.13 (19 C.F.R. 210.13). Consequently, the ALJ also ordered Lineplus to show cause why it should not be found in default.

In response to the order to show cause, Lineplus filed a letter dated December 2, 2004, with the Commission. However, Heng Bao, Yangtse and Lishui Laike did not respond to the order to show cause. On January 7, 2005, the ALJ issued an ID (Order No. 13) finding Heng Bao, Yangtse and Lishui Laike in default. Under Commission rule 210.16(b)(3) (19 C.F.R. 210.16(b)(3)), Heng Bao, Yangtse and Lishui Laike are deemed to have waived their right to appear, to be served with documents, and to contest the allegations at issue in this investigation. No petitions for review of the ID were filed.

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 section 210.42 of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 210.42).

By order of the Commission.

Marilyn R. Abbott
Secretary to the Secretary

Issued: January 25, 2005