

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN EYE COSMETICS AND
PACKAGING THEREFOR**

Investigation No. 337-TA-1407

LIMITED EXCLUSION ORDER

The United States International Trade Commission (“Commission”) has found respondents 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”) in default. *See* Order No. 18 (Jan. 7, 2025), *unreviewed by* Comm’n Notice (Jan. 31, 2025). As to the Defaulting Respondents, the Second Amended Complaint alleged a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the unlawful importation, sale for importation, or sale within the United States after importation of certain eye cosmetics and packaging therefor that infringe U.S. Trademark Registration No. 4,328,655 for EYECONIC® in Class 3: eye cosmetics; eye creams (“the Asserted Trademark”), as well as 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. Because the conditions in 19 U.S.C. § 1337(g)(1)(A)-(E) have been satisfied, the Commission, upon the request of the complainant, issues a limited exclusion order prohibiting the unlicensed entry of infringing eye cosmetics and packaging therefor manufactured by or on behalf of Respondents or any of their affiliated companies, parents, subsidiaries, agents, or other related business entities, or its successors or assigns, based on the allegations regarding a violation of section 337 in the Amended Complaint that are presumed to be true as to the Defaulting Respondents.

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. § 1337(g)(1) do not preclude the issuance of the limited exclusion order, and that the bond during the period of Presidential review shall be in the amount of 100 percent (100%) of the entered value of the entered value of the articles subject to this Order.

Accordingly, the Commission hereby **ORDERS** that:

1. Eye cosmetics and packaging therefor that infringe the Asserted Trademark, or that use a mark in a manner likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of the Defaulting Respondents with the trademark owner, or as to the origin, sponsorship, or approval of the Defaulting Respondents' goods, services, or commercial activities by the trademark owner, and which are manufactured abroad by, or on behalf of, or imported by or on behalf of Respondents or any of their affiliated companies, parents, subsidiaries, agents, or other related business entities, or its successors or assigns, are excluded from entry for consumption into the United States, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption, except under license of the trademark owner or as provided by law until such date as the trademarks have been abandoned, canceled, or rendered invalid or unenforceable.

2. The eye cosmetics and packaging thereof subject to this exclusion order (*i.e.*, "covered articles") are as follows: eye cosmetics, *i.e.*, eye creams, eye palettes, eye kits, eye patches, eye serums, and eye lashes, including packaging therefor, that bear the Asserted Trademark.

3. For the purpose of assisting U.S. Customs and Border Protection ("CBP") in the enforcement of this order, and without in any way limiting the scope of this Order, the Commission has attached to this Order a copy of the relevant trademark registrations as

Exhibit 1.

4. Notwithstanding paragraph 1 of this Order, covered articles are entitled to entry into the United States for consumption, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, under bond in the amount of 100 percent (100%) of their entered value, pursuant to subsection (j) of section 337 (19 U.S.C. § 1337(j)) and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (70 Fed. Reg. 43,251), from the day after this Order is received by the United States Trade Representative until such time as the United States Trade Representative notifies the Commission that this Order is approved or disapproved but, in any event, not later than sixty (60) days after the receipt of this Order. All entries of covered articles made pursuant to this paragraph are to be reported to CBP, in advance of the date of the entry, pursuant to procedures CBP establishes.

5. This Order does not exempt infringing articles from seizures under trademark laws enforced by CBP, most notably 19 U.S.C. § 1526(e) and 19 U.S.C. § 1595a(c)(2)(C) in connection with 15 U.S.C. § 1124.

6. At the discretion of CBP and pursuant to the procedures it establishes, persons seeking to import articles may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under paragraph 1 of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.

7. Complainant shall file a written statement with the Commission, made under oath, each year on the anniversary of the issuance of this Order stating whether Complainant

continues to use the Asserted Trademark in commerce in the United States in connection with the products at issue and whether the Asserted Trademark has been abandoned, canceled, or rendered invalid or unenforceable.

8. The Commission may modify this Order in accordance with the procedures described in Rule 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

9. The Secretary shall serve copies of this Order upon each party of record in this investigation and upon CBP.

10. Notice of this Order shall be published in the *Federal Register*.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', enclosed within a large, loopy oval flourish.

Lisa R. Barton
Secretary to the Commission

Issued: April 9, 2025

Exhibit 1 - Amarte USA Holdings - ITC Sec. 337 Complaint

United States of America
United States Patent and Trademark Office

EYECONIC

Reg. No. 4,328,655

Registered Apr. 30, 2013

Int. Cl.: 3

TRADEMARK

PRINCIPAL REGISTER

AMARTE USA HOLDINGS, INC. (DELAWARE CORPORATION)
2107 AIRPARK DRIVE
REDDING, CA 96001

FOR: EYE COSMETICS; EYE CREAMS, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

FIRST USE 10-8-2012; IN COMMERCE 10-8-2012.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 85-096,660, FILED 7-30-2010.

KAPIL BHANOT, EXAMINING ATTORNEY



Lea Street Lee

Acting Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*
What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*
What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or
reminder of these filing requirements.**

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Monisha Deka, Esq.**, and upon the following parties as indicated, on **April 9, 2025**.



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112
Washington, DC 20436

On Behalf of Complainant Amarte USA Holdings, Inc.:

Tony V. Pezzano, Esq.
LIPPE MATHIAS LLP
420 Lexington Avenue, Suite 2005
New York, NY 10170
Email: tpezzano@lippes.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

Respondents:

Kaibeauty
104 Nanjing West Road
Zhongshan District
Taipei City, Taiwan 10491

- ☐ Via Hand Delivery
- ☒ Via Express Delivery
- ☐ Via First Class Mail
- ☐ Other: Service to Be
Completed by Complainant

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

- ☐ Via Hand Delivery
- ☒ Via Express Delivery
- ☐ Via First Class Mail
- ☐ Other: Service to Be
Completed by Complainant

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

- ☐ Via Hand Delivery
- ☒ Via Express Delivery
- ☐ Via First Class Mail
- ☐ Other: Service to Be
Completed by Complainant

**CERTAIN EYE COSMETICS AND PACKAGING
THEREFOR**

Inv. No. 337-TA-1407

Certificate of Service – Page 2

Kelz Beauty
Almassy Ter 11
1077
Budapest, Hungary

- ☐ Via Hand Delivery
- ☒ Via Express Delivery
- ☐ Via First Class Mail
- ☐ Other: Service to Be
Completed by Complainant