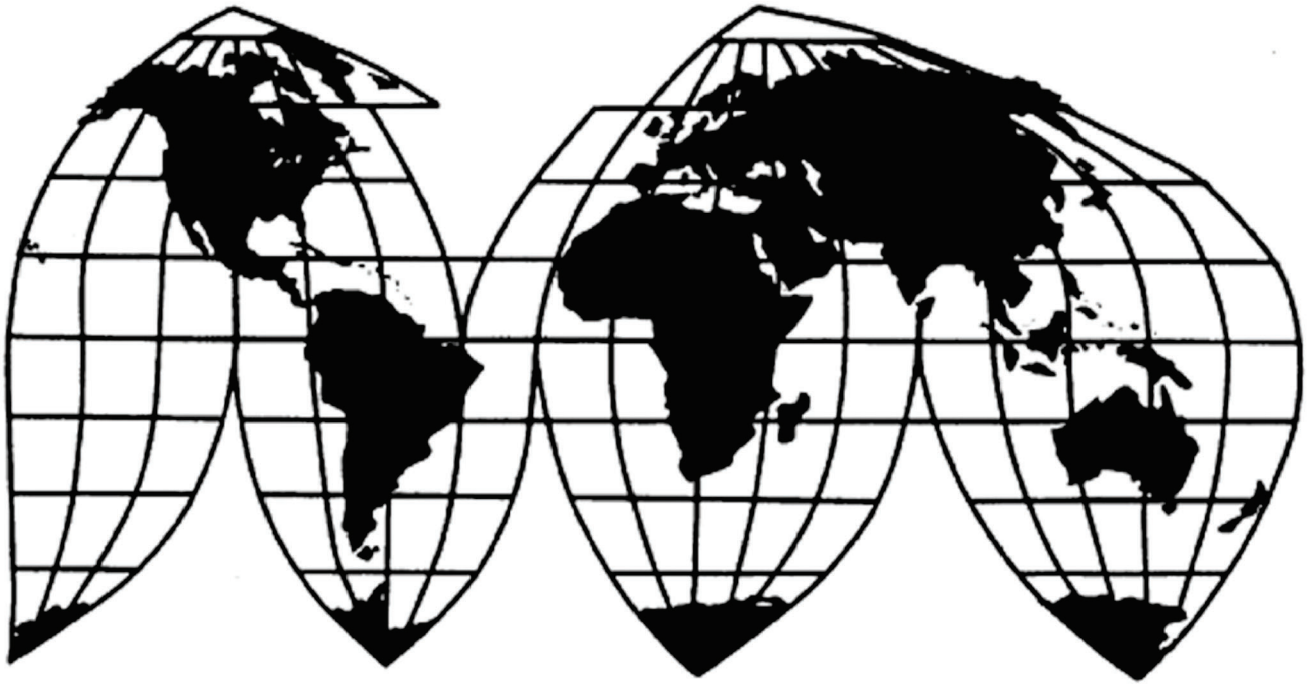
In the Matter of

CERTAIN LIQUID CRYSTAL EWRITERS AND COMPONENTS THEREOF

Investigation No. 337-TA-1035

Publication 4962 **September 2019**

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Meredith Broadbent, Commissioner

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Washington, DC 20436

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Washington, DC 20436
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In the Matter of

CERTAIN LIQUID CRYSTAL EWRITERS AND COMPONENTS THEREOF

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of	Investigation No. 337-TA-1035
CERTAIN LIQUID CRYSTAL EWRITERS AND COMPONENTS THEREOF	

NOTICE OF COMMISSION FINAL DETERMINATION OF VIOLATION OF SECTION 337; TERMINATION OF INVESTIGATION; ISSUANCE OF LIMITED EXCLUSION ORDER AND CEASE AND DESIST ORDER

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has found a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("section 337") in the above-captioned investigation. The Commission has determined to issue a limited exclusion order and cease and desist order. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436, telephone (202) 708-2301. Copies of non-confidential 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 (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://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 on January 13, 2017, based on a complaint filed by Kent Displays, Inc. of Kent, Ohio ("Kent Displays"). 82 FR 4418. The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("section 337"), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain liquid crystal eWriters and components thereof that infringe U.S.

Patent Nos. 7,351,506 ("the '506 patent") and 8,947,604 ("the '604 patent"). *Id.* The Commission's notice of investigation named as respondents Shenzhen Howshow Technology Co., Ltd., d/b/a Shenzhen Howshare Technology Co., Ltd., d/b/a Howshare ("Howshare") of Shenzhen, China, and Shenzhen SUNstone Technology Co., Ltd., d/b/a iQbe ("iQbe") of Shenzhen, China. *Id.* The Office of Unfair Import Investigations is not participating in this investigation. *Id.*

On April 11, 2017, the ALJ issued an ID finding iQbe in default for failing to respond to the complaint, the notice of investigation, and multiple discovery requests, and for failing to respond to an order to show cause why it should not be found in default. Order No. 9, *not reviewed*, Notice (May 11, 2017).

On May 31, 2017, the ALJ issued an ID, granting Kent Displays' motion to terminate the investigation with respect to Howshare based on a withdrawal of the complaint. Order No. 11 (May 31, 2017).

On June 1, 2017, Kent Displays filed a declaration seeking a limited exclusion order ("LEO") and a proposed cease and desist order ("CDO") against the defaulted respondent iQbe pursuant to section 337(g)(1) and Commission Rule 210.16(c). The declaration contains Kent Displays' views on remedy, the public interest, and bonding. A proposed LEO and CDO were attached to the declaration.

On June 26, 2017, the Commission issued a notice determining not to review Order No. 11. Notice (Jun. 26, 2017); 82 FR 29930-31 (June 30, 2017). The notice also requested written submissions on the issues of remedy, the public interest, and bonding concerning the requested LEO and CDO against iQbe. *Id.*

On July 10, 2017, Kent Displays filed its submission on remedy, the public interest, and bonding. No other submissions were received.

Having reviewed the submissions on remedy, the public interest, and bonding filed in response to the Commission's Notice, and the information provided in the complaint, the Commission has determined, pursuant to section 337(g)(1), 19 U.S.C. § 1337(g)(1), that the appropriate form of relief in this investigation is: (1) an LEO against iQbe, prohibiting the unlicensed entry of liquid crystal eWriters and components thereof that infringe claims 1-5, 10, 11, 13-16, 18-23, 26, and 27 of the '506 patent and/or claims 1, 2, 9-11, 15-17, 21, and 22 of the '604 patent and (2) an order that iQbe cease and desist from importing, selling, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of liquid crystal eWriters and components thereof that infringe claims 1-5, 10, 11, 13-16, 18-23, 26, and 27 of the '506 patent and/or claims 1, 2, 9-11, 15-17, 21, and 22 of the '604 patent.

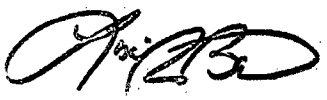
The Commission has determined that the public interest factors enumerated in section 337(g)(1), 19 U.S.C. § 1337(g)(1), do not preclude the issuance of the LEO or CDO. The Commission has determined that bonding at 100 percent of the entered value of the covered products is required during the period of Presidential review, 19 U.S.C. § 1337(j).

The Commission's order and opinion were delivered to the President and the United States Trade Representative on the day of their issuance.

The investigation is terminated.

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: September 26, 2017

CERTAIN LIQUID CRYSTAL EWRITERS AND COMPONENTS THEREOF **Inv. No. 337-TA-1035**

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served by hand upon the following parties as indicated, on 9/26/2017

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

On Behalf of Complainant Kent Displays, Inc.:

Michael L. Doane, Esq.
ADDUCI, MASTRIANI & SCHAUMBERG, LLP
1133 Connecticut Avenue, NW
Washington, DC 20036

☐ Via Hand Delivery
☐ Via Express Delivery
☒ Via First Class Mail
☐ Other:_____

Respondents:

Shenzhen SUNstone Technology Co., Ltd.
d/b/a IQbe
3/F, Bldg. F. No. 1 Industry Park,
Guanlong Village, Xili, Shenzhen
China

☐ Via Hand Delivery
☐ Via Express Delivery
☒ Via First Class Mail
☐ Other:_____

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, DC

In the Matter of	
CERTAIN LIQUID CRYSTAL eWRITERS AND COMPONENTS THEREOF	**Investigation No. 337-TA-1035**

LIMITED EXCLUSION ORDER

The United States International Trade Commission ("Commission") has determined that there is 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 by Respondent Shenzhen SUNstone Technology Co., Ltd. d/b/a iQbe ("iQbe") of certain liquid crystal eWriters and components thereof covered by one or more of claims 1-5, 10, 11, 13-16, 18-23, 26, and 27 of U.S. Patent No. 7,351,506 ("the '506 patent") and claims 1, 2, 9-11, 15-17, 21, and/or 22 of U.S. Patent No. 8,947,604 ("the '604 patent") (collectively, "Asserted Patents").

Having reviewed the record in this investigation, including the written submission of the parties, the Commission has made its determination on the issues of remedy, public interest, and bonding. The Commission has determined that the appropriate form of relief is a limited exclusion order prohibiting the unlicensed entry of certain covered liquid crystal eWriters and components thereof manufactured by or on behalf of iQbe or any of its affiliate companies, parents, subsidiaries, licensees, or other related business entities, or its successors or assigns.

The Commission has determined that the public interest factors enumerated in 19 U.S.C. § 1337(g)(1) do not preclude issuance of the limited exclusion order, and that there shall be a

bond of 100 percent of the entered value for all covered liquid crystal eWriters and components thereof during the period of Presidential review.

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

1. Liquid crystal eWriters and components thereof that are covered by one or more of claims 1-5, 10, 11, 13-16, 18-23, 26, and 27 of the '506 patent and claims 1, 2, 9-11, 15-17, 21, and 22 of the '604 patent and that are manufactured abroad by or on behalf of, imported by or on behalf of, or sold after importation by or on behalf of iQbe, or any of its affiliated companies, parents, subsidiaries, 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, for the remaining term of the Asserted Patents, except under license of the patent owner or as provided by law.
2. Notwithstanding paragraph 1 of this Order, the aforesaid liquid crystal eWriters and components thereof 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 of the entered value of such articles pursuant to subsection (j) of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337(j)), and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (70 Fed. Reg. 43251), 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 date of receipt of this Order.

3. At the direction of U.S. Customs and Border Protection ("CBP") and pursuant the procedures it establishes, persons seeking to import liquid crystal eWriters and components thereof that are potentially subject to this Order 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 this certification.

4. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to liquid crystal eWriters and components thereof that are imported by and for the use of the United States, or imported for and to be used for, the United States with the authorization or consent of the Government.

5. 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).

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

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

By order of the Commission

Lisa R. Barton
Secretary to the Commission

Issued: September 26, 2017

CERTAIN LIQUID CRYSTAL EWRITERS AND COMPONENTS THEREOF **Inv. No. 337-TA-1035**

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **LIMITED EXCLUSION ORDER** has been served by hand upon the following parties as indicated, on 9/26/2017

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

On Behalf of Complainant Kent Displays, Inc.:

Michael L. Doane, Esq.
ADDUCI, MASTRIANI & SCHAUMBERG, LLP
1133 Connecticut Avenue, NW
Washington, DC 20036

☐ Via Hand Delivery
☐ Via Express Delivery
☒ Via First Class Mail
☐ Other:_____

Respondents:

Shenzhen SUNstone Technology Co., Ltd.
d/b/a IQbe
3/F, Bldg. F. No. 1 Industry Park,
Guanlong Village, Xili, Shenzhen
China

☐ Via Hand Delivery
☐ Via Express Delivery
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☐ Other:_____

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, DC

In the Matter of	
CERTAIN LIQUID CRYSTAL eWRITERS AND COMPONENTS THEREOF	**Investigation No. 337-TA-1035**

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Shenzhen SUNstone Technology Co., Ltd. d/b/a iQbe, 3/F, Bldg. F, No. 1 Industry Park, Guanlong Village, Xili, Shenzhen, China, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, transferring (except for exportation), offering for sale, soliciting United States agents, retailers, resellers and distributors, or aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer or distribution of liquid crystal eWriters and components thereof covered by one or more of claims 1-5, 10, 11, 13-16, 18-23, 26, and 27 of U.S. Patent No. 7,351,506 ("the '506 patent") and claims 1, 2, 9-11, 15-17, 21, and/or 22 of U.S. Patent No. 8,947,604 ("the '604 patent") (collectively, "Asserted Patent") in violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. §1337).

I. DEFINITIONS

As used in this Order:

(A) "Commission" shall mean the United States International Trade Commission.

(B) "Complainant" shall mean Kent Displays, Inc., 343 Portage Boulevard, Kent, OH 44240.

(C) "Respondent" refers to Shenzhen SUNstone Technology Co., Ltd. d/b/a iQbe, 3/F, Bldg. F, No. 1 Industry Park, Guanlong Village, Xili, Shenzhen, China.

(D) "Person" shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, or its successors or assigns.

(E) "United States" shall mean the fifty states, the District of Columbia, and Puerto Rico.

(F) The terms "import" and "importation" refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term "covered products" shall mean liquid crystal eWriters and components thereof that infringe one or more of claims 1-5, 10, 11, 13-16, 18-23, 26, and 27 of the '506 patent and claims 1, 2, 9-11, 15-17, 21, and/or 22 of the '604 patent.

II. APPLICABILITY

The provisions of this Cease and Desist Order shall apply to the Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of, Respondent.

III. CONDUCT PROHIBITED

The following conduct of Respondent in the United States is prohibited by the Order. For the remaining term of the Asserted Patents, Respondent shall not:

(A) import, sell for importation, or sell after importation into the United States covered products;

(B) market, distribute, offer for sale, or otherwise transfer (except for exportation) in the United States imported covered products;

(C) advertise imported covered products;

(D) solicit U.S. agents, retailers, resellers or distributors for imported covered products; or

(E) aid or abet other entities in the importation, sale for importation, sale after importation, transfer or distribution of covered products.

IV. CONDUCT PERMITTED

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. REPORTING

For purposes of this reporting requirement, the reporting periods shall commence on January 1 of each year and shall end on the subsequent December 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through December 31, 2017. This reporting requirement shall continue in force until such time as Respondent has truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission: (a) the quantity in units and the value in U.S. dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in U.S. dollars of reported covered

products that remain in inventory in the United States at the end of the reporting period.

When filing written submissions, Respondent must file the original document electronically on or before the deadlines stated above and submit eight (8) true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-1035") in a prominent place on the cover pages and/or the first page. *See* Handbook for Electronic Filing Procedures, https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf. Persons with questions regarding filing should contact the Secretary (202-205-2000). If Respondent desires to submit a document to the Commission in confidence, it must file the original and a public version of the original with the Office of the Secretary and must serve a copy of the confidential version on Complainant's counsel.[1]

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI.
RECORD KEEPING AND INSPECTION

(A) For purposes of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, sale after importation, offer for sale, marketing or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

[1] Complainant must file a letter with the Secretary identifying the attorney to receive reports and bond information associated with this Order. The designated attorney must be on the protective order entered in the investigation.

(B) For purposes of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal office during office hours, and in the presence of legal counsel, or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, financial statements, income statements, tax returns and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII.
SERVICE OF CEASE AND DESIST ORDER

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its officers, directors, managing agents, agents and employees who have any responsibility for the importation, marketing, distribution or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in the preceding paragraph, a copy of this Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and (B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and (C) shall remain in effect until the date of expiration of U.S. Patent Nos. 7,351,506 and 8,947,604.

VIII. CONFIDENTIALITY

Any request for confidential treatment of information obtained by the Commission

pursuant to Sections V and VI of this Order should be in accordance with Commission rule 201.6, 19 C.F.R. §201.6. For all reports for which confidential treatment is sought, Respondent shall provide a public version of such report with confidential information redacted.

IX. ENFORCEMENT

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission Rules of Practice and Procedure (19 C.F.R. §210.75), including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, as amended (19 U.S.C. §1337(f)), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.X. MODIFICATION

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

XI. BONDING

The conduct prohibited by section III of this order may be continued during the sixty-day period in which this Order is under review by the United States Trade Representative, as delegated by the President (70 Fed. Reg. 43,251 (Jul. 21, 2005)), under a bond of 100 percent. This bond provision does not apply to conduct that is otherwise permitted by section IV of this Order. Covered products imported after the date of issuance of this Order are subject to the entry bond as set forth in the exclusion order issued by the Commission, and are not subject to this bond provision.

The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* 19 C.F.R. § 210.68. The bond and any accompanying

documentation are to be provided to and approved by the Commission prior to the commencement of conduct that is otherwise prohibited by section III of this Order. Upon the Secretary's acceptance of the bond, (a) the Secretary will serve an acceptance letter on all parties, and (b) Respondent must serve a copy of the bond and accompanying documentation on Complainant's counsel.[2]

The bond is to be forfeited in the event that the United States Trade Representative approves this Order (or does not disapprove it within the review period), unless (i) the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or (ii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission.

This bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved (or not disapproved) by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission

Lisa R. Barton
Secretary to the Commission

Issued: September 26, 2017

[2] *See* Footnote 1.

CERTAIN LIQUID CRYSTAL EWRITERS AND COMPONENTS THEREOF **Inv. No. 337-TA-1035**

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **CEASE AND DESIST ORDER** has been served by hand upon the following parties as indicated, on 9/26/2017

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

On Behalf of Complainant Kent Displays, Inc.:

Michael L. Doane, Esq.
ADDUCI, MASTRIANI & SCHAUMBERG, LLP
1133 Connecticut Avenue, NW
Washington, DC 20036

☐ Via Hand Delivery
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☐ Other:_____

Respondents:

Shenzhen SUNstone Technology Co., Ltd.
d/b/a IQbe
3/F, Bldg. F. No. 1 Industry Park,
Guanlong Village, Xili, Shenzhen
China

☐ Via Hand Delivery
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☐ Other:_____

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of CERTAIN LIQUID CRYSTAL EWRITERS AND COMPONENTS THEREOF	Investigation No. 337-TA-1035

COMMISSION OPINION

I. BACKGROUND

The Commission instituted this investigation on January 13, 2017, based on a complaint filed by Kent Displays, Inc. of Kent, Ohio ("Kent Displays"). 82 Fed. Reg. 4418. The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("section 337"), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain liquid crystal eWriters and components thereof that infringe certain claims of U.S. Patent Nos. 7,351,506 ("the '506 patent") and 8,947,604 ("the '604 patent"). The Commission's notice of investigation named as respondents Shenzhen Howshow Technology Co., Ltd., d/b/a Shenzhen Howshare Technology Co., Ltd., d/b/a Howshare ("Howshare") of Shenzhen, China, and Shenzhen SUNstone Technology Co., Ltd., d/b/a iQbe ("iQbe") of Shenzhen, China. The Office of Unfair Import Investigations is not participating in this investigation.

On April 11, 2017, the presiding administrative law judge ("ALJ") issued an initial determination ("ID") finding iQbe in default for failing to respond to the complaint, the notice of investigation, and multiple discovery requests, and for failing to respond to an order to show cause why it should not be found in default. Order No. 9 (Apr. 11,

2017). On May 10, 2017, the Commission determined not to review Order No. 9. Notice (May 11, 2017).

On May 31, 2017, the ALJ issued an ID, granting Kent Displays' motion to terminate the investigation with respect to Howshare based on withdrawal of the complaint. Order No. 11 (May 31, 2017).

On June 1, 2017, Kent Displays filed a declaration seeking a limited exclusion order ("LEO") and a cease and desist order ("CDO") against the defaulted respondent iQbe pursuant to section 337(g)(1) and Commission Rule 210.16(c). The declaration contains Kent Displays' views on remedy, the public interest, and bonding. A proposed LEO and CDO were attached to the declaration.

On June 26, 2017, the Commission issued a notice determining not to review Order No. 11. Notice (Jun. 26, 2017); 82 Fed. Reg. 29930-31 (June 30, 2017). The notice also solicited written submissions from the parties, interested government agencies, and other interested parties on the issues of remedy, the public interest, and bonding concerning the requested LEO and CDO against iQbe. *Id.*

On July 10, 2017, Kent Displays filed its submission on remedy, the public interest, and bonding.[1] No other submissions were received.

II. DISCUSSION

A. Remedy

Section 337(g)(1) provides conditions and procedures applicable to investigations in which one or more parties are found in default. That provision states as follows:

[1] Complainant Kent Displays, Inc.'s Submission on Remedy, the Public Interest, and Bonding (July 10, 2017) ("Comp. Br.").

> If—
>
> (A) a complaint is filed against a person under this section;
>
> (B) the complaint and a notice of investigation are served on the person;
>
> (C) the person fails to respond to the complaint and notice or otherwise fails to appear to answer the complaint and notice;
>
> (D) the person fails to show good cause why the person should not be found in default; and
>
> (E) the complainant seeks relief limited solely to that person;
>
> the Commission shall presume the facts alleged in the complaint to be true and shall, upon request, issue an exclusion from entry or a cease and desist order, or both, limited to that person unless, after considering the effect of such exclusion or order upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, the Commission finds that such exclusion or order should not be issued.

19 U.S.C. § 1337(g)(1). There is no dispute that the conditions listed in section 337(g)(1)(A)-(E) have been satisfied with respect to iQbe. *See* Order No. 9.

1. LEO

Kent Displays asserted in its complaint "that iQbe's imported liquid crystal eWriters infringe[] all asserted claims of each asserted patent." Comp. Br. at 3 (citing Complaint at ¶¶ 44-46). Kent Display also "made assertions regarding and provided information establishing the existence of a domestic industry related to both asserted patents." *Id.* (citing Complaint at ¶¶ 58-66). Furthermore, Kent Displays "asserted and provided information that established that iQbe sells for importation, imports, and/or sells after importation within the United States infringing liquid crystal eWriters." *Id.* (citing Complaint at ¶¶ 52-55). Presuming the allegations in the complaint to be true, pursuant to section 337(g)(1), the Commission finds that the evidence supports Kent Display's

request for issuance of an LEO.

2. CDO

Complainant requests that the Commission issue a cease and desist order directed against defaulting foreign respondent, iQbe. Comp. Br. at 3-4 (July 10, 2017). The Commission finds that the record supports the issuance of a cease and desist order against iQbe.[2]

Section 337(g)(1) authorizes Commission action regarding alleged violations by defaulting respondents and provides remedial authority directed to such defaulters when relief is requested.[3] 19 U.S.C. § 1337(g)(1). In determining whether to issue a cease and desist order in default cases, under Section 337(g), the Commission

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[2] Chairman Schmidtlein supports issuance of the CDO in this investigation for the reasons provided in her separate views in *Certain Electric Skin Care Devices, Brushes and Chargers Therefore, and Kits Containing the Same. See* Inv. No. 337-TA-959, Comm'n Op., Separate Views of Chairman Schmidtlein (Feb. 13, 2017) (public version). In short, because remedial relief in this case is governed by section 337(g)(1), she finds that the mandatory "*shall, upon request, issue*" language contained therein requires the Commission to issue the requested CDO against iQbe. *See id* at 2-5; *see also Certain Arrowheads with Deploying Blades and Components Thereof*, Inv. No. 337-TA-977, Comm'n Op., Dissenting Views of Chairman Schmidtlein (April 28, 2017) (public version). Congress's use of this language indicates that the statute does not confer discretion upon the Commission to deny a requested CDO against a defaulting respondent. *See id.* Even if one assumes that the statute confers discretion upon the Commission, it is unnecessary for the Commission to have to infer the existence of a U.S. inventory in order to issue a CDO here. Rather, the complaint and supporting evidence in this case show sales activities by iQbe directed to the United States as to the infringing goods. *See* Complaint at ¶¶52-54, Ex. 16. In Chairman Schmidtlein's view, these sales activities provide a basis to issue the CDO against iQbe without having to infer the existence of a U.S. inventory.

[3] For a more detailed explanation of the Commission's interpretation of the remedial provisions pertaining to defaulting respondents, see *Certain Electric Skin Care Devices, Brushes and Chargers Therefor, and Kits Containing the Same*, Inv. No. 337-TA-959, Comm'n Op. at 21-31 (February 6, 2017).

determines appropriate relief by examining facts similar to those it examines in any investigation in which a violation is found, including those with participating respondents – namely whether , with respect to imported infringing products, respondents maintain commercially significant inventories in the United States or have significant domestic operations that could undercut the remedy provided by an exclusion order.[4] However, as the legislative history notes, in investigations in which a default is found, discovery may be difficult, if not impossible, to obtain from the parties, and hence there are limited facts available in the record. In these investigations, the Commission examines the record, including facts alleged in the complaint, which are deemed to be true, as well as any other information the complainant has been able to obtain, and has found it appropriate to draw certain inferences from this evidence in favor of the complainant to provide the necessary relief.

Specifically, in cases where the respondent is located in the United States and is found in default under Section 337(g)(1), the Commission has consistently inferred the presence of commercially significant inventories in the United States based on the facts of record. *See, e.g., Certain Agricultural Tractors, Lawn Tractors, Riding Lawnmowers, And Components Thereof* ("*Agricultural Tractors*"), Inv. No. 337-TA-486, Comm'n Op. at 17-18 (July 14, 2003). Thus, due to the domestic presence and

[4] *See, e.g., Certain Protective Cases and Components Thereof*, Inv. No. 337-TA-780, Comm'n Op. at 28 (Nov. 19, 2012) (citing *Certain Laser Bar Code Scanners and Scan Engines, Components Thereof, and Products Containing Same*, Inv. No. 337-TA-551, Comm'n Op. at 22 (June 14, 2007)). A complainant seeking a cease and desist order must demonstrate, based on the record, that this remedy is necessary to address the violation found in the investigation so as to not undercut the relief provided by the exclusion order. *Skin Care Devices,* Inv. No. 337-TA-959, Comm'n Op. at 26-27; *Certain Arrowheads with Deploying Blades and Components Thereof*, Inv. No. 337-TA-977, Comm'n Op. at 17 (Apr. 6, 2017) ("*Arrowheads*").

lack of participation, the Commission has historically granted a complainant's request for relief in the form of a cease and desist order regarding U.S. based activities for domestic respondents found in default.

As for defaulting respondents located outside the United States, the Commission has declined to automatically presume the presence of domestic inventories in the United States that would support the issuance of a cease and desist order. *See id.* at 18-20. Rather, the Commission has examined, for example, whether the complaint alleges facts that support the inference that the defaulting foreign respondent or its agents maintain commercially significant inventories in the United States with respect to the articles found in violation. *Id.* (declining to issue a cease and desist order against foreign defaulting respondents because the complaint allegations did not aver commercially significant inventories nor support such an inference). Similarly, the Commission has examined allegations in the complaint that foreign defaulting respondents maintain commercially significant U.S. inventories and/or are engaging in significant commercial business operations in the United States, supported by available circumstantial evidence of U.S. distribution of infringing products with corresponding supporting documents relating to those sales by foreign defaulting respondents, demonstrating such significant domestic inventories and/or operations. *See Skin Care Devices,* Inv. No. 337-TA-959, Comm'n Op. at 31; *Arrowheads,* Inv. No. 337-TA-977, Comm'n Op. at 18-20.

For example, in *Skin Care Devices*, the Commission found evidence of short lead times between order placement and delivery and low shipping costs, supporting an inference that products of the foreign respondents were being sold out of U.S.

inventory. Inv. No. 337-TA-959, Comm'n Op. at 31-33. By contrast, in *Arrowheads*, the Commission declined to issue a cease and desist order to one of the foreign respondents[5] where the evidence relied upon by complainants merely demonstrated the respondent's online presence but did not demonstrate significant domestic-based inventories and/or operations. Inv. No. 337-TA-977, Comm'n Op. at 21-22. Specifically, the evidence showed that this respondent's infringing articles sold online were shipped directly to U.S. customers from overseas rather than shipped from U.S. inventories. *Id.*

These decisions recognize that because the foreign respondents have defaulted, it is difficult for complainants to obtain detailed discovery to establish record evidence regarding the foreign respondents' U.S. business operations and agents, including the magnitude, ownership, and distribution channels for U.S. inventories of infringing products, and all reasonable inferences should be granted in favor of the complainant. However, without some support in the record, including factual allegations in the complaint, the Commission has declined such requested relief against foreign defaulters.[6] We believe this is a sensible and reasonable approach, particularly due to the potential challenges to enforcing a domestic order against a foreign company without any commercially significant inventory or business operations in the United

[5] In *Arrowheads*, the Commission did issue a cease and desist order against another foreign defaulting respondent because the evidence supported a finding that infringing imported articles were shipped domestically by the respondent's U.S. distributor; the Commission therefore presumed the respondent had significant domestic operations and/or inventory. *Id.* at 21.

[6] *See, e.g., Agricultural Tractors*, Inv. No. 337-TA-486, Comm'n Op. at 19-20; *Arrowheads* at 21-22.

States.[7] In fact, in many investigations, complainants do not request such relief against defaulting foreign respondents.

In this case involving a defaulting foreign respondent, the complaint and supporting circumstantial evidence warrant the issuance of a cease and desist order against iQbe . *See* Complaint at ¶ ¶ 39, 52-54 (stating that the accused product is a private-labeled "iQbe" liquid crystal eWriter and manufactured outside the U.S); Exh. 16. The evidence shows a short time frame between order placement and delivery and no shipping costs. *See id.*, Exh. 16 (Amazon receipt indicating two-day shipping and no shipping and handling costs). Such evidence supports an inference that the U.S. purchase of iQbe's products originated from U.S. inventories. Therefore, the Commission finds the record sufficient to support the inference that iQbe maintains commercially significant inventory through U.S. distribution outlets, and that therefore a cease and desist order is appropriate. *See Skin Care Devices,* Comm'n Op. at 32.

B. Public Interest

Before issuing a remedy directed to a defaulting respondent under section 337(g), the Commission must consider the effect of the remedy on certain public interest considerations: (1) the public health and welfare; (2) competitive conditions in the U.S. economy; (3) the U.S. production of articles that are like or directly competitive with

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[7] *See, e.g., Certain Microsphere Adhesives, Process for Making Same, and Products Containing Same, Including Self-Stick Repositionable Notes*, Inv. No. 337-TA-366, USITC Pub No. 2949 (Jan. 1996). Comm'n Op. at 22-23 ("Moreover, a cease and desist order is typically an in personam order directed to a party in the United States and enforced by the Commission in U.S. district courts, Thus, unless a party in the United States can be compelled to do some act or to refrain from doing some act by U.S. courts, a cease and desist order is inappropriate.").

those which are the subject of the investigation; and (4) U.S. consumers. 19 U.S.C. § 1337(g)(1).

The evidentiary record in this investigation indicates that there are no concerns relating to the section 337 public interest factors that would preclude issuance of the remedial orders. The products at issue are consumer products that provide a convenient method for writing temporary notes or doodling. Complainant Kent Displays, Incorporated's Commission Rule 210.8 Statement on the Public Interest at 2 (Dec. 8, 2016) ("Comp. PI Statement"). No evidence in the record indicates that the remedial orders would have an adverse effect on the public health and welfare. *See e.g. Certain Toner Cartridges and Components Thereof,* Inv. No. 337-TA-918, Comm'n Op. at 13-14 (Aug. 31, 2015).

Moreover, there is no evidence that the requested remedial orders would have any effect on competitive conditions in the U.S. economy. Kent Displays asserts that "the U.S. market for liquid crystal eWriters could be supplied by [Kent Displays] or other non-infringing products." Comp. Br. at 4. Kent Displays further asserts that it has demonstrated an ability to meet the demand by U.S. consumers for eWriters since 2010. *Id.*

Based on the foregoing, the Commission finds that issuance of the requested remedial orders would not be contrary to the public interest.

C. Bonding

Complainants seek a 100 percent bond for importation of infringing products during the period of Presidential review under section 337(j)(3) because no reliable price information can be determined due to iQbe's lack of participation in this investigation.

See Comp. Br. at 5-6. The Commission finds a 100 percent bond for infringing products is appropriate.

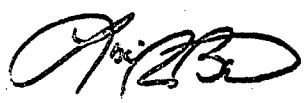
Pursuant to section 337(j)(3), the Commission must determine the amount of bond to be set during the 60-day Presidential review period following the issuance of a remedy. The purpose of the bond is to protect the complainant from injury during the Presidential review period. 19 U.S.C. § 1337(j)(3); 19 C.F.R. §§ 210.42(a)(1)(h), 210.50(a)(3). Complainants bear the burden of establishing the need for a bond amount in the first place. *Certain Rubber Antidegradants, Components Thereof, and Prods. Containing Same*, Inv. No. 337-TA-533, Comm'n Op. at 39-40 (July 21, 2006). To establish the appropriate bond amount, the Commission typically calculates the difference in pricing between the complainant's products and the respondent's products. *See Certain Microsphere Adhesives, Processes for Making Same, and Products Containing Same, Including Self-Stick Repositionable Notes*, Inv. No. 337-TA-366, USITC Pub. No. 2949, Comm'n Op. at 24 (Jan. 1996). The Commission finds that there is little or no evidence in the record of this investigation as to pricing of the defaulting respondent's products because no discovery was obtained from the defaulting respondent. The Commission has traditionally set a bond of 100 percent of the entered value of the products under these circumstances. *See Oscillating Sprinklers, Sprinkler Components, and Nozzles*, Inv. No. 337-TA-448, Limited Exclusion Order at 4-5 (Mar. 1, 2002) (setting the bond at 100 percent of the entered value of the infringing imported product when the defaulting respondent failed to provide pricing information). Accordingly, the Commission has determined to set a bond of 100 percent of the entered value for the infringing liquid crystal eWriters and components thereof during the period of Presidential review because,

in light of iQbe's default, there is no evidence in the record as to the pricing of iQbe's products. *See, e.g.*, *Certain Footwear Prods.,* Inv. No. 337-TA-936, Comm'n Op. at 34-35 (July 6, 2016); *Certain Pumping Bras,* 337-TA-988, Comm'n Op. at 13-14 (April 7, 2017).

III. CONCLUSION

For the reasons stated above, the Commission has determined to issue an LEO excluding iQbe's liquid crystal eWriters and components thereof that infringe claims 1-5, 10, 11, 13-16, 18-23, 26, and 27 of the '506 patent and/or claims 1, 2, 9-11, 15-17, 21, and 22 of the '604 patent. The Commission has also determined to issue a CDO against iQbe prohibiting, *inter alia*, the importation, sale, marketing, distribution, and/or advertising within the United States of articles that infringe the asserted claims. In addition, the Commission has determined to set a bond of 100 percent of the entered value of the goods imported during the period of Presidential review.

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: September 26, 2017

CERTAIN LIQUID CRYSTAL EWRITERS AND COMPONENTS THEREOF **Inv. No. 337-TA-1035**

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **COMMISSION OPINION** has been served by hand upon the following parties as indicated, on 9/26/2017

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

On Behalf of Complainant Kent Displays, Inc.:

Michael L. Doane, Esq.
ADDUCI, MASTRIANI & SCHAUMBERG, LLP
1133 Connecticut Avenue, NW
Washington, DC 20036

☐ Via Hand Delivery
☐ Via Express Delivery
☒ Via First Class Mail
☐ Other:_____

Respondents:

Shenzhen SUNstone Technology Co., Ltd.
d/b/a IQbe
3/F, Bldg. F. No. 1 Industry Park,
Guanlong Village, Xili, Shenzhen
China

☐ Via Hand Delivery
☐ Via Express Delivery
☒ Via First Class Mail
☐ Other:_____

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of CERTAIN LIQUID CRYSTAL EWRITERS AND COMPONENTS THEREOF	Investigation No. 337-TA-1035

NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL DETERMINATION TERMINATING THE LAST REMAINING RESPONDENT BASED ON WITHDRAWAL OF THE COMPLAINT; 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 has determined not to review an initial determination ("ID") (Order No. 11) issued by the presiding administrative law judge ("ALJ") on May 31, 2017, terminating the last remaining respondent based on a withdrawal of the complaint. The Commission requests written submissions, under the schedule set forth below, on remedy, public interest, and bonding concerning a previously defaulted respondent.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436, telephone (202) 708-5468. Copies of non-confidential 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 (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://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 on January 13, 2017, based on a complaint filed by Kent Displays, Inc. ("Kent Displays") of Kent, Ohio. 82 FR 4418. The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("section 337"), in the importation into the

United States, the sale for importation, and the sale within the United States after importation of certain liquid crystal eWriters and components thereof that infringe U.S. Patent Nos. 7,351,506 and 8,947,604. *Id.* The Commission's notice of investigation named as respondents Shenzhen Howshow Technology Co., Ltd., d/b/a Shenzhen Howshare Technology Co., Ltd., d/b/a Howshare ("Howshare") of Shenzhen, China, and Shenzhen SUNstone Technology Co., Ltd., d/b/a iQbe ("iQbe") of Shenzhen, China. *Id.* The Office of Unfair Import Investigations is not participating in this investigation. *Id.*

On April 11, 2017, the ALJ issued an ID finding iQbe in default for failing to respond to the complaint, the notice of investigation, and multiple discovery requests, and for failing to respond to an order to show cause why it should not be found in default. Order No. 9, *not reviewed*, Notice (May 11, 2017).

On May 24, 2017, Kent Displays moved to terminate the investigation with respect to Howshare based on a withdrawal of the complaint. On May 26, 2017, Howshare responded that it did not oppose its termination from the investigation.

On May 31, 2017, the ALJ issued the subject ID, granting the motion and terminating the investigation with respect to Howshare. Order No. 11. No petitions for review of the ID were filed.

The Commission has determined not to review the subject ID.

On June 1, 2017, Kent Displays filed a declaration seeking relief against the defaulted respondent iQbe pursuant to section 337(g)(1) and Commission Rule 210.16(c), 19 CFR 210.16(c). The declaration contains Kent Displays' views on remedy, the public interest, and bonding. A proposed limited exclusion order and a proposed cease and desist order are attached to the declaration.

Section 337(g)(1) and Commission Rule 210.16(c) authorize the Commission to order relief against a respondent found in default, unless, after considering the public interest, it finds that such relief should not issue.

In connection with the final disposition of this investigation, the Commission may: (1) issue an order that could result in the exclusion of articles manufactured or imported by iQbe; and/or (2) issue cease and desist orders that could result in iQbe 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 (December 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors that the Commission will consider include the effect that the exclusion order and/or cease and desists orders 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 this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 Fed. Reg. 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. Kent Displays is requested to state the HTSUS numbers under which the accused products are imported, to state the dates that the patents expire, and to supply information concerning the identity of any known importers.

Written submissions must be filed no later than the close of business on July 10, 2017. Reply submissions must be filed no later than the close of business on July 17, 2017. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

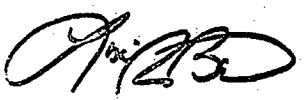
Persons filing written submissions must file the original document electronically on or before the deadline stated above and submit eight true paper copies to the Office of the Secretary pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337–TA–1035") in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, https://www.usitc.gov/secretary/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. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this 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[1], solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

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: June 26, 2017

[1] All contract personnel will sign appropriate nondisclosure agreements.

CERTAIN LIQUID CRYSTAL EWRITERS AND COMPONENTS THEREOF **Inv. No. 337-TA-1035**

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served by hand upon the following parties as indicated, on 6/26/2017

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

On Behalf of Complainant Kent Displays, Inc.:

Michael L. Doane, Esq.
ADDUCI, MASTRIANI & SCHAUMBERG, LLP
1133 Connecticut Avenue, NW
Washington, DC 20036

☐ Via Hand Delivery
☐ Via Express Delivery
☒ Via First Class Mail
☐ Other:_____

On Behalf of Respondent Shenzhen Howshow Technology Co. Ltd. d/b/a Howshare:

Jordan L. Coyle
ORRICK HERRINGTON & SUTCLIFFE, LLP
Columbia Center
1152 15th Street, N.W.
Washington, D.C. 20005

☐ Via Hand Delivery
☐ Via Express Delivery
☒ Via First Class Mail
☐ Other:_____

Respondents:

Shenzhen SUNstone Technology Co., Ltd.
d/b/a IQbe
3/F, Bldg. F. No. 1 Industry Park,
Guanlong Village, Xili, Shenzhen
China

☐ Via Hand Delivery
☐ Via Express Delivery
☒ Via First Class Mail
☐ Other:_____

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of	
CERTAIN LIQUID CRYSTAL EWRITERS AND COMPONENTS THEREOF	**Inv. No. 337-TA-1035**

ORDER NO. 11: INITIAL DETERMINATION TERMINATING THE INVESTIGATION BASED ON WITHDRAWAL OF THE COMPLAINT

(May 31, 2017)

On May 24, 2017, Complainant Kent Displays, Inc. ("KDI") filed a motion to terminate the investigation as to Shenzhen Howshow Technology Co., Ltd. ("Howshow") based on withdrawal of the complaint and to stay the procedural schedule. (Motion Docket No. 1035-007.)

KDI states that it wishes to terminate the Investigation for business reasons and "to explore other enforcement options to protect its intellectual property (and know how) . . . ." (Motion at 2-3.) KDI also notes its unwillingness to "provide as part of the discovery process highly sensitive confidential technical information regarding its products, essential to KDI's competitive success, to Howshow's counsel in China." (*Id.* at 3.) Specifically, "[b]ecause of KDI's significant investment in the development and enforcement of its intellectual property around the world, the risk that the continuation of the Investigation against Howshow would potentially allow KDI's confidential technical information to become distributed throughout China is unacceptable and would seriously compromise KDI's global competitiveness." (*Id.* at 4.) KDI also argues for a complete stay of the procedural schedule to "relieve the parties and the ALJ from devoting resources to complying with upcoming fact and expert discovery related deadlines during the time the motion to withdraw the Complaint as to Howshow and any request

for relief as to iQbe are before the ALJ and/or the Commission." (*Id.* at 4-5.) The motion represents that Howshow does not oppose the request for the stay. (*Id.* at 1.)

Howshow filed a response on May 26, 2017 in which it did not oppose its termination from the investigation but did challenge the accuracy of some of the facts alleged in KDI's motion. (*See generally* Response.)

Under Commission Rule 210.21(a)(1),

> [a]ny party may move at any time prior to the issuance of an initial determination on violation of section 337 of the Tariff Act of 1930 for an order to terminate an investigation in whole or in part as to any or all respondents on the basis of withdrawal of the complaint or certain allegations contained therein . . . .

19 C.F.R. § 210.21(a)(1). Further, "if there are any agreements concerning the subject matter of the investigation, all such agreements shall be identified, and if written, a copy shall be filed with the Commission along with the motion." *Id.* In determining whether to grant a motion to terminate an investigation as to a respondent based on the withdrawal of allegations in the complaint against the respondent, the Commission has found that "in the absence of extraordinary circumstances, termination of the investigation will be readily granted to a complainant during the pre-hearing stage of the investigation." *Certain Opaque Polymers*, Inv. No. 337-TA-883, Order No. 29 at 1-2 (November 3, 2014).

As required by Commission Rule 210.21(a)(1), KDI's motion to terminate includes a statement that "agreements, written or oral, express or implied, between the parties concerning the subject matter of the Investigation." (Mot. at 4.) I find no extraordinary circumstances that prevent the termination of this Investigation. Termination is in the public interest, as public and private resources will be conserved. *Certain Power Supplies*, Inv. No. 337-TA-646, Order No. 18 (Jan. 5, 2009).

Accordingly, it is my Initial Determination to GRANT-IN-PART Motion Docket No. 1035-007. Respondent Shenzhen Howshow Technology Co., Ltd. is hereby terminated from this investigation. The procedural schedule, however, will remain in place as no good cause has been shown for the indefinite stay as KDI proceeds to seek a violation against defaulted respondent Shenzhen SUNstone Technology, Co., Ltd. d/b/a iQbe. (*See* Order No. 9.) This Initial Determination, along with any supporting documentation, is hereby certified to the Commission.

Pursuant to 19 C.F.R.§ 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review of the Initial Determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders, on its own motion, a review of the Initial Determination or certain issues herein.

SO ORDERED.

Thomas B. Pender
Administrative Law Judge

CERTAIN LIQUID CRYSTAL EWRITERS AND COMPONENTS THEREOF

INV. NO. 337-TA-1035

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **PUBLIC INITIAL DETERMINATION Order No. 11** has been served upon the following parties as indicated on MAY 31 2017.

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

FOR COMPLAINANT KENT DISPLAYS INC.	
Michael L. Doane, Esq. **ADDUCCI, MASTRIANI & SCHAUMBERG, LLP** 1133 Connecticut Avenue N.W. Washington, DC 20036	( ) Via Hand Delivery (X) Express Delivery ( ) Via First Class Mail ( ) Other: _____
FOR RESPONDENTS SHENZHEN HOWSHOW TECHNOLOGY CO. LIT. (HOWSHOW)	
Jordan L. Coyle, Esq. **ORRICK HERRINGTON & SUTCLIFFE, LLP** 1152 15th Street, N.W. Washington, DC 20005	( ) Via Hand Delivery (X) Express Delivery ( ) Via First Class Mail ( ) Other: _____
RESPONDENT SHENZHEN SUNstone TECHNOLOGY CO. LTD. d/b/a IQbe	
3/F Bldg. F. No. 1 Industry Park Guanlong Village, Xili Shenzhen China	( ) Via Hand Delivery (X) Express Delivery ( ) Via First Class Mail ( ) Other: _____

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of	Investigation No. 337-TA-1035
CERTAIN LIQUID CRYSTAL EWRITERS AND COMPONENTS THEREOF	

NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL DETERMINATION FINDING RESPONDENT IQBE 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") (Order No. 9) issued by the presiding administrative law judge ("ALJ") on April 11, 2017, finding respondent Shenzhen SUNstone Technology, Co., Ltd. d/b/a iQbe in default.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436, telephone (202) 708-5468. Copies of non-confidential 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 (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://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 on January 13, 2017, based on a complaint filed by Kent Displays, Inc. ("Kent Displays") of Kent, Ohio. 82 FR 4418. The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("section 337"), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain liquid crystal eWriters and components thereof that infringe U.S. Patent Nos. 7,351,506 and 8,947,604. *Id.* The Commission's notice of investigation named as respondents Shenzhen Howshow Technology Co., Ltd., d/b/a Shenzhen Howshare Technology Co., Ltd., d/b/a Howshare of Shenzhen, China, and Shenzhen

SUNstone Technology Co., Ltd., d/b/a iQbe ("iQbe") of Shenzhen, China. *Id.* The Office of Unfair Import Investigations is not participating in this investigation. *Id.*

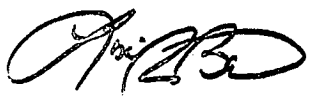
iQbe was served with a copy of the complaint and notice of investigation. *See* Complainant's Motion for Leave to Serve Complaint and Notice of Investigation by Personal Service at Ex. A (Jan. 24, 2017). On March 7, 2017, Kent Displays moved for an order for iQbe to show cause why it should not be found in default for failing to respond to the complaint, the notice of investigation, and multiple discovery requests. On March 23, 2017, the ALJ granted the motion and ordered iQbe to show cause by April 6, 2017. Order No. 8. No response was filed.

On April 11, 2017, the ALJ issued the subject ID finding iQbe in default. No petitions for review of the ID were filed.

The Commission has determined not to review the subject ID.

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: May 11, 2017

CERTAIN LIQUID CRYSTAL EWRITERS AND COMPONENTS THEREOF

Inv. No. 337-TA-1035

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served by hand upon the following parties as indicated, on 5/11/2017

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

On Behalf of Complainant Kent Displays, Inc.:

Michael L. Doane, Esq.
ADDUCI, MASTRIANI & SCHAUMBERG, LLP
1133 Connecticut Avenue, NW
Washington, DC 20036

☐ Via Hand Delivery
☐ Via Express Delivery
☒ Via First Class Mail
☐ Other:_____

On Behalf of Respondent Shenzhen Howshow Technology Co. Ltd. d/b/a Howshare:

Jordan L. Coyle
ORRICK HERRINGTON & SUTCLIFFE, LLP
Columbia Center
1152 15th Street, N.W.
Washington, D.C. 20005

☐ Via Hand Delivery
☐ Via Express Delivery
☒ Via First Class Mail
☐ Other:_____

Respondents:

Shenzhen SUNstone Technology Co., Ltd.
d/b/a IQbe
3/F, Bldg. F. No. 1 Industry Park,
Guanlong Village, Xili, Shenzhen
China

☐ Via Hand Delivery
☐ Via Express Delivery
☒ Via First Class Mail
☐ Other:_____

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of	
CERTAIN LIQUID CRYSTAL EWRITERS AND COMPONENTS THEREOF	**Inv. No. 337-TA-1035**

ORDER NO. 9: INITIAL DETERMINATION FINDING RESPONDENT SHENZHEN SUNSTONE TECHNOLOGY CO., LTD. D/B/A IQBE IN DEFAULT

(April 11, 2017)

On March 23, 2017, I issued Order No. 8, which required that respondent Shenzhen SUNstone Technology Co., Ltd. d/b/a iQbe ("iQbe") show cause why it should not be found in default. Order No. 8 issued in response to Motion Docket No. 1035-003 filed by complainant Kent Displays, Inc. ("KDI"), who argued that "The Commission served the Complaint and Notice of Investigation on both iQbe and Shenzhen Howshow Technology Co., Ltd. d/b/a Shenzhen Howshare Technology Co., Ltd., d/b/a Howshare ("Howshow") via express delivery on January 10, 2017" and "iQbe has not filed a response to the Complaint and Notice of Investigation." (Mot. Mem. at 1.) iQbe was given until April 6, 2017 to respond to Order No. 8, but did not do so.

Commission Rule 210.16 governs default, and states, inter alia:

> A party shall be found in default if it fails to respond to the complaint and notice of investigation in the manner prescribed in § 210.13 or § 210.59(c), or otherwise fails to answer the complaint and notice, and fails to show cause why it should not be found in default.

19 C.F.R. § 210.16(a)(1).

If a respondent fails to respond to an order to show cause why it should not be found in default, the administrative law judge may issue an initial determination finding the respondent in default. 19 C.F.R. § 210.16(b).

Inasmuch as iQbe failed to respond to the Complaint and Notice of Investigation, and inasmuch as it also failed to respond to Order No. 5 to show cause, it is my initial determination that Shenzhen SUNstone Technology Co., Ltd. d/b/a iQbe is in default pursuant to 19 C.F.R. § 210.16.

Pursuant to 19 C.F.R. § 210.42(h), this initial determination shall become the determination of the Commission unless a party files a petition for review of the initial determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders on its own motion a review of the initial determination or certain issues contained herein.

SO ORDERED.

Thomas B. Pender
Administrative Law Judge

IN THE MATTER OF CERTAIN LIQUID CRYSTAL EWRITERS AND COMPONENTS THEREOF

337-TA-1035

CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **PUBLIC INITIAL DETERMINATION ORDER NO. 09** has been served upon the following parties as indicated on APR 11 2017.

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

FOR COMPLAINANT KENT DISPLAYS, INC.:

Michael L. Doane, Esq.
ADDUCI, MASTRIANI & SCHAUMBERG, LLP
1133 Connecticut Avenue, N.W.
Washington, DC 20036

( )Via Hand Delivery
(X)Via Express Delivery
( )Via First Class Mail
( )Other:_____

FOR RESPONDENTS SHENZHEN HOWSHOW TECHNOLOGY CO., LIT. (HOWSHOW)

Jordan L. Coyle, Esq.
ORRICK HERRINGTON & SUTCLIFFE, LLP
1152 15th Street N.W.
Washington, DC 20005

( )Via Hand Delivery
(X)Via Express Delivery
( )Via First Class Mail
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Shenzhen SUNstone Technology Co. Ltd. d/b/a IQbe
3/F, Bldg. F. No. 1 Industry Park,
Guanlong Village, Xili, Shenzhen,
China

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(X)Via Express Delivery
( )Via First Class Mail
( )Other:_____