

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN POCKET LIGHTERS

Investigation No. 337-TA-1142

**NOTICE OF COMMISSION DECISION TO REVIEW, AND ON REVIEW, TO AFFIRM WITH MODIFICATION AN INITIAL DETERMINATION FINDING RESPONDENT ZHUOYE LIGHTER MANUFACTURING CO., LTD. IN DEFAULT**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review an initial determination (“ID”) (Order No. 15) of the presiding administrative law judge (“ALJ”) finding respondent Zhuoye Lighter Manufacturing Co., Ltd. (“Zhuoye”) of Foshan City, China in default.

**FOR FURTHER INFORMATION CONTACT:** Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708-4716. 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 at <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:** On February 12, 2019, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based on a complaint filed by BIC Corporation of Shelton, Connecticut (“Complainant”). *See* 84 Fed. Reg. 3486-87 (Feb. 12, 2019). The complaint, as supplemented, alleges a violation 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 pocket lighters by reason of infringement of U.S. Trademark Registration Nos. 1,761,622 and 2,278,917. *See id.* The notice of investigation names numerous respondents including Zhuoye. *See id.* The Office of Unfair Import Investigations is also a party to the investigation. *See id.*

On June 5, 2019, the ALJ issued an order granting Zhuoye’s counsel’s motion to withdraw, and directing that Zhuoye state in writing, no later than June 13, 2019, whether it intended to retain other counsel, proceed without counsel, or default from the present

proceedings pursuant to Commission Rule 210.17(h) (19 CFR 210.17(h)), and that failure to respond to Order No. 12 would result in default under Commission Rule 210.17(e) (19 CFR 210.17(e)). *See* Order No. 12. No response was received from Zhuoye.

On June 18, 2019, the ALJ issued the subject ID (Order No. 15) finding Zhuoye in default pursuant to Commission Rule 210.17(h) (19 CFR 210.17(h)), for failure to respond to Order No. 12. *See* Order No. 15 at 1. No petition for review of the subject ID was filed.

The Commission has determined to review the ID. Specifically, the Commission finds that the ID's reliance on Commission Rule 210.17(h) (19 CFR 210.17(h)) is not proper because that rule requires the filing by a party of a notice of intent to default. The Commission finds that Commission Rule 210.17(e) (19 C.F.R. § 210.17(e)) provides the proper basis for finding Zhuoye in default because Zhuoye failed to file a written submission as required by Order No. 12. Accordingly, on review, the Commission has determined to affirm the ID with the modification discussed herein.

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: July 10, 2019