

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN PERCUSSIVE MASSAGE
DEVICES**

Investigation No. 337-TA-1206

**NOTICE OF COMMISSION DETERMINATION TO EXTEND THE DATE BY WHICH
THE COMMISSION DECIDES WHETHER TO REVIEW AN INITIAL
DETERMINATION GRANTING IN PART A MOTION FOR SUMMARY
DETERMINATION OF VIOLATION OF SECTION 337**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined to extend the date by which it decides whether to review the presiding administrative law judge’s (“ALJ”) initial determination (“ID”) (Order No. 40) granting in part a motion for summary determination of violation to October 20, 2021.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, D.C. 20436, telephone (202) 205-2392. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.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 July 22, 2020, based on a complaint filed on behalf of Hyper Ice, Inc. (“Hyperice”) of Irvine, California. 85 FR 44322 (July 22, 2020). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain percussive massage devices by reason of infringement of certain claims of U.S. Patent No. 10,561,574 (“the ’574 patent”); U.S. Design Patent No. D855,822; and U.S. Design Patent No. D886,317. The complaint further alleges that a domestic industry exists. The Commission’s notice of investigation names nineteen respondents. The notice of investigation also names the Office of Unfair Import Investigations (“OUII”) as a party. On October 16, 2020, the Commission determined not to review an ID (Order No. 11) granting motions to

intervene by third parties Shenzhen Xinde Technology Co., Ltd. and Yongkang Aijiu Industrial & Trade Co., Ltd. in the investigation.

Respondents Kinghood International Logistics Inc. (“Kinghood”), Manybo Ecommerce Ltd. (“Manybo”), Shenzhen Infein Technology Co., Ltd. (“Shenzhen Infein”), Hong Kong Yongxu Capital Management Co., Ltd. (“Hong Kong Yongxu”), and Kula eCommerce Co., Ltd. (“Kula”) (collectively, “the Defaulting Respondents”) have been found in default. *See* Order No. 17 (Dec. 17, 2020), *unreviewed by* Comm’n Notice (Jan. 5, 2021).

On May 7, 2021, Hyperice filed a motion for summary determination that the Defaulting Respondents have violated section 337 for infringing its three asserted patents. On May 14, 2021, Hyperice supplemented its motion with additional declarations. On May 20, 2021, Hyperice again supplemented its motion with claim charts and exhibits. OUII filed a response in support of the motion with respect to the ’574 patent but not with respect to the asserted design patents.

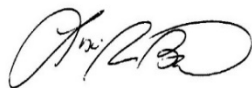
On August 20, 2021, the ALJ issued the subject ID (Order No. 40) granting in part Hyperice’s motion for summary determination of violation of section 337. Specifically, the ID found: (1) that Hyperice established the importation requirement as to Defaulting Respondents Kinghood, Manybo, Shenzhen Infein, and Hong Kong Yongxu, but not Kula; (2) that Defaulting Respondents Kinghood, Manybo, Shenzhen Infein, and Hong Kong Yongxu infringe one or more of claims 1-7, 9, 14, and 15 of the ’574 patent; (3) that Hyperice’s domestic industry products practice at least one claim of the ’574 patent; and (4) that Hyperice has proven that a domestic industry exists within the United States related to articles protected by that patent. No petitions for review of the ID were filed.

The Commission has determined to extend the deadline for whether to review the subject ID to October 20, 2021.

The Commission vote for this determination took place on October 4, 2021.

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: October 4, 2021