

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN VACUUM INSULATED
FLASKS AND COMPONENTS
THEREOF**

Investigation No. 337-TA-1216

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN
INITIAL DETERMINATION GRANTING A JOINT MOTION TO TERMINATE
THE INVESTIGATION AS TO RESPONDENT DUNHUANG GROUP A/K/A
DHGATE BASED ON A SETTLEMENT AGREEMENT**

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. 17) of the presiding chief administrative law judge (“CALJ”) granting a joint motion to terminate the investigation as to respondent Dunhuang Group a/k/a DHgate (“DHgate”) based on a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., 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: On September 3, 2020, 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 Steel Technology LLC d/b/a Hydro Flask and Helen of Troy Limited (collectively, “Complainants,” or “Hydro Flask”). 85 FR 55030-31 (Sept. 3, 2020). The complaint alleges a violation of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain vacuum insulated flasks and components thereof by reason of infringement of: (1) the sole claim of U.S. Design Patent Nos. D806,468; D786,012 (“the ’012 patent”); and D799,320; and (2) U.S. Trademark Registration Nos. 4,055,784; 5,295,365; 5,176,888; and 4,806,282 (“Steel Band Trademark”). The complaint also alleges the existence of a domestic industry.

The notice of investigation names the following as respondents: Everich and Tomic Houseware Co., Ltd. of Hangzhou, China (“Everich”); Cangnan Kaiyisi E-Commerce Technology, Co., Ltd. of Wenzhou, Zhejiang, China; Shenzhen Huichengyuan Technology Co., Ltd. of Shenzhen, Guangdong, China; Sinbada Impex Co., Ltd. of Hefei, Anhui, China; Yongkang Huiyun Commodity Co., Ltd. of Jinhua, Zhejiang, China; Wuyi Loncin Bottle Co., Limited of Jinhua, Zhejiang, China; Yiwu Honglu Daily Necessities Co., Ltd. of Yiwu City, Zhejiang, China; Zhejiang Yuchuan Industry & Trade Co., Ltd. of Jinhua, Zhejiang, China; Zhejiang Yongkang Unique Industry & Trade Co., Ltd. of Jinhua, Zhejiang, China; Suzhou Prime Gifts Co., Ltd. of Suzhou, Jiangsu, China; Hangzhou Yuehua Technology Co., Ltd. of Hangzhou, Zhejiang, China; Guangzhou Yawen Technology Co., Ltd. of Guangzhou, China; Yiwu Yiju E-Commerce Firm of Yiwu City, Zhejiang Province, China; Jinhua Ruizhi Electronic Commerce Co., Ltd. of Jinhua City, Zhejiang Province, China; Womart (Tianjin) International Trade Co., Ltd. of Tianjin, China; Shenzhen Yaxin General Machinery Co., Ltd. of Shenzhen, China; DHgate of Beijing, China; Eddie Bauer, LLC of Bellevue, Washington; PSEB Holdings, LLC of Wilmington, Delaware; and HydroFlaskPup of Phoenix, Arizona. *Id.* at 55031. The Commission’s Office of Unfair Import Investigations (“OUII”) is also named as a party in this investigation. *Id.*

Subsequently, the Commission permitted Complainants to amend the complaint and notice of investigation to: (1) assert the ’012 patent against additional infringing products sold by Everich; (2) incorporate into the complaint the information and additional paragraphs included in Complainants’ Supplemental Letter to the Commission of August 18, 2020; and (3) correct the corporate names of the following four non-appearing respondents – Yiwu Yiju E-Commerce Firm as “Yiwu Houju E-Commerce Firm,” Jinhua Ruizhi Electronic Commerce Co., Ltd. as “Jinhua City Ruizhi E-Commerce Co., Ltd.,” Womart (Tianjin) International Trade Co., Ltd. as “Wo Ma Te (Tianjin) International Trade Co., Ltd.,” and Shenzhen Yaxin General Machinery Co., Ltd. as “Shenzhen City Yaxin General Machinery Co., Ltd.” Order No. 12 (Nov. 6, 2020), *unreviewed by* Notice (Nov. 24, 2020); *see* 85 FR 77239-40 (Dec. 1, 2020). The Commission also terminated the investigation as to respondents Eddie Bauer, LLC and PSEB Holdings, LLC based on a consent order and settlement agreement. Order No. 13 (Nov. 30, 2020), *unreviewed by* Notice (Dec. 21, 2020). The Commission likewise terminated the investigation with respect to the Steel Band Trademark. Order No. 16 (Jan. 11, 2021), *unreviewed by* Notice (Feb. 8, 2021).

On January 11, 2021, Hydro Flask and respondent DHgate jointly moved to terminate the investigation as to DHgate based on a settlement agreement. On January 21, 2021, OUII filed its response in support of the joint motion.

On January 27, 2021, the CALJ issued the subject ID (Order No. 17) pursuant to Commission Rule 210.21(b) (19 CFR 210.21(b)), granting the joint motion. The ID finds that the settlement agreement completely resolves the dispute as to Hydro Flask and DHgate. ID at 1. The ID also finds that there are no other agreements, written or oral, express or implied, between the moving parties concerning the subject matter of this investigation. *Id.* at 2 (citing Mot. at 2). The ID further finds that termination of this investigation as to DHgate does not impose any undue burdens on the public health and welfare, competitive conditions in the United States economy, production of like or directly competitive articles in the United States, or United

States consumers. *Id.* No party petitioned for review of the ID.

The Commission has determined not to review the subject ID. The investigation is terminated as to respondent DHgate.

The Commission vote for this determination took place on February 16, 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.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', written in a cursive style.

Lisa R. Barton
Secretary to the Commission

Issued: February 16, 2021