

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN ELECTROLYTE
CONTAINING BEVERAGES AND
LABELING AND PACKAGING
THEREOF**

Inv. No. 337-TA-1269

NOTICE OF INSTITUTION OF INVESTIGATION

Institution of Investigation Pursuant to 19 U.S.C. 1337

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 6, 2021, under section 337 of the Tariff Act of 1930, as amended, on behalf of CAB Enterprises, Inc. of Houston, Texas and Sueros y Bebidas Rehidratantes, S.A. de C.V. of Mexico. Supplements were filed on May 12, 2021, May 24, 2021, and May 25, 2021. The complaint, as supplemented, alleges violations 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 electrolyte containing beverages and labeling and packaging thereof by reason of infringement of U.S. Trademark Registration No. 4,222,726 (“the ’726 mark”); U.S. Trademark Registration No. 4,833,885 (“the ’885 mark”); U.S. Trademark Registration No. 4,717,350 (“the ’350 mark”); and U.S. Trademark Registration No. 4,717,232 (“the ’232 mark”) (collectively, “Asserted Trademarks”). The complaint, as supplemented, further alleges that an industry in the United States exists and is in the process of being established, as required by the applicable Federal Statute.

The complainants request that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative a limited exclusion order, and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

SUPPLEMENTARY INFORMATION:

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10 (2020).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on June 29, 2021, **ORDERED THAT** –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(C) 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 products identified in paragraph (2) by reason of infringement of one or more of the Asserted Trademarks, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “electrolyte beverages and associated packaging and labels that bear the Electrolit® Asserted Trademarks”;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

CAB Enterprises, Inc.
2700 Post Oak Blvd.
Suite 22-111
Houston, Texas 77056

Sueros y Bebidas Rehidratantes S.A. de C.V.
Av. Espana No. 1840
Colonia Moderna
C.P. 44190
Guadalajara, Jalisco, Mexico

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Flexicompuestos S.A. de C.V.
Avenida Kristal 619
Juarez, Nuevo Leon 67280
Mexico

Grupo Comercial Lux del Norte S.A. de C.V.
Emiliano Zapata 229
Centro Miguel Aleman
Septima y Octava
Miguel Aleman, Tamaulipas 88300
Mexico

Carbonera Los Asadores S.A. de C.V.
Carr. Nacional KM 85, No. 1413
Col. Centro, C.P. 67350
Allende, Nuevo León
Mexico

Caribe Agencia Express, S.A. de C.V.
Avenida Tulum 269
Manzana 3 Lote 2 y 3 Local 02 y Sm 15 A
Avenida Acanceh y Avenida Tulum
Benito Juarez, Quintana Roo 77500
Mexico

Comercializadora Degu S.A. de C.V.
Calle Anguila 106
Matamoros, Tamaulipas, C.P. 87398
Mexico

Comercial Treviño de Reynosa, S.A. de C.V.
Lib Mty Matamoros, Km. 7, S/N
Jacinto Lopez Ampliacion Av
San Rafael y Av Talleres
Reynosa, Tamaulipas 88756
Mexico

H & F Tech International S.A. de C.V.
Bernardo Reyes PTE 313
San Nicolas de los Garza Centro
Mariano Matamoros y Calle Anastacio Bustamante
San Nicolás de los Garza, Nuevo León 66400
Mexico

MPC Foods S.A. de C.V.
Profesor Jose Flores 41
Manzanillo, Colima 28869
Mexico

Myrna Guadalupe Perez Martinez
Blvd. Luis Donald Colosio
Col. Nuevo Amanecer 1003
Reynosa, Tamaulipas 88790
Mexico

Leticia Angélica Saenz Fernandez
Segunda 517
Centro Miguel Aleman a Obregon e Insurgentes
Miguel Alemán, Tamaulipas 88300
Mexico

Yoselen Susana Martinez Tirado
Montreal 114
La Cañada 2
Brasilia y Munich
Reynosa, Tamaulipas 88700
Mexico

Distribuidora Mercatto S.A. de C.V.
Jordan 2211
Monterrey, Nuevo León, 64460
Mexico

Comercializadora Embers S.A. de C.V.
Camino a la Paz 200
Allende, Nuevo León 67353
Mexico

Manuel Bautista Nogales
Prol. Constitucion 2219-6 Bodega 6
Luis Echeverria Alvarez Calle d y Esquina con 1RA Avenida
Santa Catarina, Nuevo León 66358
Mexico

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Commission notes that issues regarding whether the domestic industry requirement of section 337 is met may be present here. In instituting this investigation, the Commission has not made any determination as to whether complainants have satisfied this requirement. The presiding Administrative Law Judge may wish to consider this issue at an early date, including through use of the interim initial determination (ID) pilot program, https://www.usitc.gov/press_room/featured_news/337pilotprogram.htm. Notwithstanding any Commission Rules to the contrary, which are hereby waived, any such decision should be (i) issued in the form of an ID under Rule 210.42(c), 19 C.F.R. 210.42(c), or (ii) if issued through use of the interim initial determination (ID) pilot program, in the form of an ID under Rule 210.42(a)(1)(i), 19 C.F.R. 210.42(a)(1)(i). The ID will become the Commission's final determination 45 days after the date of service of the ID unless the Commission determines to review the ID. Any such review will be conducted in accordance with Commission Rules 210.43, 210.44, and 210.45, 19 C.F.R. 210.43, 210.44, and 210.45.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.13. Pursuant to 19 C.F.R. 201.16(e) and 210.13(a), as amended in 85 Fed. Reg. 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainants of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: June 29, 2021