

**UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.**

**In the Matter of**

**CERTAIN CHOCOLATE MILK  
POWDER AND PACKAGING  
THEREOF**

**Investigation No. 337-TA-1232  
(Enforcement)**

**NOTICE OF A COMMISSION FINAL DETERMINATION FINDING ENFORCEMENT  
RESPONDENTS TO HAVE VIOLATED THE GEO; ISSUANCE OF CEASE AND  
DESIST ORDERS; TERMINATION OF THE INVESTIGATION**

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined to find Bharat Bazar Inc. (“Bharat Bazaar”); Coconut Hill Inc. d/b/a Coconut Hill (“Coconut Hill”); Organic Ingredients Inc. d/b/a Namaste Plaza Indian Super Market (“Organic Ingredients”); and New India Bazar Inc. d/b/a New India Bazar (“New India”) (collectively, “Enforcement Respondents”) to have violated the General Exclusion Order (“GEO”) in this investigation. The Commission has also determined to issue cease and desist orders (“CDOs”) against each of these four defaulting Enforcement Respondents. The investigation is terminated.

**FOR FURTHER INFORMATION CONTACT:** Paul Lall, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2043. 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](mailto: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 the original investigation on December 1, 2020, based on a complaint filed on behalf of Meenaxi Enterprise Inc. (“Meenaxi”) of Edison, New Jersey. 85 FR 77237-38 (Dec. 1, 2020). The complaint alleged violations of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain chocolate milk powder and packaging thereof by reason of infringement of U.S. Trademark Registration No. 4,206,026 (“the ’026 mark”). The Commission’s notice of investigation named several respondents, including but not limited to Bharat Bazar of Union City, California; Coconut Hill of Sunnyvale, California; Organic Food Inc. d/b/a Namaste Plaza

Indian Super Market (“Organic Food”) of Fremont, California; and New India of San Jose, California. *Id.* at 77237. The Office of Unfair Import Investigations (“OUII”) was also a party to the investigation. *Id.*

In the underlying investigation, all respondents were found in default. *See* Order No. 6 (Feb. 10, 2021), *unreviewed by* Comm’n Notice (Mar. 2, 2021); Order No. 23 (May 19, 2022), *unreviewed by* Comm’n Notice (Jun. 14, 2022). On May 24, 2021, Meenaxi moved for summary determination of violation of section 337 by the respondents found in default by Order No. 6 and requested a GEO. On December 1, 2021, the former chief administrative law judge (“former CALJ”) granted the motion as an initial determination (“ID”) (Order No. 15), but noted discrepancies with respect to respondent Organic Food, calling into question whether that respondent was ever properly served with the complaint and notice of investigation and with the CALJ’s order to show cause why the respondents should not be found in default, Order No. 5 (Jan. 13, 2021). *See* Order No. 15 at 1, n.1. No petitions for review of the ID were filed. The Commission determined *sua sponte* to review Order No. 15 and ordered reconsideration of Order No. 6 as to Organic Food and/or any other respondents who may not have been properly served with documents in the underlying investigation. *See* Comm’n Notice at 3 (Jan. 18, 2022). The Commission remanded the investigation to an ALJ for further proceedings. *Id.*

On remand, the current chief administrative law judge (“CALJ”) issued Order No. 18, granting Meenaxi’s unopposed motion for leave to amend the complaint and notice of investigation to (i) substitute Organic Food with proposed respondent Organic Ingredients of San Diego, California; (ii) correct the address of respondent New India; (iii) correct the address of respondent Bharat Bazar; and (iv) supplement the complaint with Exhibits 9-a, 9-b, and 9-c, concerning Organic Food and/or Organic Ingredients. Order No. 18 at 1-5 (Mar. 11, 2022), *unreviewed by* Comm’n Notice (Apr. 12, 2022); *see also* 87 FR 22940-41 (Apr. 18, 2022). Meenaxi also demonstrated that Bharat Bazar actually had been served with all of the documents in the investigation (prior to remand) despite incorrectly spelling Bharat Bazar’s address as being on “Niled Road” instead of “Niles Road.” *See* Order No. 18 at 4.

The CALJ conducted remand proceedings as to Organic Ingredients and New India with respect to service of the amended complaint and notice of investigation, and upon the failure of these respondents to respond to the amended complaint and notice of investigation, the CALJ ordered them to respond to an order to show cause why they should not be found in default. *See* Order No. 19 (Mar. 11, 2022); Order No. 21 at 2-3 (May 3, 2022). On May 19, 2022, the CALJ issued an ID finding Organic Ingredients and New India in default. Order No. 23 (May 19, 2022), *unreviewed by* Comm’n Notice (June 14, 2022). Accordingly, the Commission found all respondents in default (collectively with the respondents previously found in default, the “Defaulting Respondents”).

On June 13, 2022, Meenaxi again moved for summary determination of violation by the Defaulting Respondents and requested a GEO. On July 6, 2022, OUII filed a response supporting the motion.

On August 3, 2022, the CALJ issued a remand ID (“RID”) (Order No. 27), granting the second motion for summary determination and finding a violation of section 337 with respect to the ’026 mark. The RID found that all Defaulting Respondents met the importation requirement and that Meenaxi satisfied the domestic industry requirement. *See* 19 U.S.C. 1337(a)(1-3). No party petitioned for review of the RID.

On September 19, 2022, the Commission determined not to review the RID. *See* 87 FR 58130-32 (Sept. 23, 2022). On November 15, 2022, the Commission issued a final determination finding a violation, issuing a GEO prohibiting the unlicensed importation of chocolate milk powder and packaging thereof that infringe the ’026 mark, and terminating the investigation. *See* 87 FR 70864-66 (Nov. 21, 2022). The GEO prohibits the unlicensed importation of “chocolate milk powder in consumer-sized container with the Bournvita label.” *Id.*; GEO at 2 (Nov. 15, 2022). On the same day, the Commission issued an opinion explaining the basis for its final determination.

On November 9, 2023, the Commission determined to institute an enforcement proceeding under Commission Rule 210.75 to investigate alleged violations of the GEO by the four Enforcement Respondents. *See* Comm’n Notice, EDIS Doc. ID 808258 (Nov. 9, 2023); *see also* 88 FR 78786-87 (Nov. 16, 2023); 89 FR 15220 (Mar. 1, 2024). OUII is also named as a party. 88 FR at 78787.

On January 10, 2024, the presiding ALJ issued an order directing the Enforcement Respondents to show cause why they should not be found in default and why judgment should not be rendered against them for failing to respond to the enforcement complaint and notice of investigation. *See* Order No. 6 (Jan. 10, 2024). Order No. 6 directed the Enforcement Respondents to make any showing of good cause by no later than February 2, 2024. *Id.* at 3. No party responded to Order No. 6. *See* Order No. 8 at 1 (Feb. 13, 2024).

On March 14, 2024, the Commission determined that the four Enforcement Respondents were in default. *See* Order No. 8 (Feb. 13, 2024), *unreviewed by* Comm’n Notice (Mar. 15, 2024). On March 15, 2024, Meenaxi filed a motion requesting summary determination of violation of the GEO and the issuance of CDOs against the four Enforcement Respondents. *See* Order No. 9 (Aug. 16, 2024) (“ID”) at 5.

On August 16, 2024, the presiding ALJ issued the subject ID (Order No. 9), granting Meenaxi’s motion and recommending issuance of the requested CDOs. The ALJ concluded that “the un rebutted evidence summarized below demonstrates that the Enforcement Respondents have imported and/or sold after importation chocolate milk powder products bearing the ‘Bournvita’ label” in violation of the GEO. ID at 16-17. The ID noted that Meenaxi alleges that the Enforcement Respondents have violated the GEO by offering for sale, selling, advertising, and aiding and abetting the sale for Cadbury’s “BOURNVITA” products. *Id.* at 17-18. The ID explained that “[t]hese (or similar) products were found to infringe the ’026 Mark during the violation phase” of this investigation. *Id.* at 18. No party filed a petition seeking review of the ID.

On August 19, 2024, the Commission issued a notice soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation of the GEO, specifically, CDOs against the four Enforcement Respondents: (1) Bharat Bazaar; (2) Coconut Hill; (3) Organic Ingredients; and (4) New India. 89 FR 68203-04 (Aug. 23, 2024). No comments were received in response to the notice.

On October 2, 2024, the Commission issued a notice determining to review the ID's findings that the Enforcement Respondents have violated the GEO. 89 FR 81547-49 (Oct. 8, 2024). The Commission requested briefing from the parties on (1) whether the sale of infringing products imported before the issuance of a GEO but sold in the United States after the issuance of that order constitutes a violation of the GEO; (2) whether a complainant must provide evidence of importation of infringing products after the date on which the GEO issued in order to establish a violation of a GEO in an enforcement proceeding; and (3) whether 19 U.S.C. 1337(g)(1) applies to allegations of a violation of a GEO in an enforcement proceeding involving defaulting enforcement respondents. *Id.* at 81548. The Commission also requested briefing from the parties, interested government agencies, and other interested persons on the issues of remedy, the public interest, and bonding. *Id.* at 81548-49.

On October 16, 2024, Meenaxi and OUII each filed submissions in response to the Commission's notice, arguing that the public interest does not preclude issuance of the requested CDOs. In its response, Meenaxi requested the same bond as previously issued in the underlying investigation during the period of Presidential review pursuant to section 337(j) (19 U.S.C. 1337(j)). No other party filed a response.

Having examined the record of this investigation, including the parties' submissions, the Commission has determined to find that the conditions set forth in section 337(g)(1)(A)-(E) (19 U.S.C. 1337(g)(1)(A)-(E)) have been satisfied, and section 337(g)(1) directs the Commission, upon request, to issue a CDO against a respondent found in default, based on the allegations regarding a violation of the GEO in the complaint, which are presumed to be true, unless after consideration of the public interest factors in section 337(g)(1), it finds that such relief should not issue. The Commission has further determined that the appropriate remedy in this investigation is to issue a CDO against each Enforcement Respondent. The Commission has also determined that the public interest factors enumerated in subsection 337(g)(1) do not preclude the issuance of the CDOs. The Commission has further determined that the bond during the period of Presidential review pursuant to section 337(j) (19 U.S.C. 1337(j)) shall be in the amount of one hundred percent (100%) of the entered value of the infringing articles. The investigation is terminated.

The Commission's vote on this determination took place on November 18, 2024.

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', enclosed within a large, stylized oval flourish.

Lisa R. Barton  
Secretary to the Commission

Issued: November 18, 2024