

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

CERTAIN HAIR IRONS AND
PACKAGING THEREOF

Investigation No. 337-TA-637

2009 JUN 29 PM 4:01
OFFICE OF THE SECRETARY
U.S. INTERNATIONAL TRADE COMMISSION

ISSUANCE OF A GENERAL EXCLUSION ORDER; TERMINATION
OF THE INVESTIGATION

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued a general exclusion in the above-referenced investigation and terminated the investigation.

FOR FURTHER INFORMATION CONTACT: Jean H. Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-3104. Copies of the public version of the ID and all nonconfidential 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, S.W., Washington, D.C. 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION: On March 14, 2008, the Commission instituted this investigation, based on a complaint filed by Farouk Systems, Inc. ("FSI") of Houston, Texas, alleging a violation of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, as amended, by reason of infringement of U.S. Registered Trademark No. 2,660,257 (CHI®). The respondents named in the notice of investigation are: CHI Systems Singapore Pte. Ltd. (CHI Systems) of Singapore; Princess Silk, LLC ("Princess Silk") of Lake Forest, California; Kamashi International (Kamashi) of Hong Kong; Mount Rise Ltd. (Mount Rise) of Dongguan, China; and Dongguan Fumeikang Electrical Technology Co., Ltd. ("Dongguan Fumeikang") of Dongguan,

China. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337. Dongguan Fumeikang and Princess Silk have been terminated from the investigation based on consent orders.

On November 10, 2008, FSI filed a motion requesting an order directing the remaining respondents, Mount Rise, Kamashi, and CHI Systems, to show cause why they should not be found in default for failure to respond to the complaint and notice of investigation. On December 5, 2008, the ALJ issued Order No. 12, which ordered Mount Rise, Kamashi and CHI Systems to show cause why they should not be found in default. No responses to Order No. 12 were filed. On January 30, 2009, the ALJ issued Order No. 13, an initial determination (“ID”) granting FSI’s motion and finding Mount Rise, Kamashi, and CHI Systems in default in view of their failure to respond to the show cause order. The Commission did not review that ID.

FSI also filed a motion for summary determination of violation by Mount Rise, Kamashi, and CHI Systems on November 10, 2008. These entities were the last remaining respondents, the investigation having been terminated based on consent orders with respect to all other respondents. Pursuant to Commission Rule 210.16(c)(2), 19 C.F.R. § 216(c)(2), FSI declared that it would seek a general exclusion order when it filed its motion for summary determination of violation.

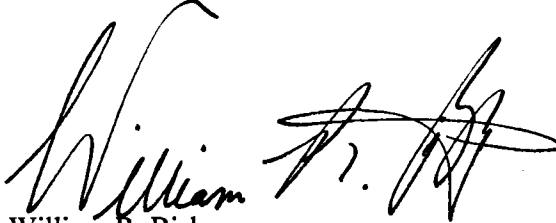
On March 10, 2009, the ALJ issued an ID, Order No. 14, granting FSI’s motion. He also issued his recommended determinations on remedy and bonding (“RD”). The Commission determined not to review Order No. 14, and issued a notice requesting briefing on the ALJ’s RD and the public interest on April 22, 2009. *74 Fed. Reg.* 19237 (April 28, 2008). FSI and the Commission investigative attorney filed submissions on May 8, 2009. No other submissions were received.

Having reviewed the record in this investigation, including the ALJ’s RD and the parties’s written submissions, the Commission has determined that the appropriate form of relief is a general exclusion order prohibiting the unlicensed entry of hair irons that infringe U.S. Registered Trademark No. 2,660,257 (“CHI®”).

The Commission has further determined that the public interest factors enumerated in section 337(d)(1) do not preclude issuance of the general exclusion order. Finally, the Commission has determined that the amount of bond to permit temporary importation during the Presidential review period under 19 U.S.C. 1337(j) shall be in the amount of 100 percent of the value of the hair irons that are subject to the order. The Commission’s order and opinion were delivered to the President and to the United States Trade Representative on their date of issuance.

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 sections 210.49-50 of the
Commission's Rules of Practice and Procedure, 19 C.F.R. §§ 210. 49-50.

By order of the Commission.
Marilyn R. Abbott, Secretary



William R. Bishop
Acting Secretary to the Commission

Issued: June 29, 2009

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

In the Matter of

**CERTAIN HAIR IRONS AND
PACKAGING THEREOF**

Inv. No. 337-TA-637

GENERAL EXCLUSION ORDER

The Commission has determined that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) based on the unlawful importation and sale of certain hair irons and packaging for hair irons that infringe United States Trademark Registration No. 2,660,257, to the following mark: CHI®.

Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that a general exclusion from entry for consumption is necessary because there is a pattern of violation of section 337 and it is difficult to identify the source of infringing products. Accordingly, the Commission has determined to issue a general exclusion order prohibiting the unlicensed importation of infringing hair irons and packaging thereof.

The Commission has further determined that the public interest factors enumerated in 19 U.S.C. § 1337(d) do not preclude issuance of the general exclusion order, and that the bond during the Presidential review period shall be in the amount of 100 percent of the entered value of the articles in question.

Accordingly, the Commission hereby **ORDERS** that:

1. Hair irons or packaging for hair irons that infringe U.S. Registered Trademark No. 2,660,257 or any marks confusingly similar thereto are excluded from entry into the United States for consumption, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, except under license of the trademark owner or as provided by law, until such date as the trademark is abandoned, canceled, or rendered invalid or unenforceable.
2. The relevant trademark registration is attached to this Order as Exhibit 1.

For the purpose of assisting U.S. Customs and Border Protection in the enforcement of this Order, and without in any way limiting the scope of the Order, the Commission has attached to this Order as Exhibit 2 a copy of photographs provided by the Commission of exemplary Farouk hair irons and hair iron packaging having the protected trademark. The Commission has also attached photographs of articles and packaging that has been found to infringe the trademark as Exhibit 3.

3. Notwithstanding paragraph 1 of this Order, the aforesaid hair irons and hair iron packaging are entitled to entry into the United States for consumption, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, under bond in the amount of 100 percent of entered value pursuant to subsection (j) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337(j)), and the Presidential memorandum for the United States Trade Representative of July 21, 2005 (*70 Fed. Reg.* 43251) from the day after this Order is received by the United States Trade Representative until such time as the United States Trade Representative notifies the Commission that this Order is approved or disapproved but, in any event, not later than 60 days after the date of receipt of this Order. Note, however, this provision

does not exempt infringing articles from seizures under the trademark laws enforced by Customs and Border Protection, most notably 19 U.S.C. § 1526(e) and 19 U.S.C. § 1595a(c)(2)(C) in connection with 15 U.S.C. §1124.

4. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to hair irons or hair iron packaging that are imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.

5. Complainant Farouk Systems, Inc. shall file a written statement with the Commission, made under oath, each year on the anniversary of the issuance of this Order stating whether Farouk continues to use the trademark at issue in commerce in the United States in connection with hair irons, whether the aforesaid trademark has been abandoned, canceled, or rendered invalid or unenforceable, and whether Farouk continues to satisfy the economic requirements of Section 337(a)(2).

6. The Commission may modify this Order in accordance with the procedures described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

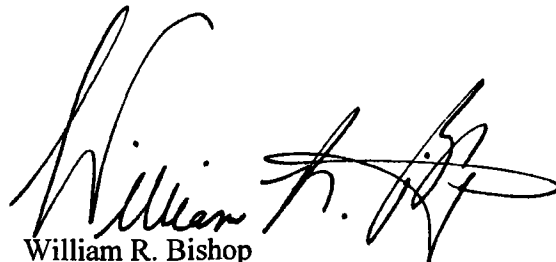
7. The Secretary shall serve copies of this Order upon each party of record in this investigation and upon the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and the U.S. Customs and Border Protection ("CBP").

8. At the discretion of CBP and pursuant to procedures it establishes, persons seeking to import hair irons or packaging for hair irons that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the

products being imported are not excluded from entry under paragraphs 1 through 7 of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.

9. Notice of this Order shall be published in the *Federal Register*.

By Order of the Commission.
Marilyn R. Abbott, Secretary



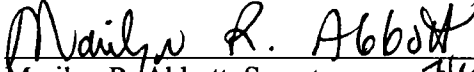
William R. Bishop
Acting Secretary to the Commission

Issued: June 29, 2009

PUBLIC CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **ISSUANCE OF A GENERAL EXCLUSION ORDER; TERMINATION OF THE INVESTIGATION** has been served by hand upon the Commission Investigative Attorney, Aarti Shah, Esq., and the following parties as indicated, on

~~_____~~
JUN 30 2009


Marilyn R. Abbott, Secretary *MA*
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

ON BEHALF OF COMPLAINANT FAROUK SYSTEMS, INC.:

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