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UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN VACUUM INSULATED
FLASKS AND COMPONENTS THEREOF**

Inv. No. 337-TA-1216

**ORDER NO. 24: INITIAL DETERMINATION GRANTING-IN-PART
COMPLAINANTS' MOTION FOR SUMMARY DETERMINATION
OF VIOLATION; AND RECOMMENDED DETERMINATION ON
REMEDY AND BONDING**

(September 3, 2021)

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I. INTRODUCTION

On April 8, 2021, Hydro Flask Steel Technology, LLC d/b/a Hydro Flask and Helen of Troy Limited (collectively, “Hydro Flask”) moved (1216-008) for a summary determination of violation by Respondents Cangnan Kaiyisi E-Commerce Technology Co., Ltd.; Shenzhen Huichengyuan Technology Co., Ltd.; Sinbada Impex Co., Ltd.; Yongkang Huiyun Commodity Co., Ltd.; Wuyi Loncin Bottle Co., Ltd.; Zhejiang Yuchuan Industry & Trade Co., Ltd.; Zhejiang Yongkang Unique Industry & Trade Co., Ltd.; Suzhou Prime Gifts Co., Ltd.; Hangzhou Yuehua Technology Co., Ltd.; Guangzhou Yawen Technology Co., Ltd.; Jinhua City Ruizhi E-Commerce Co., Ltd.; Wo Ma Te (Tianjin) International Trade Co., Ltd.; and Shenzhen City Yaxin General Machinery Co., Ltd. (collectively, the “Defaulting Respondents”), and requested entry of a general exclusion order (“GEO”) and cease and desist orders (“CDOs”). On April 19, 2021, the Commission Investigative Staff (“Staff”) filed a response in support of the motion. In Staff’s view, Hydro Flask’s motion should be granted with respect to at least ten of the Defaulting Respondents. Staff Resp. at 2-4. Staff also supports Hydro Flask’s request for a GEO, if a violation is found. *Id.* To date, no other party has filed a response.

A. Procedural History

On July 29, 2020, Hydro Flask filed a Complaint alleging a violation of section 337 of the Tariff Act of 1930, as amended, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain vacuum insulated flasks and components thereof by reason of infringement of U.S. Design Patent Nos. D806,468 (“the D’468 patent”); D786,012 (“the D’012 patent”); D799,320 (“the D’320 patent”) (collectively, the “Asserted Patents”); and U.S. Trademark Registration Nos. 4,055,784 (“the ’784 trademark”); 5,295,365 (“the ’365 trademark”); 5,176,888 (“the ’888 trademark”); and 4,806,282 (“the ’282

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trademark”) (collectively, the “Asserted Trademarks”). 85 Fed. Reg. 55,030-031 (Sept. 3, 2020).

Hydro Flask filed a supplement to the Complaint on August 18, 2020. *Id.*

On August 28, 2020, the Commission determined to institute this Investigation. *Id.*

Specifically, the Commission instituted this Investigation to determine whether:

[T]here is a violation of subsection (a)(1)(B) 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] the sole claim of the ’468 patent; the sole claim of the ’012 patent; and the sole claim of the ’320 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

Id. The Commission also instituted this Investigation to determine whether:

[T]here 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 ’784 trademark; the ’365 trademark; the ’888 trademark; and the ’282 trademark, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

Id.

The Notice of Investigation named twenty respondents. *Id.* The Office of Unfair Import Investigations was also named as a party to the Investigation. *Id.*

On November 6, 2020, the undersigned granted Hydro Flask’s motion for leave to amend the Complaint to (1) assert the ’012 patent against additional infringing products sold by Respondent Everich and Tomic Houseware Co., Ltd.; (2) incorporate into the Complaint the information and additional paragraphs included in Hydro Flask’s Supplemental Letter to the Commission of August 18, 2020; and (3) correct the corporate names of four non-appearing respondents. Order No. 12, *not reviewed* by Comm’n Notice (Nov. 24, 2020); *see also* 85 Fed. Reg. 77,239-40 (Dec. 1, 2020).

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On January 11, 2021, the '282 trademark was terminated from the Investigation. *See* Order No. 16, *not reviewed* by Comm'n Notice (Feb. 8, 2021).

On March 22, 2021, the Defaulting Respondents were found to be in default. Order No. 21, *not reviewed* by Comm'n Notice (Apr. 14, 2021).

On April 7, 2021, the undersigned issued an Initial Determination granting Hydro Flask's motion to terminate the Investigation as to the remaining respondents based on withdrawal of the Amended Complaint. Order No. 22, *not reviewed* by Comm'n Notice (Apr. 22, 2021).

In addition, three respondents were terminated based on settlement agreements or consent orders during the course of this Investigation. *See* Order No. 13, Initial Determination Terminating Eddie Bauer Respondents (Nov. 30, 2020), *not reviewed* by Comm'n Notice (Dec. 21, 2020); Order No. 17, Initial Determination Terminating Respondent Dunhuang Group a/k/a DHgate (Jan. 27, 2021), *not reviewed* by Comm'n Notice (Feb. 16, 2021); Order No. 19, Initial Determination Terminating Respondent Everich and Tomic Houseware Co., Ltd. (Feb. 22, 2021), *not reviewed* by Comm'n Notice (Mar. 12, 2021).

None of the Defaulting Respondents have contested Hydro Flask's allegations that they have violated and continue to violate section 337.

B. The Private Parties

1. Complainants

a) Steel Technology, LLC d/b/a Hydro Flask

Complainant Steel Technology, LLC d/b/a Hydro Flask is a company organized under the laws of the State of Oregon, with a place of business at 525 NW York Drive, Bend, OR 97703. Am. Compl. at ¶ 23; *see also* Statement of Material Facts ("SOMF") at ¶ 7.

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b) Helen of Troy Limited

Complainant Helen of Troy Limited acquired Hydro Flask in 2016. Am. Compl. at ¶ 24.; SOMF at ¶ 8. The Helen of Troy family of companies was founded in El Paso, Texas in 1968 and has a mailing address at 1 Helen of Troy Plaza, El Paso, Texas 79912. *Id.* Helen of Troy Limited is incorporated in Barbados. *Id.* Helen of Troy Limited is the named assignee of the Asserted Patents and Trademarks. SOMF at ¶ 8; *see also* Mem. at 8.

2. The Defaulting Respondents

a) Cangnan Kaiyisi E-Commerce Technology Co., Ltd.

Cangnan Kaiyisi E-Commerce Technology Co., Ltd. is a Chinese company with a principle place of business at Room 201, No. 119, Building 4, Demonstration Industrial Park, Longjin Avenue, Longgang Town, Cangnan County, Wenzhou, Zhejiang, China 325800. Am. Compl. at ¶ 38; *see also* Compl. Ex. 3.19. Cangnan Kaiyisi E-Commerce Technology Co., Ltd. does business as “KYS Group” and is an industry and trading company with its own factory in Cangnan. *Id.*

b) Shenzhen Huichengyuan Technology Co., Ltd.

Shenzhen Huichengyuan Technology Co., Ltd. is a Chinese company with a principal place of business at No. 249 Shopping Street, Fuwei Road, Xiashiwei Village, Fuyong, Baoan District, Shenzhen, Guangdong, China 518130. *Id.* at ¶ 39; *see also* Compl. Ex. 3.21. Shenzhen Huichengyuan Technology Co., Ltd. does business as “HCY Technology Co, Ltd.” and is an industry and trading company with its own factory in Yong Kang City. *Id.* Shenzhen Huichengyuan Technology Co., Ltd. also does business as Shenzhen Huiqian Freight Agency Co., Ltd. *Id.*; *see also* Compl. Ex. 3.20.

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c) Sinbada Impex Co., Ltd.

Sinbada Impex Co., Ltd. is a Chinese company with a principal place of business at Room 1001, Baiyue Center, Zhidi Plaza, 200 Huaining Road, Government Affairs District, Hefei, Anhui, China 231000. *Id.* at ¶ 40; *see also* Compl. Exs. 3.22-3.23. Sinbada Impex Co., Ltd. also maintains a place of business at 702 Fortune Plaza, No. 278 Suixi Road, Hefei, Anhui, China 230041. *Id.*; *see also* Compl. Ex. 3.76.

d) Yongkang Huiyun Commodity Co., Ltd.

Yongkang Huiyun Commodity Co., Ltd. is a Chinese company with a principal place of business at No. 1, Jiasheng Road, Fangyan Town, Yongkang, Jinhua, Zhejiang, China 321308. *Id.* at ¶ 41; *see also* Compl. Exs. 3.24-3.25. Yongkang Huiyun Commodity Co., Ltd. is a manufacturer and trading company with its own factory at No. 5, 4th Lane, South Garden, Lingtang Village, Longshan Town, Yongkang, Zhejiang, China 321300. *Id.*

e) Wuyi Loncin Bottle Co., Ltd.

Wuyi Loncin Bottle Co., Ltd. is a Chinese company with a principal place of business at No.37, Yingui South Road, Huachuan Industrial Area, Yongkang, Jinhua, Zhejiang, China 321300. *Id.* at ¶ 42; *see also* Compl. Ex. 3.26. Wuyi Loncin Bottle Co., Ltd. is a manufacturer and trading company with its own factory at No. 6, Dan'gui South Road, Huachuan Industry Zone, Yongkang, Jinhua City, Zhejiang Province, China 321301. *Id.*; *see also* Compl. Ex. 3.27.

f) Zhejiang Yuchuan Industry & Trade Co., Ltd.

Zhejiang Yuchuan Industry & Trade Co., Ltd. is a Chinese company with a principal place of business at Wangyuan Industry Zone, Quanxi Town, Wuyi County, Jinhua, Zhejiang, China 321201. *Id.* at ¶ 44; *see also* Compl. Ex. 3.30. Zhejiang Yuchuan Industry & Trade Co., Ltd. is a manufacturer and trading company with its own factory at the same location. *Id.*

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g) Zhejiang Yongkang Unique Industry & Trade Co., Ltd.

Zhejiang Yongkang Unique Industry & Trade Co., Ltd. is a Chinese company with a principal place of business at No. 3, Yuansan Road, Baiyun Industry Zone, Yongkang, Jinhua, Zhejiang, China 321300. *Id.* at ¶ 45; *see also* Compl. Ex. 3.31. Zhejiang Yongkang Unique Industry & Trade Co., Ltd. is a branch of Zhejiang Unique Group Co., Ltd. and is a manufacturer and trading company with its own factory at the same location. *Id.*

h) Hangzhou Yuehua Technology Co., Ltd.

Hangzhou Yuehua Technology Co., Ltd. is a Chinese company with a principal place of business at Room 203, Building 4, Chuangzhi Lvgu Development Centre, No. 788, Hongpu Road, Jianggan Dist., Hangzhou, Zhejiang, China 310000. *Id.* at ¶ 47; *see also* Compl. Exs. 3.78-3.80. Hangzhou Yuehua Technology Co., Ltd. also maintains places of business at No. 602 Metro Each City, Jianggan District, Hangzhou, Zhejiang, China and No. 788 Hongpu Road, Hangzhou, Zhejiang, China 310019. *Id.* Hangzhou Yuehua Technology Co., Ltd. is a manufacturer and trading company and works with the factory Zhejiang Yaohui Industry & Trade Co., Ltd at an unknown location in China. *Id.*; *see also* Compl. Ex. 3.33.

i) Suzhou Prime Gifts Co., Ltd.

Suzhou Prime Gifts Co., Ltd. is a Chinese company with a principal place of business at Room 412, Block 38, Qidi Tech Park, No. 60, Weixin Road, Ind. Zone, Suzhou, Jiangsu, China 215021. *Id.* at ¶ 46; *see also* Compl. Ex. 3.77. Suzhou Prime Gifts Co., Ltd. also does business as Suzhou Prime Drinkware Co., Ltd. and is a manufacturer and trading company with its own factory at an unknown location in China. *Id.*; *see also* Compl. Ex. 3.32.

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j) Guangzhou Yawen Technology Co., Ltd.

Guangzhou Yawen Technology Co., Ltd. is a Chinese company with a principal place of business at Room 503, No. 85 South Shatai Road, Tianhe District, Guangzhou, China 510000. *Id.* at ¶ 48; *see also* Compl. Ex. 3.34. Guangzhou Yawen Technology Co., Ltd. owns and operates Shop5246175 Store on Aliexpress.com. *Id.*

k) Jinhua City Ruizhi E-Commerce Co., Ltd.

Jinhua City Ruizhi E-Commerce Co., Ltd. is a Chinese company with a principal place of business at No. 19 East Huangyantou Village, Bailongqiao Town, Wucheng District, Jinhua City, Zhejiang Province, China 321000. *Id.* at ¶ 50; *see also* Compl. Ex. 3.36. Jinhua City Ruizhi E-Commerce Co., Ltd. owns and operates LeeYuang Stainless Water Bottle Store on Aliexpress.com. *Id.*

l) Wo Ma Te (Tianjin) International Trade Co., Ltd.

Wo Ma Te (Tianjin) International Trade Co., Ltd. is a Chinese company with a place of business at 18-1-402, Yilinyuan, Donghai Street, Tianjin, China 300000. *Id.* at ¶ 51. Wo Ma Te (Tianjin) International Trade Co., Ltd. also has a place of business at 11-2-501, Wancui Taipei Garden, at the intersection of Lingshi Road and Jingrong Road, Shuanggang New Home, Shuanggang Town, Shuanggang Town, Tianjin, China 224632. *Id.*; *see also* Compl. Ex. 3.37. Wo Ma Te (Tianjin) International Trade Co., Ltd. owns and operates Wo Ma Te Trading Co., Ltd. Store on Aliexpress.com. *Id.*

m) Shenzhen City Yaxin General Machinery Co., Ltd.


Shenzhen City Yaxin General Machinery Co., Ltd. is a Chinese company with a principal place of business at 301A, 3 / F, No. 17, Phase 1, Xinxing Industrial Park, Xinhe Community, Fuhai Street, Baoan District, Shenzhen, China 518130. *Id.* at ¶ 52; *see also* Compl. Ex. 3.38.

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Shenzhen City Yaxin General Machinery Co., owns and operates Shop5103099 Store and Shop908007 Store on Aliexpress.com. *Id.*

C. The Asserted Trademarks

Hydro Flask asserts the following trademarks:

Trademark	Registration No.	Issue Date	Complaint Exhibit
HYDRO FLASK®	4,055,784	November 15, 2011	1.8
HYDRO FLASK®	5,295,365	September 26, 2017	1.9
	5,176,888	April 4, 2017	1.10

Registration Nos. 4,055,784 (the “HYDRO FLASK® Trademark I”) and 5,295,365 (the “HYDRO FLASK® Trademark II”) (collectively, the “HYDRO FLASK® Trademarks”) are word marks. The remaining trademark is a design mark (the “H-Man Logo Trademark”). Additionally, the HYDRO FLASK® Trademark I has reached incontestable status. Judge Decl. at ¶ 6; Judge Exs. 1-2.

D. The Asserted Patents

1. The D’468 Patent

The D’468 patent, entitled “Flask Cap,” issued on January 2, 2018 to Brian G. Goodwin and Ryan J. Diener. Helen of Troy Ltd. is the named assignee. Compl. Ex. 6.1. The D’468 patent claims an ornamental design for a flask cap, as shown and described in the patent:

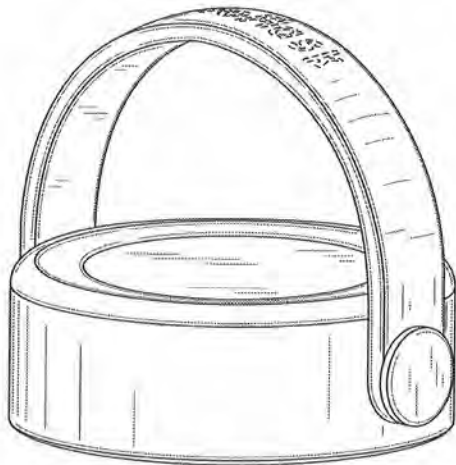


FIG. 1



FIG. 2

Id. at Figs. 1 (showing upper, front, and left-side perspective view of flask cap) and 2 (showing lower, rear, and right-side perspective view); *see also id.* at Figs. 3-8. The D’468 patent states: “Elements of the flask cap depicted using broken lines are intended to illustrate the environment of the claimed design and form no part of the claimed design.” *Id.* at Description.

2. The D’012 Patent

The D’012 patent, entitled “Sports Bottle Cap,” issued on May 9, 2017 to Benjamin R. Hein, Brian G. Goodwin, Ryan J. Diener, and Justin Taylor. Helen of Troy Ltd. is the named assignee. Compl. Ex. 6.3. The D’012 patent claims an ornamental design for a sports bottle cap, as shown and described in the patent:

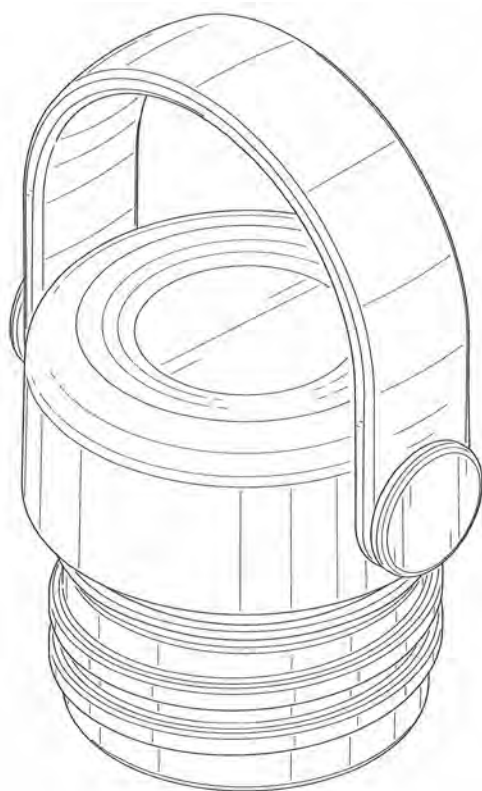


FIG. 1

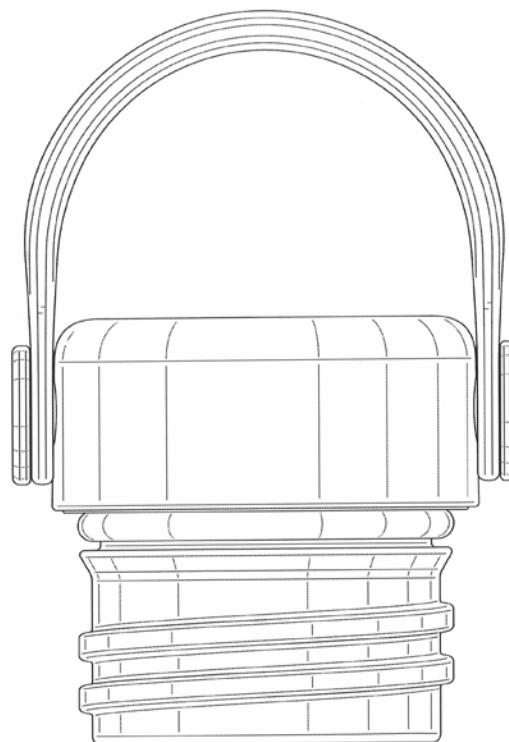
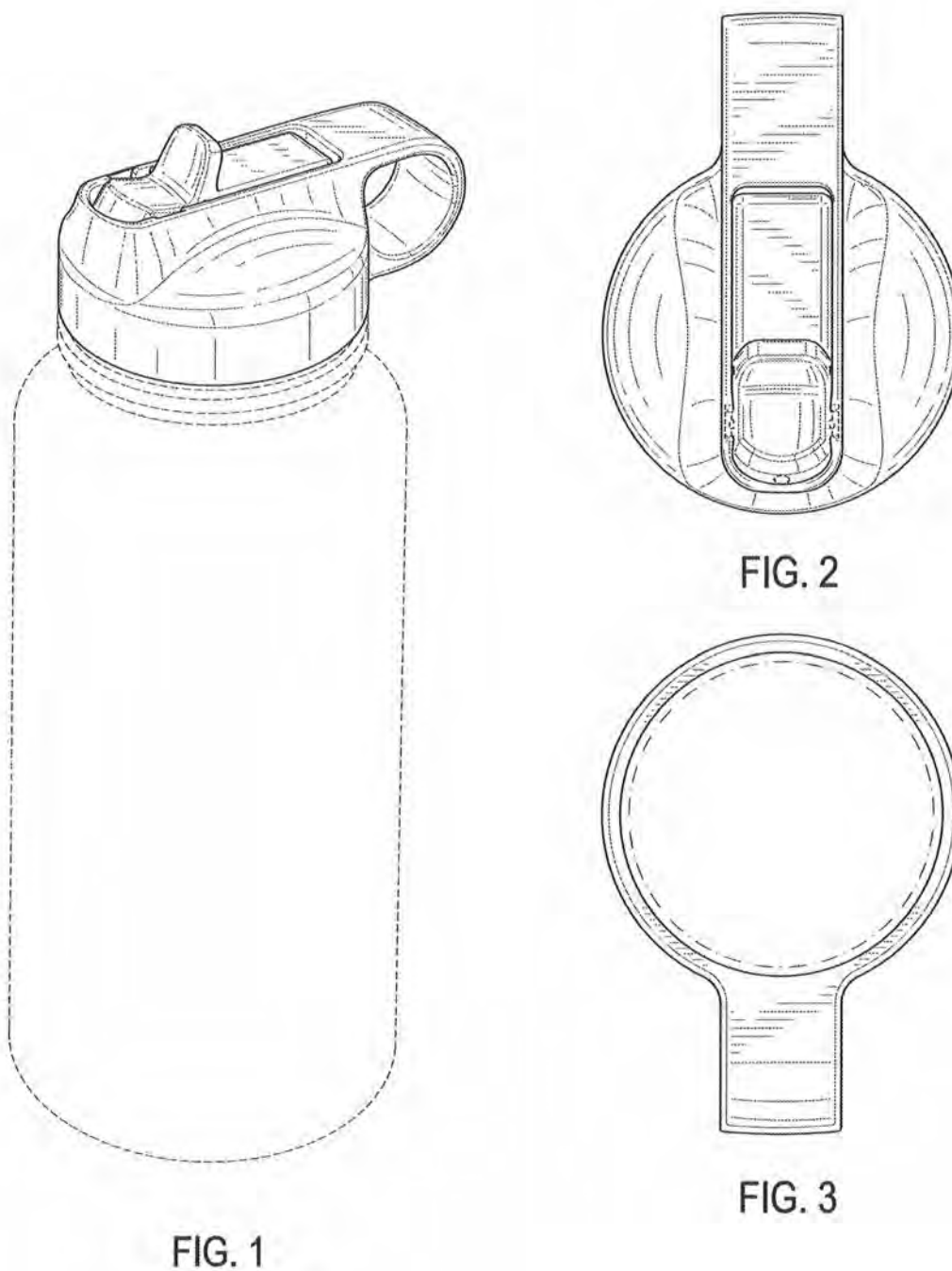


FIG. 2

Id. at Figs. 1 (showing upper, front, and left-side perspective view of sports bottle cap) and 2 (showing front elevation view); *see also id.* at Figs. 3-7.

3. The D'320 Patent

The D'320 patent, entitled "Flask Lid," issued on October 10, 2017 to Brian G. Goodwin, Matthew P. Nahlik, and Benjamin R. Hein. Helen of Troy Ltd. is the named assignee. Compl. Ex. 6.5. The D'320 patent claims an ornamental design for a flask lid, as shown and described in the patent:



Id. at Figs. 1 (upper, front, and left-side perspective view of flask lid, showing drinking portion of the flask lid in closed position), 2 (top view, with the flask removed for clarity), and 3 (bottom view); *see also id.* at Figs. 4-14. The D'320 patent states: "The broken lines are shown for the

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purpose of illustrating environmental subject matter and parts of the article that form no part of the claim.” *Id.* at Description.

E. The Products at Issue

The products at issue in this Investigation are “vacuum insulated flasks made of stainless steel and caps for such flasks, including round caps with a strap secured on either side of the cap, and straw caps.” 85 Fed. Reg. 55,031; *see also* Am. Compl. at ¶ 76 (explaining that the various types of caps range from “traditional screw-on caps that completely cover the opening of the bottle to straw lids of differing designs.”).

1. The Domestic Industry Products

Hydro Flask’s Domestic Industry Products include the following:

Asserted IP	Domestic Industry Products
HYDRO FLASK® Trademarks	Wide Mouth Bottle and accessories; Standard Mouth Bottle and accessories; and lids and caps compatible with the Wide Mouth Bottle and Standard Mouth Bottle, including the Wide Mouth Flex Cap, Wide Mouth Straw Lid, Standard Mouth Flex Cap
H-Man Logo Trademark	Wide Mouth Bottle and accessories; Standard Mouth Bottle and accessories; and lids and caps compatible with the Wide Mouth Bottle and Standard Mouth Bottle, including the Wide Mouth Flex Cap, Wide Mouth Straw Lid, Standard Mouth Flex Cap
The ’468 Patent	Wide Mouth Flex Cap
The ’012 Patent	Standard Mouth Flex Cap
The ’320 Patent	Wide Mouth Straw Lid

Mem. at 29.

II. LEGAL STANDARDS

A. Summary Determination

Summary determination is appropriate when there is no genuine issue as to any material fact and the moving party is entitled to a determination as a matter of law. *See* 19 C.F.R. §

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210.18(b). In determining whether there is a genuine issue of material fact, “the evidence must be viewed in the light most favorable to the party opposing the motion with doubts resolved in favor of the non-movant.” *Crown Operations Int’l, Ltd. v. Solutia, Inc.*, 289 F.3d 1367, 1375 (Fed. Cir. 2002) (citations omitted); *see also Paragon Podiatry Lab., Inc. v. KLM Labs, Inc.*, 984 F.2d 1182, 1185 (Fed. Cir. 1993) (“In other words, ‘[s]ummary judgement is authorized when it is quite clear what the truth is, and the law requires judgment in favor of the movant based upon facts not in genuine dispute.’”) (citations omitted).

B. Default

Commission Rule 210.16(b)(4) states: “A party found in default shall be deemed to have waived its right to appear, to be served with documents, and to contest the allegations at issue in the investigation.” 19 C.F.R. § 210.16(b)(4). Commission Rule 210.16(c) further provides that “[t]he facts alleged in the complaint will be presumed to be true with respect to the defaulting respondent.” 19 C.F.R. § 210.16(c).

C. Trademark Infringement

Trademark infringement is analyzed under a two-prong test: First, courts look to see whether the mark merits protection, and second, whether the respondent’s use of a similar mark is likely to cause consumer confusion. *Certain Handbags, Luggage, Accessories, & Packaging Thereof*, Inv. No. 337-TA-754, Order No. 16 at 6 (Mar. 5, 2012) (“*Handbags*”).

In a traditional trademark case, to determine consumer confusion, the Commission applies the following factors: (1) the degree of similarity between the designation and the trademark in appearance, the pronunciation of words used, verbal translation of pictures or designs involved, and suggestion; (2) the intent of the actor in adopting the designation; (3) the relation in use and manner of marketing between the goods and services marked by the actor and those by the other;

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and (4) the degree of care likely to be exercised by purchasers. *Certain Ink Markers & Packaging Thereof*, Inv. No. 337-TA-522, Order No. 30 at 36 (July 25, 2005). The Commission may also consider additional factors, such as the strength of the mark or actual confusion. All factors must be evaluated in the context of the ultimate question of likelihood of confusion as to the source or sponsorship of the product. *Handbags*, Order No. 16 at 9.

D. Design Patent Infringement

The test for determining infringement of a design patent is the “ordinary observer” test. *See Egyptian Goddess, Inc. v. Swisa, Inc.*, 543 F.3d 665, 678 (Fed. Cir. 2008) (*en banc*). In defining the “ordinary observer” test, the Supreme Court stated:

[I]f, in the eye of an ordinary observer, giving such attention as a purchaser usually gives, two designs are substantially the same, if the resemblance is such as to deceive such an observer, inducing him to purchase one supposing it to be the other, the first one patented is infringed by the other.

Gorham Mfg. Co. v. White, 81 U.S. 511, 528 (1871). Thus, “the test for design patent infringement is not identity, but rather sufficient similarity.” *Pacific Coast Marine Windshields, Ltd. v. Malibu Boats, LLC*, 739 F.3d 694, 701 (Fed. Cir. 2014); *see also L.A. Gear, Inc. v. Thom McAn Shoe Co.*, 988 F.2d 1117, 1125 (Fed. Cir. 1993) (design patent infringement requires determining “whether ‘the effect of the whole design [is] substantially the same.’”).

E. Domestic Industry

A violation of section 337 can be found “only if an industry in the United States, relating to the articles protected by the patent [and] . . . trademark . . . concerned, exists or is in the process of being established.” 19 U.S.C. § 1337(a)(2). Under Commission precedent, this “domestic industry requirement” of section 337 consists of an economic prong and a technical prong. *Certain Stringed Musical Instruments & Components Thereof*, Inv. No. 337-TA-586, Comm’n Op. at 12-14, 2009 WL 5134139 (U.S.I.T.C. Dec. 2009). The complainant bears the burden of establishing

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that the domestic industry requirement is satisfied. *See Certain Set-Top Boxes & Components Thereof*, Inv. No. 337-TA-454, Final Initial Determination at 294, 2002 WL 31556392 (U.S.I.T.C. June 21, 2002) (unreviewed by Commission in relevant part).

1. Technical Prong

The technical prong of the domestic industry requirement is satisfied when the complainant in a patent-based section 337 investigation establishes that it is practicing or exploiting the patents at issue. *See* 19 U.S.C. § 1337(a)(2) and (3); *Certain Microsphere Adhesives, Process for Making Same and Prods. Containing Same, Including Self-Stick Repositionable Notes*, Inv. No. 337-TA-366, Comm’n Op. at 8, 1996 WL 1056095 (U.S.I.T.C. Jan. 16, 1996). “The test for satisfying the ‘technical prong’ of the industry requirement is essentially [the] same as that for infringement, i.e., a comparison of domestic products to the asserted claims.” *Alloc, Inc. v. Int’l Trade Comm’n*, 342 F.3d 1361, 1375 (Fed. Cir. 2003). To prevail, the patentee must establish by a preponderance of the evidence that the domestic product practices one or more claims of the patent, either literally or under the doctrine of equivalents. *Bayer*, 212 F.3d at 1247. It is sufficient to show that the products practice any claim of that patent, not necessarily an asserted claim of that patent. *Certain Microsphere Adhesives*, Comm’n Op. at 7-16.

Where registered trademark rights are asserted, “[t]he test for determining whether the technical prong is met through the practice of a trademark is plain use of the trademark on products and packaging.” *Certain Protective Cases & Components Thereof*, Inv. No. 337-TA-780, Initial Determination at 90 (June 29, 2012).

2. Economic Prong

Section 337(a)(3) sets forth the following economic criteria for determining the existence of a domestic industry in such investigations:

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(3) For purposes of paragraph (2), an industry in the United States shall be considered to exist if there is in the United States, with respect to the articles protected by the patent, copyright, trademark, mask work, or design concerned –

- (A) significant investment in plant and equipment;
- (B) significant employment of labor or capital; or
- (C) substantial investment in its exploitation, including engineering, research and development, or licensing.

Given that these criteria are listed in the disjunctive, satisfaction of any one of them will be sufficient to meet the economic prong of the domestic industry requirement. *Certain Integrated Circuit Chipsets & Prods. Containing Same*, Inv. No. 337-TA-428, Order No. 10, Initial Determination (May 4, 2000) (unreviewed).

III. IMPORTATION

Section 337(a)(1) prohibits, *inter alia*, “[t]he importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that . . . infringe a valid and enforceable United States patent” or trademark. 19 U.S.C. § 1337(a)(1)(B)-(C). Complainant need only prove importation of a single accused product to satisfy the importation element. *Certain DC-DC Controllers & Prods. Containing the Same*, Inv. No. 337-TA-698, Order No. 29 at 3 (June 18, 2010); *Certain Purple Protective Gloves*, Inv. No. 337-TA-500, Order No. 17 at 5 (Sept. 23, 2004).

Hydro Flask asserts that the evidence demonstrates that each of the Defaulting Respondents has sold for importation into the U.S. and/or imported into the U.S. certain vacuum insulated flasks and components thereof that infringe the Asserted Trademarks and Patents. Mem. at 11-17.

Staff agrees there is no factual dispute related to importation of the Accused Products by ten of the Defaulting Respondents. Staff Resp. at 16-18. Staff, however, believes there is insufficient evidence of importation to support a finding of violation of section 337 for

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Respondents Shenzhen Huichengyuan Technology Co., Ltd.; Sinbada Impex Co., Ltd.; and Zhejiang Yuchuan Industry & Trade Co., Ltd. *Id.*

The undersigned finds that Hydro Flask has established that the importation requirement of section 337 is satisfied for Respondents Cangnan Kaiyisi E-Commerce Technology Co., Ltd.; Yongkang Huiyun Commodity Co., Ltd.; Wuyi Longcin Bottle Co., Ltd.; Zhejiang Yongkang Unique Industry & Trade Co., Ltd.; Suzhou Prime Gifts Co., Ltd.; Hangzhou Yuehua Technology Co., Ltd.; Guangzhou Yawen Technology Co., Ltd.; Jinhua City Ruizhi E-Commerce Co., Ltd.; Wo Ma Te (Tianjin) International Trade Co., Ltd.; and Shenzhen City Yaxin General Machinery Co., Ltd. In the Complaint, Hydro Flask identified an instance of importation by each of these Defaulting Respondents. *See* Am. Compl. at ¶¶ 50, 154-155; Compl. Ex. 8.30 (Jinhua City Ruizhi E-Commerce Co.); Am. Compl. at ¶¶ 48, 149-150; Compl. Ex. 8.24 (Guangzhou Yawen Technology Co., Ltd.); Am. Compl. at ¶¶ 47, 148 (Hangzhou Yuehua Technology Co., Ltd.); Am. Compl. at ¶¶ 38, 135 (Cangnan Kaiyisi E-Commerce Technology Co., Ltd.); Am. Compl. at ¶¶ 52, 159-161 (Shenzhen City Yaxin General Machinery Co., Ltd.); Am. Compl. at ¶¶ 46, 147 (Suzhou Prime Gifts Co., Ltd.); Am. Compl. at ¶¶ 51, 156-157; Compl. Exs. 8.34, 8.37 (Wo Ma Te (Tianjin) International Trade Co., Ltd.); Am. Compl. at ¶¶ 42, 143 (Wuyi Longcin Bottle Co., Ltd.); Am. Compl. at ¶¶ 41, 143 (Yongkang Huiyun Commodity Co., Ltd.); Am. Compl. at ¶¶ 45, 146; Compl. Exs. 8.17-8.21 (Zhejiang Yongkang Unique Industry & Trade Co., Ltd.). Hydro Flask also submitted a declaration detailing specific instances of importation by these Defaulting Respondents, as well as exhibits confirming that the accused products were shipped to (and received in) the United States. *See* Geyer Decl. at ¶¶ 1-7 (Cangnan Kaiyisi E-Commerce Technology Co., Ltd.), 12-16 (Yongkang Huiyun Commodity Co., Ltd.), 17-20 (Wuyi Longcin Bottle Co., Ltd.), 21-22 (Zhejiang Yongkang Unique Industry & Trade Co., Ltd.), 23-26 (Suzhou

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Prime Gifts Co., Ltd.), 27-31 (Hangzhou Yuehua Technology Co., Ltd.), 32-34 (Guangzhou Yawen Technology Co., Ltd.), 35-38 (Jinhua City Ruizhi E-Commerce Co.), 39-41 (Wo Ma Te (Tianjin) International Trade Co., Ltd.), 42-48 (Shenzhen City Yaxin General Machinery Co., Ltd.); Geyer Exs. 1, 2, 5, 18-19, 21, 23-24, 27, 29-33, 36-37, 39, 40, 43, 44. The evidence therefore shows that these Defaulting Respondents have imported the Accused Products. *Id.*; *see also* SOMF at ¶¶ 25-30, 33-37. In addition, the undersigned is not aware of any evidence to the contrary with respect to importation by these Respondents.

However, the evidence presented by Hydro Flask is insufficient to establish that the importation requirement is met for Respondents Shenzhen Huichengyuan Technology Co., Ltd.; Sinbada Impex Co., Ltd.; and Zhejiang Yuchuan Industry & Trade Co., Ltd. Hydro Flask has presented no direct evidence that an accused product was imported into the United States. For example, with respect to Respondent Shenzhen Huichengyuan Technology Co., Ltd. Hydro Flask contends that the accused product was shipped to an incorrect address in the United States and never received. Mem. at 14. Hydro Flask nevertheless asserts that the importation requirement has been satisfied because the tracking information shows the products originated in China. *Id.* The tracking information only indicates that certain products were allegedly sent from China. Am. Compl. at ¶¶ 138-139; Compl. Ex. 8.9; Geyer Decl. at ¶ 11. Without physical receipt of the package, it is impossible to verify what product was imported by Respondent Shenzhen Huichengyuan Technology Co., Ltd.

As for Respondent Sinbada Impex Co., Ltd., Hydro Flask admits that it did not purchase an accused product. Mem. at 14. Hydro Flask instead points to Sinbada Impex Co., Ltd. owning and operating an Alibaba.com marketplace that lists instances where products were shipped to the United States as “proof” of importation. *Id.* Respondent Sinbada Impex Co., Ltd.’s marketplace

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sells various bottles/lid designs. Compl. Ex. 3.23, 8.11-8.12. The listings do not indicate what model of bottle/lid is associated with the shipments to the United States. *Id.* The undersigned is therefore unable to determine from the evidence presented whether Sinbada Impex Co., Ltd. has imported the products accused of infringement in this Investigation.

Lastly, Hydro Flask asserts that Respondent Zhejiang Yuchuan Industry & Trade Co., Ltd.'s storefront on Alibaba.com lists several instances of importation into the United States of "double wall vacuum flask insulated stainless steel water bottle[s]". Mem. at 16-17. The listing does not identify the model of bottle imported, however. Compl. Ex. 8.16. Hydro Flask's only other evidence is a review purportedly from a U.S. buyer in December 2019 referring to a straw lid model. Mem. at 17; Mot. Ex. A. There is no way to determine the veracity of this review, whether the purchaser was really located in the United States, or whether the straw lid model is indeed one of the accused products. Without more, a generic review on a website does not constitute reliable evidence of importation.

IV. JURISDICTION

A. Subject Matter Jurisdiction

Section 337 confers subject matter jurisdiction on the Commission to investigate, and if appropriate, to provide a remedy for, unfair acts and unfair methods of competition in the importation, the sale for importation, or the sale after importation of articles into the United States. *See* 19 U.S.C. §§ 1337(a)(1)(C) and (a)(2). Hydro Flask filed a complaint alleging a violation of this subsection. Accordingly, the Commission has subject matter jurisdiction over this Investigation under section 337 of the Tariff Act of 1930. *Amgen, Inc. v. U.S. Int'l Trade Comm'n*, 902 F.2d 1532, 1536 (Fed. Cir. 1990).

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B. Personal Jurisdiction

Personal jurisdiction is not required so long as the products are being imported. *See Sealed Air Corp. v. U.S. Int’l Trade Comm’n*, 645 F.2d 976, 985-89 (C.C.P.A. 1981). The undersigned has determined hereinabove that the accused products have indeed been imported into the United States. *See* Section III. Furthermore, by defaulting, the Defaulting Respondents have waived their right to contest that *in personam* jurisdiction exists. *See Certain Protective Cases & Components Thereof*, Inv. No. 337-TA-780, Initial Determination at 46 (June 29, 2012).

C. In Rem Jurisdiction

The Commission has *in rem* jurisdiction by virtue of the fact that the accused vacuum insulated flasks have been imported into the United States. *See Sealed Air Corp. v. U. S. Int’l Trade Comm’n*, 645 F.2d 976, 985 (C.C.P.A. 1981).

V. TRADEMARK INFRINGEMENT

Hydro Flask contends that Respondents Guangzhou Yawen Technology Co., Ltd., Jinhua City Ruizhi E-Commerce Co., Ltd., Wo Ma Te (Tianjin) International Trade Co., Ltd. and Shenzhen City Yaxin General Machinery Co., Ltd. (hereinafter, the “Trademark Infringement Respondents”) infringe the Asserted Trademarks. Mem. at 18. Staff states: “Staff believes that [Hydro Flask has] satisfied [its] burden of proof, and therefore believes a finding of trademark infringement is appropriate.” Staff Resp. at 26.

A. Validity

One of the two HYDRO FLASK word marks, U.S. Reg. No. 4,055,784, has reached incontestable status. Mem. at 4, 17; Staff Resp. at 8, 19. Accordingly, the federal registration constitutes “conclusive evidence” of Hydro Flask’s exclusive right to use the trademark with a


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variety of Class 21 goods, including drinking vessels and insulated vacuum flasks. 15 U.S.C. § 1115(b).





As for the remaining trademarks, federal registration is prima facie evidence of validity. 15 U.S.C. § 1115(a). The undersigned is not aware of any evidence to the contrary with respect to validity. Additionally, there is no evidence that any of the Trademark Infringement Respondents' Accused Products were in use prior to the registration dates for these trademarks. *See* Staff Resp. at 19 (agreeing that the Asserted Trademarks are valid).

B. Likelihood of Confusion









The undersigned finds that the Trademark Infringement Respondents' use of similar marks is likely to cause consumer confusion. First, the evidence shows that there is a high degree of similarity between the Accused Products and the Asserted Trademarks. The evidence shows that the HYDRO FLASK® Trademarks have been used on the accused bottles and lids and the H-man logo has been used on the accused bottles:

Defaulting Respondent	Trademark	Representative Infringement
Guangzhou Yawen Technology Co., Ltd.	HYDRO FLASK® Trademarks	 <p>The collage consists of five images arranged in a grid. The top row shows a yellow and pink Hydro Flask bottle and a pink Hydro Flask lid. The bottom row shows a grey Hydro Flask bottle and two grey Hydro Flask lids. The labels 'Compl. Ex. 7.1' and 'Geyer Ex. 35' are placed below the bottles.</p>








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Defaulting Respondent	Trademark	Representative Infringement
	H-Man Logo Trademark	<div> <small>Compl. Ex. 7.1</small></div> <div> <small>Geyer Ex. 45</small></div>



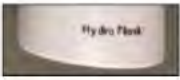


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Defaulting Respondent	Trademark	Representative Infringement
Jinhua City Ruizhi E-Commerce Co., Ltd.	HYDRO FLASK® Trademarks	<div></div> <p>Compl., Ex. 7.7</p> <p>Gever Ex. 48</p>






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Defaulting Respondent	Trademark	Representative Infringement
	H-Man Logo Trademark	<div></div> <p>Compl., Ex. 7.7</p> <div></div> <div></div> <p>Geyer Ex. 48</p>








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Defaulting Respondent	Trademark	Representative Infringement
Wo Ma Te (Tianjin) International Trade Co., Ltd.	HYDRO FLASK® Trademarks	<div> Compl. Ex. 7.10</div> <div> Geyer Ex. 40</div> <div> Geyer Ex. 50</div>

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Defaulting Respondent	Trademark	Representative Infringement
	H-Man Logo Trademark	<div><p>Compl. Ex. 7.10</p></div> <div><p>Geyer Ex. 49</p></div> <div><p>Geyer Ex. 50</p></div>

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Defaulting Respondent	Trademark	Representative Infringement
Shenzhen City Yaxin General Machinery Co., Ltd.	HYDRO FLASK® Trademarks	<div></div> <p>Compl., Est. 7.13</p> <div></div> <div></div> <p>Gevert Est. 54</p>

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Defaulting Respondent	Trademark	Representative Infringement
	H-Man Logo Trademark	 <p>Compl. Ex. 7.13</p> <p>Geyer Ex. 54</p>

SOMF at ¶ 40.

The evidence also shows that the Accused Products are marketed and sold in similar trade channels to the Hydro Flask products, including online and through third-party marketplaces. Grove Decl. ¶¶ 6, 15; SOMF ¶¶ 41-42. Such evidence provides further proof that consumers are likely to be confused. *See In Re I.A.M.Symbolic, LLC*, 866 F.3d 1315, 1325-26 (Fed. Cir. 2017).

For these reasons, the undersigned finds that the Trademark Infringement Respondents' Accused Products infringe the Asserted Trademarks.

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C. Technical Prong of the Domestic Industry Requirement

Hydro Flask states that it “currently sells multiple products in the United States that are protected by the asserted IP,” including the Asserted Trademarks. Mem. at 29. Staff agrees that the technical prong is satisfied. Staff Resp. at 32.

The evidence shows that the Wide Mouth Bottle and accessories, Standard Mouth Bottle and accessories, and the lids and caps compatible with the Wide Mouth Bottle and Standard Mouth Bottle, including the Wide Mouth Flex Cap, Wide Mouth Straw Lid, and Standard Mouth Flex Cap each bear the HYDRO FLASK® Trademarks and bear or are sold alongside the H-Man Logo Trademark. Judge Decl. at ¶¶ 3-6; Kemnitzer Ex. B-C. Accordingly, the undersigned finds that the technical prong of the domestic industry requirement is satisfied.

VI. PATENT INFRINGEMENT

A. Validity

A patent is presumed valid. 35 U.S.C. § 282; *Microsoft Corp. v. i4i Ltd. P’ship*, 131 S. Ct. 2238, 2242 (2011). In the instant matter, none of the Defaulting Respondents has challenged the validity of the asserted patents. *See Lannom Mfg. Co., Inc. v. U.S. Int’l Trade Comm’n*, 799 F.2d 1572, 1580 (Fed. Cir. 1986.) (“We conclude, therefore, that Congress did not authorize the Commission to redetermine patent validity when no defense of invalidity has been raised.”) In Staff’s view, “because no party is contesting the validity of the asserted patents, the presumption of validity is applicable to each of the asserted design patents.” Staff Resp. at 25. Accordingly, there is no issue of material fact as to the validity of the Asserted Patents.

B. Claim Construction

“Design patents ‘typically are claimed as shown in drawings,’ and claim construction ‘is adapted accordingly.’” *Egyptian Goddess, Inc.*, 543 F.3d at 679.

Hydro Flask does not apply any special construction to the figures in the Asserted Patents. Mem. at 22. Hydro Flask submits that “the claims of the Asserted Patents should be construed to cover the designs shown in the figures of those patents, excluding the disclaimed features shown in broken lines.” *Id.* Staff concurs, stating: “[T]here do not appear to be features claimed in solid lines where the design is dictated by function.” Staff Resp. at 25-27.

The undersigned finds that none of the features of the claimed designs are purely functional. *See Lanard Toys Ltd. v. Dolgencorp LLC*, 958 F.3d 1337, 1341 (Fed. Cir. 2020) (“[W]e have instructed trial courts that design patents ‘typically are claimed as shown in drawings,’ but that it can be helpful to ‘distinguish[] between those features of the claimed design that are ornamental and those that are purely functional.’” Accordingly, the undersigned will rely on the exemplary figures from the Asserted Patents for the “ordinary observer” test.

C. Infringement

Hydro Flask contends that the Defaulting Respondents infringe the Asserted Patents by importing “caps and lids that are either identical in appearance or at least substantially the same in appearance to the Asserted Patents’ designs.” Mem. at 22; *see also id.* at 23-28 (arguing that Hydro Flask has provided “affirmative evidence of infringement” of the Asserted Patents). Staff supports a finding of infringement. Staff Resp. at 27-30. Staff believes the photographs of the Accused Products and Mr. Kemnitzer’s analysis “sufficiently depict or describe the application of the ordinary observer test to the asserted designs in relation to the Accused Products of the Defaulting Respondents.” *Id.* at 29-30. Staff further submits that “the Accused Product lids appear to share

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the same ornamental handle design, handle connector design, and height to width ratio as claimed in the Asserted Patents.” *Id.* at 30.

In the Amended Complaint, Hydro Flask alleged that each of these Respondents infringe the Asserted Patents.¹ Am. Compl. at ¶¶ 123-127 (pleading that all the Defaulting Respondents’ products have substantially the same designs as the Asserted Patents’ designs in the eye of an ordinary observer). The chart below summarizes Hydro Flask’ infringement allegations:

Defaulting Respondent	D’468 patent	D’012 patent	D’320 patent
Jinhua City Ruizhi E-Commerce Co., Ltd.	X		X
Guangzhou Yawen Technology Co., Ltd.	X		
Hangzhou Yuehua Technology Co., Ltd.		X	
Cangnan Kaiyisi E-Commerce Technology Co., Ltd.			X
Shenzhen City Yaxin General Machinery Co., Ltd.	X		X
Suzhou Prime Gifts Co., Ltd.	X		X
Wo Ma Te (Tianjin) International Trade Co., Ltd.	X		
Wuyi Loncin Bottle Co., Ltd.	X	X	
Yongkang Huiyun Commodity Co., Ltd.	X		X
Zhejiang Yongkang Unique Industry & Trade Co., Ltd.			X

Id.; *see also* Mem. at 23-28. Hydro Flask also attached claim charts to the Complaint demonstrating how the Defaulting Respondents’ products infringe the Asserted Patents. Compl. Exs. 7.41, 7.43, 7.47-7.48, 7.51-7.53, 7.67, 7.76, 7.81, 7.86-7.87, 7.90, 7.93. In addition, Hydro Flask submitted a

¹ The undersigned has determined that there is insufficient evidence of importation as to Respondents Shenzhen Huichengyuan Technology Co., Ltd.; Sinbada Impex Co., Ltd.; and Zhejiang Yuchuan Industry & Trade Co., Ltd. to support a finding of violation. *See* Section III. The undersigned therefore need not reach the issue of whether these Respondents infringe the Asserted Patents.

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declaration from their expert, Mr. Ronald Kemnitzer, Professor Emeritus of Industrial Design at Virginia Tech.² See Kemnitzer Decl. Mr. Kemnitzer examined the Accused Products of these Respondents and concluded that “an ordinary observer would view each accused product as having the same or substantially the same appearance as the Asserted Patents’ designs.” Kemnitzer Decl. at ¶¶ 61-67, 72-79.

The test for infringement of a design patent is whether “in the eye of an ordinary observer, giving such attention as a purchaser usually gives, two designs are substantially the same.” *Egyptian Goddess, Inc.*, 543 F.3d at 678. As discussed in Mr. Kemnitzer’s Declaration, most of the Defaulting Respondents’ products are identical in appearance to the Asserted Patents’ designs. Kemnitzer Del. at Kemnitzer Decl. at ¶¶ 61-62 (Jinhua City Ruizhi E-Commerce Co., Ltd.); 63 (Guangzhou Yawen Technology Co., Ltd.); 64 (Hangzhou Yuehua Technology Co., Ltd.); 65 (Cangnan Kaiyisi E-Commerce Technology Co., Ltd.); 66-67 (Shenzhen City Yaxin General Machinery Co., Ltd.); 72-73 (Suzhou Prime Gifts Co., Ltd.); 74 (Wo Ma Te (Tianjin) International Trade Co., Ltd.); 75-76 (Wuyi Loncin Bottle Co., Ltd.); 77-78 (Yongkang Huiyun Commodity Co., Ltd.); 79 (Zhejiang Yongkang Unique Industry & Trade Co., Ltd.). And, while some of the Accused Products have slight differences from the Asserted Patents’ designs, the undersigned finds the overall appearance of these products to be substantially the same as the Asserted Patents’ designs, as evidenced by the charts set forth *infra*. See *id.* at ¶ 72 (noting that the differences are “so slight that they would not be noticeable or significant to the ordinary observer.”); see also Kemnitzer Ex. P; SOMF at ¶¶ 50-51.





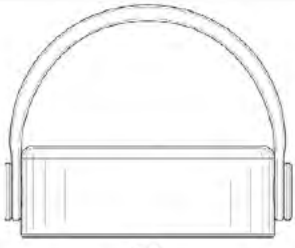

² Mr. Kemnitzer has been a practicing industrial designer for over forty years. Kemnitzer Decl. at ¶¶ 5-8; see also Kemnitzer Ex. A. He has a Masters of Arts degree in Design and a Bachelor’s of Science Degree in Industrial Design. *Id.* at ¶ 5. Concurrent with his practice as an industrial designer, he has also served as a full-time industrial design educator for over forty years. *Id.* at ¶¶ 9-10. In Staff’s view, “Mr. Kemnitzer’s experience, including 40 years as an educator in industrial design, qualifies him to opine on these matters.” Staff Resp. at 28 n.4. The undersigned agrees.

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1. The D'468 Patent Infringement Respondents

The evidence shows that the Accused Products' designs are "substantially the same" as the ornamental design for a flask cap, as shown and described in the D'468 patent.

a) Guangzhou Yawen Technology Co., Ltd.

Claimed Design – U.S. Patent No. D806,468	Guangzhou Yawen Technology Co., Ltd.'s "Quality Sports Bottle Hydro Flask 18oz 32oz Tumbler Flask Vacuum Insulated Flask Stainless Steel Water Bottle Wide Mouth Outdoor"
 FIG. 1	
 FIG. 2	
 FIG. 3	

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<p>Claimed Design – U.S. Patent No. D806,468</p>	<p>Guangzhou Yawen Technology Co., Ltd.’s “Quality Sports Bottle Hydro Flask 18oz 32oz Tumbler Flask Vacuum Insulated Flask Stainless Steel Water Bottle Wide Mouth Outdoor”</p>
 <p>FIG. 4</p>	
 <p>FIG. 5</p>	
 <p>FIG. 6</p>	
 <p>FIG. 7</p>	

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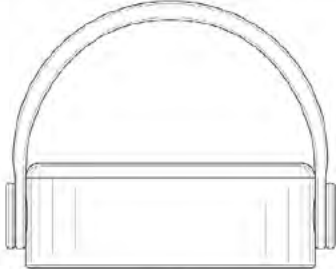

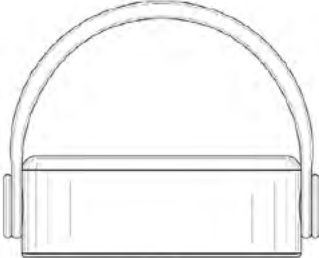

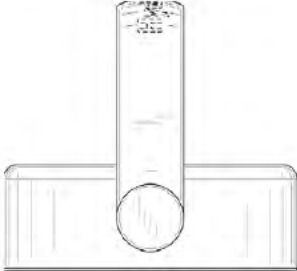


<p>Claimed Design – U.S. Patent No. D806,468</p>	<p>Guangzhou Yawen Technology Co., Ltd.’s “Quality Sports Bottle Hydro Flask 18oz 32oz Tumbler Flask Vacuum Insulated Flask Stainless Steel Water Bottle Wide Mouth Outdoor”</p>
 <p>FIG. 8</p>	

Compl. Ex. 7.48; Kemnitzer Ex. G.

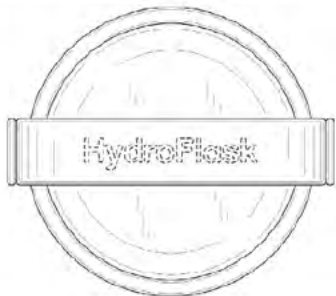



b) Jinhua City Ruizhi Electronic Commerce Co., Ltd.

<p>Claimed Design – U.S. Patent No. D806,468</p>	<p>Jinhua City Ruizhi Electronic Commerce Co., Ltd.’s “Hydro Flask Water Bottle Stainless Steel Water Bottle Vacuum Insulated Wide Mouth Travel Portable Thermal Bottle 32oz/40oz”</p>
 <p>FIG. 1</p>	
 <p>FIG. 2</p>	

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Claimed Design – U.S. Patent No. D806,468	Jinhua City Ruizhi Electronic Commerce Co., Ltd.’s “Hydro Flask Water Bottle Stainless Steel Water Bottle Vacuum Insulated Wide Mouth Travel Portable Thermal Bottle 32oz/40oz”
 <p>FIG. 3</p>	
 <p>FIG. 4</p>	
 <p>FIG. 5</p>	
 <p>FIG. 6</p>	

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<p>Claimed Design – U.S. Patent No. D806,468</p>	<p>Jinhua City Ruizhi Electronic Commerce Co., Ltd.’s “Hydro Flask Water Bottle Stainless Steel Water Bottle Vacuum Insulated Wide Mouth Travel Portable Thermal Bottle 32oz/40oz”</p>
 <p>FIG. 7</p>	
 <p>FIG. 8</p>	

Compl. Ex. 7.51; Kemnitzer Ex. E.

c) Shenzhen Yaxin General Machinery Co., Ltd.

<p>Claimed Design – U.S. Patent No. D806,468</p>	<p>Shenzhen Yaxin General Machinery Co., Ltd.’s “18oz/32oz/40oz Stainless Steel Water Bottle Hydro Flask Coffee Bottle Vacuum Insulated Wide Mouth Travel Portable Thermal Bottle”</p>
 <p>FIG. 1</p>	

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<p>Claimed Design – U.S. Patent No. D806,468</p>	<p>Shenzhen Yaxin General Machinery Co., Ltd.’s “18oz/32oz/40oz Stainless Steel Water Bottle Hydro Flask Coffee Bottle Vacuum Insulated Wide Mouth Travel Portable Thermal Bottle”</p>
 <p>FIG. 2</p>	
 <p>FIG. 3</p>	
 <p>FIG. 4</p>	
 <p>FIG. 5</p>	


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<p>Claimed Design – U.S. Patent No. D806,468</p>	<p>Shenzhen Yaxin General Machinery Co., Ltd.’s “18oz/32oz/40oz Stainless Steel Water Bottle Hydro Flask Coffee Bottle Vacuum Insulated Wide Mouth Travel Portable Thermal Bottle”</p>
 <p>FIG. 6</p>	
 <p>FIG. 7</p>	
 <p>FIG. 8</p>	

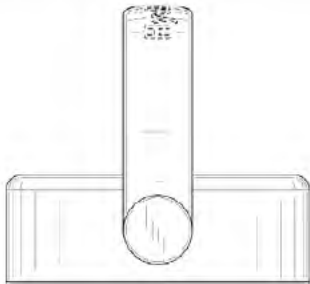

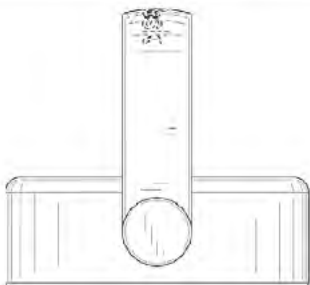

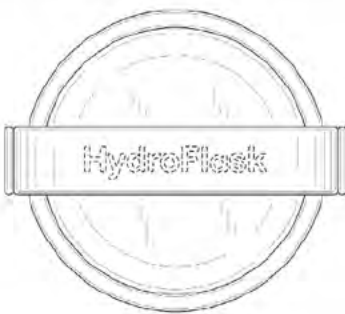



Compl. Ex. 7.53; Kemnitzer Ex. J.

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d) Suzhou Prime Gifts Co., Ltd.

<p>Claimed Design – U.S. Patent No. D806,468</p>	<p>Suzhou Prime Gifts Co., Ltd.’s “High Quality Keep Hot/Cold Stainless Steel Water Bottle Hydro Thermos Vacuum Flask with Custom Logo”</p>
 <p>FIG. 1</p>	
 <p>FIG. 2</p>	
 <p>FIG. 3</p>	
 <p>FIG. 4</p>	







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<p>Claimed Design – U.S. Patent No. D806,468</p>	<p>Suzhou Prime Gifts Co., Ltd.’s “High Quality Keep Hot/Cold Stainless Steel Water Bottle Hydro Thermos Vacuum Flask with Custom Logo”</p>
 <p>FIG. 5</p>	
 <p>FIG. 6</p>	
 <p>FIG. 7</p>	
 <p>FIG. 8</p>	

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Compl. Ex. 7.47; Kemnitzer Ex. P.



e) Wo Ma Te (Tianjin) International Trade Co., Ltd.

<p>Claimed Design – U.S. Patent No. D806,468</p>	<p>Wo Ma Te (Tianjin) International Trade Co., Ltd. “Hot!32oz/40oz Hydro Flask Vacuum Insulated Stainless Steel Water Bottle Wide Mouth with Sport/Straw/Flex cap”</p>
 <p>FIG. 1</p>	
 <p>FIG. 2</p>	
 <p>FIG. 3</p>	

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<p>Claimed Design – U.S. Patent No. D806,468</p>	<p>Wo Ma Te (Tianjin) International Trade Co., Ltd. “Hot!32oz/40oz Hydro Flask Vacuum Insulated Stainless Steel Water Bottle Wide Mouth with Sport/Straw/Flex cap”</p>
 <p>FIG. 4</p>	
 <p>FIG. 5</p>	
 <p>FIG. 6</p>	
 <p>FIG. 7</p>	

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<p align="center">Claimed Design – U.S. Patent No. D806,468</p>	<p align="center">Wo Ma Te (Tianjin) International Trade Co., Ltd. “Hot!32oz/40oz Hydro Flask Vacuum Insulated Stainless Steel Water Bottle Wide Mouth with Sport/Straw/Flex cap”</p>
 <p align="center">FIG. 8</p>	

Compl. Ex. 7.52; Kemnitzer Ex. R.

f) Yongkang Huiyun Commodity Co., Ltd.

<p align="center">Claimed Design – U.S. Patent No. D806,468</p>	<p align="center">Yongkang Huiyun Commodity Co., Ltd.’s “Hydro Powder coated wide mouth 12/18/21/24/32/40/50/64oz double wall stainless steel insulated Water bottle with various Lids”</p>
 <p align="center">FIG. 1</p>	
 <p align="center">FIG. 2</p>	

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<p>Claimed Design – U.S. Patent No. D806,468</p>	<p>Yongkang Huiyun Commodity Co., Ltd.’s “Hydro Powder coated wide mouth 12/18/21/24/32/40/50/64oz double wall stainless steel insulated Water bottle with various Lids”</p>
 <p>FIG. 3</p>	
 <p>FIG. 4</p>	
 <p>FIG. 5</p>	
 <p>FIG. 6</p>	