

PUBLIC VERSION

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

CERTAIN HANDBAGS, LUGGAGE,
ACCESSORIES AND PACKAGING
THEREOF

Inv. No. 337-TA-754

Order No. 12: Initial Determination Terminating The Investigation As To Certain Respondents

On July 26, 2011, Complainant Louis Vuitton Malletier S.A. (Vuitton) and the participating respondents filed a joint motion to terminate this investigation under Commission Rules 210.21(a)(2) and 210.21(b)(1), based on two different settlement agreements and consent order stipulations between Vuitton and each of the settling respondents. (Motion Docket No. 754-9.)

In a filing dated August 2, 2011, the Commission Investigative Staff (staff) supported said termination based on a settlement agreements and consent order stipulations.¹

Commission rule 210.21(b) governs termination based on a settlement agreement. It

¹ The staff represented that one settlement agreement relates to respondents Meada Corporation ("Meada"); Pacpro, Inc. ("Pacpro"); Jiu Gao Zheng, a/k/a Victor Zheng and a/k/a Peter Zheng; Alice Bei Wang; Trendy Creations, Inc. ("Trendy Creations"); and Monhill, Inc. ("Monhill") ("Domestic Respondents") (Exhibit J, "Domestic Agreement."), while the other settlement agreement is between Vuitton and each of the Chinese entities and/or individuals who reside in China, to wit: Zhixian Lu; Jiu An Zheng; Guangzhou Rimen Leather Goods Company Limited a/k/a Rimen Leather Co., Ltd. and a/k/a Guangzhou Rui Ma Leatherware Co., Ltd. ("Rimen"); Jian Yong Zheng, a/k/a Jianyong Zheng; Jiuyou Zheng; Jianbin Zheng; Shengfeng Lin; Wenzhou DIOPHY Trading Company Limited; and Wenzhou BOLHAO Leather Goods Company Limited ("Chinese Respondents") (Exhibit L, the "Chinese Agreement"). The staff further represented that other respondents elected to default and an initial determination finding them in default issued on July 21, 2011 (Order No. 11) and thus that only certain non-participating respondents remain in this investigation.

provides that:

[A]n investigation before the Commission may be terminated as to one or more respondents pursuant to Section 337(c) of the Tariff Act of 1930 on the basis of a licensing or other settlement agreement.

Rule 210.21(b) also specifies that in order for an investigation to be terminated as to a respondent on the basis of a settlement agreement, the motion must include: (1) copies of the licensing or other settlement agreement, (2) any supplemental agreements, and (3) a statement that there are no other agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation. Additionally, the rule requires that the motion include a public version of any settlement agreement that contains confidential business information. The administrative law judge finds that Motion No. 754-9 complies with all of the requirements of this rule. Thus movants have filed a public version of the Agreements and they also confirm in their Motion that there are no other agreements, written or oral, express or implied, between complainant and the respondents concerning the subject matter of the investigation.

(Memorandum at 2-4.)

Pursuant to the terms of the Domestic Agreement, {

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The administrative law judge finds that Motion No. 754-9 involving termination based upon consent order stipulations and proposed consent order is in compliance with Commission Rule 210.21(c)(ii). Thus Motion No. 754-9 was filed pursuant to Commission Rule 210.21(c), (Motion at 1; Memorandum at 1.) Commission Rule 210.21(c) provides:

An investigation before the Commission may be terminated pursuant to section 337(c) of the Tariff Act of 1930 on the basis of a consent order. An order of termination by consent order need not constitute a determination as to violation of section 337.

Motion No. 754-9 to terminate the investigation as to each of the settling respondents is also based upon a "Consent Order Stipulation" signed by executives of Vuitton and of an executive of a corporate Respondent or the individual Respondent. (Exhs. A-I.²) In accordance with Commission Rule 210.21(c)(ii), Motion No. 754-9 contains a copies of the Stipulations and proposed Consent Orders. The administrative law judge finds that the Stipulations and proposed

² As the staff noted, the terms of each Consent Order Stipulation and proposed Consent Order are identical. Therefore, Exhibit A, relating to Meada, is equally applicable to all of the other Stipulations/Consent Orders.

Consent Orders comply with the requirements of Commission Rule 210.21(c)(3)(I). Thus the Stipulations and Consent Orders state that the Commission has in rem jurisdiction over each individual respondent's accused products and personal jurisdiction over each entity. (Stipulation, ¶ 2; Consent Order, ¶ 2.) Each respondent waives all rights to seek judicial review or otherwise challenge or contest the validity of the Consent Orders. (Stipulation, ¶ 4; Consent Order, ¶ 2.) Each respondent further agrees that it will cooperate with and will not seek to impede by litigation or other means the Commission's efforts to gather information under Subpart I of the Commission's Rules of Practice and Procedure. (Stipulation, ¶ 5; Consent Order ¶ 3.) The Stipulations also state that the enforcement, modification, or revocation of the Consent Orders will be carried out pursuant to Subpart I of the Commission's Rules of Practice and Procedure. (Stipulation, ¶ 6; Consent Order, ¶ 6.)

The Stipulations and the proposed Consent Orders further state that the Consent Orders shall not apply to any intellectual property right that has been adjudged invalid or unenforceable by the Commission or a court or agency of competent jurisdiction, provided that such finding or judgment has become final and unreviewable. (Stipulation, ¶ 7; Consent Order, ¶ 5; see Rule 210.21(c)(3)(i)(B)(1)). Each respondent also agrees that it will not seek to challenge the validity or enforceability of the intellectual property rights at issue in this investigation in any administrative or judicial proceeding to enforce the Consent Orders. (Stipulation, ¶ 8; Consent Order, ¶ 4; see Rule 210.21(c)(3)(i)(B)(2).)

Pursuant to Commission Rule 210.21(c)(2)(ii), the Commission, in ruling on a proposed settlement and a consent order, shall consider the effect of the settlement and consent order "upon the public health and welfare, competitive conditions in the U.S. economy, the production

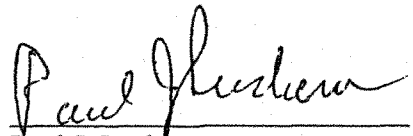
of like or directly competitive articles in the United States, and U.S. consumers.” see also Commission rule 210.50(b)(2). The administrative law judge is not aware of any information that would indicate that termination of this investigation on the basis of the Proposed Settlement or Consent Order would be contrary to the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers. (See 19 U.S.C. § 1337(d).) The Administrative Procedure Act indicates that agencies should consider termination of disputes by the involved parties where “the public interest permit[s].” (5 U.S.C. § 554(c)(1).) The public interest generally favors settlement to avoid needless litigation and to conserve public and private resources. Certain Data Storage Systems and Components Thereof, Inv. No. 337-TA-471, Order No. 51 at 4 (Mar. 11, 2003) (citing Certain Telephonic Digital Added Main Line Systems, Components Thereof, and Products Containing Same, Inv. No. 337-TA-400, Order No. 23, Initial Determination Terminating the Investigation Based on a Settlement Agreement (February 10, 1998)). The Administrative Procedure Act also indicates that agencies should consider termination of disputes by the involved parties where “the public interest permit[s].” 5 U.S.C. § 554(c)(1). Moreover, the public interest favors the protection of valid intellectual property rights. See Certain Two- Handle Centerset Faucets and Escutcheons, and Components Thereof, Inv. No. 337-TA-422, Comm’n Op. at 9 (July 21, 2000); Certain Recombinantly Produced Hepatitis B Vaccines and Products Containing Same, Inv. No. 337-TA-408, Order No. 7, Initial Determination Terminating the Investigation Based on Settlement (August 17, 1998).

Based on the foregoing, Motion No. 754-9 is granted.

This initial determination, pursuant to Commission rule 210.42(c), is hereby CERTIFIED

to the Commission. Pursuant to Commission rule 210.42(h)(3), this initial determination shall become the determination of the Commission within thirty (30) days after the date of service hereof unless the Commission grants a petition for review of this initial determination pursuant to Commission rule 210.43, or orders on its own motion a review of the initial determination or certain issues therein pursuant to Commission rule 210.44.

The order will be made public unless a bracketed confidential version is received no later than the close of business on August 16, 2011.



Paul J. Luckern
Chief Administrative Law Judge

Issued: August 3, 2011

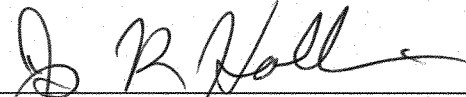
**CERTAIN HANDBAGS, LUGGAGE, ACCESSORIES AND
PACKAGING THEREOF**

337-TA-754

CERTIFICATE OF SERVICE

I, James R. Holbein, hereby certify that the attached **Public Version Order No. 12** has been served by hand upon the Commission Investigative Attorney, Juan S. Cockburn, Esq., and the following parties as indicated, on

August 18, 2011



James R. Holbein, Secretary
U.S. International Trade Commission
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