

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

In the Matter of

**CERTAIN BEVERAGE BREWING
CAPSULES, COMPONENTS
THEREOF, AND PRODUCTS
CONTAINING THE SAME**

**Investigation No. 337-TA-929
(Enforcement Proceeding)**

**ORDER: DELEGATING RESCISSION PROCEEDING TO
THE PRESIDING ADMINISTRATIVE LAW JUDGE**

The Commission instituted the original investigation on September 9, 2014, based on a complaint filed by Adrian Rivera and Adrian Rivera Maynez Enterprises, Inc. (collectively, “ARM”). 79 Fed. Reg. 53445-46. The complaint alleged that several respondents, including Eko Brands LLC (“Eko Brands”), Evermuch Technology Co., Ltd. and Ever Much Company Ltd. (together, “Evermuch”), violated section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, by infringing claims 5-8 and 18-20 of U.S. Patent No. 8,720,320 (“the ’320 patent”). *Id.* Eko Brands and Evermuch never responded to the complaint and notice of investigation, and were found in default. Notice (May 18, 2015). The Commission ultimately found that claims 5-7, 18, and 20 were invalid, but presumed that ARM’s allegations were true with respect to claims 8 and 19, and issued a limited exclusion order and cease and desist orders against Eko Brands and Evermuch on March 17, 2016.

On June 1, 2016, ARM filed a complaint requesting that the Commission institute a formal enforcement proceeding under Commission Rule 210.75(b) to investigate violations of the March 17, 2016 limited exclusion order and cease and desist order by Eko Brands and Espresso Supply, Inc. The Commission instituted a formal enforcement proceeding on July 1,

2016. 81 Fed. Reg. 43242-43.

On September 12, 2016, Eko Brands petitioned the Commission to rescind its limited exclusion order and cease and desist orders, and to terminate the enforcement proceeding. Eko Brands contended that changed circumstances warranted such relief. On September 22, 2016, ARM opposed the petition. On September 22, 2016, OUII filed a response supporting the institution of a rescission proceeding but opposing the termination of the enforcement proceeding. On September 30, 2016, Eko Brands filed a motion seeking leave to file a reply to its petition. On October 6, 2016, ARM opposed the motion.

The Commission, having examined the petition for rescission and the supporting documents, has determined that the petition complies with the requirements for institution of a rescission proceeding.

Accordingly, the Commission hereby **ORDERS THAT** –

1. Pursuant to Commission Rule 210.76(b), 19 C.F.R. § 210.76(b), a rescission proceeding is instituted to determine whether the March 17, 2016 limited exclusion order and cease and desist order issued against Eko Brands should be rescinded;
2. The rescission proceeding is delegated to the presiding ALJ, Judge Theodore Essex, for issuance of a recommended determination (“RD”);
3. The rescission proceeding is hereby consolidated with the present enforcement proceeding, and Judge Essex shall issue his RD in conjunction with his enforcement initial determination (“EID”);
4. Eko Brands’s request for termination of the enforcement proceeding is also delegated to Judge Essex;
5. The ALJ, in his discretion, may conduct any proceedings deemed necessary, consistent with Commission rules, to issue the RD. The RD will rule on the question of whether the March 17, 2016 limited exclusion order and cease and desist order issued in the above-captioned investigation should be rescinded.
6. Any comments on the RD are due on the same date that petitions for review of the EID are due. Responses to any comments are due on the same date that responses to any petitions for review of the EID are due.

7. Eko Brands's motion for leave to file a reply is denied.

Notice of this Order shall be served on the parties to this investigation.

By order of the Commission.

A handwritten signature in black ink, appearing to read "Lisa R. Barton". The signature is stylized and cursive.

Lisa R. Barton
Secretary to the Commission

Issued: November 18, 2016

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**Inv. No. 337-TA-929
(Enforcement)**

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER** has been served by hand upon the Commission Investigative Attorney, Jeffrey Hsu, Esq., and the following parties as indicated, on **November 18, 2016**.



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112
Washington, DC 20436

**On Behalf of Complainants Adrian Rivera and ARM
Enterprises, Inc.:**

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- Via Hand Delivery
- Via Express Delivery
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**On Behalf of Respondents Eko Brands, LLC and Espresso
Supply, Inc.:**

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