

The complaint named seven respondents: Tung Fong International Promotion Co., Ltd. of Hong Kong; Wenzhou Star Smoking Set Co., Ltd. of China; Taizhou Rongshi Lighter Development Co., Ltd. of China; Wenzhou Tailier Smoking Set Co., Ltd. of China; Vista Wholesale of Greencastle, Indiana; beWild.com of Bellmore, New York; and Kalan LP of Landsdowne, Pennsylvania. Respondents Kalan and Wenzhou Star Smoking Set Company were terminated from the investigation on the basis of settlement agreements. The remaining five respondents were found to be in default by the ALJ and the Commission did not review that determination.

On November 7, 2006, complainants filed a motion seeking summary determination with respect to the domestic industry requirement and violation of section 337. Complainants also requested that the ALJ recommend a general exclusion order and a 100 percent bond during the period of Presidential review. Complainants did not renew their request for cease and desist orders. The Commission investigative attorney supported the motion for summary determination and the requested remedy and bonding. No respondents responded to the motion.

On February 21, 2007, the ALJ issued an ID (Order No. 11) finding the domestic industry requirement satisfied, finding a violation of section 337, and containing a recommended determination on remedy and bonding. The ALJ found a violation of section 337 based on his conclusion that there are no genuine issues of material fact that respondents' accused products infringe the '241 mark and that a domestic industry exists as required by 19 U.S.C. § 1337(a)(2). He recommended issuance of a general exclusion order and that the amount of bond for temporary importation during the Presidential review period be set at 100 percent of the entered value of the articles concerned. No petitions for review were filed.

On March 15, 2007, the Commission determined not to review this ID and requested written submissions on the issues of remedy, the public interest, and bonding. On March 29 and April 5, 2007, respectively, the complainant Zippo and the IA filed briefs and reply briefs on these issues.

Having reviewed the record in this investigation, including the ID and the parties' written submissions, the Commission has determined that the appropriate form of relief is a general exclusion order prohibiting the unlicensed entry of lighters that infringe the '241 mark.

The Commission has further determined that the public interest factors enumerated in section 337(d)(1) (19 U.S.C. § 1337(d)(1)) do not preclude issuance of the general exclusion order. Finally, the Commission determined that the amount of bond to permit temporary importation during the period of Presidential review (19 U.S.C. § 1337(j)) shall be in the amount of 100 percent of the value of the lighters 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 the day of its 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 210.42-46 of the Commission's Rules of Practice and Procedure, 19 C.F.R. §§ 210.42-46.

By order of the Commission.

/s/

Marilyn R. Abbott
Secretary to the Commission

Issued: July 18, 2007