

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

CERTAIN BLOW-MOLDED BAG-IN-CONTAINER DEVICES, ASSOCIATED COMPONENTS, AND END PRODUCTS CONTAINING OR USING SAME

Investigation No. 337-TA-1115

NOTICE OF A COMMISSION DETERMINATION TO TERMINATE THE INVESTIGATION IN WHOLE BASED ON WITHDRAWAL OF THE COMPLAINT; 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 determined to terminate the investigation in whole based on the withdrawal of the complaint. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone (202) 205-3115. Copies of non-confidential 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, SW, Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, on June 5, 2018, based on a complaint filed by Anheuser-Busch InBev S.A. of Leuven, Belgium and Anheuser-Busch, LLC of St. Louis, Missouri (collectively, "Complainants"). 83 FR 26088-89 (Jun. 5, 2018). Supplements to the complaint were filed on May 4, 2018, and May 15, 2018. The complaint alleges a violation of section 337 by reason of infringement of certain claims of U.S. Patent Nos. 9,162,372 ("the '372 patent"); 9,517,876; 9,555,572 ("the '572 patent"); and 9,944,453. The notice of investigation names as respondents Heineken International B.V. of Amsterdam, Netherlands; Heineken N.V. of Amsterdam, Netherlands; Heineken USA Inc. of White Plains,

New York; Heineken Holding N.V. of Amsterdam, Netherlands; Heineken Beer Systems B.V. of Amsterdam, Netherlands; Heineken Brouwerijen B.V. of Amsterdam, Netherlands; Heineken Export Americas B.V. of Amsterdam, Netherlands; and Heineken Global Procurement B.V. of Amsterdam, Netherlands (collectively, “Respondents”). *Id.* at 26089. The Office of Unfair Import Investigations is not participating in this investigation. Subsequently, the investigation was terminated in part as to the ’372 and ’572 patents. Order No. 26 (March 21, 2019), *not reviewed*, Commission Notice (April 11, 2019).

Pursuant to Commission Rule 210.21(a), 19 CFR § 210.21(a), on April 29, 2019, Complainants moved to terminate this investigation in whole on the basis of withdrawal of the complaint. On April 30, 2019, Respondents filed a response opposing the motion. Respondents contended that termination is inappropriate given the advanced posture of the investigation and the fact that they had only temporarily halted importation of their accused products.

On May 3, 2019, the ALJ issued an initial determination (“ID”) (Order No. 50) granting Complainants’ motion. He found no extraordinary circumstances exist that would prevent the requested termination of this investigation. Order No. 50 at 3.

On May 10, 2019, Respondents filed a petition for review of the ID. On May 17, 2019, Complainants filed a response opposing the petition.

On June 26, 2019, the Commission determined to review the subject ID. Commission Notice (June 26, 2019).

Upon review, the Commission has determined to grant Complainants’ request to terminate the investigation based on withdrawal of its complaint allegations. The Commission has considered Respondents’ arguments regarding Complainants’ filing of their motion to terminate shortly before the hearing was scheduled to begin, after extensive proceedings, including discovery, had occurred before the ALJ. However, it would be premature at this time for the Commission to decide the effect, if any, of this termination on a future complaint that might be filed. Accordingly, the Commission need not and does not now decide what action it may take, or what conditions may apply, should Complainants file a complaint based on the same or similar alleged violations of section 337 by these Respondents in the future. Nor does the Commission now decide whether and how, if a new investigation were instituted based on the same or similar allegations, the record from the instant investigation may be used in such future investigation.

The investigation is terminated.

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 Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', with a stylized flourish at the end.

Lisa R. Barton
Secretary to the Commission

Issued: January 24, 2020