

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

In the Matter of

**CERTAIN COLLAPSIBLE AND
PORTABLE FURNITURE**

Inv. No. 337-TA-1178

**NOTICE OF A COMMISSION DETERMINATION TO REVIEW AN INITIAL
DETERMINATION TERMINATING THE INVESTIGATION AS TO THE ZENITHEN
RESPONDENTS BASED ON CONSENT ORDER AND SETTLEMENT AGREEMENT
AND ON REVIEW AFFIRM WITH MODIFIED REASONING; ISSUANCE OF
CONSENT ORDER**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review an initial determination (“ID”) (Order No. 6) issued by the presiding administrative law judge (“ALJ”) granting a motion to terminate the investigation with respect to respondents Fujian Zenithen Consumer Products Co., Ltd.; Zenithen Hong Kong Ltd.; and Zenithen USA LLC (the “Zenithen Respondents”) based on the entry of a stipulated consent order and settlement agreement. On review, the Commission has determined to affirm the ID with modified reasoning. The Commission has determined to issue a consent order.

FOR FURTHER INFORMATION CONTACT: Benjamin S. Richards, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436, telephone (202) 708-5453. 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 (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <http://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 on October 3, 2019, based on a complaint, as amended, filed by GCI Outdoor, Inc. (“GCI”) of Higganum, Connecticut. 84 FR 52896 (Oct. 3, 2019). The amended complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain collapsible and portable furniture by reason of infringement of certain claims of U.S. Patent No. 9,282,824 (“the ’824 patent”) and U.S. Patent No. 9,060,611

(“the ’611 patent”). *Id.* at 52896–97. The Commission’s notice of investigation named eight respondents, including the Zenithen Respondents. *Id.* at 52897. The Office of Unfair Import Investigations is not participating in this investigation. *Id.*

On December 14, 2019, GCI and the Zenithen Respondents jointly moved to terminate the investigation with respect to the Zenithen Respondents based upon their stipulation to entry of a consent order and a settlement agreement. The joint motion included a consent order stipulation, proposed consent order, and public and confidential versions of the settlement agreement between GCI and the Zenithen Respondents. On February 11, 2020, GCI and the Zenithen Respondents filed a supplemental joint motion which included an amended consent order stipulation and consent order as requested by the ALJ. No party opposed the motion.

On February 20, 2020, the ALJ issued an initial determination granting the joint motion based on the supplemented consent order and consent order stipulation. Order No. 6. The ALJ found that the consent order stipulation and proposed consent order complied with Commission Rule 210.21(c)(3) and (4) (19 CFR 210.21(c)(3) and (4)). The ALJ also found no evidence that granting the joint motion would be contrary to the public interest. No petitions for review of the ID were received.

The Commission has determined to review the subject ID, and on review affirm the ID with modified reasoning. Particularly, the Commission finds that the proposed consent order does not comply with Commission Rule 210.21(c)(4) in several respects. First, Rule 210.21(c)(4)(i) requires “a statement of any allegation in the complaint that the respondents sell for importation, import, or sell after importation the subject articles in violation of section 337 by reason of asserted patent claims,” but the proposed consent order lacks such a statement, notwithstanding the fact that GCI’s amended complaint includes allegations to that effect. Am. Compl. at ¶¶ 2, 4–6, 60, 63. Second, paragraph 10 of the proposed consent order is not among the terms enumerated in Rule 210.21(c)(4). The Commission has determined to modify the proposed consent order to bring paragraph 3 into compliance with Rule 210.21(c)(4)(i), to remove paragraph 10, and to cite Rule 210.21(c)(4), rather than Rule 210.21(c)(3). The Commission has determined to issue the attached modified consent order.

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.



Lisa R. Barton
Secretary to the Commission

Issued: March 13, 2020