

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN VACUUM INSULATED
FLASKS AND COMPONENTS
THEREOF**

Investigation No. 337-TA-1216

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN
INITIAL DETERMINATION GRANTING A JOINT MOTION TO TERMINATE
THE INVESTIGATION AS TO RESPONDENT EVERICH AND TOMIC
HOUSEWARE CO., LTD. BASED ON A CONSENT ORDER STIPULATION AND
CONSENT ORDER; ISSUANCE OF A CONSENT ORDER**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 19) of the presiding chief administrative law judge (“CALJ”) granting a joint motion to terminate the investigation as to respondent Everich and Tomic Houseware Co., Ltd. (“Everich”) based on a consent order stipulation and consent order. The Commission has issued a consent order to Everich.

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) 205-2392. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.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: On September 3, 2020, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based on a complaint filed by Steel Technology LLC d/b/a Hydro Flask and Helen of Troy Limited (collectively, “Complainants,” or “Hydro Flask”). 85 FR 55030-31 (Sept. 3, 2020). The complaint alleges a violation of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain vacuum insulated flasks and components thereof by reason of infringement of: (1) the sole claim of U.S. Design Patent Nos. D806,468; D786,012 (“the ’012 patent”); and D799,320;

and (2) U.S. Trademark Registration Nos. 4,055,784; 5,295,365; 5,176,888; and 4,806,282 (“Steel Band Trademark”). The complaint also alleges the existence of a domestic industry. The notice of investigation names numerous respondents, including Everich of Hangzhou, China. *Id.* at 55031. The Commission’s Office of Unfair Import Investigations (“OUII”) is also named as a party in this investigation. *Id.*

Subsequently, the Commission permitted Complainants to amend the complaint and notice of investigation to: (1) assert the ’012 patent against additional infringing products sold by Everich; (2) incorporate into the complaint the information and additional paragraphs included in Complainants’ Supplemental Letter to the Commission of August 18, 2020; and (3) correct the corporate names of four non-appearing respondents. Order No. 12 (Nov. 6, 2020), *unreviewed by* Notice (Nov. 24, 2020); *see* 85 FR 77239-40 (Dec. 1, 2020). The Commission also terminated the investigation as to certain other respondents based on a consent order and settlement agreement, or a settlement agreement. Order No. 13 (Nov. 30, 2020), *unreviewed by* Notice (Dec. 21, 2020); Order No. 17 (Jan. 27, 2021), *unreviewed by* Notice (Feb. 16, 2021). The Commission likewise terminated the investigation with respect to the Steel Band Trademark. Order No. 16 (Jan. 11, 2021), *unreviewed by* Notice (Feb. 8, 2021).

On February 9, 2021, Hydro Flask and respondent Everich moved to terminate the investigation as to Everich based on a consent order stipulation and a consent order. On February 19, 2021, OUII filed its response in support of the joint motion.

On February 22, 2021, the CALJ issued the subject ID (Order No. 19) granting the joint motion. The ID finds that the consent order stipulation submitted by the parties complies with the requirements of Commission Rule 210.21(c)(3), 19 CFR 210.21(c)(3). ID at 2. The ID also finds that the consent order submitted by the parties complies with the requirements of Commission Rule 210.21(c)(4), 19 CFR 210.21(c)(4). *Id.* at 3. The ID further finds that termination of this investigation as to Everich does not impose any undue burdens on the public health and welfare, competitive conditions in the United States economy, production of like or directly competitive articles in the United States, or United States consumers. *Id.* at 3-4. No party petitioned for review of the ID.

The Commission has determined not to review the subject ID. The investigation is terminated as to respondent Everich, and the Commission has issued a consent order to Everich.

The Commission vote for this determination took place on March 12, 2021.

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: March 12, 2021