

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC**

In the Matter of

**CERTAIN FISH-HANDLING
PLIERS AND PACKAGING
THEREOF**

Investigation No. 337-TA-1169

CORRECTED GENERAL EXCLUSION ORDER

The Commission has determined that there is a violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the unlawful importation, sale for importation, or sale within the United States after importation of certain fish-handling pliers (*i.e.*, pliers that aid in the landing, weighing, and handling of fish by securely gripping the lip of a fish while the hook is removed) and packaging thereof that infringe one or more of United States Trademark Reg. Nos. 4,980,923 (“the ’923 mark”) and 5,435,944 (“the ’944 mark”).

Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determinations on the issues of remedy, the public interest, and bonding. The Commission has determined pursuant to 19 U.S.C § 1337(d), that a general exclusion from entry for consumption is necessary (1) to prevent circumvention of an exclusion order limited to products of named persons and (2) because there is a pattern of violation of section 337 and it is difficult to identify the source of the infringing products. Accordingly, the Commission has determined to issue a general exclusion order prohibiting the unlicensed importation of infringing fish-handling pliers and packaging thereof.

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. § 1337(d)(1) do not preclude issuance of a general exclusion order and that the bond

during the Presidential review period shall be in the amount of one hundred (100) percent of the entered value for all covered products in question.

Accordingly, the Commission hereby **ORDERS** that:

1. Fish-handling pliers and packaging thereof that infringe the '923 and '944 marks (“covered articles”) are excluded from entry into the United States for consumption, entry for consumption from a foreign-trade zone, and withdrawal from a warehouse for consumption, except under license from, or with the permission of, the trademark owner or as provided by law until such date as the trademarks have been abandoned, canceled, or rendered invalid or unenforceable.

2. For the purpose of assisting U.S. Customs and Border Protection (“CBP”) in the enforcement of this Order, and without in any way limiting the scope of the Order, the Commission has attached to this Order copies of the relevant trademark registrations as Exhibit 1.

3. Notwithstanding paragraph 1 of this Order, the aforesaid covered articles are entitled to entry into the United States for consumption, entry for consumption from a foreign-trade zone, and withdrawal from a warehouse for consumption, under bond in the amount of one hundred (100) percent of the entered value of the products pursuant to subsection (j) of Section 337 (19 U.S.C. § 1337(j)), and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (*70 Fed Reg.* 43251), from the day after this Order is received by the United States Trade Representative and until such time as the United States Trade Representative notifies the Commission that this Order is approved or disapproved but, in any event, not later than sixty (60) days after the date of receipt of this Order. All entries of covered articles made pursuant to this paragraph are to be reported to U.S. Customs and Border

Protection (“CBP”), in advance of the date of the entry, pursuant to procedures CBP establishes. Note, however, this provision does not exempt infringing articles from seizures under trademark laws enforced by Customs and Border Protection, most notably 19 U.S.C § 1526(e) and 19 U.S.C § 1595a(c)(2)(C) in connection with 15 U.S.C § 1124.

4. At the discretion of CBP and pursuant to procedures it establishes, persons seeking to import articles that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under paragraph 1 of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.

5. Complainant United Plastic Molders, Inc. (“UPM”) shall file a written statement with the Commission, made under oath, each year on the anniversary of the issuance of this Order stating whether UPM continues to use each of the aforesaid trademarks in commerce in the United States in connection with fish-handling pliers and packaging thereof, whether any of the aforesaid trademarks has been abandoned, canceled, or rendered invalid or unenforceable, and whether UPM continues to satisfy the domestic industry requirements of Section 337(a)(2) and (3).

6. The Commission may modify this Order in accordance with the procedures described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

7. The Commission Secretary shall serve copies of this Order upon each party of record in this investigation and upon CBP.

8. Notice of this Order shall be published in the Federal Register.

By order of the Commission.

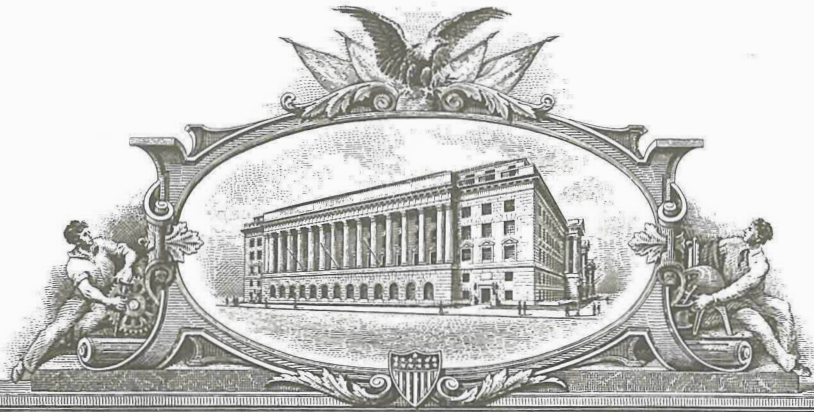
A handwritten signature in black ink, appearing to read 'LRB', is positioned above the printed name.

Lisa R. Barton
Secretary to the Commission

Issued: September 17, 2020

Exhibit 1

2042781



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

**UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office**

April 11, 2019

**THE ATTACHED U.S. TRADEMARK REGISTRATION 4,980,923 IS
CERTIFIED TO BE A TRUE COPY OF THE REGISTRATION ISSUED BY
THE UNITED STATES PATENT AND TRADEMARK OFFICE WHICH
REGISTRATION IS IN FULL FORCE AND EFFECT.**

**REGISTERED FOR A TERM OF 10 YEARS FROM *June 21, 2016*
SAID RECORDS SHOW TITLE TO BE IN: *Registrant***

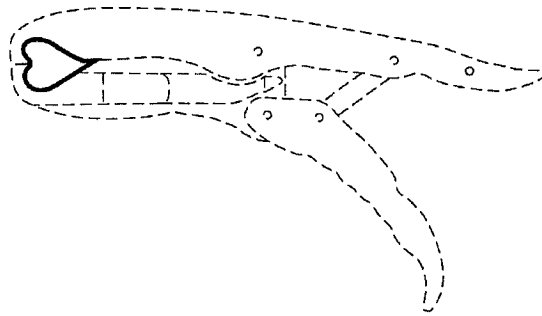
**By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office**



W. Montgomery
W. MONTGOMERY
Certifying Officer

United States of America

United States Patent and Trademark Office



Reg. No. 4,980,923

Registered June 21, 2016

Int. Cl.: 28

TRADEMARK

PRINCIPAL REGISTER

UNITED PLASTIC MOLDERS, INC. (MISSISSIPPI CORPORATION)
105 E. RANKIN STREET
JACKSON, MS 39201

FOR: SPORT FISHING ACCESSORY, NAMELY, A DEVICE WHICH HOLDS THE LIP OF A FISH CAUGHT BY AN ANGLER FOR EASE OF LANDING, WEIGHING AND RELEASE, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 4-1-2001; IN COMMERCE 4-1-2001.

THE MARK CONSISTS OF A HEART SHAPED OPENING IN THE THREE-DIMENSIONAL CONFIGURATION OF THE SPORT FISHING DEVICE. THE BROKEN LINES ARE INTENDED TO SHOW THE POSITION OF THE MARK BUT ARE NOT PART OF THE MARK.

SEC. 2(F).

SER. NO. 86-607,682, FILED 4-23-2015.

JOHN MUCHA, EXAMINING ATTORNEY



Michelle K. Lee

Director of the United States
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

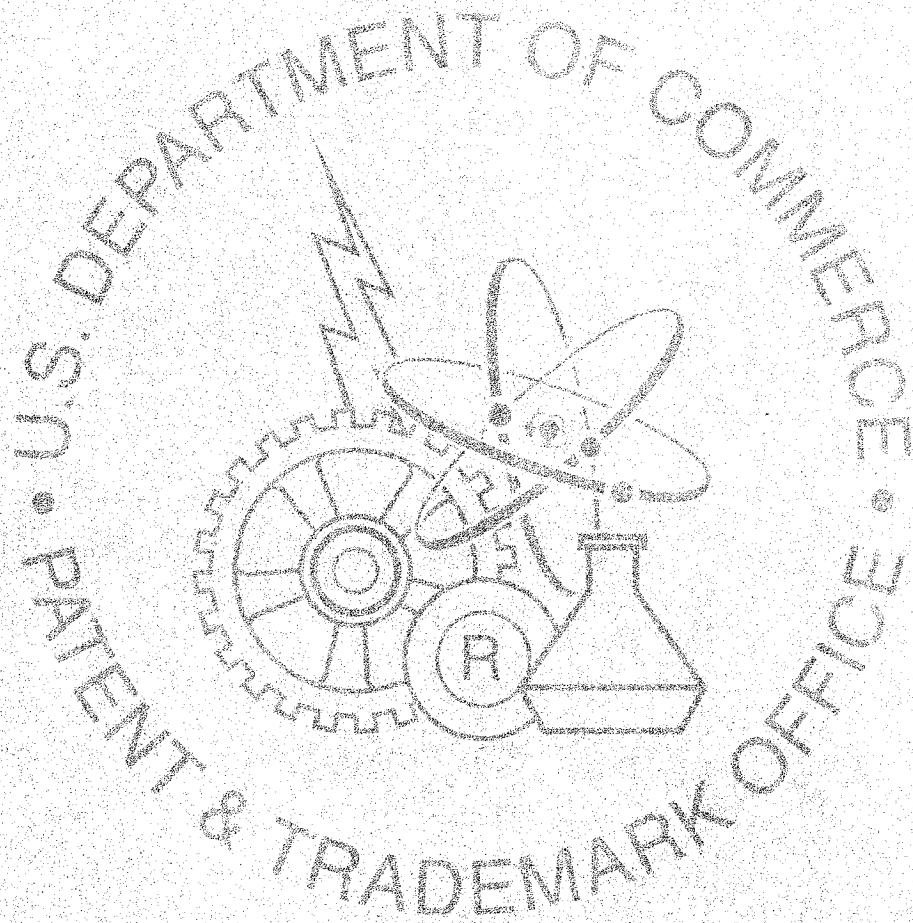
Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

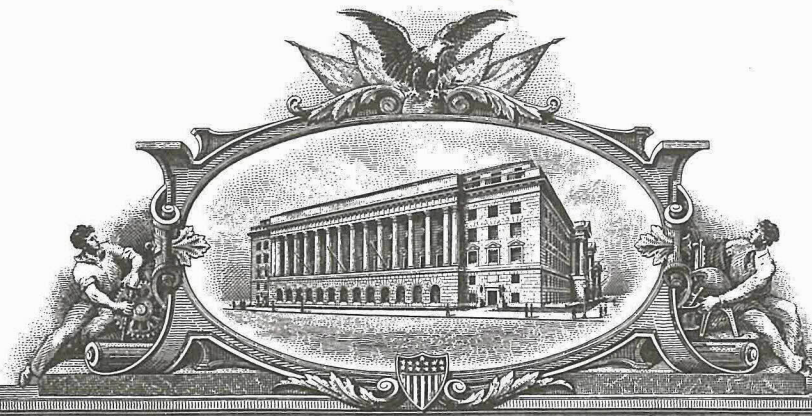
***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.



2042781



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

April 09, 2019

THE ATTACHED U.S. TRADEMARK REGISTRATION 5,435,944 IS
CERTIFIED TO BE A TRUE COPY OF THE REGISTRATION ISSUED BY
THE UNITED STATES PATENT AND TRADEMARK OFFICE WHICH
REGISTRATION IS IN FULL FORCE AND EFFECT.

REGISTERED FOR A TERM OF 10 YEARS FROM *April 03, 2018*
SAID RECORDS SHOW TITLE TO BE IN: *Registrant*

By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office


T. WALLACE
Certifying Officer



United States of America

United States Patent and Trademark Office



Reg. No. 5,435,944

Registered Apr. 03, 2018

Int. Cl.: 28

Trademark

Principal Register

UNITED PLASTIC MOLDERS, INC. (MISSISSIPPI CORPORATION)
105 E. Rankin St.
Jackson, MISSISSIPPI 39201

CLASS 28: Sport fishing accessory, namely, a feature of a sport fishing device which holds the lip of a fish caught by an angler for ease of landing, weighing and release

FIRST USE 12-00-2002; IN COMMERCE 12-00-2002

The mark consists of a stylized gripper with heart-shaped opening.

SER. NO. 87-139,494, FILED 08-16-2016



Andrei Iancu

Director of the United States
Patent and Trademark Office

REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION

WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.

Requirements in the First Ten Years*

What and When to File:

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

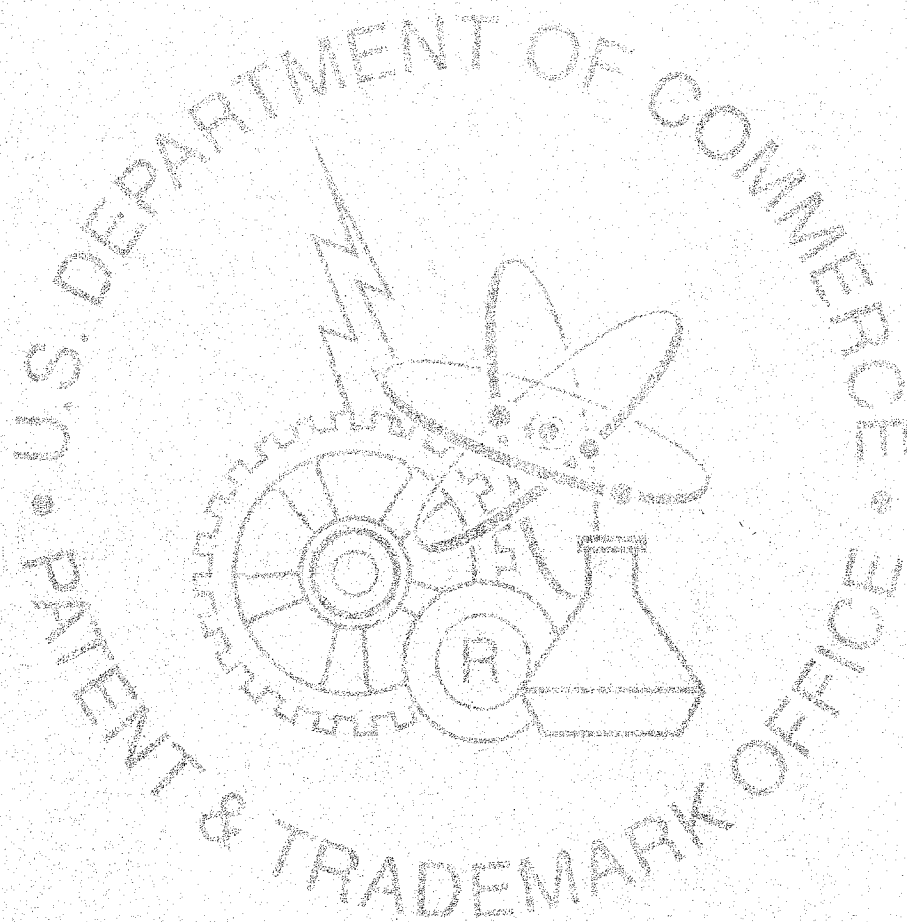
Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

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PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER** has been served via EDIS upon the Commission Investigative Attorney, **Thomas C. Chen, Esq.**, and the following parties as indicated, on **September 17, 2020**.



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

On Behalf of Complainant United Plastic Molders:

Rett Snotherly, Esq.
LEVI & SNOTHERLY, PLLC
1101 Connecticut Ave., NW, Suite 450
Washington, DC 20036
Email: rsnotherly@levisnotherly.com

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Email Notification of Availability for Download

Respondents:

Yixing Five Union Industry & Trade Co., Ltd.
Building A1, Innovation Park of Yixing City
Jiangsu Province
China

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Service to Be Completed by Complainants

NOEBY Fishing Tackle Co., Ltd.
No. 81 Bohai Road, Eco-zone
Weihai, Shandong
China

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Service to Be Completed by Complainants

Weihai ILure Fishing Tackle Co., Ltd.
No. 01 ZhouNing Road,
LinGang District,
Weihai, Shandong
China

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Service to Be Completed by Complainants

**CERTAIN FISH-HANDLING PLIERS AND PACKAGING
THEREOF**

Inv. No. 337-TA-1169

Certificate of Service – Page 2

SamsFX
No. 11, Shikefa Road, Yangzhou City, 225000
Jiangsu Province
China

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Service to Be Completed by Complainants

Wehai Lotus Outdoor Co., Ltd.
Zhang CunTown, Weihai City
Shandong Pro.
China

- Via Hand Delivery
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**UNITED STATES INTERNATIONAL TRADE COMMISSION
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In the Matter of

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Investigation No. 337-TA-1169

GENERAL EXCLUSION ORDER

The Commission has determined that there is a violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the unlawful importation, sale for importation, or sale within the United States after importation of certain fish-handling pliers (*i.e.*, pliers that aid in the landing, weighing, and handling of fish by securely gripping the lip of a fish while the hook is removed) and packaging thereof that infringe one or more of United States Trademark Reg. Nos. 4,980,923 (“the ’923 mark”) and 5,435,944 (“the ’944 mark”).

Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determinations on the issues of remedy, the public interest, and bonding. The Commission has determined pursuant to 19 U.S.C § 1337(d), that a general exclusion from entry for consumption is necessary (1) to prevent circumvention of an exclusion order limited to products of named persons and (2) because there is a pattern of violation of section 337 and it is difficult to identify the source of the infringing products. Accordingly, the Commission has determined to issue a general exclusion order prohibiting the unlicensed importation of infringing fish-handling pliers and packaging thereof.

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. § 1337(d)(1) do not preclude issuance of a general exclusion order and that the bond

during the Presidential review period shall be in the amount of one hundred (100) percent of the entered value for all covered products in question.

Accordingly, the Commission hereby **ORDERS** that:

1. Fish-handling pliers and packaging thereof that infringe the '923 and '944 marks (“covered articles”) are excluded from entry into the United States for consumption, entry for consumption from a foreign-trade zone, and withdrawal from a warehouse for consumption for the remaining term of the patent, except under license from, or with the permission of, the patent owner or as provided by law until such date as the trademarks have been abandoned, canceled, or rendered invalid or unenforceable.

2. For the purpose of assisting U.S. Customs and Border Protection (“CBP”) in the enforcement of this Order, and without in any way limiting the scope of the Order, the Commission has attached to this Order copies of the relevant trademark registrations as Exhibit 1.

3. Notwithstanding paragraph 1 of this Order, the aforesaid covered articles are entitled to entry into the United States for consumption, entry for consumption from a foreign-trade zone, and withdrawal from a warehouse for consumption, under bond in the amount of one hundred (100) percent of the entered value of the products pursuant to subsection (j) of Section 337 (19 U.S.C. § 1337(j)), and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (*70 Fed Reg.* 43251), from the day after this Order is received by the United States Trade Representative and until such time as the United States Trade Representative notifies the Commission that this Order is approved or disapproved but, in any event, not later than sixty (60) days after the date of receipt of this Order. All entries of covered articles made pursuant to this paragraph are to be reported to U.S. Customs and Border

Protection (“CBP”), in advance of the date of the entry, pursuant to procedures CBP establishes. Note, however, this provision does not exempt infringing articles from seizures under trademark laws enforced by Customs and Border Protection, most notably 19 U.S.C § 1526(e) and 19 U.S.C § 1595a(c)(2)(C) in connection with 15 U.S.C § 1124.

4. At the discretion of CBP and pursuant to procedures it establishes, persons seeking to import articles that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under paragraph 1 of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.

5. Complainant United Plastic Molders, Inc. (“UPM”) shall file a written statement with the Commission, made under oath, each year on the anniversary of the issuance of this Order stating whether UPM continues to use each of the aforesaid trademarks in commerce in the United States in connection with fish-handling pliers and packaging thereof, whether any of the aforesaid trademarks has been abandoned, canceled, or rendered invalid or unenforceable, and whether UPM continues to satisfy the domestic industry requirements of Section 337(a)(2) and (3).

6. The Commission may modify this Order in accordance with the procedures described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

7. The Commission Secretary shall serve copies of this Order upon each party of record in this investigation and upon CBP.

8. Notice of this Order shall be published in the Federal Register.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: August 10, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER** has been served via EDIS upon the Commission Investigative Attorney, **Thomas C. Chen, Esq.**, and the following parties as indicated, on **August 10, 2020**.



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

On Behalf of Complainant United Plastic Molders:

Rett Snotherly, Esq.
LEVI & SNOTHERLY, PLLC
1101 Connecticut Ave., NW, Suite 450
Washington, DC 20036
Email: rsnotherly@levisnotherly.com

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