

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN SELF-ANCHORING
BEVERAGE CONTAINERS**

Investigation No. 337-TA-1092

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING COMPLAINANTS' MOTION TO WITHDRAW
ALL CLAIMS RELATED TO U.S. TRADEMARK NO. 4,191,803 AND
U.S. PATENT NO. 8,757,418**

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. 12) granting a motion of complainants Alfay Designs, Inc., of Rahway, New Jersey; Mighty Mug, Inc., of Rahway, New Jersey; and Harry Zimmerman of Los Angeles, California (collectively, "Complainants") to withdraw all claims related to U.S. Trademark Registration No. 4,191,803 ("the '803 trademark") and U.S. Patent No. 8,757,418 ("the '418 patent").

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-708-2301. 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, S.W., Washington, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<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 on January 8, 2018, based on a complaint, as amended, filed by Complainants. 83 FR 835-36 (Jan. 8, 2018). The amended complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain self-anchoring beverage containers by reason of infringement of certain claims of U.S. Patent No. 8,028,850 and the '418 patent, as well as the '803 trademark. *Id.* The amended complaint further alleges that a domestic industry in the United States exists or is in the process of being established. The

notice of investigation named as respondents Telebrands, Corp. of Fairfield, New Jersey (“Telebrands”); HIRALIY of Guangzhou, Chin; Chekue, Shenzen Chekue Trading Co. Ltd. of Shenzhen, China; Tapcet, Guangzhou Tinghui Trade Co., Ltd. of Guangzhou, China; OTELAS, MB of Klaipeda, Lithuania; and Artiart Limited of Taipei, Taiwan (collectively, “the Unserved Respondents”); and OUOH, Zhejiang OUOH Houseware Co., Ltd., of Wenzhou, China and DevBattles of Ternopil, Ukraine (collectively, “the Last Remaining Respondents”). *Id.* The Office of Unfair Import Investigations (“OUII”) also was named as a party to the investigation. *Id.* The Commission previously terminated the investigation with respect to Telebrands and the Unserved Respondents. *See* Order No. 8 (Feb. 16, 2018) (unreviewed Notice (Mar. 15, 2018)); Order No. 10 (Apr. 10, 2018) (unreviewed Notice May 8, 2018). The Commission previously found the Last Remaining Respondents in default. *See* Order No. 11 (May 3, 2018) (unreviewed Notice (June 1, 2018)).

On May 23, 2018, Complainants filed a motion to withdraw all claims related to the ’803 trademark and the ’418 patent. The motion indicated that OUII does not oppose the withdrawal. No other responses were received.

On June 6, 2018, the ALJ issued the subject ID, granting pursuant to Commission Rule 210.21(a) (19 CFR 210.21(a)) Complainants’ motion to withdraw all claims of the ’803 trademark and the ’418 patent. The ALJ found that the motion complied with the rule and that no extraordinary circumstances exist that would prevent the requested partial termination. No petitions for review were filed.

The Commission has determined not to review the subject ID.

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", written in a cursive style.

Lisa R. Barton
Secretary to the Commission

Issued: June 22, 2018