

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN POCKET LIGHTERS

Investigation No. 337-TA-1142

**NOTICE OF COMMISSION DETERMINATION TO ISSUE
A CORRECTED GENERAL EXCLUSION ORDER**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to issue a corrected general exclusion order (“GEO”) in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-4716. 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 February 12, 2019, 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 BIC Corporation (“Complainant”) of Shelton, Connecticut. *See* 84FR 3486-87 (Feb. 12, 2019). The complaint, as supplemented, alleges a violation of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain pocket lighters by reason of infringement of U.S. Trademark Registration Nos. 1,761,622 and 2,278,917. *See id.* The notice of investigation names numerous respondents, including Milan Import Export Company, LLC (“Milan”) of San Diego, California; Wellpine Company Limited of Hong Kong, China; and Zhuoye Lighter Manufacturing Co., Ltd. of Foshan City, China (collectively, “Defaulting Respondents”). *See id.* The Office of Unfair Import Investigations is also a party to the investigation. *See id.*

The Commission previously terminated other respondents based on settlement and entry of a consent order. *See* Order No. 21 (Oct. 30, 2019), *unreviewed*, Comm’n Notice (Nov. 25, 2019). The Commission also terminated an unserved respondent based on the withdrawal of the

complaint allegations as to that respondent. *See* Order No. 23 (Dec. 18, 2019), *unreviewed*, Comm'n Notice (Jan. 16, 2020).

The Commission further found each of the Defaulting Respondents in default. *See* Order No. 13 (June 6, 2019), *unreviewed*, Comm'n Notice (July 8, 2019); Order No. 14 (June 6, 2019), *unreviewed*, Comm'n Notice (July 8, 2019); Order No. 15 (June 18, 2019), *aff'd with modification*, Comm'n Notice (July 10, 2019). On February 12, 2020, the ALJ issued an ID granting Complainant's motion for summary determination of violation of section 337 by the Defaulting Respondents.

On June 22, 2020, the Commission issued a notice determining to affirm the ID and terminating the investigation. *See* 85 FR 38389-90 (June 26, 2020). The Commission also determined to issue a GEO prohibiting the unlicensed entry of certain pocket lighters that infringe Complainant's asserted trade dress and a CDO directed to defaulting respondent Milan. *See id.* The GEO, however, inadvertently omits a provision requiring Complainant to file a yearly written statement with the Commission attesting that Complainant continues to use the asserted trade dress in commerce in the United States, that the asserted trade dress has not been abandoned, cancelled, or rendered invalid or unenforceable, and that Complainant continues to satisfy the domestic industry requirement.

The Commission has determined to issue a corrected GEO including the reporting requirement.

The Commission's vote on this determination took place on October 27, 2020.

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).

While temporary remote operating procedures are in place in response to COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant(s) complete service for any party/parties without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: October 27, 2020