

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN FOODSERVICE
EQUIPMENT AND COMPONENTS
THEREOF**

Investigation No. 337-TA-1166

**NOTICE OF COMMISSION DETERMINATION FINDING NO VIOLATION OF
SECTION 337; TERMINATION OF THE INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined to affirm in part and take no position in part with respect to the final initial determination’s (“final ID”) finding that no violation of section 337 has occurred. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Ron Traud, Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, DC 20436, telephone (202) 205-3427. 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: The Commission instituted this investigation on July 3, 2019, based on a complaint filed on behalf of Illinois Tool Works, Inc. of Glenview, Illinois; Vesta Global Limited of Hong Kong; Vesta (Guangzhou) Catering Equipment Co., Ltd. of China; and Admiral Craft Equipment Corp. of Westbury, New York (collectively, “Complainants”). 84 FR 31911 (Jul. 3, 2019). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation of articles into the United States, or in the sale of such articles by the owner, importer, or consignee of certain foodservice equipment and components thereof by reason of misappropriation of trade secrets and unfair competition through tortious interference with contractual relationships, the threat or effect of which is to destroy or substantially injure a domestic industry. *Id.* at 31911–12. The notice of investigation named as respondents Guangzhou Rebenet Catering Equipment Manufacturing Co., Ltd.; Zhou Hao; Aceplus International Limited (aka Ace Plus International Ltd.); Guangzhou Liangsheng Trading Co.,

Ltd.; and Zeng Zhaoliang, all of China. *Id.* at 31912. The Office of Unfair Import Investigations (“OUII”) was also named as a party in this investigation. *Id.*

On July 9, 2020, Order No. 52 granted a motion for summary determination of no substantial injury to a domestic industry. The Commission determined to review Order No. 52, and on December 14, 2020, reversed the grant of summary determination.

On June 4, 2021, the Chief Administrative Law Judge (“CALJ”) issued the final ID, which found that Respondents did not violate section 337, primarily based on Complainants’ failure to establish a domestic industry. The final ID found that the Commission has *in rem* jurisdiction over the accused products, subject matter jurisdiction, and personal jurisdiction. ID at 99. The final ID also found that Respondents imported and sold the accused products in the United States. *Id.* The final ID further found that Respondents have misappropriated certain of Complainants’ trade secrets in the manufacture of certain accused products, but that Complainants have not shown that Respondents tortiously interfered with contractual relationships. *Id.* The final ID additionally found that Complainants have not shown that the importation and sale of accused products has the threat or effect of destroying or substantially injuring a domestic industry.

The RD issued on June 10, 2021. The RD recommended that, if the Commission finds a violation of section 337, the Commission should issue a limited exclusion order having various durations for each of the various categories of accused products. RD at 10. The durations of the recommended exclusion orders range from 1–17 months from issuance. *Id.* at 10–11. The RD further recommended that a cease and desist order would not be necessary. *Id.* at 12. The RD additionally recommended that a bond of 1% of entered value be imposed during the period of Presidential review. The public interest was not delegated to the CALJ.

On June 21, 2021, Complainants, Respondents, and OUII filed petitions for review. On June 29, 2021, the parties filed responses to the petitions.

On August 4, 2021, the Commission determined to review in part the final ID and requested briefing from the parties on the issues under review. 86 FR 44054 (Aug. 11, 2021). In particular, the Commission determined to review the following: (1) the final ID’s findings and conclusions as to the existence of a domestic industry and injury to a domestic industry; and (2) the final ID’s findings and conclusions regarding the wrongful taking and use of the Bills of Materials Trade Secrets and the Custom Components and Mold Trade Secrets. *Id.* at 44054–55. The Commission also sought briefing from the parties, interested government agencies, and any other interested parties on remedy, public interest, and bonding. *Id.* at 44055.

On August 19, 2021, the parties filed their written submissions on the issues under review and on remedy, public interest, and bonding, and on August 26, 2021, the parties filed their reply submissions.

Having examined the record of this investigation, including the final ID, the petitions for review, the responses thereto, and the written submissions received in response to the Commission’s request for briefing, the Commission finds that no violation of section 337 has occurred. More specifically, as explained in the accompanying opinion, the Commission affirms

with modifications the final ID's conclusion that Complainants did not satisfy the domestic industry requirement, and takes no position as to the trade secrets issues under review. The Commission therefore finds that the Complainants did not establish that an industry in the United States exists as required by section 337(a)(1)(A)(i) and thus did not establish a substantial injury to a domestic industry. The investigation is hereby terminated.

The Commission vote for this determination took place on October 14, 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', enclosed in a circular flourish.

Lisa R. Barton
Secretary to the Commission

Issued: October 14, 2021