

contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on November 15, 2007, based on a complaint filed by Funai Electric Co., Ltd. of Japan and Funai Corporation of Rutherford, NJ (collectively "Funai"), alleging violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain digital televisions and certain products containing the same by reason of infringement of certain claims of United States Patent Nos. 5,329,369 ("the '369 patent") and 6,115,074 ("the '074 patent"). 72 FR 64240 (November 15, 2007). The complaint named fourteen respondents. Subsequent to institution, certain respondents were terminated from the investigation based on settlement agreements.

On November 17, 2008, the ALJ issued his final initial determination ("ID"), finding that a violation of section 337 has occurred in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain digital televisions and certain products containing the same by reason of infringement of claims 1, 5, and 23 of the '074 patent. The ALJ found that no violation exists with respect to the '369 patent. Respondents, the Commission investigative attorney ("IA"), and complainant Funai each filed petitions for review of the ID on December 1, 2008. The IA, the respondents, and complainant Funai each filed responses to the petitions for review on December 9, 2008.

On February 11, 2009, the Commission determined to review the ALJ's determination that the respondents infringe claim 23 of the '074 patent and requested written submissions on the issues under review, remedy, the public interest, and bonding. On February 24, 2009, the parties filed opening submissions, and on March 3, 2009, the parties filed response submissions. Several non-parties, including MediaTek, Inc., Taipei Economic and Cultural Representative Office, and Congressman Adam Schiff of California, also filed submissions addressing issues related to remedy, the public interest, and bonding.

On March 5, 2009, the respondents filed a motion for leave to file a sur-reply to Funai's response submission on remedy, the public interest, and bonding. Both the IA and Funai

opposed this motion. The Commission has determined to deny the respondents' motion for leave to file a sur-reply.

Having examined the record of this investigation, including the ALJ's final ID, the Commission has determined to (1) reverse the ALJ's findings that the Proview and TPV respondents directly infringe claim 23 of the '074 patent and (2) affirm the ALJ's conclusion that all respondents induce infringement of claim 23 of the '074 patent.

The Commission has determined that the appropriate form of relief is (i) a limited exclusion order prohibiting the unlicensed entry of digital televisions and products containing the same that infringe one or more of claims 1, 5, and 23 of the '074 patent and are manufactured abroad by or on behalf of, or imported by or on behalf of, Vizio, AmTran, SBC, Taiwan Kolin, Proview International, Proview Shenzhen, Proview Technology, TPV Technology, TPV USA, Top Victory, and Envision; and (ii) cease and desist orders against domestic respondents Vizio, Proview Technology, TPV USA, Envision and SBC.

The Commission further determined that the public interest factors enumerated in section 337(d) and (f)(19 U.S.C. 1337(d), (f)) do not preclude issuance of the limited exclusion order and the cease and desist orders. Finally, the Commission determined that the amount of bond during the Presidential review period (19 U.S.C. 1337(j)) shall be in the amount of two dollars and fifty cents (\$2.50) per article that is subject to the order. The Commission's order was delivered to the President and the United States Trade Representative on the day of its issuance.

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 sections 210.42-50 of the Commission's Rules of Practice and Procedure (19 CFR 210.42-50).

Issued: April 10, 2009.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E9-8600 Filed 4-14-09; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-643]

### In the Matter of Certain Cigarettes and Packaging Thereof; Notice of Commission Determination To Review the Presiding Administrative Law Judge's Initial Summary Determination of Violation; Schedule for Written Submissions

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review in its entirety the administrative law judge's ("ALJ") initial summary determination ("ID") (Order No. 19) in the above-captioned investigation, in which he granted the complainant's motion for a summary determination of violation.

**FOR FURTHER INFORMATION CONTACT:** Jonathan J. Engler, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-3112. Copies of the ALJ's IDs and all other 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, SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://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:** On April 4, 2008, the Commission instituted this investigation, based on a complaint filed by Philip Morris USA Inc., naming Alcesia SRL; Emarket Systems Ltd. (d.b.a. <http://all-discount-cigarettes.com>); Jamen Chong (d.b.a. <http://asiadfs.com>); Tri-kita (d.b.a. <http://cheapcigarettes4all.com>); Mr. Eduard Lee (d.b.a. <http://cigarettesonlineshop.com>); Zonitech Properties Limited (d.b.a. <http://cigline.net>); Zonitech Properties Limited (d.b.a. <http://shopping-heaven.com>); Cendano (d.b.a. <http://galastore.com>); Ms. Svetlana Trevinska (d.b.a.

*save-on-cigarettes.com*); LMB Trading SA (d.b.a. <http://k2smokes.ch>); G.K.L. International SRL (d.b.a. <http://all-cigarettes-brandsxom>); G.K.L. International SRL (d.b.a. <http://smokerjim.net>); and Best Product Solution Ltd. as respondents. The complainant alleges violations of Section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in the importation into the United States of certain cigarettes and packaging thereof that infringe registered trademarks owned by complainant.

On December 12, 2008, the ALJ issued an ID, Order No. 13, in which he determined to extend the target date in this investigation from July 6, 2009, to September 21, 2009. No petitions for review were filed, and the Commission determined not to review Order No. 13.

On November 25, 2008, the complainant moved for an initial determination finding 11 respondents in default for failing to show cause why they should not be found in default with regard to 14 trademarks listed in the Commission's Notice of Investigation and one additional respondent in default for failing to participate in the proceeding. On January 9, 2009, the ALJ issued an initial determination, Order No. 17, granting Phillip Morris' motion for entry of default as to these 12 respondents. No petitions for review were filed, and on February 5, 2009, the Commission determined not to review Order No. 17.

On February 3, 2009, the ALJ issued Order No. 19, an initial determination granting Phillip Morris' motion for summary determination that Alcesia had violated Section 337 of the Tariff Act with respect to three trademarks: U.S. Trademark Registration Nos. 68,502; 378,340; and 894,450. On February 17, 2009, Alcesia filed a petition for review of Order No. 19. Both Phillip Morris and the Commission's Office of Unfair Import Investigations filed responses on February 23, 2009. On February 26, 2009, Alcesia filed a motion requesting leave to file a reply, which Phillip Morris opposed on March 2, 2009. On March 4, 2009, the Commission extended the deadline for determining whether to review Order No. 19 until April 9, 2009.

On February 3, 2009, the ALJ also issued Order No. 20, in which he denied Phillip Morris' request for a recommended determination on remedy and bonding on grounds that Phillip Morris' November 26, 2008 motion for summary determination did not, in fact, resolve the issues in the investigation with respect to all 14 trademarks, but only with respect to three: U.S. Trademark Registration Nos. 68,502;

378,340; and 894,450. The ALJ declined to terminate the violation phase of the investigation until Phillip Morris withdrew the 11 trademarks not addressed in its motion for summary determination.

On February 9, 2009, Phillip Morris filed a motion withdrawing the 11 trademark claims. On February 23, 2009, the ALJ issued Order No. 21 in which he granted the motion. Order No. 21 was not reviewed by the Commission. On March 18, 2009, the ALJ issued his recommendations on remedy and bonding.

The Commission has determined to review Order No. 19 in its entirety. It has also determined to deny Alcesia's motion for leave to file a reply. The Commission requests briefing by the parties to the investigation on the following questions:

(1) Does the Commission have the authority to find a foreign entity in violation of 19 U.S.C. 1337 (a)(1)(C) if that entity is not an "owner, importer or consignee" of the alleged gray market goods?

(2) What is the appropriate standard for the Commission to apply in gray market cases to determine whether two entities are affiliated for purposes of its "all or substantially all" analysis? More specifically, where the Commission is seeking to determine whether all or substantially all of a complainant's sales in the United States are of goods that contain the alleged material differences, and there is evidence that other entities in the United States or abroad have a corporate relationship with the complainant, under what circumstances should gray market sales by those other entities be imputed to the complainant?

(3) Is Phillip Morris International authorized and/or licensed to use the specific Phillip Morris USA trademarks at issue in this investigation in the manufacture and sale of cigarettes abroad? Please make specific reference to documents in the record. If Phillip Morris International was not so authorized, was this case properly brought as a gray market case?

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an

article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. See Presidential Memorandum of July 21, 2005. 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

**Written Submissions:** Parties to the investigation are asked to file written submissions on the questions posed by the Commission. Parties to the investigation, interested government agencies, and any other interested parties and on the issues of remedy, the public interest, and bonding. Complainants and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. Complainants are also requested to state the HTSUS numbers under which the accused products are imported.

Briefing must be filed no later than close of business on May 8, 2009. Reply submissions must be filed no later than the close of business on May 29, 2009. Such submissions should address the recommended determinations on remedy and bonding which were made by the ALJ in Order No. 23 (March 18,

2009). No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

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 section 210.42–46 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–46).

Issued: April 9, 2009.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E9–8569 Filed 4–14–09; 8:45 am]

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## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–463 and 731–TA–1159 (Preliminary)]

### Certain Oil Country Tubular Goods From China

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of countervailing duty and antidumping duty investigations and scheduling of preliminary phase investigations.

**SUMMARY:** The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase countervailing duty investigation No. 701–TA–463 (Preliminary) and antidumping duty investigation No. 731–TA–1159 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is

materially retarded, by reason of imports from China of certain oil country tubular goods, provided for in subheadings 7304.29, 7305.20 and 7306.29 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of China, and sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) or 1673a(c)(1)(B)), the Commission must reach a preliminary determination in these investigations in 45 days, or in this case by May 26, 2009. The Commission's views are due at Commerce within five business days thereafter, or by June 2, 2009.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

**DATES:** *Effective Date:* April 8, 2009.

**FOR FURTHER INFORMATION CONTACT:** Fred Ruggles (202–205–3187 or [fred.ruggles@usitc.gov](mailto:fred.ruggles@usitc.gov)), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

#### SUPPLEMENTARY INFORMATION:

##### Background

These investigations are being instituted in response to a petition filed on April 8, 2009, by Maverick Tube Corporation, Houston, TX; United States Steel Corporation, Dallas, TX; V&M Star LP, Houston, TX; V&M Tubular Corporation of America, Houston, TX; TMK IPSCO, Camanche, IA; Evraz Rocky Mountain Steel, Pueblo, CO; Wheatland Tube Corp., Wheatland, PA; and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO–CLC, Pittsburgh, PA.

## Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty and antidumping duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) under an Administrative Protective Order (APO) and BPI Service List Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

## Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on April 29, 2009, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Fred Ruggles (202–205–3187) not later than April 27, 2009, to arrange for their appearance. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.