

Appeal Board of the U.S. Patent and Trademark Office ("PTAB") on April 14, 2016, finding certain claims of the '934 patent unpatentable, on the Commission's final determination. 81 FR 23749–50 (Apr. 22, 2016). On April 26, 2016, the parties filed initial written submissions addressing the Commission's question. On May 3, 2016, the parties filed response briefs.

Having examined the record of this investigation, including the final ID and the parties' submissions, the Commission has determined that RealD has proven a violation of section 337 based on infringement of claims 1–3, 9–11, 13, 15, 17–19, and 21 of the '455 patent; claims 1, 2, 7, 8, 11, and 12 of the '296 patent; and claims 1, 6, and 11 of the '934 patent. The Commission has determined to modify the ALJ's construction of the "uniformly modulate" limitation recited in claims 1 and 17 of the '455 patent. Under the modified construction, the Commission has determined that RealD has proven that the accused MasterImage Horizon 3D, 3D S, M, Rv1, and Rv2 products infringe the asserted claims of the '455 patent and that the technical prong of the domestic industry requirement is satisfied with respect to that patent. The Commission has determined that the asserted claims of the '455 patent are not invalid under 35 U.S.C. 102(e), 102(g), 103, and 112, ¶¶ 1 and 2. The Commission has determined that the asserted claims of the '296 patent are not invalid under 35 U.S.C. 116 for improper inventorship. The Commission has also determined that the asserted claims of the '934 patent are not invalid under 35 U.S.C. 102(g) and 103.

The Commission has determined the appropriate remedy is a limited exclusion order prohibiting the importation of certain three-dimensional cinema systems, and components thereof, that infringe the asserted claims of the '455, '296, and '934 patents and cease and desist orders directed against MasterImage. The Commission has determined the public interest factors enumerated in section 337(d)(1) and (f)(1) do not preclude issuance of the limited exclusion order or cease and desist orders.

In view of the PTAB's Final Written Decision finding certain claims of the '934 patent unpatentable, the Commission has determined to suspend the enforcement of the limited exclusion order and cease and desist orders as to claims 1, 6, and 11 of the '934 patent pending final resolution of the PTAB's Final Written Decision. *See* 35 U.S.C. 318(b). The Commission has also determined to set a bond in the amount

of 100 percent of the entered value of excluded products imported during the period of Presidential review (19 U.S.C. 1337(j)). The Commission's orders and opinion were delivered to the President and to the United States Trade Representative on the day of their 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 part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: July 21, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–17711 Filed 7–26–16; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1014]

Certain Intermediate Bulk Containers; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on June 22, 2016, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Schütz Container Systems Inc. of North Branch, New Jersey. The complaint was supplemented on June 29 and July 7, 2016. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States or sale of certain composite intermediate bulk containers by reason of infringement of certain trade dress, the threat or effect of which is to substantially destroy or injure a domestic industry.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained 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 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>.

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on July 21, 2016, *ordered that—*

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States or sale of certain composite intermediate bulk containers, the threat or effect of which is to substantially destroy or injure a domestic industry;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Schütz Container Systems Inc., 200 Aspen Hill Road, North Branch, NJ 08876–5950.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served: Zhenjiang Runzhou Jinshan Packaging Factory, Road Dantu City Industrial Park, Hengshun Zhenjiang, China.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the

notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2016).

By order of the Commission.

Issued: July 22, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016-17745 Filed 7-26-16; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Geoffrey D. Peterson, N.P.; Decision and Order

On April 14, 2015, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Geoffrey D. Peterson, N.P. (hereinafter, Registrant), of Hixson, Tennessee. The Show Cause Order proposed the revocation of Registrant's DEA Certificate of Registration MP3330545,¹ pursuant to which he is authorized to dispense controlled substances in schedules II through V, as a mid-level practitioner, and the denial

of any applications on two grounds. GX 1, at 1.

First, the Show Cause Order alleged that effective January 27, 2015, the Tennessee Nursing Board had summarily suspended Registrant's nurse practitioner license. *Id.* at 2. The Order thus alleged that Registrant is currently without authority to dispense controlled substances in the State in which he is registered with the Agency and therefore, his registration is subject to revocation. *Id.* (citing 21 U.S.C. 802(21), 823(f), 824(a)(3)).

Second, the Show Cause Order alleged that Registrant materially falsified his October 7, 2014 application for the above registration. *Id.* (citing 21 U.S.C. 824(a)(1)). More specifically, the Show Cause Order alleged that on February 17, 2014, Registrant was arrested by local authorities and charged with the "unlawful possession of marijuana." *Id.* The Order then alleged that the charge was still pending at the time Registrant submitted his renewal application, and that "[o]n this application, [he] did not answer 'yes' to the . . . liability question: 'Has the applicant ever been convicted of a crime in connection with controlled substance(s) under state or federal law, or is any action pending?'" *Id.* The Government thus alleged that Registrant violated 21 U.S.C. 824(a)(1).²

The Show Cause Order also notified Registrant of his right to request a hearing on the allegations or to submit a written statement while waiving his right to a hearing, the procedure for electing either option, and the consequence of failing to elect either option. *Id.* at 2-3 (citing 21 CFR 1301.43, 1301.46). On April 23, 2015, the Show Cause Order was personally served on Registrant by a DEA Diversion Investigator. GX 3.

On April 7, 2016, the Government forwarded a Request for Final Agency Action. Therein, the Government represented that neither Registrant "nor anyone representing him has requested a hearing or sent any other correspondence to DEA." Req. for Final Agency Action, at 7. Based on the Government's representation, I find that 30 days have now passed since the Show Cause Order was served on Registrant and that he has neither

requested a hearing nor submitted a written statement in lieu of hearing. 21 CFR 1301.43(b) & (c). Accordingly, I find that Registrant has waived his right to a hearing or to submit a written statement and issue this Decision and Order based on the evidence submitted by the Government. *Id.* § 1301.43(d) & (e). I make the following findings.

Findings

Registrant is the holder of DEA Certificate of Registration MP3330545, pursuant to which he is authorized to dispense controlled substances in schedules II through V, as a mid-level practitioner, at the registered address of Hormone Replacement Specialists, 5550 Highway 153, Suite 103, Hixson, Tennessee. GX 7, at 1. Registrant renewed this registration on October 7, 2014, at which time he was required to answer the following question: "Has the applicant ever been convicted of a crime in connection with controlled substance(s) under state or federal law, or been excluded or directed to be excluded from participation in a medicare or state health care program, or any [sic] such action pending?" GX 6. Registrant entered "N" for no. *Id.*

On February 17, 2014, Registrant was arrested by a member of the Sequatchie County Sheriff's Department and charged with felony possession of marijuana, an offense under Tenn. Code Ann. § 39-17-415. GX 5, at 1, 3, 6. According to a March 31, 2015 letter from the Clerk of the General Sessions Court of Sequatchie County, criminal charges were pending against Registrant "as of October 31, 2014." GX 8. The Clerk's letter further states that the "[c]harges were expunged on 11/21/2014." *Id.*

Registrant was also previously licensed by the Tennessee Board of Nursing (Board) as an advanced practice nurse (APN) and held a Certificate of Fitness to prescribe. GX 4, at 2. However, on January 27, 2015, the Board ordered the summary suspension of Registrant's advance practice nurse license and Certificate of Fitness to Prescribe. *Id.* at 7. The Board based its order on findings which included that on December 19, 2014, a search warrant was executed at Registrant's residence during which the search team found "prefilled syringes of morphine, vials of morphine, shopping bags full of used needles, a bottle of prednisone, and a bottle of animal morphine," and that "[t]he syringes of morphine are of unknown origin with no identifying prescription information." *Id.* at 3. The search team also found a pipe containing marijuana residue. *Id.*

¹ While Government also alleges that Registrant holds an additional registration (MP1971731) and seeks its revocation as well, in its Request for Final Agency Action, the Government acknowledges that this registration had expired shortly before the issuance of the Show Cause Order. To ensure that Registrant did not file a renewal application for this registration, I have taken official notice of Registrant's registration record with the Agency. See 5 U.S.C. 556(e). That record shows that Registrant allowed this registration to expire and did not file an application to renew it whether timely or not. Accordingly, I find that this proceeding is moot insofar as it seeks the revocation of this registration.

² While the Government contends that Registrant violated section 824(a)(1), this provision is simply a grant of authority to the Attorney General to revoke or suspend a registration and does not itself impose a substantive rule of conduct. Rather, the rule of conduct is imposed by 21 U.S.C. 843(a)(4)(A) ("It shall be unlawful for any person knowingly or intentionally . . . to furnish false or fraudulent material information in, or omit any material information from, any application . . . filed under this subchapter[.]").