

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1008 (Remand)]

Certain Carbon Spine Board, Cervical Collar, CPR Masks and Various Medical Training Manikin Devices, and Trademarks, Copyrights of Product Catalogues, Product Inserts and Components Thereof; Issuance of a Limited Exclusion Order Against Respondents Found in Default; Issuance of a Cease and Desist Order; Termination of the Investigation**AGENCY:** U.S. International Trade Commission.**ACTION:** Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued a limited exclusion order (“LEO”) against certain products of eleven respondents found in default. The Commission has also issued a cease and desist order (“CDO”) against respondent Basic Medical Supply, LLC. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT:

Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-5468. 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 SW, Washington, DC 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 June 24, 2016, based on an amended complaint, as supplemented, filed by Laerdal Medical Corp. of Wappingers Falls, New York, and Laerdal Medical AS of Stavanger, Norway (together, “Laerdal”). 81 FR 41349-50. The investigation was instituted to determine whether there is a violation 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 carbon spine board, cervical collar, CPR masks, various medical training manikin devices, trademarks, copyrights of product catalogues and product inserts, and components thereof by reason of infringement of one or more of U.S. Patent No. 6,090,058 (“the ‘058 patent”), U.S. Trademark Registration No. 3,476,656 (“the ‘656 trademark”), U.S. Copyright Registration Nos. VA 1-879-023 and VA 1-879-026, or by reason of trade dress misappropriation and infringement. *Id.* at 41349. The Commission’s notice of investigation named as respondents Shanghai Evenk International Trading Co., Ltd., Shanghai Honglian Medical Instrument Development Co., Ltd., and Shanghai Jolly Medical Education Co., Ltd., all of Shanghai, China; Zhangjiagang Xiehe Medical Apparatus & Instruments Co., Ltd., Zhangjiagang New Fellow Med Co., Ltd., Jiangsu Yongxin Medical Equipment Co., Ltd., and Jiangsu Yongxin Medical-Use Facilities Making, Co., Ltd, all of Zhangjiagang City, China; Jiangyin Everise Medical Devices Co., Ltd., of Jiangyin City, China; Medsource International Co., Ltd. and Medsource Factory, Inc. of PuDong, China; and Basic Medical Supply, LLC of Richmond, Texas (collectively, “Respondents”). *Id.* at 41350. The Office of Unfair Import Investigations was also named as a party. *Id.*

On November 21, 2016, the ALJ issued an initial determination finding all of the Respondents in default for failing to respond to the complaint and notice of investigation, Order No. 6 (Nov. 21, 2016). The Commission declined to review that determination, Notice (Dec. 20, 2016). The Commission determined to issue an LEO and a CDO with respect to the ‘058 patent and the ‘656 trademark, but declined to issue any relief with respect to Laerdal’s trade dress or copyright claims. Comm’n Op. (Jun. 14, 2017). The Commission found that, even when the facts in Laerdal’s complaint were taken as true, Laerdal’s trade dress allegations were inadequate because Laerdal failed to specify its trade dresses, failed to show that its trade dress was nonfunctional, and failed to allege an adequate injury. *Id.* at 8-11. The Commission also found that Laerdal’s copyright allegations were legally erroneous. *Id.* at 5-8.

Laerdal appealed the Commission’s denial of trade dress relief. On December 7, 2018, the Federal Circuit held that the Commission erred by refusing to issue trade dress relief based on the allegations in the amended complaint, and remanded the proceeding to the Commission for a

determination on the proper trade dress remedy and the public interest. *Laerdal Med. Corp. v. Int’l Trade Comm’n*, 910 F.3d 1207, 1210, 1216 (Fed. Cir. 2018). The Court’s mandate issued on January 29, 2019.

On March 26, 2019, the Commission ordered Laerdal and OUII to: (1) Define each trade dress at issue; (2) explain what remedy is appropriate for each trade dress; (3) explain the effect of each remedy on the public interest; and (4) provide proposed remedial orders. Order (Mar. 26, 2019). Laerdal and OUII each provided responses on April 15, 2019, and reply submissions on April 29, 2019. On April 30, 2019, Laerdal provided corrected versions of its proposed LEO and CDO. The submissions agreed that the appropriate remedy is the entry of an LEO against Respondents and the entry of a CDO against Basic Medical Supply, LLC (“Basic Medical”), that the public interest factors do not weigh against granting these remedial orders, and that bonding should be set at 100 percent of the entered value of the infringing products.

The Commission has determined that the appropriate form of relief in this investigation is: (a) An LEO against Respondents prohibiting the unlicensed entry of products that infringe Laerdal’s trade dresses; and (b) an order that Basic Medical cease and desist from importing, selling, offering for sale, marketing, advertising, distributing, offering for sale, transferring (except for exportation), or soliciting U.S. agents or distributors of imported cervical collars that infringe Laerdal’s trade dresses. The Commission has further determined that the public interest factors enumerated in section 337(g)(1) (19 U.S.C. 1337(g)(1)) do not preclude the issuance of the LEO and CDO. Finally, the Commission has determined that the bond for importation during the period of Presidential review shall be in the amount of 100 percent of the entered value of the imported subject articles of the respondents. The investigation is terminated.

The Commission’s orders and opinion were delivered to the President and 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 22, 2019.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2019-15801 Filed 7-24-19; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-626 and 731-TA-1452-1454 (Preliminary)]

Certain Collated Steel Staples From China, Korea, and Taiwan; Determinations

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of certain collated steel staples (“CCS staples”) from China, provided for in subheading 8305.20.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (“LTFV”) and to be subsidized by the government of China.^{2 3} The Commission further determines that imports of CCS staples from Korea and Taiwan that are alleged to be sold in the United States at LTFV are negligible pursuant to section 771(24) of the Act, and its antidumping duty investigations with regard to CCS staples from Korea and Taiwan are thereby terminated pursuant to section 703(a)(1) of the Act.

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission’s rules, the Commission also gives notice of the commencement of the final phase of its investigations with respect to imports of CCS staples from China. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission’s rules, upon notice from the U.S. Department of Commerce (“Commerce”) of affirmative preliminary determinations in the

¹ The record is defined in sec. 207.2(f) of the Commission’s Rules of Practice and Procedure (19 CFR 207.2(f)).

² *Certain Collated Steel Staples From the People’s Republic of China: Initiation of Countervailing Duty Investigation*, 84 FR 31840, July 3, 2019; *Certain Collated Steel Staples From the People’s Republic of China, the Republic of Korea, and Taiwan: Initiation of Less-Than-Fair-Value Investigations*, 84 FR 31833, July 3, 2019.

³ Commissioner Jason E. Kearns did not participate in these investigations.

investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Any parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. 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 antidumping and countervailing 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 the investigations.

Background

On June 6, 2019, Kyocera Senco Industrial Tools, Inc. (“Senco”), Cincinnati, Ohio, filed petitions with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of CCS staples from China and LTFV imports of CCS staples from China, Korea, and Taiwan. Accordingly, effective June 6, 2019, the Commission, pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)), instituted countervailing duty investigation No. 701-TA-626 and antidumping duty investigation Nos. 731-TA-1452-1454 (Preliminary).

Notice of the institution of the Commission’s investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of June 14, 2019 (84 FR 27803). The conference was held in Washington, DC, on June 27, 2019, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)). It completed and filed its determinations in these investigations on July 22, 2019. The views of the Commission are contained in USITC Publication 4939 (July 2019), entitled *Certain Collated Steel Staples from China, Korea, and Taiwan: Investigation Nos. 701-TA-626 and 731-TA-1452-1454 (Preliminary)*.

By order of the Commission.

Issued: July 22, 2019.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2019-15830 Filed 7-24-19; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[USITC SE-19-028]

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: July 30, 2019 at 9:30 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436. Telephone: (202) 205-2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Agendas for future meetings:* None.
2. Minutes.
3. Ratification List.
4. Vote on Inv. Nos. 701-TA-405-406 and 408 and 731-TA-899-901 and 906-908 (Third Review) (Hot-Rolled Carbon Steel Flat Products from China, India, Indonesia, Taiwan, Thailand, and Ukraine). The Commission is currently scheduled to complete and file its determinations and views of the Commission by August 13, 2019.
5. *Outstanding action jackets:* None.

The Commission is holding the meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b). In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: July 22, 2019.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2019-15881 Filed 7-23-19; 11:15 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1153]

Certain Bone Cements, Components Thereof and Products Containing the Same; Commission Determination Not To Review an Initial Determination Granting Complainants’ Renewed Motion for Leave To Amend the First Amended Complaint and Notice of Investigation

AGENCY: U.S. International Trade Commission.