



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-961]

Certain Lip Balm Products, Containers for Lip Balm, and Components Thereof

Commission Decision not to Review an Initial Determination Granting a Motion to Terminate the Investigation; Investigation Terminated in its Entirety

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 12) terminating the investigation as to certain respondents based on a settlement agreement, and as to all other remaining respondents based on withdrawal of the complaint.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2392. 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, S.W., Washington, D.C. 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: The Commission instituted this investigation on July 15, 2015, based on a complaint filed by eos Products, LLC and The Kind Group LLC, both of New York, New York. 80 *Fed. Reg.* 41513 (Jul. 15, 2015). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 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 lip balm products, containers for lip balm, and components thereof by reason of infringement of certain claims of U.S. Patent No. 8,888,391. The complaint further alleges that an industry in the United States exists or is in the process of being established. The notice of investigation named ten respondents. The Commission previously terminated respondents OraLabs, Inc., Dollar Tree, Inc. and Dollar Tree Stores, Inc. based on settlement agreements.

On September 23, 2015, the complainants filed a motion (1) to terminate Wuxi Sunmart Science and Technology Co., Ltd. a/k/a Wuxi Sunmart Group Co., Ltd. a/k/a Wuxi Shengma Science & Technology Co., Ltd., and Wuxi Sunmart Plastic Co., Ltd. (collectively, “Sunmart”) on the basis of a settlement agreement; (2) to withdraw the complaint as to the remaining respondents, namely, CVS Health Corporation, CVS Pharmacy, Inc., Five Below Inc., Walgreens Boots Alliance, Inc., and Walgreen Co.; and (3) to stay all procedural schedule deadlines pending the resolution of the motion. Complainants filed a corrected motion on September 28, 2015. The motion included an unredacted public version of the settlement agreement. Complainants affirmed that there are no other agreements, written or oral, express or implied, between complainants and Sunmart and between complainants and the remaining respondents concerning the subject matter of the investigation. None of the other parties opposed the motion.

On September 28, 2015, the ALJ granted the motion as an ID. The ALJ found no information indicating that termination of the investigation with respect to Sunmart on the basis of the settlement agreement is contrary to the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers. Order No. 12 at 3. The ALJ also found no extraordinary circumstances that prevent the termination of the investigation as to the remaining respondents.

No petitions for review of the ID were filed. The Commission has determined not to review the ID. The investigation is terminated in its entirety.

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 C.F.R. Part 210).

By order of the Commission.

Issued: October 22, 2015.

Lisa R. Barton,
Secretary to the Commission.

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