

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN CIGARETTES AND
PACKAGING THEREOF**

Investigation No. 337-TA-643

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW
AN INITIAL DETERMINATION GRANTING THE COMPLAINANT'S
MOTION TO TERMINATE THE INVESTIGATION AS TO
CERTAIN TRADEMARK CLAIMS**

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 administrative law judge's ("ALJ") initial determination ("ID") (Order No. 21) in the above-captioned investigation, in which he granted the complainant's motion to terminate the investigation as to certain trademark claims.

FOR FURTHER INFORMATION CONTACT: Jonathan J. Engler, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 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, 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: 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. all-discount-cigarettes.com); Jamen Chong (d.b.a. asiadfs.com); Tri-kita (d.b.a. cheapcigarettes4all.com); Mr. Eduard Lee (d.b.a. cigarettesonlineshop.com); Zonitech Properties Limited (d.b.a. cigline.net); Zonitech Properties Limited (d.b.a. shopping-heaven.com); Cendano (d.b.a. galastore.com); Ms. Svetlana Trevinska (d.b.a. save-on-cigarettes.com); LMB Trading SA (d.b.a. k2smokes.ch); G.K.L. International SRL (d.b.a. all-cigarettes-brandsxom); G.K.L. International SRL (d.b.a. 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 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. There were no responses.

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, ending the violation phase of this investigation. No petitions for review were filed.

The Commission has determined not to review the subject ID. 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 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.42).

By order of the Commission.

/s/

Marilyn R. Abbott
Secretary to the Commission

Issued: March 25, 2009