

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN PLASTIC GROCERY AND
RETAIL BAGS**

Inv. No. 337-TA-492

**NOTICE OF DECISION NOT TO REVIEW AN INITIAL DETERMINATION
GRANTING A MOTION FOR SUMMARY DETERMINATION ON IMPORTATION AS
TO FIVE RESPONDENTS**

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 an initial determination (ID) issued by the presiding administrative law judge (ALJ) in the above-captioned investigation granting a motion for summary determination on the issue of importation as it relates to five respondents.

FOR FURTHER INFORMATION CONTACT: Andrea Casson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone 202-205-3105. Copies of all nonconfidential 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, D.C. 20436, telephone 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 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 the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 1, 2003, based on a complaint filed by Superbag Corp. ("Superbag") of Houston, Texas, against four respondents. 68 FR 24755. Superbag's complaint alleges violations of section 337 of the Tariff Act of 1930 in the importation into the United States, sale for importation, and/or sale within the United States after importation of certain T-styled plastic grocery and retail bags that infringe one or more of claims 1-8 and 15-19 of Superbag's U.S. Patent No. 5,188,235. On August 22, 2003, the ALJ issued an ID (Order No. 7) granting complainant's motion to amend the complaint to add six additional

respondents. That ID was not reviewed by the Commission. 68 *FR*. 54740 (Sept. 18., 2003).

On December 19, 2003, complainant moved pursuant to Commission rule 210.18 for partial summary determination as to six respondents – Thai Plastics Bag Industries Co. Ltd. (“Thai Plastics”), Hmong Industries, Inc. (“Hmong Industries”), Spectrum Plastics, Inc. (“Spectrum Plastics”), Pan Pacific Plastics Mfg., Inc. (“Pan Pacific”), Prime Source International LLC (“Prime Source”), and Universal Polybag Co., Ltd. (“Universal Polybag”) – with respect to importation activities under section 337(a)(1)(B), and infringement of the '235 patent. The Commission investigative attorney supported the motion with respect to the importation issue as to each of the named respondents except Prime Source, and opposed the motion on the infringement issue. Universal Polybag, Pan Pacific, and Prime Source filed oppositions to the motion, but Universal Polybag did not contest the importation issue. The other three respondents did not respond to complainant’s motion.

On January 6, 2004, the ALJ issued an ID (Order No. 20) granting complainant’s motion only on the importation issue as it relates to Thai Plastics, Hmong Industries, Spectrum Plastics, Pan Pacific, and Universal Polybag. No petitions for review of the ID were filed.

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 CFR 210.42).

By order of the Commission.

Marilyn R. Abbott
Secretary

Issued: February 5, 2004