

PUBLIC VERSION

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

In the Matter of

**CERTAIN EARPIECE DEVICES AND
COMPONENTS THEREOF**

Inv. No. 337-TA-1121

Order No. 12: Initial Determination

On October 12, 2018, pursuant to Commission Rule 210.21, complainant Bose Corporation (“Bose”) and respondent Zeikos, Inc. (“Zeikos”) filed a joint motion to terminate this investigation as to Zeikos based on a Consent Order Stipulation, proposed Consent Order, and a Settlement Agreement. Motion Docket No. 1121-15.

On October 23, 2018, the Commission Investigative Staff (“Staff”) filed a response supporting the motion. No other response was filed.

Commission Rule 210.21(a)(2) provides that “[a]ny party may move at any time to terminate an investigation in whole or in part as to any or all respondents on the basis of a settlement, a licensing or other agreement ... or a consent order, as provided in paragraphs (b), (c) and (d) of this section.” 19 C.F.R. § 210.21(a)(2). Commission Rule 210.21(c) provides in relevant part that “[a]n investigation before the Commission may be terminated pursuant to section 337(c) of the Tariff Act of 1930 on the basis of a consent order.” 19 C.F.R. § 210.21(c). Commission Rule 210.21(b)(1) provides in relevant part that “[a]n investigation before the Commission may be terminated as to one or more respondents pursuant to section 337(c) of the Tariff Act of 1930 on the basis of a licensing or other settlement agreement.” 19 C.F.R. §

210.21(b)(1).

Pursuant to Commission Rule 210.21(c), the movants state that “[o]ther than the Settlement Agreement that is also the subject of the present motion, there are no other agreements, written or oral, express or implied, between Bose and Zeikos concerning the subject matter of this Investigation.” Mot. at 3; 19 C.F.R. § 210.21(c). Pursuant to Commission Rule 210.21(b)(1), the movants state: “Settling Parties represent that there are no other agreements, written or oral, express or implied, between the Settling Parties concerning the subject matter of this Investigation.” Mot. at 4; 19 C.F.R. § 210.21(b)(1).

The Consent Order Stipulation complies with the requirements of Commission Rule 210.21(c)(3). *See* Consent Order Stipulation, p. 1, ¶¶ 2, 3, 5, 6, 8-11 (complying with 19 C.F.R. § 210.21(c)(3)(i)(A)-(G)); *id.*, ¶¶ 12, 13 (complying with 19 C.F.R. § 210.21(c)(3)(ii)(A)-(B)); *see* Staff Resp. at 2-5.

The proposed Consent Order complies with the requirements of Commission Rule 210.21(c)(4). *See* Proposed Consent Order, p. 1, ¶¶ 1-4, 6-14; (complying with 19 C.F.R. § 210.21(c)(4)(i)-(xi)); *see* Staff Resp. at 6-9.

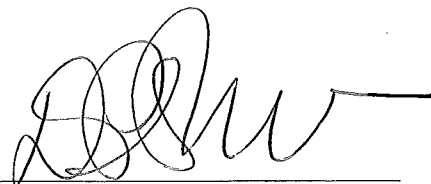
The Commission’s Rules provide that in the case of a proposed termination by settlement agreement, consent order, or arbitration agreement, the parties may file statements regarding the impact of the proposed termination on the public interest, and the administrative law judge may hear argument, although no discovery may be compelled, with respect to issues relating solely to the public interest. The administrative law judge is directed to consider and make appropriate findings “regarding the effect of the proposed settlement on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers.” *See* 19 C.F.R. § 210.50(b)(2).

The movants argue that “[i]t is in the interest of the public and administrative economy to grant this motion to prevent further needless litigation.” Mot. at 4. The Staff states that it “believes that terminating this investigation as to Zeikos based on the Settlement Agreement, Consent Order Stipulation or Proposed Consent Order would not be contrary to the public interest.” Staff Resp. at 11.

The undersigned does not find any evidence that terminating this investigation as to Zeikos based on the Consent Order Stipulation, proposed Consent Order, and the Settlement Agreement would be contrary to the public interest.

Accordingly, it is the initial determination of the undersigned that Motion No. 1121-15 is granted. The procedural schedule is suspended as to Zeikos while the Commission review is pending.

Pursuant to 19 C.F.R. § 210.42(h), this initial determination shall become the determination of the Commission unless a party files a petition for review of the initial determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders on its own motion a review of the initial determination or certain issues contained herein.

A handwritten signature in black ink, appearing to read 'D. Shaw', written over a horizontal line.

David P. Shaw
Administrative Law Judge

Issued: November 26, 2018

CERTAIN EARPIECE DEVICES AND COMPONENTS THEREOF

INV. NO. 337-TA-1121

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **Order No. 12 (Initial Determination)** has been served by hand upon the Commission Investigative Attorney, **Jeffrey Hsu, Esq.**, and the following parties as indicated, on NOV 27 2018



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street SW, Room 112A
Washington, DC 20436

FOR COMPLAINANT BOSE CORPORATION:

Andrew Kopsidas, Esq.
Fish & Richardson P.C.
1000 Maine Avenue, SW, 10th Floor
Washington, DC 20024

☐ Via Hand Delivery
☒ Express Delivery
☐ Via First Class Mail
☐ Other: _____

FOR RESPONDENT SUNVALLEY TEK INTERNATIONAL, INC.:

Kimberly A. Donovan, Esq.
GCA Law Partners LLP
2570 W. El Camino Real, Suite 400
Mountain View, CA 94040

☐ Via Hand Delivery
☒ Express Delivery
☐ Via First Class Mail
☐ Other: _____

FOR RESPONDENT SPIGEN, INC.:

Heedong Chae, Esq.
Lucem, PC
660 S. Figueroa St., Suite 1200
Los Angeles, CA 90017

☐ Via Hand Delivery
☒ Express Delivery
☐ Via First Class Mail
☐ Other: _____

CERTAIN EARPIECE DEVICES AND COMPONENTS THEREOF

INV. NO. 337-TA-1121

RESPONDENT:	
1MORE USA, Inc. 10225 Barnes Canyon Road, Suite A202 San Diego, CA 92121	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
RESPONDENT:	
Beebo Online Limited 3837 Bay Lake Trail, Suite 115 North Las Vegas, NV 89030	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
RESPONDENT:	
Zeikos, Inc. 19 Progress Street Edison, NJ 08820	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
RESPONDENT:	
LMZT LLC 303 Louisiana Avenue Brooklyn, NY 11207	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
RESPONDENT:	
Misodiko NanShanQu XiLiJieDao PingShanCun 192 Dong 509 ShenZhen, GuangDong, 518055, China	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.