

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, DC

Before The Honorable MaryJoan McNamara
Administrative Law Judge

In the Matter of

CERTAIN PERCUSSIVE MASSAGE
DEVICES

Investigation No. 337-TA-1206

**HYPER ICE INC.'S MOTION FOR AN ORDER TO SHOW CAUSE AND
FOR ENTRY OF DEFAULT JUDGMENT AS TO RESPONDENTS
KINGHOOD INTERNATIONAL LOGISTICS INC., MANYBO
ECOMMERCE LTD., SHENZHEN INFEIN TECHNOLOGY CO., LTD.,
HONG KONG YONGXU CAPITAL MANAGEMENT CO., LTD., AND KULA
ECOMMERCE CO., LTD.**

Pursuant to 19 U.S.C. § 1337(g)(1), 19 C.F.R. §§ 210.15 and 210.16, and Ground Rule 2.1, Complainant Hyper Ice Inc. ("Hyperice") respectfully submits this Motion for an Order to Show Cause and For Entry of Default Judgment as to Respondents Kinghood International Logistics Inc. ("Kinghood"), Manybo Ecommerce Ltd. ("Manybo"), Shenzhen Infein Technology Co., Ltd. ("Shenzhen Infein"), Hong Kong Yongxu Capital Management Co., Ltd. ("Hong Kong Yongxu"), and Kula eCommerce Co., Ltd. ("Kula") (collectively, "the Defaulting Respondents").

Ground Rule 2.2 Certification

Pursuant to Ground Rule 2.2, Hyperice contacted the other Respondents and the Commission Investigative Attorney to obtain their positions regarding this motion on November 12, 2020. Hyperice additionally sought the position of each of the Defaulting Respondents by letter served via Federal Express on November 12, 2020. The Staff indicated it will take a position after reviewing Hyperice's Motion. As of the filing of this motion, the remaining respondents, including the Defaulting Respondents, have not provided their position regarding this motion.

As set forth more fully in the attached supporting memorandum, the Defaulting Respondents have each failed to respond to the Complaint and Notice of Investigation, served on July 27, 2020, in violation of 19 C.F.R. § 210.13. In addition, if any of the Defaulting Respondents fail to make the requisite showing, Hyperice requests entry of an Initial Determination finding such Defaulting Respondents in default. Hyperice respectfully submits that there is good cause to grant this motion.

Dated: November 17, 2020

Respectfully submitted,

/s/ Paul M. Bartkowski

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**MEMORANDUM IN SUPPORT OF HYPER ICE INC.'S MOTION FOR AN
ORDER TO SHOW CAUSE AND FOR ENTRY OF DEFAULT JUDGMENT
AS TO RESPONDENTS KINGHOOD INTERNATIONAL LOGISTICS INC.,
MANYBO ECOMMERCE LTD., SHENZHEN INFEIN TECHNOLOGY CO.,
LTD., HONG KONG YONGXU CAPITAL MANAGEMENT CO., LTD., AND
KULA ECOMMERCE CO., LTD.**

Pursuant to 19 U.S.C. § 1337(g)(1), 19 C.F.R. §§ 210.15 and 210.16, and Ground Rule 2.1, Complainant Hyper Ice Inc. (“Hyperice”) submits this Memorandum in Support of its Motion for an Order to Show Cause and For Entry of Default Judgment as to Respondents Kinghood International Logistics Inc. (“Kinghood”), Manybo Ecommerce Ltd. (“Manybo”), Shenzhen Infein Technology Co., Ltd. (“Shenzhen Infein”), Hong Kong Yongxu Capital Management Co., Ltd. (“Hong Kong Yongxu”), and Kula eCommerce Co., Ltd. (“Kula”) (collectively, “the Defaulting Respondents”).

I. FACTUAL BACKGROUND

Hyperice filed its Complaint before the United States International Trade Commission on June 17, 2020, alleging unfair acts in the importation into, sale for importation into, and sale after importation into the United States of certain percussive massage devices, which are the subject of this Investigation. Based on Hyperice’s Complaint, this Investigation was instituted on July 17, 2020, as Investigation No. 337-TA-1206. 85 FED. REG. 44,322 (Jul. 22, 2020). HyperIce served the Complaint and Notice of Investigation on all respondents on July 27, 2020. (*See Proof of*

Service of Complaint and Notice of Investigation) (November 13, 2020). Federal Express delivery confirmations show confirmation of delivery of the Complaint and Notice of Investigation to Defaulting Respondents Kinghood, Manybo, Shenzhen Infein, Hong Kong Yongxu, and Kula. *Id.*; *see also* Ex. 1 (delivery confirmations for each of the Defaulting Respondents). The Defaulting Respondents' responses to the Complaint and the Notice of Investigation were due in August 2020; no Defaulting Respondent, however, filed or served a response to the Complaint.

The Defaulting Respondents have also failed to participate in joint discussions and submit joint pleadings required in this Investigation. The ALJ ordered that all parties participate in, and submit, a Proposed Procedural Schedule. *See* Order No. 4 (Jul. 30, 2020). None of the Defaulting Respondents complied with that Order. *See* Joint Proposed Procedural Schedule and Identification of Litigation Potentially Relevant to this Investigation, at 1 (Aug. 7, 2020) (omitting Defaulting Respondents from joint submission). The Defaulting Respondents, therefore, have failed to participate in this Investigation and should be required to show cause why they should not be found in default pursuant to the Commission's rules.

II. ARGUMENT

Pursuant to Commission Rule 210.16(a), the Defaulting Respondents should be ordered to show cause why they should not be found in default for failure to respond to the Complaint and Notice of Investigation as required by Commission Rule 210.13. Should they fail to meet this requirement, the Defaulting Respondents should be found in default in this Investigation pursuant to Commission Rule 210.16(b)(1)(ii).

A. The Defaulting Respondents Should be Ordered to Show Cause Why They Should Not be Found in Default

Commission Rule 210.16(a)(1) states that "A party shall be found in default if it fails to respond to the complaint and notice of investigation in the manner prescribed in § 210.13 or §

210.59(c), or otherwise fails to answer the complaint and notice, and fails to show cause why it should not be found in default.” 19 C.F.R. § 210.16(a)(1). The Rule further states that when a respondent fails to respond or appear:

[A] party may file a motion for . . . an order directing respondent to show cause why it should not be found in default. . . . If the respondent fails to make the necessary showing, . . . the administrative law judge shall issue an initial determination finding the respondent in default.

§ 210.16(b)(1)(i)-(ii); *see also*, *Certain Tires & Prods. Containing Same*, Inv. No. 337-TA-894, Order No. 24, at 2-3 (Dec. 24, 2013) (ordering respondents “to show cause why they should not be held in default for failing to respond to the Complaint and Notice of Investigation”); *Certain Lighting Control Devices Including Dimmer Switches and Parts Thereof (IV)*, Inv. No. 337-TA-776, Order No. 14, 2012 WL 440762, at *4 (Feb. 8, 2012) (granting motion for order to show cause for failure to respond to complaint and notice of investigation). Failure to respond to orders issued by the ALJ or discovery requests further supports issuance of a show cause order. *See generally, id.*

Complainant served the Complaint and Notice of Investigation on the Defaulting Respondents on July 24, 2020. *See* Proof of Service of Complaint and Notice of Investigation (November 13, 2020). Hyperice confirmed with Federal Express that none of the packets containing the Complaint and Notice of Investigation has been returned from any Defaulting Respondent as undeliverable. *See* Ex. 1. The Commission has found “sufficient indication of receipt [of the Complaint and Notice of Investigation] to justify the issuance of a show cause order under Commission Rule 210.16(a)(1)” where service copies are not returned as undelivered. *Certain Magnifying Loupe Prods. & Components Thereof*, Inv. No. 337-TA-611, Order No. 9, at 2 (March 21, 2008); *see also*, *Certain Protective Cases & Components Thereof*, Inv. No. 337-TA-

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