

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

In the Matter of

CERTAIN FOAM FOOTWEAR

Investigation No. 337-TA-567

**NOTICE OF COMMISSION DECISION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING RESPONDENT CHENG'S ENTERPRISES, INC.'S
MOTION TO TERMINATE THE INVESTIGATION ON THE BASIS OF A CONSENT
ORDER; ISSUANCE OF CONSENT ORDER**

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") (Order No. 22) issued by the presiding administrative law judge ("ALJ") granting respondent Cheng's Enterprises Inc.'s ("Cheng") motion to terminate the investigation on the basis of a consent order and has issued a consent order.

FOR FURTHER INFORMATION CONTACT: Monica A. Stump, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3106. Copies of the ALJ's ID 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: This investigation was instituted on May 11, 2006, based on a complaint, as amended, filed by Crocs, Inc. ("Crocs") of Niwot, Colorado. 71 *Fed. Reg.* 27514 (2006). The amended complaint alleging violations of section 337 of the Tariff Act of 1930 (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 foam footwear, by reason of infringement of claims 1-2 of U.S. Patent No. 6,993,858; U.S. Patent No. D517,789; and the

Crocs trade dress. The complaint identified 11 respondents, including Cheng of Carlstadt, New Jersey.

On June 26, 2006, Cheng moved to terminate the investigation based on a consent order. While complainant Crocs opposed the motion, the Commission investigative attorney supported the motion.

On August 29, 2006, the presiding administrative law judge (“ALJ”) issued an ID granting Cheng’s motion to terminate the investigation. The ALJ found that the joint motion complied with the requirements of Commission Rule 210.21 (19 C.F.R. § 210.21) by including copies of the consent order stipulation and proposed consent order. In addition, the ALJ concluded, pursuant to Commission Rule 210.50(b)(2) (19 C.F.R. § 210.50(b)(2)), that there were no extraordinary circumstances that would prevent terminating the investigation, despite Crocs’ objections, and that the consent order would not have an adverse impact on the public interest. Accordingly, the ALJ terminated the investigation with regard to Cheng. No petitions for review of the ID were filed.

Having examined the record of this investigation, the Commission has determined not to review the ALJ’s ID granting Cheng’s motion to terminate the investigation on the basis of a consent order.

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: September 22, 2006