In the Matter of
CERTAIN FOAM FOOTWEAR

INVESTIGATION NO. 337-TA-567

NOTICE OF DECISION NOT TO REVIEW AN INITIAL DETERMINATION GRANTING A MOTION FOR SUMMARY DETERMINATION THAT THE ECONOMIC PRONG OF THE DOMESTIC INDUSTRY REQUIREMENT REGARDING THE PATENTS AT ISSUE HAS BEEN MET


ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the portion of the presiding administrative law judge’s (“ALJ”) Order No. 34 that constitutes an initial determination (“ID”) granting Complainant’s motion for summary determination regarding the economic prong of the domestic industry requirement.

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.

On September 29, 2006, Complainant filed a motion for summary determination that it satisfies the economic prong of the domestic industry requirement. Crocs relied upon its investment in employment, research and development, engineering, marketing and sales, and plant and equipment to show that it satisfies the economic prong of the domestic industry requirement set forth in 19 U.S.C. § 1337(a)(2)-(3). Both respondent Double Diamond Distribution, Ltd. of Canada and, collectively, respondents Collective Licensing International LLC of Englewood, Colorado; Effervescent, Inc. of Fitchburg, Massachusetts; and Holey Soles Holdings, Inc. of Canada filed responses that did not oppose Crocs’ motion with regard to the economic prong of the domestic industry requirement. Similarly, the Commission investigative attorney filed a response that did not oppose Crocs’ motion with respect to the economic prong. No other respondents responded to the motion.

On November 7, 2006, the ALJ issued Order No. 34, which contained an ID granting Complainant’s motion for summary determination regarding the economic prong of the domestic industry requirement. The ALJ concluded that there was no genuine issue of material fact regarding Crocs’ satisfaction of the economic prong. No petitions for review were filed.

Having examined the record of this investigation, the Commission has determined not to review the ID.


By order of the Commission.

/s/
Marilyn R. Abbott
Secretary to the Commission

Issued: November 27, 2006