

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

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**In the Matter of**

**CERTAIN FOAM FOOTWEAR**

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) **Inv. No. 337-TA-567**  
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**NOTICE OF A COMMISSION DETERMINATION TO EXTEND THE DEADLINE FOR  
DETERMINING WHETHER TO REVIEW AN INITIAL DETERMINATION  
GRANTING SUMMARY DETERMINATION OF NON-INFRINGEMENT OF U.S.  
DESIGN PATENT NO. D517,789**

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend the deadline for determining whether to review an initial determination (“ID”) of the presiding administrative law judge (“ALJ”) granting summary determination of non-infringement of U.S. Design Patent No. D517,789 in the above-captioned investigation under section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337).

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., telephone 202-708-2310, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436. 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 11, 2006, based on a complaint, as amended, filed by Crocs, Inc. (“Crocs”) of Niwot, Colorado. 71 Fed. Reg. 27514 (2006). The amended complaint alleges violations of section 337 of the Tariff Act of 1930, as amended (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 (“the ‘789 patent”); and the Crocs trade dress (the image and overall appearance of

Crocs-brand footwear). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337. The complaint requests that the Commission issue a permanent general exclusion order and permanent cease and desist orders. The complaint identifies 11 respondents. The Commission terminated the investigation as to the trade dress allegation on September 11, 2006. A twelfth respondent was added to the investigation on October 10, 2006. Five respondents have been terminated from the investigation on the basis of a consent order or a settlement agreement.

Six of the remaining respondents moved for summary determination of non-infringement of the '789 patent on various dates in October 2006. Those respondents included Double Diamond Distribution Ltd.; Gen-X Sports Inc.; Old Dominion Footwear; Collective Licensing International, LLC; Effervescent, Inc.; and Holey Soles Holdings, Ltd. (collectively, "respondents"). These motions were opposed by Crocs and the Commission Investigative attorney ("IA").

On November 7, 2006, the ALJ issued the subject ID (Order No. 32) granting respondents' motions for summary determination of non-infringement of the '789 patent. Crocs and the IA have petitioned for review pursuant to 19 C.F.R. § 210.43(a). Respondents have opposed these petitions.

The Commission has determined to extend the deadline for determining whether to review the subject ID by fourteen (14) days to December 21, 2006.

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 sections 210.42(h) (19 C.F.R. § 210.42(h)) and 210.43(d) (19 C.F.R. § 210.43(d)) of the Commission's Rules of Practice and Procedure.

By order of the Commission.

/s/  
Marilyn R. Abbott  
Secretary to the Commission

Issued: December 6, 2006

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AGENCY: U.S. International Trade Commission

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FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., telephone 202-708-2310, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436. 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.

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Cross-brand footwear). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337. The complaint requests that the Commission issue a permanent general exclusion order and permanent cease and desist orders. The complaint identifies 11 respondents. The Commission terminated the investigation as to the trade dress allegation on September 11, 2006. A twelfth respondent was added to the investigation on October 10, 2006. Five respondents have been terminated from the investigation on the basis of a consent order or a settlement agreement.

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