

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

**In the Matter of**

**CERTAIN FOAM FOOTWEAR**

**Investigation No. 337-TA-567**

**NOTICE OF COMMISSION DECISION TO EXTEND THE DEADLINE FOR  
DETERMINING WHETHER TO REVIEW AN INITIAL DETERMINATION OF THE  
ADMINISTRATIVE LAW JUDGE FINDING NO VIOLATION OF SECTION 337**

**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 the presiding administrative law judge's ("ALJ") final determination (ID) finding no violation of section 337 in the above-captioned investigation.

**FOR FURTHER INFORMATION CONTACT:** Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5468. Copies of 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:** 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 that include: (1) Collective Licensing International, LLC (“Collective”) of Englewood, Colorado; (2) Double Diamond Distribution Ltd. (“Double Diamond”) of Saskatoon, Saskatchewan; (3) Effervescent Inc. (“Effervescent”) of Fitchburg, Massachusetts; (4) Gen-X Sports, Inc. (“Gen-X Sports”) of Toronto, Ontario; (5) Holey Shoes Holding Ltd. (“Holey Shoes”) of Vancouver, British Columbia; (6) Australia Unlimited, Inc. of Seattle, Washington; (7) Cheng’s Enterprises Inc. of Carlstadt, New Jersey; (8) D. Myers & Sons, Inc. of Baltimore, Maryland; (9) Inter-Pacific Trading Corp. of Los Angeles, California; (10) Pali Hawaii of Honolulu, Hawaii; and (11) Shaka Shoes of Kaliua-Kona, Hawaii. The Commission terminated the investigation as to the trade dress allegation on September 11, 2006. A twelfth respondent, Old Dominion Footwear, Inc. of Madison Heights, Virginia, was added to the investigation on October 10, 2006. All but five respondents have been terminated from the investigation on the basis of a consent order, settlement agreement, or undisputed Commission determination of non-infringement. The five remaining respondents are: (1) Collective; (2) Double Diamond; (3) Effervescent; (4) Gen-X Sports; and (5) Holey Shoes.

On April 11, 2008, the ALJ issued his final ID finding no violation of section 337 by the remaining respondents. On April 24, 2008, the Commission issued a notice extending the deadline for determining whether to review the final ID by 15 days to June 11, 2008. The Commission has determined to further extend the deadline for determining whether to review the final ID by seven (7) days, or until June 18, 2008.

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 (h) of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 210.42(h)).

By order of the Commission.

Marilyn R. Abbott  
Secretary to the Commission

Issued: June 11, 2008