

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

CERTAIN TV PROGRAMS, LITERARY
WORKS FOR TV PRODUCTION AND
EPISODE GUIDES

Investigation No. 337-TA-886

NOTICE OF COMMISSION DETERMINATION TO NOT TO REVIEW
TWO INITIAL DETERMINATIONS (ORDER NOS. 18 AND 22);
TERMINATION OF INVESTIGATION

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 (Order No. 18) granting a motion for summary determination of no copyright infringement and an initial determination (Order No. 22) concluding no unfair competition and terminating the investigation in Inv. No. 337-TA-886, *Certain TV Programs, Literary Works for TV Production and Episode Guides*. The investigation is terminated with a finding of no violation.

FOR FURTHER INFORMATION CONTACT: Jia Chen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2301. 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 July 15, 2013, based on a complaint filed by E.T. Radcliffe, LLC of Dallas Texas and Emir Tiar of Coto De Caza, California (collectively, "Complainants"), alleging violations of 19 U.S.C. § 1337(a)(1)(B), in the importation and sale of certain TV programs, literary works for TV production and episode guides pertaining to same by reason of infringement of U.S. Copyright Nos. PAU003415849, TXU001832727, and PAU00363 9268. The complaint also alleged violations of 19 U.S.C. § 1337(a)(1)(A) by reason of unfair methods of competition and unfair acts, the threat or effect of which is to substantially injure an industry in the United States. The

notice of investigation named The Walt Disney Company of Burbank, California; Thunderbird Films, Inc. of Los Angeles, California; and Mindset Television, Inc. of Canada (collectively, "Respondents") as respondents.

On January 6, 2014, Respondents filed a motion for summary determination pursuant to Commission Rule 210.18, alleging that there are no genuine issues of material fact in dispute with respect to copyright infringement and that they are entitled to a determination of no copyright infringement as a matter of law. On February 6, 2014, the presiding Administrative Law Judge ("ALJ") (Judge Lord) issued an ID (Order No. 18) granting Respondents' motion.

On February 6, 2014, the ALJ issued Order No. 19 to show cause why Complainants' claim based on unfair methods of competition should not be terminated in view of Order No. 18. On February 12, 2014, Complainants filed a response. On February 14, 2014, the Respondents filed a response to the order to show cause and to Complainants' response. On February 18, 2014, the ALJ issued Order No. 21, providing Complainants with three days to reply to the Respondents' response. On February 21, 2014, the Complainants filed a reply.

On February 21, 2014, the ALJ issued an ID (Order No. 22) concluding no unfair competition under 19 U.S.C. § 1337(a)(1)(A) and terminating the investigation in its entirety.

On February 26, 2014, Complainants filed a combined petition for review of Order Nos. 18 and 22. On February 28, 2014, the Commission issued a notice extending the whether to review date for Order No. 18 to April 25, 2014, and clarifying that the whether to review date for Order No. 22 is also on April 25, 2014. On March 3, 2014, Complainants filed a motion for leave to file out of time their petition for review as it relates to Order No. 18. On March 5, 2014, Respondents and the IA each filed a response to Complainants' petition.

Upon consideration of the IDs, the petition for review, and the relevant portions of the record, the Commission has determined to deny Complainant's motion for leave to file out of time their petition for review as it relates to Order No. 18, and has determined not to review the subject IDs (Order Nos. 18 and 22). The investigation is hereby terminated.

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 210.42-46 and 210.50 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42-46 and 210.50).

Documents relating to this determination, including a Concurring Memorandum from Commissioner Johanson, can be found on the Commission's Electronic Document Information System (EDIS) under Docket Number 886.

By order of the Commission.

A handwritten signature in black ink, appearing to read "Lisa R. Barton". The signature is fluid and cursive, with a large initial "L" and "B".

Lisa R. Barton
Secretary to the Commission

Issued: April 25, 2014