

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

CERTAIN FOOTWEAR PRODUCTS

Investigation No. 337-TA-936

**NOTICE OF A COMMISSION DETERMINATION TO EXTEND THE TARGET DATE
FOR COMPLETION OF THE INVESTIGATION**

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 target date for completion of the investigation to June 23, 2016.

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) 708-2310. 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 November 17, 2014, based on a complaint filed on behalf of Converse Inc. of North Andover, Massachusetts. 79 *Fed. Reg.* 68482-83. The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, by reason of infringement of certain U.S. Trademark Registration Nos.: 4,398,753 (“the ’753 trademark”); 3,258,103 (“the ’103 trademark”); and 1,588,960 (“the ’960 trademark”). The complaint further alleges violations of section 337 based upon unfair competition/false designation of origin, common law trademark infringement and unfair competition, and trademark dilution, the threat or effect of which is to destroy or substantially injure an industry in the United States. The Commission’s notice of investigation named numerous respondents including Wal-Mart Stores, Inc. of Bentonville, Arkansas; Skechers U.S.A., Inc. of Manhattan Beach, California; and Highline United LLC d/b/a Ash Footwear USA of New York City, New York. The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. *Id.* New Balance Athletic Shoe, Inc. of Boston, Massachusetts was subsequently added as a respondent-intervenor. *See* Order No. 36

(unreviewed, Comm'n Notice Feb. 19, 2015). Only these four respondents remain active in the investigation, and all other respondents have been found in default or have been terminated from the investigation based on good cause or settlement and/or consent order stipulation.

The presiding administrative law judge ("ALJ") issued his final initial determination ("ID") on November 17, 2015, finding a violation of section 337 as to certain accused products of each active respondent and as to all accused products of each defaulting respondent. Specifically, the ALJ found that the '753 trademark is not invalid and that certain accused products of each active respondent, and all accused products of each defaulting respondent, infringe the '753 trademark. The ALJ also found that certain accused products of defaulting respondent Shenzhen Foreversun Industrial Co., Ltd. (a/k/a Shenzhen Foreversun Shoes Co., Ltd.) of Shenzhen, China infringe both the '103 and '960 trademarks. The ALJ also found no violation of section 337 with respect to the common law rights asserted in the designs depicted in the '753, '103, and '960 trademarks, and found no dilution of the '753 trademark. The ALJ also issued his recommendation on remedy and bonding during the period of Presidential review. He recommended a general exclusion order directed to footwear products that infringe the asserted trademarks, and recommended cease and desist orders directed against each active, remaining respondent found to infringe.

On February 3, 2016, the Commission determined to review: (1) the ID's finding of no invalidity of the '753 trademark; (2) the ID's findings regarding infringement of the '753 trademark; (3) the ID's finding of invalidity of the common law rights asserted in the design depicted in the '753 trademark; and (4) the ID's finding of no violation of section 337 with respect to the common law rights asserted in the designs depicted in the '103 and '960 trademarks. The Commission requested briefing from the parties on certain issues and on remedy, bonding, and the public interest. On February 17, 2016, complainant, respondents, and OUII each filed their submissions and on February 24, 2016, each of these parties filed replies to the others' submissions.

The Commission has determined to extend the target date for completion of the investigation to June 23, 2016.

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 Part 210 of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210.

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: June 8, 2016