

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 NOT TO REVIEW AN INITIAL
DETERMINATION TERMINATING THE INVESTIGATION AS TO RESPONDENT
K MART CORPORATION BASED UPON A CONSENT ORDER STIPULATION,
CONSENT ORDER, AND SETTLEMENT AGREEMENT; ISSUANCE OF CONSENT
ORDER**

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 (“ID”) (Order No. 155) of the presiding administrative law judge (“ALJ”) terminating the above-captioned investigation as to respondent Kmart Corporation of Hoffman Estates, Illinois (“Kmart”) based upon a consent order stipulation, consent order, and settlement agreement. The Commission has determined to issue herewith a consent order.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, 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 by Converse Inc. of North Andover, Massachusetts (“Converse”). 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 U.S. Trademark Registration Nos.: 4,398,753; 3,258,103; and 1,588,960. 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 Kmart. The Office of Unfair Import Investigations is also a party to the investigation. *Id.*

On July 24, 2015, Converse and Kmart jointly moved to terminate the investigation as to Kmart based upon a consent order stipulation and settlement agreement. On July 28, 2015, the Commission investigative attorney filed a response in support of the motion. No other responses were received.

The ALJ issued the subject ID on July 29, 2015, granting the joint motion to terminate the investigation as to Kmart. The ALJ found that the consent order stipulation, consent order, and settlement agreement comply with the requirements of Commission rules 210.21(b) and (c). He further found, pursuant to Commission rule 210.50(b)(2), no indication that termination of the investigation as to Kmart would adversely impact the public interest. No party petitioned for review of the ID.

The Commission has determined not to review the ID and issues herewith a consent order.

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: August 14, 2015