

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN COMPOSITE BASEBALL
AND SOFTBALL BATS AND
COMPONENTS THEREOF**

Investigation No. 337-TA-1283

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN
INITIAL DETERMINATION FINDING A RESPONDENT IN DEFAULT**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (the “Commission”) has determined not to review an initial determination (“ID”) (Order No. 13) issued by the presiding chief administrative law judge (“CALJ”) finding respondent Proton Sports Inc. (“Proton”) in default.

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2382. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket system (“EDIS”) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on November 2, 2021, based on a complaint filed and supplemented by Easton Diamond Sports, LLC of Thousand Oaks, California (“Easton”). 86 FR 60468-469 (Nov. 2, 2021). The complaint alleges a violation of section 337 of the Tariff Act, as amended, 19 U.S.C. 1337, based on the importation, sale for importation, or sale in the United States after importation of certain composite baseball and softball bats and components thereof by reason of infringement of one or more asserted claims of U.S. Patent No. 6,997,826. *Id.* The complaint further alleges the existence of a domestic industry. *Id.* The Commission’s notice of investigation names Juno Athletics LLC of Aventura, Florida (“Juno”); Monsta Athletics LLC of Calimesa, California (“Monsta”); and Proton of Scottsdale, Arizona as respondents. *Id.* at 60469. The Office of Unfair Import Investigations is not participating as a party to this investigation. *Id.*

On January 25, 2022, the Commission adopted an ID (Order No. 8) granting Easton’s unopposed motion for leave to amend the complaint and notice of investigation to add

TianChang Zhengmu Aluminum Technology Co., Ltd. of Tianching City, China (“TZA”) as a respondent. Order No. 8 (Dec. 28, 2021), *unreviewed by Comm’n Notice* (Jan. 25, 2022).

On February 16, 2022, the Commission adopted an ID (Order No. 11) terminating TZA based on withdrawal of the complaint. Order No. 11 (Jan. 28, 2022), *unreviewed by Comm’n Notice* (Feb. 16, 2022).

On November 9, 2021, Easton filed proof that respondent Proton had been served with the complaint, notice of institution, and other papers relating to the investigation. Proton, however, made no response to the complaint or notice of investigation or to Easton’s subsequent discovery requests.

Accordingly, on December 10, 2021, Easton moved for an order to show cause why Proton should not be found in default and for entry of a default judgment as to Proton, pursuant to Commission Rule 210.16(b)(1)(i) (19 CFR 210.16(b)(1)(i)). Proton did not respond to the motion. Monsta informed Easton it was not taking a position on the motion. Juno did not take a position with respect to Proton but filed a response requesting termination of the investigation because the sole asserted patent will purportedly expire before the target date for completion of this investigation.

On December 27, 2021, the presiding CALJ issued Order No. 7 directing Proton to show good cause by January 31, 2022, why it should not be found in default and why judgment should not be entered against it. Order No. 7 (Dec. 27, 2021). Proton did not respond to Order No. 7.

On March 30, 2022, the presiding CALJ issued the subject ID (Order No. 13) finding Proton made no response to Order No. 7 and is thus in default, pursuant to Commission Rule 210.16 (19 CFR 210.16). Having found Proton in default, Order No. 13 further holds that Proton has no right to appear, to be served with documents, or to contest the allegations in this investigation, pursuant to Commission Rule 210.16(b)(4) (19 CFR 210.16(b)(4)).

No party filed a petition for review of Order No. 13.

Upon review of the subject ID and the parties’ submissions, the Commission has determined not to review, and thereby adopts, Order No. 13. Proton is hereby found in default and has no further right to appear, to be served with documents, or to contest the allegations in this investigation.

The Commission voted to approve this determination on April 12, 2022.

The authority for the Commission's determinations 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 CFR part 210).

By order of the Commission.

A handwritten signature in black ink, appearing to read 'L.R. Barton', enclosed within a circular flourish.

Lisa R. Barton
Secretary to the Commission

Issued: April 12, 2022