

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 TERMINATING THE INVESTIGATION WITH
RESPECT TO THE LAST ACTIVE RESPONDENT BASED ON SETTLEMENT;
REQUEST FOR BRIEFING ON REMEDY, BOND, AND THE PUBLIC INTEREST**

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. 23) issued by the presiding administrative law judge (“ALJ”) terminating the investigation with respect to Juno Athletics LLC (“Juno”), the last active respondent, based on settlement. Juno is hereby terminated from this investigation. The Commission requests written submissions from the parties, interested government agencies, and interested persons on issues of remedy, bonding, and the public interest with respect to the respondent found 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 of Aventura, Florida; Monsta Athletics LLC of Calimesa, California (“Monsta”); and Proton Sports

Inc. of Scottsdale, Arizona (“Proton”) as respondents. *Id.* at 60469. The Office of Unfair Import Investigations is not a party to this investigation. *Id.*

On January 25, 2022, the Commission amended 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 terminated TZA from the investigation based on withdrawal of the complaint. Order No. 11 (Jan. 28, 2022), *unreviewed by Comm’n Notice* (Feb. 16, 2022).

On April 12, 2022, the Commission found respondent Proton in default. Order No. 13 (March 30, 2022), *unreviewed by Comm’n Notice* (April 12, 2022).

On July 25, 2022, the Commission terminated Monsta from the investigation based on withdrawal of the complaint. Order No. 21 (June 27, 2022), *unreviewed by Comm’n Notice* (July 25, 2022).

On July 8, 2022, Easton and Juno filed a joint motion to terminate the investigation with respect to Juno based on a settlement agreement. Easton further requested issuance of a limited exclusion order (“LEO”) against the defaulting respondent, Proton. Joint Motion to Terminate the Investigation as to Respondent Juno Athletics LLC Based on Settlement and Motion to Stay the Investigation as to Juno Athletics LLC at 3 (July 11, 2022).

On July 11, 2022, the presiding ALJ issued the subject ID granting the motion to terminate the investigation with respect to Juno. Order No. 23 (July 11, 2022). The subject ID finds that the joint motion complies with the requirements of Commission Rule 210.21(a), (b) (19 CFR 210.21(a), (b)), in that the settlement agreement completely resolves the dispute between Easton and Juno, and there are no other agreements, oral or written, express or implied, between the parties regarding the subject matter of the investigation. The ID also finds that terminating Juno serves the public interest by avoiding litigation and conserving public and private resources. The ID further finds that terminating Juno is not contrary to the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers. The ID also finds there are no extraordinary circumstances that weigh against termination. No party filed a petition for review of the subject ID.

Upon review of the subject ID, the Commission has determined not to review, and thereby adopts, the subject ID. The investigation is hereby terminated with respect to Juno.

As Juno was the last active respondent in this investigation, only Proton, who was previously found in default, remains. As noted above, Easton seeks an LEO against Proton.

In connection with the final disposition of this investigation, the statute authorizes issuance of an order that could result in the exclusion of the subject articles from entry into the United States. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party

should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm'n Op. at 7-10 (December 1994).

The statute requires the Commission to consider the effects of any remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion order and/or cease-and-desist order would have on: (1) the public health and welfare; (2) competitive conditions in the U.S. economy; (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation; and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission's action. *See* Presidential Memorandum of July 21, 2005. 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

WRITTEN SUBMISSIONS: Parties to this investigation, interested government agencies, and any other interested parties are requested to file written submissions on the issues of remedy, the public interest, and bonding.

In its initial submission, Complainant is requested to identify the remedy sought and to submit proposed remedial orders for the Commission's consideration. Complainant is also requested to provide the HTSUS subheadings under which the accused products are imported. Complainant is further requested to supply the names of known importers of a respondent's products at issue in this investigation. Complainant is also requested to identify and explain, from the record, articles that it contends are "components of" the subject products, and thus potentially covered by the proposed remedial orders, if imported separately from the subject products. *See* 86 FR 60468-469. Failure to provide this information may result in waiver of any remedy directed to "components of" the subject products, in the event any violation may be found.

The parties' written submissions and proposed remedial orders must be filed no later than the close of business on **August 26, 2022**. Reply submissions must be filed no later than the close of business on **September 5, 2022**. Opening submissions are limited to 30 pages. Reply submissions are limited to 25 pages. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (Mar. 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1283") in a prominent place on the cover page and/or first page. (*See* Handbook for Electronic Filing Procedures, <https://www.usitc.gov/documents/>

handbook_on_filing_procedures.pdf.). Persons with questions regarding filing should contact the Secretary (202-205-2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Commission Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b), 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The Commission voted to approve this determination on August 4, 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.



Katherine M. Hiner
Acting Secretary to the Commission

Issued: August 4, 2022