



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

September 20, 2023

Via email: michael.bera@arnoldporter.com

Michael Berta, Esq.

Arnold and Porter

One Embarcadero Center

22nd Floor

San Francisco, CA 94111

Re: Exclusion Order in *Certain Casual Footwear and Packaging Thereof*, Inv.
No. 337-TA-1270

Dear Mr. Berta:

On September 14, 2023, the Commission, having found certain defaulting respondents in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the above-referenced investigation, issued a limited exclusion order. The exclusion order directs U.S. Customs and Border Protection to exclude certain casual footwear and packaging thereof from entry into the United States while U.S. Trademark Registration Nos. 5,149,328 and 3,836,415 757,156 in use. A copy of the order is attached to this letter.

Should the Complainant, Crocs, Inc., have questions about the administration of this order, they may contact the Intellectual Property Rights Branch of U.S. Customs and Border Protection at (202) 325-0020. Although Customs will be administering the exclusion order, you may also contact Megan Valentine, the Commission's Assistant General Counsel for Section 337 investigations, at (202) 708-2301, if you have questions pertaining to the exclusion order.

Since FY 2000, the Commission has conducted four surveys of exclusion order holders to help assess the effectiveness of such orders, and the Commission anticipates conducting another such survey in the future. To facilitate future communications with Complainant about the anticipated survey, the Commission requests that Complainants identify a person at Crocs, Inc. with knowledge of the order who may be contacted in the future regarding the survey. It would be particularly helpful if Complainants would provide an e-mail address, along with a name and

mailing address, for this contact. The requested contact information may be e-mailed to 337_email@usitc.gov or provided by mail to Margaret D Macdonald, Director, Office of Unfair Import Investigations.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa R. Barton". The signature is fluid and cursive, with a large loop at the end.

Lisa R. Barton
Secretary to the Commission

Enclosure

Mr. Berta, Esq.
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**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.**

In the Matter of

**CERTAIN CASUAL FOOTWEAR
AND PACKAGING THEREOF**

Investigation No. 337-TA-1270

LIMITED EXCLUSION ORDER

The United States International Trade Commission (“Commission”) has found respondents La Modish Boutique of West Covina, California (“La Modish”), Star Bay Group Inc. of Hackensack, New Jersey (“Star Bay”), Huizhou Xinshunzu Shoes Co., Ltd. of Huizhou City, China (“Huizhou”), and Jinjiang Anao Footwear Co., Ltd. of Jinjiang City, Fujian, China (“Anao”) (collectively, “Defaulting Respondents”) in default. Order No. 58 (May 20, 2022), *unreviewed by Comm’n Notice* (June 10, 2022).

The First Amended Complaint, filed by Complainant Crocs, Inc. of Broomfield, Colorado, alleged a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the unlawful importation, sale for importation, or sale within the United States after importation of certain casual footwear and packaging thereof that infringe one or more of U.S. Trademark Registration Nos. 5,149,328; 5,273,875; and 3,836,415 (collectively, the “Asserted Trademarks”). Because the conditions in 19 U.S.C. § 1337(g)(1)(A)-(E) have been satisfied, the Commission, upon the request of the Complainant, issues a limited exclusion order, based on the allegations regarding a violation of section 337 in the First Amended Complaint that are presumed to be true as to the Defaulting Respondents.

Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determinations on the issues of remedy, the public interest,

and bonding. The Commission has determined that the appropriate form of relief is a limited exclusion order prohibiting the unlicensed entry of infringing casual footwear and packaging thereof manufactured by or on behalf of Defaulting Respondents or any of their affiliated companies, parents, subsidiaries, agents, or other related business entities, or its successors or assigns.

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. § 1337(g)(1) do not preclude the issuance of the limited exclusion order, and that the bond during the period of Presidential review shall be in the amount of one hundred percent (100%) of the entered value of the entered value of the articles subject to this Order.

Accordingly, the Commission hereby **ORDERS** that:

1. Certain casual footwear and packaging thereof that infringe one or more of the Asserted Trademarks and are manufactured abroad by, or on behalf of, or imported by or on behalf of Defaulting Respondents or any of their affiliated companies, parents, subsidiaries, agents, or other related business entities, or its successors or assigns, are excluded from entry for consumption into the United States, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption, except under license of the trademark owner or as provided by law until such date as the trademarks have been abandoned, canceled, or rendered invalid or unenforceable.

2. The casual footwear and packaging thereof subject to this exclusion order (*i.e.*, “covered articles”) are as follows: casual footwear with holes in the upper and such footwear’s packaging.

3. For the purpose of assisting U.S. Customs and Border Protection (“CBP”) in the enforcement of this order, and without in any way limiting the scope of this Order, the

Commission has attached to this Order a copy of the relevant trademark registrations as Exhibits A-C.

4. Notwithstanding paragraph 1 of this Order, covered articles are entitled to entry into the United States for consumption, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, under bond in the amount of one hundred percent (100%) of their entered value, pursuant to subsection (j) of section 337 (19 U.S.C. § 1337(j)) and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (70 Fed. Reg. 43,251), from the day after this Order is received by the United States Trade Representative until such time as the United States Trade Representative notifies the Commission that this Order is approved or disapproved but, in any event, not later than sixty (60) days after the receipt of this Order. All entries of covered articles made pursuant to this paragraph are to be reported to U.S. Customs and Border Protection (“CBP”), in advance of the date of the entry, pursuant to procedures CBP establishes.

5. At the discretion of CBP and pursuant to the procedures it establishes, persons seeking to import articles may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under paragraph 1 of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.

6. Complainant shall file a written statement with the Commission, made under oath, each year on the anniversary of the issuance of this Order stating whether Complainant continues to use each of the Asserted Trademarks in commerce in the United States in

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