

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C. 20436

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In the Matter of )  
CERTAIN COIN-OPERATED AUDIOVISUAL )  
GAMES AND COMPONENTS THEREOF (VIZ )  
RALLY-X AND PAC-MAN) )  
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)

Investigation No. 337-TA-105

COMMISSION ACTION AND ORDER

Introduction

The United States International Trade Commission has concluded its investigation under section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) of alleged unfair methods of competition and unfair acts in the unauthorized importation into the United States of certain coin-operated audiovisual games and components thereof, or in their sale by the owner, importer, consignee, or agent of either, the alleged effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. The Commission's investigation concerned allegations that coin-operated audiovisual games imported or sold by the respondents in this investigation infringed complainant Midway Manufacturing Co.'s PAC-MAN and Rally-X copyrights and trademarks.

This Action and Order provides for final disposition of the above-captioned investigation. It is based upon the Commission's determination, made in public session at the Commission meeting of June 22, 1982, that there is a violation of section 337 with respect to complainant's PAC-MAN coin-operated audiovisual game, and that there is no violation of section 337 with respect to complainant's Rally-X coin-operated audiovisual game.

Action

Having reviewed the record in investigation No. 337-TA-105, including the recommended determination of the Administrative Law Judge, the Commission, on June 22, 1982, determined that--

1. There is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation and sale of certain coin-operated audiovisual games which infringe complainant's PAC-MAN copyright and trademark, the effect or tendency of which is to substantially injure an industry, efficiently and economically operated, in the United States;
2. The appropriate remedy for such violation of section 337 is a general exclusion order, pursuant to subsection (d) of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337(d)), preventing the importation of coin-operated audiovisual games and components thereof which infringe complainant's PAC-MAN copyright and/or trademark;
3. The public-interest factors enumerated in subsection (d) of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337(d)) do not preclude the issuance of an exclusion order in this investigation; and
4. As provided in subsection (g)(3) of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337(g)(3)), the appropriate bonds during the period this matter is pending before the President are in the following amounts: (1) 54 percent of the entered value of infringing games, and (2) 300 percent of the entered value of infringing component parts.

Order

Accordingly, it is hereby ORDERED THAT--

1. Coin-operated audiovisual games and components thereof which infringe complainant's PAC-MAN copyright and/or trademark are excluded from entry into the United States, except where such importation is licensed by the copyright and/or trademark owner;
2. The articles to be excluded from entry into the United States shall be entitled to entry under bond in the following amounts: (1) 54 percent of the entered value of infringing games, and (2) 300 percent of the entered value of infringing component parts, from the day after this order is received by the President pursuant to subsection (g)(3) of section 337 of the Tariff Act of 1930 (19

U.S.C. § 1337(g)(3)) until such time as the President notifies the Commission that he approves or disapproves this action, but, in any event, not later than 60 days after the date of receipt;

3. Notice of this Action and Order be published in the Federal Register;
4. A copy of this Action and Order and of the Commission Opinion issued in connection therewith be served upon each party of record to this investigation and upon the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and the Secretary of the Treasury; and
5. The Commission may amend this Order in accordance with the procedure described in section 211.57 of the Commission's Rules of Practice and Procedure (46 F.R.17533, March 18, 1981: to be codified at 19 C.F.R. § 211-57)

By order of the Commission.

Kenneth R. Mason  
Secretary

Issued: July 1, 1982