

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

_____)	
In the Matter of)	
)	Investigation Fo. 337-TA-112
CERTAIN CUBE PUZZLES)	
_____)	

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 of certain cube & puzzles Into the United States owner, Importer, consignee, or agent of either, the or in their sale 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 of (1) infringement of common-law trademarks of complainant Ideal Toy Corp., (2) false representation by copying complainant's trade dress, and (3) passing off of respondents' cube puzzles as those of complainant.

This Action and Order provides for the final disposition of Investigation No. 337-TA-112 by the Commission. It Is based upon the Commission's determination (Commissioner Stern dissenting), made in public session at the Commission meeting of December 15, 1982, that there is a violation of section 337.

Action

Having reviewed the record compiled and information developed in this Investigation, including (1) the submissions filed by the parties, (2) the transcript of the evidentiary hearing before the ALJ and the exhibits which wereaccepted into evidence, (3) the ALJ's recommended determination, and (4) the arguments and presentations made by the parties and witnesses at the Commission's public hearing on November 18, 1992, the Commissoft on December 15, 1982, determined (Commissioner Stern dissenting)

that-

1. There is a violation of section 337 with respect to the importation and sale of imported cube puzzles and their packaging that infringe Ideal's common-law trademarks;
2. The appropriate remedy for such violation is a general exclusion order issued pursuant to section 337(d) (19 U.S.C. § 1337(d));
3. The public interest factors enumerated in section 337(d) do not preclude the issuance of the order referred to in paragraph 2 above; and
4. The bond provided for in section 337(g)(3) (19 U.S.C. § 1337(g)(3)) shall be in the amount of 600 percent of the entered value of the cube puzzles in question.

Order

Accordingly, It is hereby ORDERED THAT-

1. Cube puzzles that infringe Ideal's common-law trademark in its Rubik's Cube puzzle are excluded from entry into the United States;
2. Packages consisting of a cylindrical black plastic base and a cylindrical clear plastic cover, the plastic base and plastic cover sealed by a strip of black and gold tape, that infringe Ideal's common-law trademark are excluded from entry into the United States;
3. The public interest factors enumerated in section 337(d) do not preclude issuance of the orders referred to above;
4. The articles ordered to be excluded from entry into the United States pursuant to paragraphs 1 and 2 above are entitled to entry under bond in the amount of 600 percent of the entered value of said articles during the presidential review period provided for in section 337(g)(2) (19 U.S.C. § 1337(g)(2));
5. Notice of this Action and Order be published in the Federal Register and that copies of this Action and Order and the opinions 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;
6. 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 (19 C.F.R. § 211.57).

By order of the Commission.

Kenneth R. Mason
Secretary

Issued: December 30, 1982