

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 presiding officer and the exhibits that were accepted into evidence, (3) the presiding officer's recommended determination, and (4) the arguments and presentations made by the parties at the Commission's public hearing on January 26, 1983, the Commission on February 28, 1983, determined that--

1. There is a violation of section 337 with respect to the importation and sale of imported sneakers with fabric uppers and rubber soles that infringe Van Doren's common law trademark;
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. § 337(g)(3)) shall be in the amount of 266 percent of the entered value of the sneakers in question.

Order

Accordingly, it is hereby ORDERED THAT--

1. Sneakers with fabric uppers and rubber soles having a sole design which infringes Van Doren Rubber Co., Inc.'s trademark (exhibit A to the Action and order), such as those depicted in exhibits B-F, are excluded from entry into the United States, except where such importation is licensed by the owner of the trademark;
2. The public interest factors enumerated in section 337(d) do not preclude such exclusion;

3. The articles ordered to be excluded from entry into the United States pursuant to paragraph 1 above are entitled to entry under bond in the amount of 266 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));
4. Notice of this Action and Order be published in the Federal Register and that copies of this Action and order and the 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;
5. The Commission may amend thin 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: March 9, 1983