

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

In the Matter of

CERTAIN NOVELTY GLASSES

Investigation No. 337-TA-055

In the Matter of

**CERTAIN COIN-OPERATED AUDIO
VISUAL GAMES AND COMPONENTS
THEREOF**

Investigation No. 337-TA-087

In the Matter of

**CERTAIN COIN-OPERATED AUDIO
VISUAL GAMES AND COMPONENTS
THEREOF (VIZ., RALLY-X AND
PAC-MAN)**

Investigation No. 337-TA-105

In the Matter of

CERTAIN CUBE PUZZLES

Investigation No. 337-TA-112

In the Matter of

CERTAIN STRIP LIGHTS

Investigation No. 337-TA-287

In the Matter of

CERTAIN NOVELTY TELEIDOSCOPES

Investigation No. 337-TA-295

**NOTICE OF COMMISSION DETERMINATION TO RESCIND
THREE EXCLUSION ORDERS AND TO MODIFY THREE EXCLUSION ORDERS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to rescind the exclusion orders issued in the following investigations: *Certain Novelty Glasses*, Inv. No. 337-TA-055, Exclusion Order (July 11, 1979); *Certain Strip Lights*, Inv. No. 337-TA-287, Exclusion Order (September 28, 1989) (“the 287 investigation”); and *Certain Novelty Teleidoscopes*, Inv. No. 337-TA-295, Exclusion Order (April 11, 1990) (“the 295 investigation”). The Commission has also modified the exclusion orders issued in the following investigations: *Certain Coin-Operated Audio Visual Games and Components Thereof*, Inv. No. 337-TA-087, Exclusion Order (June 25, 1981) (“the 087 investigation”); *Certain Coin-Operated Audio Visual Games and Components Thereof (Viz., Rally-X and PAC MAN)*, Inv. No. 337-TA-105, Exclusion Order (January 15, 1982) (“the 105 investigation”); and *Certain Cube Puzzles*, Inv. No. 337-TA-112 (“the 112 investigation”).

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can

be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: U.S. Customs and Border Protection ("CBP") notified the Commission that the six above-identified exclusion orders may be candidates for rescission based on changed conditions of fact or law. Each of the above-identified exclusion orders issued over twenty (20) years ago and each resulted from a Commission investigation alleging a violation of section 337 based on at least trademark or trade dress infringement. CBP's preliminary investigation indicated that the trademarks or trade dress at issue in the exclusion orders were no longer used in commerce or that complainant had stopped making required compliance filings. *See* EDIS Document Nos. 542137-42.

On October 22, 2014, the Commission issued a notice requesting submissions from the public, including the owners of the intellectual property (*e.g.*, trademarks or trade dress) at issue, on whether these exclusion orders should be rescinded based on changed conditions of fact or law, or the public interest, pursuant to 19 C.F.R. § 210.76. *79 Fed. Reg.* 64214 (Oct. 28, 2014). The Commission received submissions from the owners of the intellectual property at issue in the 087, 105, and 112 investigations showing continued use of the subject intellectual property. The Commission did not receive any submission from the owner of the intellectual property at issue in the 287 investigation. The owner of the intellectual property at issue in the 295 investigation stated that the subject intellectual property of the exclusion order was no longer used in commerce. The owner of the intellectual property at issue in the 055 investigation stated that it no longer wants the remedy of the exclusion order. The Commission received no other submissions.

Based on the foregoing, the Commission has determined that the lack of a showing of continued use of the intellectual property at issue in the 287 and 295 investigations, and the lack of an interest in continuing the remedy in the 055 investigation constitute "changed conditions of fact or law, or the public interest" sufficient to justify rescission of the exclusion orders issued in those investigations pursuant to 19 C.F.R. § 210.76(a)(1). The Commission has therefore rescinded those exclusion orders.

Also pursuant to Commission rule 210.76(a)(1), the Commission has modified the exclusion orders issued in *Certain Coin-Operated Audio Visual Games and Components Thereof*, Inv. No. 337-TA-087; *Certain Coin-Operated Audio Visual Games and Components Thereof* (*Viz.*, Rally-X and PAC MAN), Inv. No. 337-TA-105; and *Certain Cube Puzzles*, Inv. No. 337-TA-112 to require that complainant report to the Commission, on a semi-annual basis, whether complainant is continuing to use the subject intellectual property in commerce.

The authority for the Commission's determination 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 C.F.R. Part 210.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', with a stylized flourish at the end.

Lisa R. Barton
Secretary to the Commission

Issued: April 29, 2015