

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

In the Matter of

**CERTAIN SOFT PROJECTILE
LAUNCHING DEVICES,
COMPONENTS THEREOF,
AMMUNITION, AND PRODUCTS
CONTAINING SAME**

Investigation No. 337-TA-1325

**NOTICE OF COMMISSION DETERMINATION TO REVIEW AND, ON REVIEW, TO
AFFIRM IN PART AN INITIAL DETERMINATION GRANTING SUMMARY
DETERMINATION OF INFRINGEMENT**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review and, on review, to affirm in part an initial determination (“ID”) (Order No. 37) granting summary determination of infringement in the above-captioned investigation. Specifically, the Commission vacates the ID as moot with respect to findings regarding respondents Shenzhen Yi Jin Electronics Science of Shenzhen City, China; Guangdong Yu Lee Technology Corporation of Dongguan City, China; Yu Lee Company Ltd. of Tsuen Wan, Hong Kong; and Gel Blaster Inc. f/k/a Gel Blaster, LLC of Austin, Texas (collectively, “Gel Blaster”); S-Beam Precision Products Ltd. of Zhongshan City, China; Splat-R-Ball, LLC of Rogers, Arkansas; and Daisy Manufacturing Company of Rogers, Arkansas (collectively, “Splat-R-Ball”); and certain claims which have been withdrawn from the investigation.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 708-5468. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.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: On August 26, 2022, the Commission instituted this investigation based on a complaint, as amended, filed on behalf of Hasbro, Inc. of Pawtucket, Rhode Island, and Spin Master, Inc. of Los Angeles, California (together, “Complainants”). 87 FR 52595-96 (Aug. 26, 2022). The complaint, as amended and supplemented, alleged violations of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, based upon the importation into the

United States, the sale for importation, and the sale within the United States after importation of certain soft projectile launching devices, components thereof, ammunition, and products containing same that infringe claims 1-15 and 17-21 of U.S. Patent No. 8,371,282 (“the ’282 patent”) and claims 1-6 and 10-15 of U.S. Patent No. 8,640,683 (“the ’683 patent”). *Id.* at 52595. The complaint also alleged that a domestic industry exists or is in the process of being established. *Id.* The Commission’s notice of investigation names as respondents: Gel Blaster; Splat-R-Ball; Prime Time Toys Ltd. of Kwun Tong, Hong Kong; Prime Time Toys LLC of Pompton Lakes, New Jersey; and Easebon Services Ltd. of Kwun Tong, Hong Kong. *Id.* The Office of Unfair Import Investigations (“OUII”) is participating in this investigation. *Id.*

The Commission subsequently terminated the investigation with respect to claims 1-5, 7, 9-15, 17, 18 and 21 of the ’282 patent and claims 2-4, 6, 10, 12, 13 and 15 of the ’683 patent based on Complainants’ partial withdrawal of its allegations. Order No. 10 (Oct. 25, 2022), *unreviewed by* Comm’n Notice (Nov. 16, 2022); Order No. 21 (Jan. 18, 2023), *unreviewed by* Comm’n Notice (Feb. 14, 2023). Complainants continued to assert claims 6, 8, 19, and 20 of the ’282 patent and claims 1, 5, and 11 of the ’683 patent.

On March 16, 2023, Complainants moved for summary determination that Respondents’ accused products infringe claims 6, 8, 19, and 20 of the ’282 patent and claims 1, 5, and 11 of the ’683 patent. On March 27, 2023, Respondents filed an opposition to the motion for summary determination of infringement, and OUII filed a response in support of the motion.

Also on March 27, 2023, the ALJ issued a claim construction order. Order No. 28 (Mar. 27, 2023).

On April 27, 2023, the ALJ issued the subject ID, granting the motion for summary determination that Respondents infringe each of claims 6, 8, 19, and 20 of the ’282 patent and claims 1, 5, and 11 of the ’683 patent. On May 4, 2023, Respondents filed a petition for review (“Resp. Pet.”) contending that the ALJ erred in construing “super absorbent polymer” and erred by finding that there is no genuine issue of material fact regarding the satisfaction of the limitations “soft-projectile,” “configured for use,” and “substantially spherical.” On May 11, 2023, Complainants (“Compl. Resp.”) and OUII each filed responses opposing the petition for review.

On May 15, 2023, Complainants filed a motion to terminate the investigation with respect to Gel Blaster based on a settlement agreement, and also a motion to terminate the investigation with respect to claim 6 of the ’282 patent and claims 1 and 11 of the ’683 patent (“the withdrawn claims”). Complainants and Respondents both argue that the Commission should not act on the Gel Blaster portion of the motion and allow it to go moot upon Gel Blaster’s termination from the investigation. Resp. Pet. at 50; Compl. Resp. at 34.

On May 17, 2023, Complainants filed a motion to terminate the investigation with respect to Splat-R-Ball based on settlement. Although PTT initially opposed the termination of Splat-R-Ball, they later withdrew their opposition.

On May 17, 2023, the ALJ issued two IDs terminating the investigation with respect to Gel Blaster and the withdrawn claims. Order No. 42 (May 17, 2023), *unreviewed by Comm'n Notice* (May 30, 2023); Order No. 44 (May 17, 2023) *unreviewed by Comm'n Notice* (May 30, 2023). On May 19, 2023, the ALJ issued an ID terminating the investigation with respect to Splat-R-Ball. Order No. 45 (May 19, 2023), *unreviewed by Comm'n Notice* (May 30, 2023). Gel Blaster, Splat-R-Ball, and the withdrawn claims were thus terminated from the investigation.

The Commission has determined to review the subject ID's grant of summary determination of infringement and, on review, to vacate as moot the findings with respect to Gel Blaster, Splat-R-Ball, and the withdrawn claims. The Commission has determined to affirm the remainder of the subject ID.

The Commission vote for these determinations took place on May 30, 2023.

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 CFR part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: May 30, 2023