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

In the Matter)	Investigation No. 337-TA-118
SNEAKERS WITH FABRIC UPPERS AND RUBBER SOLES)	investigation No. 337-1A-116
AND RODDER SOLES)	

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 sneakers into the United States, 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 of (1) infringement of Van Doren Rubber Co., Inc.'s common law trademark, (2) unfair competition, (3) passing off in the manufacture and sale of these sneakers, and (4) false designation of source

This Action and order provides for the Commission's final disposition of investigation No. 337-TA-118- The Commission bases this Action and order upon the determination made in public session at the Commission meeting of February 28, 1983, 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 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--

- 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--

- 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 <u>Federal Register</u> 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