

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

In the Matter of

CERTAIN FOOTWEAR PRODUCTS

Investigation No. 337-TA-936

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW TWO INITIAL
DETERMINATIONS GRANTING UNOPPOSED MOTIONS FOR SUMMARY
DETERMINATIONS THAT THE IMPORTATION REQUIREMENT IS SATISFIED AS
TO RESPONDENT CMERIT AND THAT THE CONVERSE OUTSOLE TRADEMARK
IS VALID**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ") initial determinations ("ID") (Order Nos. 129 & 130) granting unopposed motions for summary determinations that (1) the importation requirement is satisfied as to respondent Cmerit USA, Inc. d/b/a/ Gotta Flurt of Chino California ("Cmerit") (Order No. 129) and that (2) the Converse Outsole Trademark is valid (Order No. 130).

FOR FURTHER INFORMATION: Panyin A Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-3042. 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 (<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: The Commission instituted this investigation on November 17, 2014, based on a complaint filed by Converse Inc. of North Andover, Massachusetts ("Converse"). 79 *Fed. Reg.* 68482-83. The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, by reason of infringement of U.S. Trademark Registration Nos.: 4,398,753; 3,258,103 ("the '103 Mark"); and 1,588,960 ("the '960 Mark"). The complaint further alleges violations of section 337 based upon unfair competition/false designation of origin, common law trademark infringement and unfair competition, and trademark dilution, the threat or effect of which is to destroy or substantially

injure an industry in the United States. The Commission's notice of investigation named several respondents including Cmerit. The Office of Unfair Import Investigations is also a party to the investigation. *Id.*

On June 2, 2015, Converse moved for summary determination that the importation requirement of section 337 is satisfied as to Cmerit. On June 12, 2015, the Commission investigative attorney ("IA") filed a response in support of the motion. No other responses were received.

On June 3, 2015, Converse moved for summary determination that the Converse Outsole Trademark is valid and has been infringed by one of the respondents (the ALJ denied the motion with respect to infringement in Order No. 131). The Converse Outsole Trademark is subject to the '103 and '960 Marks. On June 15, 2015, the IA filed a response in support of the motion. No other responses were received.

The ALJ issued the subject IDs, Order Nos. 129 and 130, on July 6, 2015 and July 7, 2015, respectively. With respect to Order No. 129, the ALJ found that the undisputed facts show that the importation requirement has been satisfied as to Cmerit and listed numerous accused products that Cmerit has admitted to importing. *See* Order No. 129 at 2. Regarding Order No. 130, the ALJ found that the Converse Outsole Trademark is subject to two federal registrations (the '103 and '960 Marks) and that under 15 U.S.C. § 1115(a), the registrations serve as *prima facie* evidence of the validity of the trademark. Because the validity of the marks was not contested, the ALJ granted Converse's motion in part as to the validity of the Converse Outsole Trademark. None of the parties petitioned for review of the IDs.

The Commission has determined not to review the IDs.

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.



Lisa R. Barton
Secretary to the Commission

Issued: July 28, 2015