

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN PLAYARDS AND
STROLLERS**

Investigation No. 337-TA-1288

**NOTICE OF A FINAL DETERMINATION FINDING NO VIOLATION OF SECTION
337; TERMINATION OF THE INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to affirm in part, modify in part, reverse in part, and take no position on certain portions of the Administrative Law Judge's ("ALJ") final initial determination ("ID"), issued on March 31, 2023, finding a violation of section 337 in the above-referenced investigation as to two of the three asserted patents. The Commission has determined that no violation of section 337 has occurred as to any of the asserted patents based on the importation of certain playards and strollers. This investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Benjamin S. Richards, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 708-5453. 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: The Commission instituted this investigation by publication in the Federal Register on December 27, 2021. 86 FR 73318 (Dec. 27, 2021). The complainants are Graco Children's Products Inc., of Atlanta, GA ("Graco") and Wonderland Nurserygoods Co., Ltd. of Taipei, Taiwan ("Wonderland"). Graco and Wonderland's complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain playards and strollers by reason of infringement of certain claims of U.S. Patent Nos. 9,706,855 ("the '855 patent"); 9,414,694 ("the '694 patent"); RE43,919 ("the '919 patent"); and 6,979,017 ("the '017 patent"). *Id.* The complaint further

alleged that a domestic industry exists. *Id.* The Commission’s notice of investigation named as respondents Baby Trend, Inc. of Fontana, CA (“Baby Trend”); Dongguan Golden Prosper Baby Products Co., Ltd., of Guangdong, China (“Golden Prosper”); Sichuan Hobbies Baby Products Co., Ltd., of Sichuan, China (“Sichuan Hobbies”); and Anhui Chile Baby Products Co., Ltd. of Anhui Province, China (“Anhui Chile”). *Id.* The Office of Unfair Import Investigations is not participating in the investigation. *Id.*

On April 1, 2022, the Commission determined not to review an ID terminating the investigation as to the ’017 patent. Order No. 7 (Mar. 7, 2022), *unreviewed by Comm’n Notice* (Apr. 1, 2022). On April 12, 2022, the Commission determined not to review an ID terminating the investigation as to respondent Golden Prosper based on withdrawal of the complaint. Order No. 8 (Mar. 23, 2022), *unreviewed by Comm’n Notice* (Apr. 12, 2022). And, on December 14, 2022, the Commission determined not to review an ID terminating the investigation as to claims 3–9, 11–12, 14, and 16–20 of the ’855 patent, claims 2, 4–9, 11–17, and 19–20 of the ’694 patent, and claims 8, 10–12, 14–19, and 27–28 of the ’919 patent as to all respondents, and terminating the investigation as to claim 20 of the ’919 patent as to respondents Sichuan Hobbies and Anhui Chile (but not Baby Trend). Order No. 21 (Nov. 15, 2022), *unreviewed by Comm’n Notice* (Dec. 14, 2022).

The ALJ held an evidentiary hearing from December 12–15, 2022, at which point, only claims 1, 2, 10, 13, and 15 of the ’855 patent and claims 1, 10, and 18 of the ’694 patent remained as to all respondents and claim 20 of the ’919 patent remained as to respondent Baby Trend. At the time of the evidentiary hearing, there were three remaining respondents in this investigation: Baby Trend, Sichuan Hobbies, and Anhui Chile (“Respondents”).

On March 31, 2023, the ALJ issued the final ID in this investigation. The ID found that a violation of section 337 had occurred based on the respondents’ importation and sale of products that infringe certain claims of the ’855 patent and the ’694 patent. By contrast, the ID found that no violation had occurred in connection with the ’919 patent. The ALJ issued his recommended determination (“RD”) on remedy and bond concurrently with the ID. The RD recommended issuance of a limited exclusion order directed to accused products that infringe the ’855 or ’694 patents. In addition, the RD recommended the issuance of a cease and desist order. As to bond, the RD recommended a bond rate of 4% for the product accused of infringing only the ’919 patent and a bond rate of 59% for the remaining accused products.

The parties filed petitions for review of the ID on April 14, 2023, and responses thereto on April 24, 2023.

On July 6, 2023, the Commission determined to review the ID in part. Specifically, the Commission determined to review: (1) for the ’855 patent, whether claim 15 is anticipated by Gabriella, and whether claims 1, 2, 10, and 13 are obvious based on Troutman and Song or Hsia and Song; (2) for the ’694 patent, whether claim 18 is anticipated by Hsia and whether claims 1 and 10 are obvious based on Troutman and Tharalson; (3) the ’919 patent in its entirety; and (4) whether the technical and economic prongs of the domestic industry requirement are met for

all three patents. In connection with its review of the ID, the Commission sought briefing from the parties on several questions germane to the issues on review. The Commission also requested briefing from the parties, interested government agencies, and other interested persons on remedy, bonding, and the public interest.

On July 20, 2023, the parties submitted briefs responding to the questions posed in the Commission's Notice of Review and on remedy, the public interest, and bond. Thereafter, on July 27, 2023, each submitted a reply to the other's brief on review. No additional submissions were received.

Having considered the parties' submissions, the ID, and the record in this investigation, the Commission has determined that no violation of section 337 has occurred based on Respondents' importation into the United States, sale for importation, or sale within the United States after importation of certain playards and strollers. The Commission has further determined to affirm in part, modify in part, reverse in part, and take no position on certain portions of the ID, as explained in the Commission's opinion issued concurrently herewith. This investigation is terminated.

The Commission vote for this determination took place on August 28, 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: August 28, 2023