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September 24, 2021

VIA ELECTRONIC FILING

The Honorable Lisa R. Barton
Secretary to the Commission
U.S. INTERNATIONAL TRADE COMMISSION
500 E Street, SW, Room 112-A
Washington, DC 20436

Re: *Certain Composite Baseball and Softball Bats and Components Thereof*;
Inv. No. 337-TA-_____

Dear Secretary Barton:

In accordance with the Commission's Temporary Change to the Filing Procedures, dated March 16, 2020, enclosed for filing on behalf of Complainant Easton Diamond Sports, LLC ("Easton") are the following documents in support of Easton's request that the Commission commence an investigation pursuant to Section 337 of the Tariff Act of 1930, as amended:

1. One (1) electronic copy of the verified Non-Confidential Complaint and the Public Interest Statement. (19 C.F.R. §§ 210.8(a)(1)(i) and 210.8(b));
2. One (1) electronic copy of Easton's letter and certification requesting confidential treatment for the information contained in the Confidential Exhibit Nos. 8C and 18C. (19 C.F.R. §§ 210.5(d) and 201.6(b));
3. One (1) electronic copy of the accompanying Non-Confidential Exhibits and public versions of the Confidential Exhibits (19 C.F.R. § 210.8(a)(1)(i));
4. One (1) electronic copy of the Confidential Exhibits 8C and 18C. (19 C.F.R. §§ 210.8(a)(1)(ii) and 201.6(c));
5. One (1) electronic copy of the certified version of United States Patent No. 6,997,826 ("the '826 patent" or "the Asserted Patent") cited in the Complaint as Exhibit 1. (19 C.F.R. § 210.12(a)(9)(i));
6. One (1) electronic copy of the certified version of each of the assignments for the Asserted Patent cited in the Complaint as Exhibit 4. (19 C.F.R. § 210.12(a)(9)(ii));
7. One (1) electronic copy of the certified version of the prosecution history for the Asserted Patent included as Appendix A to the Complaint. (19 C.F.R. § 210.12(c)(1));

The Honorable Lisa R. Barton
September 24, 2021
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8. One (1) electronic copy of the patent and technical reference documents identified in the prosecution history of the Asserted Patent, included in the Complaint as Appendix B (19 C.F.R. § 210.12(c)(2)).

Please contact me with any questions regarding this submission. Thank you for your attention to this matter.

Respectfully Submitted,



Evan H. Langdon

*Counsel for Complainant
Easton Diamond Sports, LLC*

Enclosures



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September 24, 2021

REQUEST FOR CONFIDENTIAL TREATMENT

The Honorable Lisa R. Barton
Secretary to the Commission
U.S. INTERNATIONAL TRADE COMMISSION
500 E Street, SW, Room 112-A
Washington, DC 20436

Re: *Certain Composite Baseball and Softball Bats and Components Thereof*;
Inv. No. 337-TA-_____

Dear Secretary Barton:

Pursuant to Commission Rules 210.5(d) and 201.6(b)(1), Complainant Easton Diamond Sports, LLC (“Easton” or “Complainant”) respectfully requests confidential treatment of the business information contained in Exhibit Nos. 8C and 18C. (“Conf. Exhibits”) to the Verified Complaint.

The information contained in the Conf. Exhibits qualifies as confidential business information pursuant to Commission Rule 201.6(a) because:

- It is not available to the general public;
- The disclosure of such information would cause substantial harm to Easton and to the competitive position of Easton; and
- Unauthorized disclosure of the information could impair the Commission’s ability to obtain information necessary to perform its statutory function.

The Honorable Lisa R. Barton
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Please contact me with any questions regarding this submission. Thank you for your attention to this matter.

Respectfully Submitted,



Evan H. Langdon

*Counsel for Complainant
Easton Diamond Sports, LLC*

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

In the Matter of:

**CERTAIN COMPOSITE BASEBALL
AND SOFTBALL BATS AND
COMPONENTS THEREOF**

Investigation No. 337-TA-_____

CERTIFICATION REGARDING REQUEST FOR CONFIDENTIAL TREATMENT

I, Evan H. Langdon, counsel for Complainant Easton Diamond Sports, LLC (“Easton” or “Complainant”), declare as follows:

1. I have reviewed Easton’s Verified Complaint and Confidential Exhibit Nos. 8C and 18C. (“Conf. Exhibits”) filed concurrently with this Certification.
2. Conf. Exhibits contain the following confidential business information of Easton:
 - a. proprietary information not available to the public;
 - b. information regarding Easton’s patented methodologies and processes for producing the covered products; and
 - c. activities related to Easton’s domestic industry investments such as manufacturing and equipment, and labor and capital.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 24th day of September, 2021 in Arlington, VA.



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Easton Diamond Sports, LLC*

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

In the Matter of:

**CERTAIN COMPOSITE BASEBALL
AND SOFTBALL BATS AND
COMPONENTS THEREOF**

Investigation No. 337-TA-_____

COMPLAINANT'S STATEMENT ON THE PUBLIC INTEREST

Pursuant to 19 C.F.R. § 210.8(b), Complainant Easton Diamond Sports, LLC (“Easton”) respectfully submits this statement on the public interest regarding the requested remedial orders against the Proposed Respondents named in the accompanying Complaint. Easton seeks limited exclusion orders (“LEO”) and cease-and-desist orders (“CDO”) against Proposed Respondents’ composite baseball and softball bats and components thereof that infringe Easton’s United States Patent 6,997,826 (“the ’826 patent” or “the Asserted Patent”). As discussed more fully below, exclusion of the Proposed Respondents’ infringing products from the United States will not have an adverse effect on the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers. The Commission has declined to direct Administrative Law Judges (“ALJ”) to make recommendations on the impact the requested remedial orders would have on the public interest in recent investigations involving sports products. *See, e.g., Certain Jump Rope Sys.*, Inv. No. 337-TA-1108, Notice of Institution of Investigation (Apr. 12, 2018); *Certain Basketball Backboard Components & Prods. Containing the Same*, Inv. No. 337-TA-1040, Notice of Institution of Investigation (Feb. 1, 2017); *Certain Athletic Footwear*, Inv. No. 337-TA-1018, Notice of Institution of Investigation (Sept. 8, 2016).

I. USE IN THE UNITED STATES OF THE ACCUSED PRODUCTS POTENTIALLY SUBJECT TO THE REMEDIAL ORDERS

The Proposed Respondents' accused products potentially subject to remedial orders are composite baseball and softball bats and components thereof. These products are sold for importation into the United States, imported into the United States, and/or sold in the United States after importation by the Proposed Respondents. The accused products are imported into the United States and sold to consumers through many channels, including through the Proposed Respondents' websites and other online outlets.

II. THE REQUESTED REMEDIAL ORDERS DO NOT POSE ANY PUBLIC HEALTH, SAFETY, OR WELFARE CONCERNS

Issuance of the requested relief—LEOs and CDOs—would have no adverse effect on the public health, safety, or welfare in the United States. Public health, safety, or welfare concerns generally arise only in investigations involving pharmaceuticals, medical equipment, green technology products (*e.g.*, hybrid cars or solar panels), or other products that have the potential to affect people's health, safety, and welfare. For example, the Commission previously concluded that access to necessary medical equipment is a significant public interest consideration. *See Certain Fluidize Supporting Apparatus & Components Thereof*, USITC Pub. 1667, Inv. No. 337-TA-182/188, Comm'n Op. at 23–25 (Oct. 1984). Moreover, the Commission has issued LEOs against sports products in previous investigations. *See, e.g., Jump Rope Sys.*, Inv. No. 337-TA-1108, Limited Exclusion Order (Sept. 25, 2018).

There are no public health, safety, or welfare related features unique to the Proposed Respondents' infringing products. As explained below, to the extent any of the Proposed Respondents' infringing products implicate public health, safety, or welfare concerns, identical products and alternative products that perform substantially similar functions as the Proposed Respondents' accused products are readily available to consumers in the United States. *See, e.g.,*

Certain Elec. Digital Media Devices & Components Thereof (“*Digital Media Devices*”), Inv. No. 337-TA-796, Comm’n Op. at 114–15 (Sept. 6, 2013) (finding the potential impact on the public health and welfare of exclusion of specific products does not warrant denying relief when adequate competitive products are available to consumers).

III. ALTERNATIVE, DIRECTLY COMPETITIVE ARTICLES THAT COULD REPLACE THE ACCUSED PRODUCTS ARE READILY AVAILABLE

Composite baseball and softball bats similar to the accused products are available from suppliers and retailers, including Easton, Rawlings, Miken, Worth, and Wilson. Moreover, on information and belief, the accused products comprise only a fraction of U.S. market for composite baseball and softball bats. The Proposed Respondents currently offer for sale other products that would not be affected by the requested remedial orders. Further, non-infringing composite baseball and softball bats will also remain available in the United States for use in place of the Proposed Respondents’ infringing, unlicensed composite baseball and softball bats.

Accordingly, the Proposed Respondents’ accused products could and would be replaced by other available, non-infringing composite baseball and softball bats should their infringing products be subject to remedial orders. Consumers and businesses alike would have access to licensed, competitive composite baseball and softball bats, as well as other non-infringing composite baseball and softball bats, when remedial orders are in effect.

Should the Proposed Respondents’ accused products be barred from entry into the United States or prohibited from being sold in the United States due to any remedial orders that issue in this proposed Investigation, Easton also has the ability to meet any demand for the excluded articles. There are no public interest concerns where domestic demand for a proposed respondent’s products can be met by that respondent’s competitors. The presence of an adequate supply of substitute products is sufficient to override any public interest concerns. *See Digital Media*

Devices, Inv. No. 337-TA-796, Comm'n Op. at 119–21; *Certain Mobile Devices, Associated Software, & Components Thereof*, Inv. No. 337-TA-744, Comm'n Op. at 30–31 (June 5, 2012); *Certain Semiconductor Chips Having Synchronous Dynamic Random Access Memory Controllers & Prods. Containing Same*, Inv. No. 337-TA-661, Comm'n Op. at 14–15 (Aug. 10, 2010).

IV. THE REQUESTED REMEDIAL ORDERS WOULD NOT ADVERSELY IMPACT CONSUMERS

United States consumers will have available to them in the United States marketplace a wide variety of non-infringing composite baseball and softball bats if the relief sought by Easton is granted. In light of this, the exclusion of the Proposed Respondents' accused products will not negatively impact consumers due to increased price or reduced availability of composite baseball and softball bats or alternative products. Even if the requested remedial orders caused minor price increases for alternative products, such an increase would not be contrary to the public interest. *See Certain Lens-Fitted Film Packages*, Inv. No. 337-TA-406, Comm'n Op. at 18 (June 28, 1999) (finding a price increase "does not justify a determination that the public interest in protecting intellectual property rights is in any way outweighed"). The requested relief is in the public interest because it would serve the purpose of enforcing United States intellectual property rights and eliminating the Proposed Respondents' unfair competition. The public welfare favors the protection of United States intellectual property rights. *Cf. Certain Two-Handle Centerset Faucets & Escutcheons & Components Thereof*, Inv. No. 337-TA-422, Comm'n Op. at 9 (July 21, 2000). Precluding the Proposed Respondents from importing and selling their infringing composite baseball and softball bats will benefit the public interest by protecting innovators who make significant and substantial investments in the United States to research and develop new composite baseball and softball bats. Permitting the Proposed Respondents to import and sell infringing composite baseball and softball bats would discourage future investment in those products and, in

turn, have a negative effect on competition in the marketplace. *See Certain Display Controllers & Prods. Containing Same*, Inv. No. 337-TA-491/481, Comm'n Op. at 66 (Feb. 4, 2005).

V. CONCLUSION

Accordingly, there are no public interest concerns preventing issuance of the remedial orders requested in Easton's Complaint, and the Commission should not direct the ALJ to receive evidence on the impact of those remedies on the public to undergo the unnecessary time and expense of discovery, hearing, and briefing for a Recommended Determination on the public interest.

Dated: September 24, 2021

Respectfully submitted,



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UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.

In the Matter of:

**CERTAIN COMPOSITE BASEBALL
AND SOFTBALL BATS AND
COMPONENTS THEREOF**

Investigation No. 337-TA-_____

**COMPLAINT OF COMPLAINANT EASTON DIAMOND SPORTS, LLC
UNDER SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED**

COMPLAINANT

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PROPOSED RESPONDENTS

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Aventura, FL 33160
Telephone: (855) 448-5866

Monsta Athletics LLC
1090 5th Street, Suite 115
Calimesa, CA 92320
Telephone: (855) 966-6782

Proton Sports Inc.
7904 East Chaparral Road, Suite A110
Scottsdale, AZ 85250
Telephone: (480) 849-3750

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Exhibit List	
Ex. No.	Description
1	Certified Copy of U.S. Patent No. 6,997,826
2	Easton Diamond Sports, LLC Corporate Information—Delaware Secretary of State
3	Easton Diamond Sports, LLC Corporate Information—California Secretary of State
4	Certified Copy of Assignments for U.S. Patent No. 6,997,826
5	Juno Athletics LLC Corporate Information—Florida Secretary of State
6	Declaration of Joshua W. Rodriguez in Support of the Complaint
7	Monsta Athletics LLC Corporate Information—California Secretary of State
8C	Declaration of Frederic St. Laurent On Behalf of Complainant Easton Diamond Sports, LLC
9	Proton Sports Inc. Corporate Information—Arizona Secretary of State
10	Juno’s Website Showing the Juno Accused Products
11	Representative Infringement Claim Chart for the Juno Accused Products for U.S. Patent No. 6,997,826
12	Photographs of the Juno “Final Chapter” Model JA21FW1 Product
13	Monsta’s Website Showing the Monsta Accused Products
14	Representative Infringement Claim Chart for the Monsta Accused Products for U.S. Patent No. 6,997,826
15	Proton’s Website Showing the Proton Accused Products
16	Representative Infringement Claim Chart for the Proton Accused Products for U.S. Patent No. 6,997,826
17	List of Easton’s Domestic Industry Products
18C	Declaration of Kyle McGrath On Behalf of Complainant Easton Diamond Sports, LLC
19	Representative Domestic Industry Claim Chart for the Easton Domestic Industry Products for U.S. Patent No. 6,997,826

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Appendix	Description
A	Certified Copy of the Prosecution History for U.S. Patent No. 6,997,826
B	Technical References Identified in the Prosecution History for U.S. Patent No. 6,997,826

I. INTRODUCTION

1. Complainant Easton Diamond Sports, LLC (“Easton” or “Complainant”) is one of the most iconic and recognizable brands in baseball and softball equipment. Easton’s commitment to innovation and game-changing technologies propelled it to the forefront of the baseball and softball bat industry, including breakthrough technologies with aluminum and composite materials. This case is about protecting Easton’s technological innovations embodied in Easton’s composite bats, and prohibiting unlicensed, foreign bat manufacturers from unlawfully using Easton’s groundbreaking technology in their own bats.

2. Easton respectfully files this Complaint and requests that the United States International Trade Commission (“Commission” or “ITC”) institute an investigation under Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”), based on the unlawful and unauthorized importation into the United States, sale for importation into the United States, or sale with the United States after importation, of certain composite baseball and softball bats and components thereof (the “Accused Products”) by Proposed Respondents, Juno Athletics LLC (“Juno”), Monsta Athletics LLC (“Monsta”), and Proton Sports Inc. (“Proton”) (collectively, the “Proposed Respondents”).

3. The Proposed Respondents have engaged in unfair acts in violation of Section 337(a)(1)(B) through, and in connection with, the unauthorized and unlawful importation into the United States, sale for importation into the United States, or sale within the United States after importation of Accused Products that infringe one or more of claims 1, 2, 3, 4, 5, 9, 10, 11, 12, 14, 15, 18, and 19 of United States Patent No. 6,997,826 (the “’826 Patent”) (the “Asserted Patent”). A certified copy of the ’826 Patent is attached to this Complaint as Exhibit 1.

4. Table 1 below summarizes the asserted claims for infringement:

Table 1	
U.S. Patent Number	Asserted Claims ¹
'826 Patent	1, 2, 3, 4, 5, 9, 10, 11, 12, 14, 15, 18, 19

5. The Proposed Respondents manufacture abroad, import, sell for importation, and/or sell after importation into the United States infringing products, as detailed below in Sections VI and VII.

6. As required by Section 337(a)(2)-(3), an industry exists in the United States relating to articles protected by Easton's '826 Patent. Easton's domestic activities and investments with respect to composite baseball and softball bats protected by the Asserted Patent include, among other things, significant investments in research and development, engineering, product design and sustaining engineering, testing, and warranty and repair.

7. Easton seeks as relief permanent limited exclusion orders ("LEO") under Section 337(d) that bar from entry into the United States certain composite baseball and softball bats and components thereof that infringe any claim of the Asserted Patent and are manufactured abroad, imported, sold for importation into the United States, or sold within the United States after importation by or on behalf of the Proposed Respondents, their subsidiaries, related companies, and agents in violation of Section 337.

8. Easton further seeks permanent cease-and-desist orders ("CDO") under Section 337(f) against the Proposed Respondents, their affiliates, subsidiaries, successors, or assigns that prohibit the sale, offer for sale, advertising, marketing, packaging, distribution, warehousing, maintenance of inventory, or solicitation of any sale of imported Accused Products that infringe the Asserted Patent.

¹ Independent claims are in bold.

9. Easton further seeks the imposition of a bond under Section 337(j) that covers the importation, sale, or other transfer of the Accused Products that infringe one or more claims of the Asserted Patent during the 60-day Presidential review period to prevent further injury to Easton's domestic industry resulting from the Proposed Respondents' violation of Section 337.

II. THE COMPLAINANT

10. Complainant Easton Diamond Sports, LLC is a Delaware limited liability company having an address of 3500 Willow Lane, Thousand Oaks, California 91361. (Exs. 2-3.)

11. Easton is the owner of all substantial rights in the Asserted Patent through a patent assignment. (*See* Ex. 4.)

III. THE PROPOSED RESPONDENTS

A. Juno Athletics LLC

12. Respondent Juno is a limited liability company organized under the laws of Florida and maintains its principal place of business at 1000 Williams Boulevard, Unit 2703, Aventura, Florida 33160. (Ex. 5.)

13. On information and belief, Juno manufactures abroad, imports, offers for sale, sells for importation in the United States, and/or sells within the United States after importation the Accused Products that infringe one or more claims of the Asserted Patent, including through the internet. (Ex. 6 at ¶¶ 2-5, 8-12.)

B. Monsta Athletics LLC

14. Respondent Monsta is a limited liability company organized under the laws of California and maintains its principal place of business at 1090 5th Street, Suite 115, Calimesa, California 92320. (Ex. 7.)

15. On information and belief, Monsta manufactures abroad, imports, offers for sale, sells for importation in the United States, and/or sells within the United States after importation

the Accused Products that infringe one or more claims of the Asserted Patent, including through the internet. (Ex. 6 at ¶¶ 13-15; Ex. 8 at ¶¶ 46-47.)

C. Proton Sports Inc.

16. Respondent Proton is a corporation organized under the laws of Arizona and maintains its principal place of business at 7904 East Chaparral Road, Suite A110, Scottsdale, Arizona 85250. (Ex. 9.)

17. On information and belief, Proton manufactures abroad, imports, offers for sale, sells for importation in the United States, and/or sells within the United States after importation the Accused Products that infringe one or more claims of the Asserted Patent, including through the internet. (Ex. 6 at ¶¶ 6-7, 16-18.)

IV. TECHNOLOGY AND PRODUCTS AT ISSUE

18. The Asserted Patent is fundamental to a revolutionary new design for baseball and softball bats that achieve better and more consistent performance (as measured by hitting distance), while being less costly to manufacture.

19. Pursuant to Commission Rules 210.10(b)(1) and 210.12(a)(12), in plain English, the category of accused products are composite baseball and softball bats having a barrel formed by more than one cylindrical layer of material.

20. Over the past few decades, the technology behind the construction of non-wooden bats for use in baseball and softball has increased exponentially in terms of the materials used to create the bats, and now, in the advanced methods for design and construction of bats embodied in the '826 patent. Initially, non-wooden bats, *i.e.*, bats made from aluminum alloys, composite materials, or combinations thereof, consisted of a barrel having a single member or wall (*i.e.*, “single walled bats”). However, in the mid-1990s, “double-walled” bats were created, designed by inserting a sleeve, body, shell, or frame into the barrel portion of a single-walled bat. While these

bats improved performance, the engineering principles behind this advancement were not disclosed or fully understood in the art. Moreover, these double-walled bats were costly to manufacture. The inventors of the '826 Patent, however, fully appreciated the engineering principle known as “bending theory,” and applied it to invent a new design for bats. This new design substantially improved the cost to manufacture bats. It also improved the performance of double-walled bats. Finally, these inventors and their new design also pioneered multi-walled bats, which managed to increase performance even further.

V. THE '826 PATENT²

A. Identification and Patent Ownership

21. United States Patent No. 6,997,826 is entitled “Composite Baseball Bat” and issued on February 14, 2006 to co-inventors Terrance W. Sutherland, Stephen Fitzgerald, and Frederic St. Laurent. (Ex. 1.) The '826 Patent issued from Application No. 10/383,242, which was filed March 7, 2003. The application was subject to prior publication as US 2004/1076197 A1 on September 9, 2004. The '826 Patent has nineteen claims, including two independent claims and seventeen dependent claims.

22. The '826 Patent expires on March 7, 2023.

23. Easton owns by assignment the entire right, title, and interest in and to the '826 Patent. (Ex. 4).

24. A certified copy of the '826 Patent is attached to this Complaint as Exhibit 1. Pursuant to Commission Rule 210.12(c)(1), this Complaint is filed with an electronic certified

² The descriptions and any other non-technical descriptions of the Asserted Patent within this Complaint are for illustrative purposes only. Nothing in this Complaint is intended to express, either implicitly or explicitly, any position regarding the proper construction or scope of any claim of the Asserted Patent.

copy of the prosecution history of the '826 Patent as Appendix A. Pursuant to Commission Rule 210.12(c)(2), this Complaint is also filed with an electronic copy of each technical reference identified in the prosecution history of the '826 Patent as Appendix B.

B. Non-Technical Description of the Patented Invention

25. The '826 Patent generally discloses and claims bats for use in baseball and softball with an elongated handle portion, a tapered midsection, and a barrel portion used for striking the baseball or softball. This barrel portion improves on the prior art by creating a new design for the barrel that allows for multiple structural layers (*i.e.*, multi-walled bats), which both improves hitting performance and is less costly to manufacture.

C. Foreign Counterparts

26. Pursuant to Commission Rule 210.12(a)(9)(v), to the best of Easton's knowledge, information, and belief, there are currently no foreign patents or patent applications corresponding to the '826 Patent.

D. Licenses

27. Pursuant to Commission Rule 210.12(a)(9)(iii), there are no licensees to the '826 Patent.

VI. UNLAWFUL AND UNFAIR ACTS OF PROPOSED RESPONDENTS—PATENT INFRINGEMENT

28. On information and belief, the Proposed Respondents have engaged in unlawful and unfair trade practices, including importation into the United States, sale for importation into the United States, and/or sale within the United States after importation of certain composite baseball and softball bats and components thereof that infringe one or more asserted claims of the Asserted Patent. The Proposed Respondents' activities constitute a violation of Section 337.

A. Juno

29. The Accused Juno Products are composite baseball and softball bats and components thereof that infringe certain claims of the Asserted Patent, including, but not limited to: (1) 12.25” Juno “Cali Love” UTH 47 USSSA; (2) 12.25” Juno “Cali Love PT” UTH 37 USSSA; (3) 12.75” Juno “MR-2 PT” UTH 37 USSSA; (4) 12.75” Juno “MR-2 PT” UTH 47 USSSA; (5) 12.5” Juno Athletics “Arma Letale” SSUSA; (6) 12” Juno Athletics “MK-18” UTH 43 USSSA; (7) 12” Juno Athletics “MK-18” UTH 33 USSSA; (8) 13” Juno “The Final Chapter” UTH33 USSSA; (9) 13” Juno “The Final Chapter” UTH43 USSSA; (10) 12.5” Juno “MR-1” UTH 43 USSSA; and (11) 12.5” Juno “MR-1” UTH 33 USSSA. (Ex. 10.) On information and belief, these composite baseball and softball bats and components thereof are manufactured outside the United States, shipped and/or imported into the United States, and sold in the United States either before or after importation by Juno. On information and belief, additional instances of infringement, importation, and sale of certain composite baseball and softball bats and components thereof will be obtained from Juno during discovery.

30. On information and belief, Juno has infringed and continues to infringe at least the asserted claims of the Asserted Patent as set forth in Table 1 above. On information and belief, Juno infringes the asserted claims of the Asserted Patent literally and/or under the doctrine of equivalents by importing or having imported into the United States products that infringe and by selling in the United States after importation products that infringe. Juno infringes the asserted claims under 337(a)(1)(B)(i).

31. On information and belief, Juno directly infringes, literally or under the doctrine of equivalents, at least claims 1-5, 9-12, 14, 15, 18, and 19 of the '826 Patent by importing or having imported into the United States, selling for importation into the United States, and/or selling within the United States after importation composite baseball and softball bats and components thereof.

32. A chart that applies independent claims 1 and 18 of the '826 Patent to a representative Juno Accused Product, the Juno "Final Chapter" Model JA21FW1Product, is attached as Exhibit 11. Photographs of the physical representative Juno Accused Product that infringes the '826 Patent are also included in Exhibit 12. Photographs of the accused Juno "MR-1" UTH 43 USSSA Softball Bat product that Easton procured through counsel are attached as Exhibit C to Exhibit 6. Images of additional Juno Accused Products as shown on Juno's website are attached as Exhibit 10.

B. Monsta

33. The Accused Monsta Products are composite baseball and softball bats and components thereof that infringe certain claims of the Asserted Patent, including but not limited to: (1) 2021 USA/ASA 2500 Monsta Athletics 25oz Boogster LC; (2) 2021 USA/ASA 3500 Monsta Athletics 25oz Boogster LC; (3) 2021 USA/ASA Gold Dropping Bombs on Cancer 1 Piece; (4) 2021 USA/ASA Slowpitch "Tomahawk" 1 Piece; (5) 2022 USA/ASA Monsta Athletics Wood Grain Sinister; (6) 2020 Monsta Athletics USA/ASA Signature Border Battle USA Hype; (7) 2020 USA/ASA Monsta Athletics NAGAAA LC—2 Piece FIB Technology; (8) 2021 Monsta Athletics USA Softball Slow Pitch Carl Pegnatori Signature "G.O."; (9) 2021 Monsta Athletics USA/ASA Softball Ryan Dacko Signature DNA Legacy; (10) 2021 USA/ASA Gold Dropping Bombs on Cancer 2 Piece LC; (11) 2021 USA/ASA Jerrad Messersmith Signature "SKUD"; (12) 2021 USA/ASA Monsta Athletics Fallout LC; (13) 2021 USA/ASA Monsta Athletics Torch LC; (14) 2021 USA/ASA Slowpitch "Tomahawk" 2-Piece; (15) 2022 USA/ASA Monsta Athletics Wood Grain Black Sheep Balanced; (16) 2022 USA/ASA Monsta Athletics Wood Grain Black Sheep End Load; and (17) Model 20SPBBA2: Bryson Brave Leukemia Awareness Product. (Exs. 13-14.) On information and belief, these composite baseball and softball bats and components thereof are manufactured outside the United States, shipped and/or imported into the United States,

and sold in the United States either before or after importation by Monsta. On information and belief, additional instances of infringement, importation, and sale of certain composite baseball and softball bats and components thereof will be obtained from Monsta during discovery.

34. On information and belief, Monsta directly infringes, literally or under the doctrine of equivalents, at least claims 1-5, 9-12, 14, 15, 18, and 19 of the '826 Patent by importing or having imported into the United States, selling for importation into the United States, and/or selling within the United States after importation composite baseball and softball bats and components thereof.

35. A chart that applies independent claims 1 and 18 of the '826 Patent to a representative Monsta Accused Product, the Monsta Model 20SPBBA2: Bryson Brave Leukemia Awareness Product, is attached as Exhibit 14. Photographs of the physical representative Monsta Accused Product that infringes the '826 Patent are also included in Exhibit 14 and Exhibit B to the declaration of Frederic St. Laurent. (*See* Ex. 8C.) Images of additional Monsta Accused Products as shown on Monsta's website are attached as Exhibit 13.

C. Proton

36. The Accused Proton Products are composite baseball and softball bats and components thereof that infringe certain claims of the Asserted Patent, including but not limited to: (1) Series One USSSA 240—Balanced; (2) Series One USSSA 240—Endload; (3) Series One Senior SSUSA—Balanced; and (4) Series One Senior SSUSA—Endload. (Ex. 15.) On information and belief, these composite baseball and softball bats and components thereof are manufactured outside the United States, shipped and/or imported into the United States, and sold in the United States either before or after importation by Proton. On information and belief, additional instances of infringement, importation, and sale of certain composite baseball and softball bats and components thereof will be obtained from Proton during discovery.

37. On information and belief, Proton directly infringes, literally or under the doctrine of equivalents, at least claims 1-5, 9-12, 14, 15, 18, and 19 of the '826 Patent by importing or having imported into the United States, selling for importation into the United States, and/or selling within the United States after importation composite baseball and softball bats and components thereof.

38. A chart that applies independent claims 1 and 18 of the '826 Patent to a representative Proton Accused Product, the Proton Series One, is attached as Exhibit 16. Photographs of the physical representative Proton Accused Product that infringes the '826 Patent are also included in Exhibit 16. Photographs of the accused Proton Series One product that Easton procured through counsel are attached as Exhibit F to the declaration of Joshua W. Rodriguez. (*See* Ex. 6.)

VII. SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE

39. On information and belief, Proposed Respondents are importing and will continue to import, sell for importation, and/or sell within the United States after importation certain composite baseball and softball bats that infringe one or more claims of the Asserted Patent.

40. Easton has obtained in the United States representative samples of Proposed Respondents' Accused Products as described in Exhibits 6 and 8C. Specific instances of importation, sale for importation, and/or sale within the United States after importation of Accused Products by each of the Proposed Respondents are set forth below. These examples are exemplary in nature and not intended to restrict the scope of any exclusion order or other remedy the Commission may order.

A. Juno

41. On information and belief, composite baseball and softball bats and components thereof that infringe at least one claim of each Asserted Patent are imported, sold for importation,

and/or sold within the United States after importation by Proposed Respondent Juno. The Juno Accused Products were purchased online in the United States from two sources: (1) the “12.5” Juno MR-1 UTH 43 USSSA” product was purchased directly from Juno’s website, <https://www.junoathletics.com/>; and (2) the “2021 Juno Flip Washington The Final Chapter 13” USSSA Softball Bat” was purchased from Headbanger Sports, an online retailer of Juno products, including the Juno Accused Products, from <https://www.headbangersports.com/>. (Ex. 6 at ¶¶ 2-5, Exs. A-B.) The Juno Accused Products purchased in the United States do not contain any marker on the packaging, shipping documents, or product itself that indicate the country of origin. (Ex. 6 at Ex. C).

42. E-mail correspondence with a representative from Headbanger Sports shows that “all Juno bats,” including the Juno Accused Products, are “manufactured overseas.” (Ex. 6 at Ex. D.) On information and belief, the Juno Accused Products are manufactured abroad and imported as finished products and/or as components and assembled in the United States. (Ex. 8C at ¶¶ 13-14.) On information and belief, discovery will show that the Juno Accused Products are manufactured overseas and imported, sold for importation, and/or sold within the United States after importation by Proposed Respondent Juno.

B. Monsta

43. On information and belief, composite baseball and softball bats and components thereof that infringe at least one claim of each Asserted Patent are imported, sold for importation, and/or sold within the United States after importation by Proposed Respondent Monsta. The Monsta Accused Products were obtained in the United States from a USSSA director in California. (Ex. 8C at ¶¶ 46-47.) The Monsta Accused Products obtained in the United States do not contain any marking on the packaging or product itself that indicate the country of origin. (Ex. 8C at Ex. B.)

44. E-mail correspondence with a Monsta sales representative shows that the Monsta Accused Products are shipped “from overseas,” further showing that these products are imported, sold for importation, and/or sold within the United States after importation. (Ex. 6 at Ex. H.) On information and belief, the Monsta Accused Products are manufactured abroad and imported as finished products and/or as components and assembled in the United States. (Ex. 8C at ¶¶ 13-14.) On information and belief, discovery will show that the Monsta Accused Products are manufactured overseas and imported, sold for importation, and/or sold within the United States after importation by Proposed Respondent Monsta.

C. Proton

45. On information and belief, composite baseball and softball bats and components thereof that infringe at least one claim of each Asserted Patent are imported, sold for importation, and/or sold within the United States after importation by Proposed Respondent Proton. The Proton Accused Products were purchased online in the United States from Proton’s website, <https://protonsoftball.com/>. The Proton Accused Products purchased in the United States do not contain any marking on the packaging, shipping documents, or product itself that indicate the country of origin. (Ex. 6 at Ex. F.)

46. E-mail correspondence with a Proton representative shows that “pieces of the” Proton Accused Products “come from overseas,” further showing that these products are imported, sold for importation, and/or sold within the United States after importation. (Ex. 6 at Ex. I.) On information and belief, the Proton Accused Products are manufactured abroad and imported as finished products and/or as components and assembled in the United States. (Ex. 8C at ¶¶ 13-14.) On information and belief, discovery will show that the Proton Accused Products are manufactured overseas and imported, sold for importation, and/or sold within the United States after importation by Proposed Respondent Proton.

VIII. RELATED LITIGATION

47. On September 24, 2021, Easton filed a complaint against Juno Athletics LLC in the United States District Court for the Southern District of Florida, alleging infringement of the '826 Patent. This action is currently pending.

48. On September 24, 2021, Easton filed a complaint against Monsta Athletics LLC in the United States District Court for the Central District of California, alleging infringement of the '826 Patent. This action is currently pending.

49. On September 24, 2021, Easton filed a complaint against Proton Sports Inc. in the United States District Court for the District of Arizona, alleging infringement of the '826 Patent. This action is currently pending.

IX. CLASSIFICATION OF THE ACCUSED PRODUCTS UNDER THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

50. On information and belief, the infringing Accused Products may be classified under at least the following heading and subheading of the Harmonized Tariff Schedule of the United States ("HTSUS"): 9506.99.1500. These classifications are intended for illustration only and are not intended to restrict the scope of any exclusion order or other remedy ordered by the Commission.

X. THE DOMESTIC INDUSTRY

51. Easton has established a domestic industry, as defined by 19 U.S.C. § 1337(a)(2) and (a)(3)(A), (B), and/or (C) comprising Easton's continuing significant investments in plant and equipment, employment of labor and capital, and substantial investment in the exploitation of the Asserted Patent in the United States, respectively. Easton has engaged in significant and substantial research and development, engineering, and testing activities in the United States relating to products protected by the Asserted Patent. Furthermore, Easton engages in ongoing research and

development, engineering, and testing activities in the United States related to technologies that improve articles protected by the Asserted Patent. These efforts are the subject of ongoing domestic investments by Easton. Easton has made and continues to make significant and substantial investments related to the Easton products that practice one or more claims of the Asserted Patent (collectively, the “Easton DI Products”). The Easton DI Products that practice the ’826 patent are identified in Exhibit 17.

A. Economic Prong

52. A domestic industry as defined by 19 U.S.C. § 1337(a)(3)(A) exists in the United States with respect to the articles protected by the Asserted Patent. Easton has made and continues to make significant investments in plant and equipment located at its Thousand Oaks, California headquarters with respect to articles protected by the Asserted Patent. Those investments in plant and equipment are dedicated to research and development, engineering, and testing of the Easton DI Products. Easton’s DI Products embody the results of research, development, engineering, and testing conducted by Easton. Easton’s investments are ongoing and will continue in the years subsequent to the filing of this Complaint.

53. A domestic industry as defined by 19 U.S.C. § 1337(a)(3)(B) exists in the United States with respect to the articles protected by the Asserted Patent. Easton has made and continues to make significant investments in labor and capital with respect to articles protected by the Asserted Patent. Those investments in labor and capital are dedicated to engineers, warranty and repair employees, and other personnel whose activities, in turn, are dedicated to research, development, engineering, testing, and warranty and repair of the Easton DI Products. Easton also has made significant investments in costs associated with certifications required for its composite baseball and softball bats and components thereof, including the Easton DI Products.

54. A domestic industry as defined by 19 U.S.C. § 1337(a)(3)(C) exists in the United States with respect to the articles protected by the Asserted Patent. Easton's substantial investments in the exploitation of the Asserted Patent in the United States includes research and development, engineering, and testing related to the technology of the Asserted Patent reflected in the Easton DI Products. This includes substantial investments in the design, development, and testing of the Easton DI Products that Easton performs in-house, and substantial investments that Easton spent on third parties for testing the Easton DI Products. Easton has invested in facilities and laboratories located in its Thousand Oaks, California headquarters to support this research, development, engineering, and testing. Easton has invested many thousands of person-hours on researching, developing, engineering, and testing in the exploitation of the Asserted Patent and the Easton DI Products, and continues to invest in ongoing research, development, and testing.

55. Additional details regarding Easton's research and develop, engineering, testing, and warranty and repair activities are provided in the declaration of Frederic St. Laurent, attached as Exhibit 8C. Additional details regarding Easton's sales of the Easton DI Products and U.S. investments and expenditures in research and development, engineering, testing, and warranty and repair activities are provided in the declaration of Kyle McGrath, attached as Exhibit 18C.

B. Technical Prong

56. The Domestic Industry Products practice at least claims 1-5, 9-12, 14, 15, 18, and 19 of the '826 Patent. A chart that applies independent claims 1 and 18 of the Asserted Patent to an exemplar Easton DI Product is attached as Exhibit 19. Photos of an exemplar Easton DI Product are also found in Exhibit 19.

XI. REQUESTED RELIEF

WHEREFORE, by reason of the foregoing, Complainant respectfully requests that the United States International Trade Commission:

A. Institute an immediate investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, with respect to violations of Section 337 by Proposed Respondents arising from their importation into the United States, sale for importation into the United States, and/or sale within the United States after importation of certain composite baseball and softball bats and components thereof that infringe one or more claims of the Asserted Patent;

B. Schedule and conduct a hearing pursuant to 19 U.S.C. § 1337(c) on said unlawful actions and, following said hearing;

C. Issue a permanent limited exclusion order pursuant to 19 U.S.C. § 1337(d)(1) barring entry into the United States all infringing certain composite baseball and softball bats and components thereof that are imported, sold for importation, or sold after importation by the Proposed Respondents, or any of their affiliated companies, parents, subsidiaries, licensees, agents, or other related companies, or their successors or assigns that infringe any claim of the Asserted Patent;

D. Issue permanent cease and desist orders, pursuant to 19 U.S.C. § 1337(f), directing the Proposed Respondents, their principals, stockholders, officers, directors, employees, agents, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, affiliates, subsidiaries, successors, or assigns to cease and desist from importing, selling, offering for sale, marketing, advertising, demonstrating, packaging, warehousing inventory for distribution, distributing, licensing, transferring, soliciting of any sale, or using certain composite baseball and softball bats and components thereof that infringe any claim of the Asserted Patent;

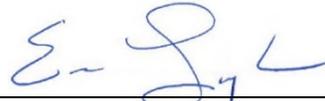
E. Impose a bond, pursuant to 19 U.S.C. §§ 1337(e) and (j), on the Proposed Respondents' importation of certain composite baseball and softball bats and components thereof

that infringe any claim of the Asserted Patent to protect Easton from further injury during the 60-day Presidential review period; and

F. Grant all such other and further relief as it deems appropriate under the law, based upon the facts complained of herein and as determined by the Investigation.

Dated: September 24, 2021

Respectfully submitted,



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*Counsel for Complainant
Easton Diamond Sports, LLC*

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

In the Matter of:

**CERTAIN COMPOSITE BASEBALL
AND SOFTBALL BATS AND
COMPONENTS THEREOF**

Investigation No. 337-TA-_____

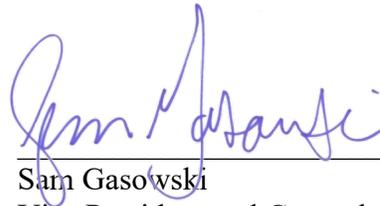
VERIFICATION TO COMPLAINT

I, Sam Gasowski, declare, in accordance with 19 C.F.R. §§ 210.4 and 210.12(a) as follows:

1. I am Vice President and General Counsel at Easton Diamond Sports, LLC and am duly authorized to sign this Complaint;
2. I have read the Complaint and I am aware of its contents;
3. The Complaint is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
4. To the best of my knowledge, information, and belief founded upon reasonable inquiry, the claims and legal contentions of the Complaint are warranted by existing law or a non-frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and
5. The allegations and other factual contentions made in the Complaint have evidentiary support or are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 22, 2021 in
Thousand Oaks, California



Sam Gasowski
Vice President and General Counsel
Easton Diamond Sports, LLC