

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

In the Matter of

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

Inv. No. 337-TA-1283

NOTICE OF INSTITUTION OF INVESTIGATION

Institution of Investigation Pursuant to 19 U.S.C. 1337

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 27, 2021, under section 337 of the Tariff Act of 1930, as amended, on behalf of Easton Diamond Sports, LLC of Thousand Oaks, California. Supplements to the complaint were filed on October 13 and October 18, 2021. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain composite baseball and softball bats and components thereof by reason of infringement of certain claims of U.S. Patent No. 6,997,826 (“the ’826 Patent”). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Katherine Hiner, Office of Docket Services, U.S. International Trade Commission, telephone (202) 205-1802.

SUPPLEMENTARY INFORMATION:

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission’s Rules of Practice and Procedure, 19 C.F.R. 210.10 (2020).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on October 26, 2021, **ORDERED THAT** –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1-5, 9-12, 14-15, and 18-19 of the ’826 Patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission’s Rules of Practice and Procedure, 19 C.F.R. 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “composite baseball and softball bats having a barrel formed by more than one cylindrical layer of material”;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Easton Diamond Sports, LLC
3500 Willow Lane
Thousand Oaks, CA 91361

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Juno Athletics LLC
1000 Williams Boulevard, Unit 2703
Aventura, FL 33160

Monsta Athletics LLC
1090 5th Street, Suite 115
Calimesa, CA 92320

Proton Sports Inc.
7904 East Chaparral Road, Suite A110
Scottsdale, AZ 85250

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party to this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.13. Pursuant to 19 C.F.R. 201.16(e) and 210.13(a), as amended in 85 Fed. Reg. 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: October 27, 2021

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **INSTITUTION OF INVESTIGATION** has been served upon the following parties as indicated, on **October 27, 2021**.



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112
Washington, DC 20436

Complainant:

Easton Diamond Sports, LLC
3500 Willow Lane
Thousand Oaks, CA 91361

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Email Notification of Availability for Download

On Behalf of Complainant:

Evan Langdon, Esq.
NIXON PEABODY LLP
799 9th Street NW, Suite 500
Washington, DC 20001
Email: elangdon@nixonpeabody.com

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Email Notification of Availability for Download

Respondents:

Juno Athletics LLC
1000 Williams Boulevard
Unit 2703
Aventura, FL 33160

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Service to Be Completed by Complainant

Monsta Athletics LLC
1090 5th Street
Suite 115
Calimesa, CA 92320

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Service to Be Completed by Complainant

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

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Certificate of Service – Page 2

Proton Sports Inc.
7904 East Chaparral Road
Suite A110
Scottsdale, AZ 85250

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Service to Be Completed by Complainant

Government Agencies:

Lynda Marshall
International Section, Antitrust Division
U.S. Department of Justice
450 5th Street NW, Room 11000
Washington, DC 20530

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Email Notification of Availability for Download

Dax Terrill, Chief
Exclusion Order Enforcement Branch
U.S. Customs and Border Protection
Regulations and Rulings
90 K Street NE – 10th Floor
Washington, DC 20229

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Email Notification of Availability for Download

Elizabeth Kraus, Deputy Director
International Antitrust, Office of International Affairs
Federal Trade Commission
600 Pennsylvania Avenue, Room 498
Washington, DC 20580

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Email Notification of Availability for Download

Dale D. Berkley, Ph.D., J.D.
Office of the General Counsel, PHD, NIH Branch
National Institutes of Health
31 Center Drive
Bldg. 31, Rm. 47
Bethesda, MD 20892

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Email Notification of Availability for Download



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

October 27, 2021

Evan H. Langdon
Nixon Peabody LLP
799 9th Street NW
Washington, DC 20001

**Re: Certain Composite Baseball and Softball Bats and Components Thereof
Inv. No. 337-TA-1283**

Dear Evan H. Langdon:

This letter is to advise you that the U.S. International Trade Commission has instituted an investigation pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Commission's notice of investigation is enclosed. Also enclosed is the Section 337 Mediation Program brochure. After reviewing the brochure, please sign and return the enclosed certification of receipt.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa R. Barton".

Lisa R. Barton
Secretary

Enclosures:

1. Notice of Investigation
2. Publication Regarding the Section 337 Mediation Program
3. Certification of Receipt of Mediation Materials



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

October 27, 2021

Easton Diamond Sports, LLC
3500 Willow Lane
Thousand Oaks, CA 91361

**Re: Certain Composite Baseball and Softball Bats and Components Thereof
Inv. No. 337-TA-1283**

Dear Sir/Madam:

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UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

October 27, 2021

Juno Athletics LLC
1000 Williams Boulevard Unit 2703
Aventura, FL 33160

**Re: Certain Composite Baseball and Softball Bats and Components Thereof
Inv. No. 337-TA-1283**

Dear Sir/Madam:

This letter is to advise you that the United States International Trade Commission has instituted an investigation pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). **Juno Athletics LLC** is a named respondent in this investigation.

We are hereby serving you with a copy of the Complaint and the Notice of Investigation issued in this matter. Enclosed is a copy of the Code of Federal Regulations. Also enclosed is a the Section 337 Mediation Program brochure. After reviewing this brochure, please sign and return the enclosed certification of receipt.

Please note that the Notice requires a response to the allegations in the Complaint and the response must be received not later than twenty (20) days after the date of service of the Complaint. Failure to file a response may result in inferences being drawn against your interests.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa R. Barton".

Lisa R. Barton
Secretary

Enclosures:

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2. Notice of Investigation
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UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

October 27, 2021

Monsta Athletics LLC
1090 5th Street Suite 115
Calimesa, CA 92320

**Re: Certain Composite Baseball and Softball Bats and Components Thereof
Inv. No. 337-TA-1283**

Dear Sir/Madam:

This letter is to advise you that the United States International Trade Commission has instituted an investigation pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). **Monsta Athletics LLC** is a named respondent in this investigation.

We are hereby serving you with a copy of the Complaint and the Notice of Investigation issued in this matter. Enclosed is a copy of the Code of Federal Regulations. Also enclosed is a the Section 337 Mediation Program brochure. After reviewing this brochure, please sign and return the enclosed certification of receipt.

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Lisa R. Barton
Secretary

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UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

October 27, 2021

Proton Sports Inc.
7904 East Chaparral Road Suite A110
Scottsdale, AZ 85250

**Re: Certain Composite Baseball and Softball Bats and Components Thereof
Inv. No. 337-TA-1283**

Dear Sir/Madam:

This letter is to advise you that the United States International Trade Commission has instituted an investigation pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). **Proton Sports Inc.** is a named respondent in this investigation.

We are hereby serving you with a copy of the Complaint and the Notice of Investigation issued in this matter. Enclosed is a copy of the Code of Federal Regulations. Also enclosed is a the Section 337 Mediation Program brochure. After reviewing this brochure, please sign and return the enclosed certification of receipt.

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Lisa R. Barton
Secretary

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UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

October 27, 2021

Lynda Marshall
International Section
Antitrust Division
U.S. Dept of Justice
450 5th Street NW, Room 11000
Washington, DC 20530

**Re: Certain Composite Baseball and Softball Bats and Components Thereof
Inv. No. 337-TA-1283**

Dear Lynda Marshall:

This letter is to advise you that the United States International Trade Commission has instituted an investigation pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Notice of Investigation is enclosed. Non-confidential copies of the Complaint and any supplements filed in the investigation will be provided upon request. Requests should be directed to Docket Services at (202) 205-1802.

If you have any questions concerning this investigation, please contact the Commission Investigative Attorney whose name and telephone number appear in the enclosed Notice.

Sincerely,

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Lisa R. Barton
Secretary

Enclosure:

1. Notice of Investigation



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

October 27, 2021

Dax Terrill, Chief
Exclusion Order Enforcement Branch
U.S. Customs and Border Protection
Regulations and Rulings
90 K Street NE – 10th Floor
Washington, DC 20229-1177

**Re: Certain Composite Baseball and Softball Bats and Components Thereof
Inv. No. 337-TA-1283**

Dear Dax Terrill:

This letter is to advise you that the United States International Trade Commission has instituted an investigation pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Notice of Investigation is enclosed. Non-confidential copies of the Complaint and any supplements filed in the investigation will be provided upon request. Requests should be directed to Docket Services at (202) 205-1802.

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Lisa R. Barton
Secretary

Enclosure:

1. Notice of Investigation

October 27, 2021



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

Elizabeth Kraus, Deputy Director
International Antitrust, Office of
International Affairs
Federal Trade Commission
600 Pennsylvania Avenue, Room 498
Washington, DC 20580

**Re: Certain Composite Baseball and Softball Bats and Components Thereof
Inv. No. 337-TA-1283**

Dear Elizabeth Kraus:

This letter is to advise you that the United States International Trade Commission has instituted an investigation pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Notice of Investigation is enclosed. Non-confidential copies of the Complaint and any supplements filed in the investigation will be provided upon request. Requests should be directed to Docket Services at (202) 205-1802.

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Lisa R. Barton
Secretary

Enclosure:

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October 27, 2021



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

Dale D. Berkley, Ph.D., J.D.
Office of the General Counsel, PHD, NIH Branch
National Institutes of Health
31 Center Drive
Bldg. 31, Rm. 47
Bethesda, MD 20892

**Re: Certain Composite Baseball and Softball Bats and Components Thereof
Inv. No. 337-TA-1283**

Dear Dale Berkley:

This letter is to advise you that the United States International Trade Commission has instituted an investigation pursuant to Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Notice of Investigation is enclosed. Non-confidential copies of the Complaint and any supplements filed in the investigation will be provided upon request. Requests should be directed to Docket Services at (202) 205-1802.

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Lisa R. Barton
Secretary

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