

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

In the Matter of

CERTAIN KNITTED FOOTWEAR

Inv. No. 337-TA-1289

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 December 8, 2021, under section 337 of the Tariff Act of 1930, as amended, on behalf of Nike, Inc. of Beaverton, Oregon. The complaint 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 knitted footwear by reason of infringement of certain claims of U.S. Patent No. 9,918,511 (“the ’511 patent”); U.S. Patent No. 9,743,705 (“the ’705 patent”); U.S. Patent No. 8,266,749 (“the ’749 patent”); U.S. Patent No. 7,814,598 (“the ’598 patent”); U.S. Patent No. 9,060,562 (“the ’562 patent”); and U.S. Patent No. 8,898,932 (“the ’932 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: Jessica Mullan, Office of the Secretary, Docket Services Division, 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 January 7, 2022, **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 1-3, 5, 9-11, 15, and 17-20 of the '511 patent; claims 1-8 and 11-20 of the '705 patent; claims 1-9, 13-19, and 21 of the '749 patent; claims 1, 9, and 14 of the '598 patent; claims 1-4 of the '562 patent; and claims 11, 12, 14, and 15 of the '932 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 "footwear with a knitted upper or with an upper with knitted elements";

(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:

Nike, Inc.
One Bowerman Drive
Beaverton, OR 97005

(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:

adidas AG
World of Sports
Adi-Dassler-Strasse 1
91074 Herzogenaurach
Germany

adidas North America, Inc.
adidas Village
5055 N Greeley Avenue
Portland, OR 97217

adidas America, Inc.
adidas Village
5055 N Greeley Avenue
Portland, OR 97217

(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 is not participating 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.

Issued: January 10, 2022.



Lisa R. Barton,
Secretary to the Commission.

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 **January 10, 2022**.



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

Complainant:

Nike, Inc.
One Bowerman Drive
Beaverton, OR 97005

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

On Behalf of Complainant:

Christopher J. Renk, Esq.
ARNOLD & PORTER KAYE SCHOLER LLP
70 W. Madison Street, #4200
Chicago, IL 60602
Email: Chris.Renk@arnoldporter.com

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

Respondents:

adidas AG
World of Sports
Adi-Dassler-Strasse 1
91074 Herzogenaurach
Germany

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

Adidas North America, Inc.
Adidas Village
5055 N. Greeley Avenue
Portland, OR 97217

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

Certificate of Service – Page 2

Adidas America, Inc.
Adidas Village
5055 N. Greeley Avenue
Portland, OR 97217

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

Embassy:

Embassy of Germany
4645 Reservoir Road NW
Washington, DC 20007

- 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

January 10, 2022

Christopher J. Renk
Arnold & Porter Kaye Scholer LLP
70 W Madison Street Suite 4200
Chicago, IL 60602

Re: Certain Knitted Footwear; Inv. No. 337-TA-1289

Dear Christopher J. Renk:

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

January 10, 2022

Nike, Inc.
One Bowerman Drive
Beaverton, OR 97005

Re: Certain Knitted Footwear; Inv. No. 337-TA-1289

Dear Sir/Madam:

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.

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Lisa R. Barton
Secretary

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UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

January 10, 2022

adidas AG
World of Sports Adi-Dassler-Strasse 1
Herzogenaurach, 91074
Germany

Re: Certain Knitted Footwear; Inv. No. 337-TA-1289

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). **adidas AG** 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:

1. Complaint
2. Notice of Investigation
3. Code of Federal Regulation
4. Publication Regarding the Section 337 Mediation Program
5. Certification of Receipt of Mediation Materials



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

January 10, 2022

adidas North America, Inc.
adidas Village 5055 N Greeley Avenue
Portland, OR 97217

Re: Certain Knitted Footwear; Inv. No. 337-TA-1289

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). **adidas North America, 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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Sincerely,

Lisa R. Barton
Secretary

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UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

January 10, 2022

adidas America, Inc.
adidas Village 5056 N Greeley Avenue
Portland, OR 97217

Re: Certain Knitted Footwear; Inv. No. 337-TA-1289

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). **adidas America, 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

Enclosures:

1. Complaint
2. Notice of Investigation
3. Code of Federal Regulation
4. Publication Regarding the Section 337 Mediation Program
5. Certification of Receipt of Mediation Materials



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

January 10, 2022

Embassy of the Federal Republic of Germany
4645 Reservoir Rd NW
Washington, DC 20007

Re: Certain Knitted Footwear; Inv. No. 337-TA-1289

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). One or more of the parties named in the investigation is located in **Germany**.

Pursuant to Commission Rule 210.11(a) (3), we are hereby serving you with a copy of the Complaint filed in this investigation together with a copy of the Commission's Notice of Investigation.

Sincerely,

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

Lisa R. Barton
Secretary

Enclosures:

1. Complaint
2. Notice of Investigation



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

January 10, 2022

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

Re: Certain Knitted Footwear; Inv. No. 337-TA-1289

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,

A handwritten signature in black ink, appearing to read "Lisa R. Barton". The signature is stylized and cursive.

Lisa R. Barton
Secretary

Enclosure:

1. Notice of Investigation



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

January 10, 2022

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 Knitted Footwear; Inv. No. 337-TA-1289

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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Sincerely,

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Lisa R. Barton
Secretary

Enclosure:

1. Notice of Investigation



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

January 10, 2022

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

Re: Certain Knitted Footwear; Inv. No. 337-TA-1289

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.

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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Secretary

Enclosure:

1. Notice of Investigation



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

January 10, 2022

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 Knitted Footwear; Inv. No. 337-TA-1289

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.

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,

A handwritten signature in black ink, appearing to read "A. B.", is written over a faint, circular stamp.

Secretary

Enclosure:

1. Notice of Investigation