

violation of section 337 based on non-infringement and non-satisfaction of the technical prong of the domestic industry requirement with respect to the '789 patent, and invalidity of the '858 patent as obvious under 35 U.S.C. 103. 73 FR 45073-74 (Aug. 1, 2008). On July 15, 2011, after an appeal to the U.S. Court of Appeals for the Federal Circuit and subsequent remand vacating the Commission's previous finding of no violation, the Commission found a violation of section 337 based on infringement of the asserted claims of the patents and issued a general exclusion order and, *inter alia*, a cease and desist order directed against Double Diamond. 76 FR 43723-24 (July 21, 2011).

On July 12, 2016, Double Diamond and U.S.A. Dawgs, Inc. ("USA Dawgs") of Las Vegas, Nevada (collectively, the "requesters") petitioned for institution of an advisory opinion proceeding as to whether their Fleece Dawgs footwear is covered by the general exclusion order or cease and desist order directed against Double Diamond. No responses were filed.

On August 11, 2016, the Commission determined that requesters' petition complied with the requirements for institution of an advisory opinion proceeding under Commission Rule 210.79. The Commission therefore determined to institute an advisory opinion proceeding and assigned the proceeding to OUII. 81 FR 54820 (Aug. 17, 2016). The Commission assigned OUII the task of investigating and preparing a report concerning requesters' Fleece Dawgs footwear, and it named Crocs, Double Diamond, and USA Dawgs as parties to the proceeding.

On November 7, 2016, OUII issued a report concluding that requesters' Mossy Oak Women's Fleece Dawgs footwear ("the Subject Articles") is not covered by the general exclusion order and cease and desist order directed against Double Diamond issued in the underlying investigation. In so doing, OUII concluded, *inter alia*, that (1) requesters met their burden of showing non-infringement by the Subject Articles with respect to the claim term "strap section" for claims 1-2 of the '858 patent; and (2) the Subject Articles do not meet the "ordinary observer" test for infringement of the '789 patent. *See Crocs, Inc. v. ITC*, 598 F.3d 1294, 1302 (Fed. Cir. 2010). No party filed comments on the OUII report.

After reviewing the report, the Commission has determined to adopt

the report issued by OUII as its advisory opinion in this proceeding.

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.

Issued: December 20, 2016.

**Lisa R. Barton,**

*Secretary to the Commission.*

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## JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

### Meeting of the Advisory Committee; Meeting

**AGENCY:** Joint Board for the Enrollment of Actuaries.

**ACTION:** Notice of Federal Advisory Committee meeting.

**SUMMARY:** The Executive Director of the Joint Board for the Enrollment of Actuaries gives notice of a meeting of the Advisory Committee on Actuarial Examinations (portions of which will be open to the public) in Arlington, VA, on January 9-10, 2017.

**DATES:** Monday, January 9, 2017, from 9:00 a.m. to 5:00 p.m., and Tuesday, January 10, 2017, from 8:30 a.m. to 5:00 p.m.

**ADDRESSES:** The meeting will be held at the Internal Revenue Service, 2345 Crystal Drive, Suite 400, Arlington, VA 22202.

**FOR FURTHER INFORMATION CONTACT:** Patrick W. McDonough, Executive Director of the Joint Board for the Enrollment of Actuaries, at 703-414-2173.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at the Internal Revenue Service, 2345 Crystal Drive, Suite 400, Arlington, VA 22202, on Monday, January 9, 2017, from 9:00 a.m. to 5:00 p.m., and Tuesday, January 10, 2017, from 8:30 a.m. to 5:00 p.m.

The purpose of the meeting is to discuss topics and questions that may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in 29 U.S.C. 1242(a)(1)(B) and to review the November 2016 Pension

(EA-2F) Examination in order to make recommendations relative thereto, including the minimum acceptable pass score. Topics for inclusion on the syllabus for the Joint Board's examination program for the May 2017 Basic (EA-1) Examination and the May 2017 Pension (EA-2L) Examination also will be discussed.

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App., that the portions of the meeting dealing with the discussion of questions that may appear on the Joint Board's examinations and the review of the November 2016 Pension (EA-2F) Examination fall within the exceptions to the open meeting requirement set forth in 5 U.S.C. 552b(c)(9)(B), and that the public interest requires that such portions be closed to public participation.

The portion of the meeting dealing with the discussion of the other topics will commence at 1:00 p.m. on January 9, 2017, and will continue for as long as necessary to complete the discussion, but not beyond 3:00 p.m. Time permitting, after the close of this discussion by Committee members, interested persons may make statements germane to this subject. Persons wishing to make oral statements should notify the Executive Director in writing prior to the meeting in order to aid in scheduling the time available and should submit the written text, or at a minimum, an outline of comments they propose to make orally. Such comments will be limited to 10 minutes in length. All persons planning to attend the public session should notify the Executive Director in writing to obtain building entry. Notifications of intent to make an oral statement or to attend must be sent electronically, by no later than January 2, 2017, to [nhqjbea@irs.gov](mailto:nhqjbea@irs.gov). Any interested person also may file a written statement for consideration by the Joint Board and the Committee by mailing it to: Internal Revenue Service; Attn: Patrick W. McDonough, Executive Director; Joint Board for the Enrollment of Actuaries SE:RPO; Park 4, Floor 4; 1111 Constitution Avenue NW; Washington, DC 20224.

Dated: December 16, 2016.

**Patrick W. McDonough,**

*Executive Director, Joint Board for the Enrollment of Actuaries.*

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