

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.

In the Matter of

CERTAIN COIN-OPERATED AUDIO  
VISUAL GAMES AND COMPONENTS  
THEREOF

Investigation No. 337-TA-087

In the Matter of

CERTAIN COIN-OPERATED AUDIO  
VISUAL GAMES AND COMPONENTS  
THEREOF (VIZ., RALLY-X AND  
PAC-MAN)

Investigation No. 337-TA-105

In the Matter of

CERTAIN CUBE PUZZLES

Investigation No. 337-TA-112

**ORDER**

The Commission hereby **ORDERS** that:

1. Each of the exclusion orders previously issued in the above-captioned investigations on June 25, 1981, July 1, 1982, and December 30, 1982, respectively, are modified to include the following provision:

Complainant shall report to the Commission, on a semi-annual basis starting on December 31, 2015, whether complainant is continuing to use the subject intellectual property. The report shall include, but is not

limited to, an affidavit stating that complainant is continuing to use the intellectual property underlying the exclusion order in commerce. Failure to comply with this provision will result in rescission of the exclusion order.

2. The Secretary will serve this Order on the parties to the above-captioned investigations and publish notice thereof in the *Federal Register*.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', written in a cursive style.

Lisa R. Barton  
Secretary to the Commission

Issued: April 29, 2015

**PUBLIC CERTIFICATE OF SERVICE**

I, Lisa R. Barton, hereby certify that the attached **ORDER** has been served by hand upon the Office of Unfair Import Investigations., and the following parties as indicated, on **April 29, 2015**.



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

<b><u>Complainants:</u></b>	
Hasbro, Inc. (current owner) 1027 Newport Avenue Pawtucket, RI 02861-1059	<input type="checkbox"/> Via Hand Delivery <input type="checkbox"/> Via Express Delivery <input checked="" type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
<b><u>Respondents:</u></b>	
P.G. Continental, Inc. 558 Pilgrim Drive, Suite A Foster City, CA 99404	<input type="checkbox"/> Via Hand Delivery <input type="checkbox"/> Via Express Delivery <input checked="" type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
Robert S. Hong & Co., Ltd. PO Box 8-59 Taipei, Taiwan	<input type="checkbox"/> Via Hand Delivery <input type="checkbox"/> Via Express Delivery <input checked="" type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
Maruwa Gain Corp. No. 15-1, Alley 2, Lane 250 Nanking E. Rd., Sec. 5 PO Box 48-371 Taipei, Taiwan	<input type="checkbox"/> Via Hand Delivery <input type="checkbox"/> Via Express Delivery <input checked="" type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____

UNITED STATE INTERNATIONAL TRADE COMMISSION  
Washington, D.C. 20346

In the Matter of )  
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CERTAIN COIN-OPERATED AUDIOVISUAL )  
GAMES AND COMPONENTS THEREOF )  
(VIZ., RALLY-X AND PAC MAN) )  
)

Investigation No. 337-TA-105

COMMISSION ACTION AND ORDER

Introduction

Midway Manufacturing Company, Chicago, Illinois, filed a complaint with the Commission on April 17, 1981, and supplemented the complaint on April 20, May 7, June 15, and June 17, 1981. The complaint alleged that unfair methods of competition and unfair acts have occurred, including the infringement of complainant's copyrights in the Rally-X and the Pac-Man games and the infringement of complainant's common law trademark rights in those games. The complaint alleged that the unfair methods of competition and unfair acts have the effect or tendency to destroy or substantially injure an industry, efficiently and economically operated, in the United States. The complainant requested both temporary and permanent relief.

The Commission instituted an investigation into these allegations and published notice thereof in the Federal Register of July 1, 1981 (46 F.R. 34436). Thirty-five respondents were named in the investigation.

On July 24, 1981, complainant moved to amend the complaint by the joinder of 33 additional respondents. On September 21, 1981, the Commission granted the motion with respect to 20 of the 33 proposed respondents. The Commission stated that the 20 parties joined thereby were not required to appear at the hearing on temporary relief and would not be subject to any in personam temporary relief issued pursuant thereto. Notice of the naming of the additional respondents was published in the Federal Register of September 30, 1981 (46 F.R. 47891).

A hearing on temporary relief was held before the Commission's Administrative Law Judge (ALJ) commencing on September 21, 1981. Only respondent Artic International, complainant Midway, and the Commission investigative attorney participated in the hearing. On November 16, 1981, the ALJ certified the record and his recommended determination to the Commission.

In his recommended determination, the ALJ found that the Commission has subject matter jurisdiction in this investigation. He also found that there are two discrete domestic industries, both operated by the complainant. One industry consists of the manufacture, distribution, and sale of the Pac-Man games, and the other consists of the manufacture, distribution, and sale of the Rally-X games. He found that complainant had valid copyrights in the Pac-Man and Rally-X audiovisual works which were being infringed by respondents, and he found that complainant had common law trademark rights in the Pac-Man game which were also being infringed by respondents. He determined that complainant has trademark rights in the Pac-Man game, except in the Hawaiian market. He found that these acts constitute unfair methods of competition or unfair acts within the meaning of section 337 and that there is

reason to believe that these unfair acts and methods of competition have injured an industry, efficiently and economically operated, in the United States, with regard to the Pac-Man game, but not with regard to the Rally-X game.

On December 11, 1981, the Commission held a public hearing on the ALJ's recommended determination and on relief, bonding, and the public interest.

On January 4, 1982, the Commission determined (Commissioner Stern dissenting) that, pursuant to section 337(e) (19 U.S.C. § 1337(e)), there is reason to believe that there is a violation of section 337 by reason of copyright infringement and common law trademark infringement with regard to the Pac-Man game, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. The Commission also determined that there is no reason to believe that there is a violation of section 337 with regard to the Rally-X game. Finally, the Commission determined that the appropriate temporary relief is cease and desist orders issued against respondents for whom there is reason to believe that they are infringing complainant's copyright and trademark rights in the Pac-Man game.

#### Action

Having reviewed the record compiled and information developed in this investigation, including (1) the submissions filed by the parties, (2) the transcript of the evidentiary hearing before the ALJ and the exhibits which were accepted into evidence in the course of that hearing, (3) the recommended determination, and (4) the arguments made by the parties at the public hearing

of December 11, 1981, the Commission on January 4, 1982, determined

(Commissioner Stern dissenting)--

1. That there is reason to believe that there is a violation of section 337 with respect to the importation and sale of the Pac-Man coin-operated audiovisual game and components thereof which infringe complainant's copyrights in the Pac-Man audiovisual work;
2. That there is reason to believe that there is a violation of section 337 with respect to the importation and sale of Pac-Man coin-operated audiovisual games and components thereof which infringe the complainant's common law trademark rights;
3. That there is no reason to believe that there is a violation of section 337 with respect to the importation and sale of the Rally-X coin-operated audiovisual games and components thereof;
4. That the appropriate remedy for such violation is temporary cease and desist orders issued pursuant to section 337(f) (19 U.S.C. § 1337(f));
5. That the public interest factors enumerated in section 337(f) do not preclude the issuance of temporary cease and desist orders in this case; and
6. That the bond provided for in sections 337(e), 337(f), and 337(g)(3) (19 U.S.C. §§ 1337(e), 1337(f), and 1337(g)(3)) of section 337 be in the amount of 54 percent of the entered value of the audiovisual games in question or any components thereof during the period of temporary relief.

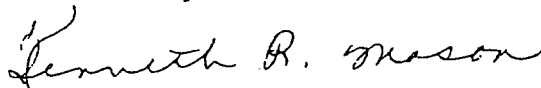
#### Order

Accordingly, it is hereby ORDERED THAT--

1. Artic International, Inc.; Carlin Tiger Shokai, Ltd.; Ferncrest Distributors, Inc.; Formosa Products Industrial Corp.; Friend Spring Industrial Co., Ltd.; International Scientific Co., Ltd.; Jay's Industries; Loson Electrical Co.; K & K Industrial Services; Kyugo Company, Ltd.; Morrison Enterprises Corp.; Nippon Semicon, Inc.; Omni Video Games, Inc.; Stan Rousso, Inc.; Seagull Industries Co., Ltd.; Sepac Co., Ltd.; Shoel Co., Ltd.; and SP-World-Amusement Co., Ltd.; shall cease and desist from the importation and/or sale of certain coin-operated audiovisual games and components thereof, as specifically provided in the attached orders;

2. The articles covered by the attached cease and desist orders are entitled to entry into the United States under bond in the amount of 54 percent of the entered value, during the period of temporary relief;
3. Notice of this Action and Order be published in the Federal Register and that copies of this Action and Order and the opinions issued in connection therewith be served upon each party of record to this investigation and upon the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and the Secretary of the Treasury;
4. Copies of each cease and desist order be served upon the complainant, and that a copy of the cease and desist pertaining to each respondent listed in paragraph 1 above be served upon that respondent; and
5. The Commission may amend this Order in accordance with the procedure described in section 211.57 of the Commission's Rules of Practice and Procedure (46 F.R. 17533, Mar. 18, 1981; to be codified at 19 CFR 211.57).

By order of the Commission.

  
Kenneth R. Mason  
Secretary

Issued: January 15, 1982