

Commission Affirms Axinn's ITC Victory for Hobby Lobby

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September 14, 2023

In a trade dress investigation brought by Crocs at the International Trade Commission, the Commission issued an opinion September 14, 2023, finding no violation by any active respondent, but issuing limited exclusion orders against defaulting respondents. In its Complaint, Crocs had alleged that Hobby Lobby, Walmart and others had infringed its trade dress covering Crocs' popular Classic Clog model, among other allegations. After Walmart settled mid-trial, the remaining respondents carried on, telling the ALJ that not only do they not infringe, but Crocs' trade dress is invalid. In March, the ALJ agreed, issuing an Initial Determination finding the trade dress invalid for lack of secondary meaning and that no respondent infringed. Crocs vigorously appealed, seeking a reversal from the Commission. Instead, the Commission affirmed the finding of no infringement and took no position in invalidity, ultimately finding no violation by any active respondent and terminating the investigation.

Axinn partner Brian Johnson led the team representing Respondent Hobby Lobby, alongside counsel Thomas Hedemann.

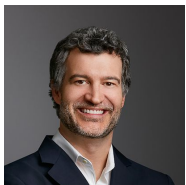
Steptoe lawyers Carol Brophy, Tom Yebernetsky, and Bill Toth and Bunsow De Mory attorney Li Guo provided valuable support for Hobby Lobby as well.

Respondent Amoji was represented by Jonathan Ball, Giancarlo Scaccia, and Cyrus Frelinghuysen at Greenberg Traurig.

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