

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

9000006

In the Matter of

**CERTAIN TOOL HANDLES, TOOL
HOLDERS, TOOL SETS, AND
COMPONENTS THEREFOR**

Inv. No. 337-TA-483

NOTICE OF INVESTIGATION

AGENCY: U.S. International Trade Commission

ACTION: Institution of investigation pursuant to 19 U.S.C. §1337

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on November 26, 2002, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. §1337, on behalf of Allen-Pal, LLC of San Jose and Los Gatos, California. Letters supplementing the complaint were filed on December 16, 17, and 20, 2002. The complaint as supplemented alleges violations of section 337 in the importation into the United States and the sale within the United States after importation of certain tool handles, tool holders, tool sets, and components therefor, by reason of infringement of claims 1, 2, 11, 12, 23, 24, and 28-30 of U.S. Patent No. 5,911,799 and claims 1, 14, 18, 19, 34, 37, 40, and 41 of U.S. Patent No. 6,311,587. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

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

ADDRESSES: The complaint and supplements, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone 202-205-2000. 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 <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at <http://dockets.usitc.gov/eol/public>.

FOR FURTHER INFORMATION CONTACT: Juan Cockburn, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-205-2572.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. §210.10 (2002).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on December 19, 2002, 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 tool handles, tool holders, tool sets, or components therefor by reason of infringement of claims 1, 2, 11, 12, 23, 24, 28, 29, or 30 of U.S. Patent No. 5,911,799 or claims 1, 14, 18, 19, 34, 37, 40, or 41 of U.S. Patent No. 6,311,587, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.
- (2) 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–

Allen-Pal, LLC
16780 Lark Avenue
Los Gatos, California 95032
 - (b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Danaher Corporation
2099 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

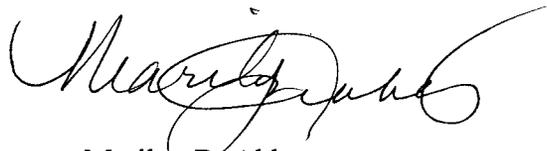
Danaher Tool Corporation
11011 McCormick Road
Suite 150
Hunt Valley, Maryland 21031
 - (c) Juan Cockburn, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436, who shall be the Commission investigative attorney, party to this investigation; and

- (3) For the investigation so instituted, the Honorable Paul J. Luckern is designated as the presiding administrative law judge.

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(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint 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 to authorize the administrative law judge and the Commission, without further notice to that respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against that respondent.

By order of the Commission.

A handwritten signature in cursive script, appearing to read "Marilyn R. Abbott".

Marilyn R. Abbott
Secretary to the Commission

Issued: December 23, 2002

CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **NOTICE OF INSTITUTION AND COMPLAINT** was served upon the Commission Investigative Attorney, Juan Cockburn, Esq., and all parties via first class mail and air mail where necessary on December 23, 2002.

COMPLAINANT:

Allen-Pal, LLC
1065 The Alameda
San Jose, CA 95126

Richard Lambert, Esq.
National Institute of Health
9000 Rockville Pike
Bldg 31, Room 2B50
Bethesda, MD 20592-2111

COUNSEL FOR COMPLAINANT:

Ronald S. Katz, Esq.
Robert D. Becker, Esq.
Manatt, Phelps and Phillips, LLP
1001 Page Mill Road, Building 2
Palo Alto, CA 94304

Joanne Stump, Chief
Intellectual Property Rights Branch
U.S. Customs Service
Ronald Reagan Building, 3rd Floor
1300 Pennsylvania Avenue, NW
Washington, DC 20229

Jeffrey S. Neeley, Esq.
Donald S. Stein, Esq.
Manatt, Phelps and Phillips, LLP
1501 M. Street, NW
Suite 700
Washington, DC 20005

RESPONDENTS:

Danaher Corporation
2099 Pennsylvania Avenue, NW
Washington, DC 20006

Danaher Tool Group
11011 McCormick Road
Suite 150
Hunt Valley, Maryland 21031

GOVERNMENT AGENCIES:

Edward T. Hand, Esq.
Chief, Foreign Commerce Section
Antitrust Division
U.S. Department of Justice
601 D. Street, NW
Room 10023
Washington, DC 20530

Randy Tritell, Esq.
Director for International Antitrust
Federal Trade Commission
Room 380
Pennsylvania Avenue of 6th Street, NW
Washington, DC 20580



Marilyn R. Abbott, Secretary
U.S. International Trade Commission
500 E Street, SW - Room
Washington, DC 20436

OFFICE OF THE SECRETARY



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D.C. 20436

December 23, 2002

Danaher Tool Group
11011 McCormick Road
Suite 150
Hunt Valley, MD 21031

**Re: Certain Tool Handles, Tool Holders, Tool Sets,
Components Thereof
Investigation No.: 337-TA-483**

Dear Sir/Madam:

This letter is to advise you that the United States International Trade Commission has instituted an investigation under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). One of the party-respondents named in the investigation is **Danaher Tool Group.**

We are hereby serving you with a copy of the complaint filed in this case. We are also enclosing copies of the section 337 of the Tariff Act of 1930, the Commission's notice of investigation issued in this matter, and the Commission's Rules of Practice and Procedure.

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 cursive script, appearing to read "Marilyn R. Abbott".

Marilyn R. Abbott
Secretary

Enclosures:

1. Complaint
2. Notice of Investigation
3. Commission Rules of Practice and Procedure

OFFICE OF THE SECRETARY



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D.C. 20436

December 23, 2002

Danaher Corporation
2099 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

**Re: Certain Tool Handles, Tool Holders, Tool Sets,
Components Thereof
Investigation No.: 337-TA-483**

Dear Sir/Madam:

This letter is to advise you that the United States International Trade Commission has instituted an investigation under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). One of the party-respondents named in the investigation is **Danaher Corporation**.

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Sincerely,

Marilyn R. Abbott
Secretary

Enclosures:

1. Complaint
2. Notice of Investigation
3. Commission Rules of Practice and Procedure

OFFICE OF THE SECRETARY



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D.C. 20436

December 23, 2002

Jeffrey S. Neeley, Esq.
Manatt, Phelps and Phillips
1501 M Street, N.W.
Suite 700
Washington, D.C. 20005

**Re: Certain Tool Handles, Tool Holders, Tool Sets
and Components Thereof
Investigation No.: 337-TA-483**

Dear Mr. Neeley:

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.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marilyn R. Abbott".

Marilyn R. Abbott
Secretary

Enclosure:
1. Notice of Investigation

OFFICE OF THE SECRETARY



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D.C. 20436

December 23, 2002

Ronald S. Katz, Esq.
Manatt, Phelps and Phillips
1001 Page Mill Road
Building 2
Palo Alto, CA 94304

**Re: Certain Tool Handles, Tool Holders, Tool Sets
and Components Thereof
Investigation No.: 337-TA-483**

Dear Mr. Katz:

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.

Sincerely,

A handwritten signature in black ink, appearing to read "Marilyn R. Abbott", written over a circular stamp or seal.

Marilyn R. Abbott
Secretary

Enclosure:

1. Notice of Investigation

OFFICE OF THE SECRETARY



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D.C. 20436

December 23, 2002

Allen-Pal, LLC
1065 The Alameda
San Jose, CA 95126.

**Re: Certain Tool Handles, Tool Holders, Tool Sets
and Components Thereof
Investigation No.: 337-TA-483**

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.

Sincerely,

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Marilyn R. Abbott
Secretary

Enclosure:

1. Notice of Investigation

OFFICE OF THE SECRETARY



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D.C. 20436

December 23, 2002

Joanne Stump, Chief
Intellectual Property Rights Branch
U.S. Customs Service
Ronald Reagan Building, 3rd Floor
1300 Pennsylvania Avenue, NW
Washington, DC 20220

**Re: Certain Tool Handles, Tool Holders, Tool Sets,
and Components Thereof
Investigation No.: 337-TA-483**

Dear Ms. Stump:

The Commission has instituted an investigation under section 337 of the Tariff Act of 1930 (19 U.S.C. §337). 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 Marilyn R. Abbott, Secretary at (202) 205-1802.

If you have 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 "Marilyn R. Abbott", written over a circular stamp or seal.

Marilyn R. Abbott
Secretary

Enclosures:

1. Notice of Investigation

OFFICE OF THE SECRETARY



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D.C. 20436

December 23, 2002

Randy Tritell, Esq.
Director for International Antitrust
Federal Trade Commission
Room 380
Pennsylvania Avenue at Sixth Street, NW
Washington, DC 20580

**Re: Certain Tool Handles, Tool Holders, Tool Sets,
and Components Thereof
Investigation No.: 337-TA-483**

Dear Mr. Tritell:

The Commission has instituted an investigation under section 337 of the Tariff Act of 1930 (19 U.S.C. §337). 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 Marilyn R. Abbott, Secretary at (202) 205-1802.

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Sincerely,

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Marilyn R. Abbott
Secretary

Enclosures:

1. Notice of Investigation

OFFICE OF THE SECRETARY



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D.C. 20436

December 23, 2002

Edward T. Hand
Chief, Foreign Commerce Section
Antitrust Division
U.S. Department of Justice
601 D Street, N.W., Room 10023
Washington, DC 20530

**Re: Certain Tool Handles, Tool Holders, Tool Sets,
and Components Thereof
Investigation No.: 337-TA-483**

Dear Mr. Hand:

The Commission has instituted an investigation under section 337 of the Tariff Act of 1930 (19 U.S.C. §337). 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 Marilyn R. Abbott, Secretary at (202) 205-1802.

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Sincerely,

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Marilyn R. Abbott
Secretary

Enclosures:

1. Notice of Investigation

OFFICE OF THE SECRETARY



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D.C. 20436

December 23, 2002

Richard Lambert, Esq.
Department of Health & Human Services
Office of General Counsel
National Institute of Health
Building 31, Room 2B50
9000 Rockville Pike
Bethesda, Maryland 20892-2111

**Re: Certain Tool Handles, Tool Holders, Tool Sets,
and Components Thereof
Investigation No.: 337-TA-483**

Dear Mr. Lambert:

The Commission has instituted an investigation under section 337 of the Tariff Act of 1930 (19 U.S.C. §337). 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 Marilyn R. Abbott, Secretary at (202) 205-1802.

If you have 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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Marilyn R. Abbott
Secretary

Enclosures:

1. Notice of Investigation