



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1328]

Certain Pillows and Seat Cushions, Components Thereof, and Packaging Thereof; Notice of a Commission Determination to Issue a General Exclusion Order, a Limited Exclusion Order, and Cease and Desist Orders; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined to issue a limited exclusion order (“LEO”) directed to Foshan Dirani Design Furniture Co., Ltd. (“Dirani Design”) barring entry of certain pillows and seat cushions, components thereof, and packaging thereof that infringe certain claims of U.S. Patent No. 10,863,837 (“the ’837 patent”); a general exclusion order (“GEO”) barring entry of certain pillows and seat cushions, components thereof, and packaging thereof that infringe certain claims of U.S. Patent No. 10,772,445 (“the ’445 patent”); and cease and desist orders (“CDOs”) directed to respondents Dirani Design, Dongguan Jingrui Silicone Technology Co., Ltd., Hangzhou Lydia Sports Goods Co., Ltd., and Shenzhen Leadfar Industry Co., Ltd.

FOR FURTHER INFORMATION CONTACT: Edward S. Jou, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3316. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 13, 2022, based on a complaint (the “Complaint”) filed by Purple Innovation, LLC of Lehi, Utah (the “Complainant”). 87 FR 56086-88 (Sept. 13, 2022). The Complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation, the sale for importation, or sale within the United States after importation of certain pillows and seat cushions, components thereof, and packaging thereof by reason of infringement of the sole claim of U.S. Design Patent No. D909,092 (“the D’092 patent”); claims 1-16, 18, 19, 21-33, and 35 of U.S. Patent No. 10,772,445 (“the ’445 patent”); claims 1-4, 6, 10-12, 19, and 20 of U.S. Patent No. 10,863,837 (“the ’837 patent”); U.S. Trademark Registration No. 5,661,556 (“the ’556 mark”); and U.S. Trademark Registration No. 6,551,053 (“the ’053 mark”). *Id.* at 56086-87. The Complaint further alleged the existence of a domestic industry. *Id.* The Complaint also alleged violations of section 337 in the importation into the United States, or sale of certain products identified above by reason of trade dress infringement, the threat or effect of which is to destroy or substantially injure an industry in the United States. *Id.*

The Commission’s notice of investigation named forty-one (41) respondents: Bedmate-U Co., Ltd. (“Bedmate-U”) of Gyeonggi-do, Korea; Chuang Fan Handicraft Co., Ltd. of Zhejiang, China; Dongguan Bounce Technology Co., Ltd. of Guangdong, China; Dongguan Jingrui Silicone Technology Co., Ltd. (“Dongguan Jingrui”) of Guangdong, China; Dirani Design of Guangdong, China; Global Ocean Trading Co., Ltd. of Guangdong, China; Guang An Shi Lin Chen Zai Sheng Wuzi Co., Ltd. of Zhejiang, China; Guang Zhou Wen Jie Shang Mao Youxian Gongsi Co., Ltd. of Shanghai, China; Guangzhou Epsilon Import and Export Co., Ltd. of Guangdong, China; Guangzhoushi Baixiangguo Keji Youxian Gongsi Co., Ltd. of Guangdong, China; Haircrafters LLC of Chattanooga, TN; Hangzhou Lishang Import & Export Co., Ltd. of Zhejiang, China; Hangzhou Lydia Sports Goods Co., Ltd. (“Hangzhou Lydia”) of Zhejiang, China; Hebei Zeyong Technology Co., Ltd. of Hebei, China; Henson Holdings, LLC (“Henson Holdings”) of Lafayette, Louisiana; Hetaibao of Anhui, China; Hubei Sheng Bingyi Dianzi Keji

Youxian Gongsì Co., Ltd. of Hubei, China; Kaifeng Shi Long Ting Qu Chen Yi Shangmao Youxian Gongsì Co. Ltd. of Henan, China; Lankao Junchang Electronic Commerce Co., Ltd. of Henan, China; Lei Lei Wang of Anhui, China; Liu Lin Xian Xu Bin Dian Zi Chan Pin Dian of Shanxi, China; Nanchang Shirong Bao Er Guanggao Youxian Gongsì Co., Ltd. of Jiangxi, China; Ningbo Bolian Import & Export Co., Ltd. (“Ningbo Bolian”) of Beijing China; Ningbo Minzhou Import & Export Co., Ltd. (“Ningbo Minzhou”) of Beijing, China; Ruian Xiu Yuan Guoji MaoYi Youxian Gongsì Co., Ltd. of Zhejiang, China; Shandong Jiu Hui Xinxi Keji Youxian Gongsì Co., Ltd. (“Shangdong Jiu Hui”) of Shandong, China; Shanxi Chao Ma Xun Keji Youxian Gongsì Co., Ltd. of Shanxi, China; Shenzhen Baibaikang Technology Co., Ltd. of Guangdong, China; Shenzhen Leadfar Industry Co., Ltd. (“Shenzhen Leadfar”) of Guangdong, China; Shenzhen Shi Mai Rui Ke Dianzi Shangwu Co., Ltd. of Guangdong, China; Shenzhen Shi Xin Shangpin Dianzi Shangwu Youxian Gongsì Co., Ltd. (“Shenzhen Shi Xin”) of Guangdong, China; Shenzhen Shi Yan Huang Chu Hai Keji Youxian Gongsì Co., Ltd. of Guangdong, China; Shenzhen Shi Yuxiang Meirong Yongju Youxian Gongsì Co., Ltd. of Guangdong, China; Shenzhen Tianrun Material Co., Ltd. of Guangdong, China; Wuhan Chenkuxuan Technology Co., Ltd. of Hubei, China; Xiao Dawei of Fujian, China; Xiao Xiao Pi Fa Shang Mao You Xian Ze Ren Gongsì Co. of Shanxi, China; YaRu Wang of Shanxi, China; Yiwu Youru E-commerce Co., Ltd. of Zhejiang, China; Zhejiang Xinhui Import & Export Co., Ltd. of Zhejiang, China; and Zhou Meng Bo of Guangdong, China. *Id.* at 56087-88. The Office of Unfair Import Investigations (“OUII”) was also a party to this investigation. *Id.* at 56088.

Five (5) respondents were terminated by withdrawal of allegations in the Complaint pursuant to Order No. 15 (Jan. 10, 2023), *unreviewed by* Comm’n Notice (Feb. 8, 2023). Twenty-five (25) additional respondents were terminated by withdrawal of allegations in the Complaint pursuant to Order No. 19 (Feb. 16, 2023), *unreviewed by* Comm’n Notice (Mar. 20, 2023), *reconsidered in part by* Comm’n Notice (May 19, 2023). Complainant also withdrew its allegations with respect to trade dress infringement, the ’556 mark, the ’053 mark, and the D’092

patent pursuant to Order No. 19. *Id.* Seven additional respondents were terminated by consent order pursuant to Order No. 23 (Mar. 30, 2023) (Shenzhen Shi Xin), Order No. 24 (Apr. 3, 2023) (Bedmate-U), Order No. 25 (Apr. 7, 2023) (Henson Holdings), Order No. 26 (Apr. 10, 2023) (Ningbo Minzhou), Order No. 27 (Apr. 12, 2023) (Lei Lei Wang), Order No. 28 (Apr. 13, 2023) (Hetaibao), and Order No. 29 (May 10, 2023) (Ningbo Bolian), *unreviewed by Comm'n Notice* (May 19, 2023).

Dirani Design, Dongguan Jingrui, Hangzhou Lydia, and Shenzhen Leadfar (collectively, the “Defaulting Respondents”) were found in default pursuant to Order No. 16 (Jan. 11, 2023), *unreviewed by Comm'n Notice* (Feb. 8, 2023), and Order No. 21 (Mar. 8, 2023), *unreviewed by Comm'n Notice* (Mar. 30, 2023).

On March 15, 2023, Complainant filed a motion for summary determination of violation with respect to infringement of certain claims of the '837 patent and the '445 patent by the Defaulting Respondents. On March 29, 2023, OUII filed a response in support of the motion.

On July 13, 2023, the ALJ issued an Initial Determination granting Complainant's motion with respect to the '445 patent, noted that a finding of violation was unnecessary as to Dirani Design relating to the '837 patent because Complainant sought only an LEO, and issued a Recommended Determination on Remedy and Bond (Order No. 31, the “ID” and “RD”). No petitions for review of the ID were filed.

On August 28, 2023, the Commission determined to review the ID in part and to affirm, with modifications, the ALJ's grant of summary determination of a violation of section 337 by reason of infringement of certain claims of the '445 patent by Dongguan Jingrui, Hangzhou Lydia, and Shenzhen Leadfar. 88 FR 60491-94. The Commission requested submissions on remedy, the public interest, and bonding. *Id.*

Complainant filed a public interest statement on August 14, 2023, and a written submission on remedy, the public interest, and bonding on September 11, 2023. OUII filed a

written submission on remedy, the public interest, and bonding on September 11, 2023, and a reply submission on remedy, the public interest, and bonding on September 18, 2023.

Having examined the record in this investigation, the Commission has determined pursuant to section 337(g)(1) and Commission Rule 210.16(c) to issue an LEO prohibiting the unlicensed entry of certain pillows and seat cushions, components thereof, and packaging thereof that infringe one or more of claims 1, 3, 4, and 10 of the '837 patent that are manufactured abroad by, or on behalf of, or imported by or on behalf of Dirani Design. The Commission has also determined pursuant to section 337(d) to issue a GEO prohibiting the unlicensed entry of certain pillows and seat cushions, components thereof, and packaging thereof that infringe one or more of claims 18, 19, 21-29, and 33 of the '445 patent. The Commission has further determined to issue CDOs against Dirani Design, Dongguan Jingrui, Hangzhou Lydia, and Shenzhen Leadfar.

The Commission has determined that the public interest factors enumerated in subsections (d)(1), (f), and (g)(1) of section 337 do not preclude the issuance of the remedial orders. The Commission has further determined that the bond during the period of Presidential review pursuant to section 337(j) (19 U.S.C. 1337(j)) shall be set in the amount of one hundred percent (100%) of the entered value of the imported articles that are subject to the LEO and GEO. The Commission's remedial orders were delivered to the President and to the United States Trade Representative on the day of their issuance. The investigation is hereby terminated.

While temporary remote operating procedures are in place in response to COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant(s) complete service for any party/parties without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

The Commission vote for this determination took place on November 13, 2023.

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: November 13, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023-25412 Filed: 11/16/2023 8:45 am; Publication Date: 11/17/2023]