

**UNITED STATES INTERNATIONAL TRADE COMMISSION
SECTION 337 COMPLAINT**

In the Matter of:

CERTAIN VEHICLE SPACE GUARDS

Investigation No. 337-TA-_____

**COMPLAINT OF JONATHAN BLACK KOTYK
UNDER SECTION 337 OF THE TARIFF ACT OF 1930**

PUBLIC VERSION — CONFIDENTIAL INFORMATION REDACTED

COMPLAINANT

JONATHAN BLACK KOTYK

162 Magnolia Street, Atlantic Beach, FL,
32233

Telephone:

COUNSEL FOR COMPLAINANT

D&A|RM DeWitty, U.S. Pat. Atty., LLC
Robert M. DeWitty, Esq.
741 W. Jackson Blvd., Ste. 4216, Chicago, Ill.
60604

1500 K Street, Ste. 213, Washington, D.C.
20005

Telephone: 202 571 7070
Email: admin@dewittyip.com

PROPOSED RESPONDENTS

Drop Stop, LLC

1925 CENTURY PARK EAST 16TH
FLOOR
LOS ANGELES, CA 90067

The Container Store

500 Freeport Parkway,
Coppell, Texas, 75019

Walmart, Inc.

702 SW 8th Street, Bentonville, AR
72716

232 Technologies Inc

1988 Ocean Pkwy
Brooklyn, NY 11223

Sporty's (Sportman's Market Inc.)

Clermont County/Sporty's Airport
2001 Sportys Drive
Batavia, Ohio 45103-9719

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I. INTRODUCTION

1. This Complaint is filed by Jonathan Black Kotyk ("Complainant") pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337. As set forth herein, the Proposed Respondents have engaged in unfair methods of competition and unfair acts in the importation of articles into the United States, the sale of such articles for importation into the United States, and/or the sale of such articles within the United States after importation, the threat or effect of which is to destroy or substantially injure an industry in the United States, within the meaning of 19 U.S.C. § 1337(a)(1)(A), and which constitute infringement of a valid and enforceable United States patent, within the meaning of 19 U.S.C. § 1337(a)(1)(B). Specifically, this Complaint involves evidence of direct infringement of Complainant's United States Patent No. 7,527,314 ("the '314 Patent") by at least one user within the United States, whereby the Proposed Respondents have actively induced such infringement, within the meaning of 35 U.S.C. § 271(b), through the importation into the United States, sale for importation into the United States, and/or sale within the United States after importation of certain products and related product materials — hereinafter referred to as "Inducing Products" — that instruct, encourage, and direct users to practice one or more claims of the Asserted '314 Patent without authorization. The importation and sale of such Inducing Products by the Proposed Respondents violates Section 337(a)(1)(B)(i) and (ii) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(a)(1)(B)(i) and (ii).
2. The Inducing Products induce infringement, literally and/or under the doctrine of equivalents, of one or more claims of U.S. Patent No. 7,527,314 ('314), Respondents' conduct violates Section 337(a)(1)(B).

3. The Inducing Products infringe the following claims of the Asserted '314 Patent in violation of Section 337(a)(1)(B)(i) and 35 U.S.C. §§ 271(a)–(c), either literally and/or under the doctrine of equivalents:

Asserted Patent	Asserted Independent Claims	Asserted Dependent Claims
'314	1, 14	2–4, 6, 8, 9, 11, 12, 15–16, 18, 19

4. As required by Sections 337(a)(2)–(3), an industry exists and/or is in the process of being established in the United States as the result of activities and investments in the United States relating to products that practice the Asserted '314 Patent. These activities include the current and ongoing significant and substantial domestic investments in plant, equipment, labor, capital, and engineering.
5. As set forth in this Complaint, each of the Proposed Respondents imports into the United States, sells for importation into the United States, and/or sells within the United States after importation Inducing Products that encourage, lead to, and have led to direct infringement of the Asserted '314 Patent.
6. Complainant seeks a limited exclusion order ("LEO") barring from entry the Inducing Products imported, sold for importation, and/or sold within the United States after importation by the Proposed Respondents, in violation of Section 337. Complainant further seeks a general exclusion order ("GEO") pursuant to 19 U.S.C. § 1337(d)(2), excluding from entry into the United States all infringing **VEHICLE SPACE GUARD** products regardless of source, on the grounds that a pattern of violation of Section 337

exists and it is difficult to identify the source of all infringing products, and that a general exclusion order is necessary to prevent circumvention of any limited exclusion order that may issue.

7. Complainant also seeks, as relief, permanent cease and desist orders ("CDO") against the Proposed Respondents prohibiting the sale, offer for sale, advertising, marketing, packaging, distribution, maintenance of inventory, or solicitation of any sale of imported Inducing Products, whether through traditional "brick and mortar" retailers, distributors, the Internet, or other e-commerce platform(s). Complainant also requests that the Commission impose a bond on the Proposed Respondents' importation of the Inducing Products that encourage and lead to the direct infringement of any claim of the Asserted '314 Patent to protect Complainant from further injury during the 60-day Presidential review period.
8. Complainant hereby expresses its willingness and interest, pursuant to 19 C.F.R. § 210.25 and the Commission's Alternative Dispute Resolution program, in resolving this matter through mediation or other appropriate form of alternative dispute resolution. Complainant believes that ADR, conducted under the auspices of the Commission, may provide an efficient and cost-effective means of resolving the claims set forth herein, without prejudice to Complainant's right to seek the full relief requested in this Complaint. Complainant respectfully requests that the presiding Administrative Law Judge, at the appropriate time and in the exercise of the ALJ's discretion, consider referring this Investigation to the Commission's ADR program, subject to the agreement of all parties. Complainant reserves all rights with respect to the relief sought herein and

does not waive any claim or remedy by virtue of this expression of interest in alternative dispute resolution.

II. THE PARTIES

A. The Complainant

9. Complainant Jonathan Black Kotyk is an individual located in the State of Florida.

Complainant's address is 162 Magnolia Street, Atlantic Beach, FL, 32233.

10. Complainant is the owner of U.S. Patent '314, whereby '314 represents an innovative solution to a common automotive problem. The problem is stopping the loss of personal articles within tight spaces of a car. The success of the solution resulted in an entire industry, focused on utilization of the '314 solution. '314 exhibits the preeminent means of solution to this problem. In fact, the Respondents encourage and induce the utilization of the '314 means of solution.

11. The current '314 owner, Jonathan Black Kotyk, successfully utilized the patent to create a successful product known under the brand name 'The Gap Guard'. Mr. Kotyk acquired the '314 patent rights from Riley D. Pelfrey, who had acquired the rights from the inventor Jewel Dohan.

B. The Proposed Respondents

12. On information and belief, the Proposed Respondents include original equipment manufacturers, manufactures, importers, re-sellers, and distributors, including agents therefor, that import, sell for importation, offer for sale, and/or sell within the United States of America after importation Inducing Products that encourage, lead to, and have

led to the direct infringement of one or more claims of the Asserted '314 Patent. Each of the Respondents sells the exact same Inducing Product called the Drop Stop.

i. Drop Stop, LLC

13. Proposed Respondent Drop Stop, LLC is a corporation organized under the laws of the State of California. Drop Stop, LLC has its principal place of business at 1925

CENTURY PARK EAST 16TH FLOOR LOS ANGELES, CA 90067 (see, EX. 2).

14. On information and belief, Proposed Respondent Drop Stop, LLC manufactures, imports into the United States, sells for importation, markets, offers for sale, sells, and/or distributes within the United States certain Inducing Products that encourage and induce, direct infringement, literal and/or under the doctrine of equivalents, one or more claims of the Asserted '314 Patent. As set forth in paragraph 32, Drop Stop LLC is an inducer for the infringement of the Asserted '314 Patent.

ii. 232 Technologies Inc

15. Proposed Respondent 232 Technologies Inc. ("232, Inc.") is a corporation organized under the laws of the State of New York. "232, Inc." has a primary address of 1988 Ocean Pkwy, Brooklyn, NY 11223 (see, EX. 3).

16. On information and belief, Proposed Respondent 232, Inc. imports into the United States, sells for importation, markets, offers for sale, sells, and/or distributes within the United States certain Inducing Products that encourage and induce, direct infringement, literal and/or under the doctrine of equivalents, one or more claims of the Asserted '314 Patents. As set forth in paragraph 41, 232, Inc. is an inducer for the infringement of the Asserted

‘314 Patent. On information and belief, Respondent 232, Inc. had knowledge of the ‘314 Patent and the allegations at least at the time of this filing.

iii. The Container Store Group, Inc.

17. Proposed Respondent The Container Store Group, Inc. ("The Container Store") is a corporation organized under the laws of the State of Texas. The Container Store has a primary address of 500 Freeport Parkway, Coppell, Texas, 75019 (see, EX. 4).

18. On information and belief, Proposed Respondent The Container Store imports into the United States, sells for importation, markets, offers for sale, sells, and/or distributes within the United States certain Inducing Products that encourage and induce, direct infringement, literal and/or under the doctrine of equivalents, one or more claims of the Asserted ‘314 Patents. As set forth in paragraph 38, The Container Store is an inducer for the infringement of the Asserted ‘314 Patent. On information and belief, Respondent The Container Store had knowledge of the ‘314 Patent and the allegations at least at the time of this filing.

iv. Walmart Inc.

19. Proposed Respondent Walmart Inc. ("Walmart") is a corporation organized under the laws of the State of Arkansas. Walmart has a primary address of 702 SW 8th Street, Bentonville, AR 72716 (see, EX. 5).

20. On information and belief, Proposed Respondent Walmart imports into the United States, sells for importation, markets, offers for sale, sells, and/or distributes within the United States certain Inducing Products that encourage and induce, direct infringement, literal and/or under the doctrine of equivalents, one or more claims of the Asserted ‘314 Patents.

As set forth in paragraph 35, Walmart is an inducer for the infringement of the Asserted ‘314 Patent. On information and belief, Respondent Walmart had knowledge of the ‘314 Patent and the allegations at least at the time of this filing.

v. Sporty’s (Sportman’s Market, Inc.)

21. Proposed Respondent Sportman’s Market, Inc. ("Sporty’s") is a corporation organized under the laws of the State of Ohio. Sporty’s has a primary address of 2001 Sportys Drive, Batavia, Ohio 45103 (see, EX. 5-1).
22. On information and belief, Proposed Respondent Sporty’s imports into the United States, sells for importation, markets, offers for sale, sells, and/or distributes within the United States certain Inducing Products that encourage and induce, direct infringement, literal and/or under the doctrine of equivalents, one or more claims of the Asserted ‘314 Patents. As set forth in paragraph 44, Sporty’s is an inducer for the infringement of the Asserted ‘314 Patent. On information and belief, Respondent Sporty’s had knowledge of the ‘314 Patent and the allegations at least at the time of this filing.

III. NON-RESPONDENT ‘314 PATENT INFRINGERS

23. Ms. Christine Black, as set forth in her declaration, is a direct infringer of the Asserted ‘314 Patent, while not being listed as a Respondent to this Complaint (EX. 6). As set forth in the ‘Black Declaration’, this non-Respondent purchased a version of the Inducing Product and installed it per the explicit instructions (EX. 6, para. 4). The declarant acknowledges she did not have an implicit or explicit license to make or use the Asserted ‘314 Patent. A claim chart showing the direct infringement by Declarant is attached herewith at EX. 17.

IV. THE TECHNOLOGY AND PRODUCTS AT ISSUE

24. Pursuant to 19 C.F.R. §§ 210.10(b)(1) and 210.12(a)(12), the categories of products accused of inducing infringement of the Asserted ‘314 Patent are vehicle space guards to prevent accidental loss of articles by a user. The Proposed Respondents induce infringement of the Asserted ‘314 Patent as (i) there is evidence of direct infringement (EX. 6 and EX. 17); (ii) plausible facts are pleaded showing Respondents had knowledge of the Asserted ‘314 Patent; (iii) Respondents, at least under the doctrine of willful blindness, and/or in at least one instance (read: Drop Stop, LLC) knew its encouraging acts would lead to infringement; and (iv) Respondents specifically intended to bring about infringement as supported by explicit instructions as part of the Inducing Product. Direct infringement was induced during the sale for importation into the United States, importation into the United States, and/or sale within the United States after importation of such Inducing Products and explicitly encouraging infringement. Exemplary identifications of such Inducing Products and their means of inducement are provided at EX. 18.
25. Without discovery, Kotyk cannot exhaustively identify all products sold for importation into the United States, imported into the United States, and/or sold within the United States after importation that induce infringement the Asserted ‘314 Patent and the manner of inducement. An example are the accused products made by the company Drop Stop, LLC entitled “Drop Stop” and the other products that infringe. Kotyk also cannot exhaustively determine all instances of direct infringement, literally and/or under the doctrine of equivalents. Kotyk reserves the right to supplement its allegations, to further

amend this Complaint, and to add respondents and Inducing Products in the future, if necessary, based on discovery received during the Investigation.

V. THE ASSERTED PATENT

A. Identification of U.S. Patent No. 7,527,314 and Ownership.

26. The '314 Patent titled "VEHICLE GAP GUARD", issued on May 5, 2009, naming Jewel Dohan as inventor. The '314 Patent claims priority to provisional patent application US 2007/0108787 A1 (May 17, 2007). The '314 Patent, including term of extension, expires March 14, 2027. A certified copy of the '314 Patent is attached as EX. 1. This complaint is accompanied by a certified copy of the prosecution history for the '314 Patent (Appendix 1). The '314 Patent was assigned to Riley D. Pelfrey (Reel: 026654, Frame: 0150). The '314 Patent was further assigned to Jonathan Kotyk (Reel: 066995, Frame: 0340). Certified copies of the assignments are attached as EXs. 1-B, 1-C. Riley Dale Pelfrey and GBS HOLDINGS, LLC entered into a non-exclusive license agreement, attached as Confidential EX. 19. From at least 2017 to present-day, the entity One More Thing, LLC has an implicit license to the '314 Patent, first from Riley Dale Pelfrey and now from Complainant Kotyk.

B. Non-Technical Description

27. The '314 Patent generally relates to system and method for fitting and occupying the space between a car seat and the next closest car compartment, which includes a center console unit. The '314 Patent describes a space guard having various portions, the space guard being removable, further includes a cutout portion for fitment around vehicle seatbelts, and an attachment means.

C. Foreign Counterparts and Domestic Counterparts

28. To the best of Complainant's knowledge, information and belief, there are no foreign or domestic patents issued or foreign patent applications pending, filed, abandoned, withdrawn, or rejected corresponding to the '314 Patent.

VI. SPECIFIC INSTANCES OF IMPORTATION AND SALE

29. On information and belief, the Proposed Respondents are importing and will continue to import, sell for importation, and/or sell within the United States after importation the Inducing Products that encourage, lead to, and have in fact led to direct infringement of the '314 Patent. From each of the respondents, the exact same Inducing Product, known under the tradename 'Drop Stop', was purchased.
30. The specific instances of importation and sale of Inducing Products that encourage, lead to direct infringement set forth below are illustrative and non-exhaustive examples of Proposed Respondents' unlawful importation and sale of the Inducing Products that encourage, lead to, and have in fact led to the infringement of the Asserted '314 Patent literally and/or under the doctrine of equivalents. These instances are exemplary in nature and not intended to restrict the scope of any exclusion order or other remedy the Commission may order.
31. Kotyk has successfully placed orders and purchased in the United States exemplary samples of the Proposed Respondents' Inducing Products. In addition, Kotyk has collected information from a variety of sources to determine whether the Proposed Respondents' Inducing Products are manufactured abroad and imported, sold for importation into the United States, and/or sold within the United States after importation.

A. Drop Stop, LLC.

32. On information and belief, Drop Stop, LLC imports, sells for importation, and/or sells within the United States after importation Inducing Products, including the Drop Stop Seat Gap Filler, that encourages, leads to, and in fact has led to, infringement of one or more claims of the Asserted ‘314 Patent. Kotyk has successfully purchased in the United States from Drop Stop, LLC an exemplary sample of the ‘Drop Stop Seat Gap Filler’ (see, EX. 7-A). A copy of proof of mailing to a U.S. address is shown at EX. 7-B. Drop Stop, LLC induces infringement of the Asserted ‘314 Patent as there is evidence of at least one direct infringement of the patent claims. Drop Stop, LLC was knowledgeable to the Asserted ‘314 Patent as during prosecution of Drop Stop, LLC’s own patent (U.S. Appl. No. 11/749,354), the teachings of the Asserted ‘314 Patent were made known to Drop Stop, LLC (EX. 8). Drop Stop, LLC knew its instructions were infringing, in particular, instructing users to add “double-sided” tape as adhesive to its Inducing Product. These instructions were included within the packaging of the Inducing Product and on its website (EX. 10-A/10B). In an early embodiment of instructions for the ‘Inducing Product’, the earlier instructions did not include teaching adding “double-sided” tape to the product (EX. 11).
33. On information and belief, Drop Stop Inducing Products are manufactured in People’s Republic of China.
34. Kotyk has obtained specific evidence demonstrating that Drop Stop Inducing Products are manufactured abroad. For example, the packaging with which Drop Stop Inducing Products are sold in the United States indicate those products are made in China, demonstrating that these products are imported. See, EX. 12.

B. Walmart, Inc.

35. On information and belief, Walmart imports, sells for importation, and/or sells within the United States after importation Inducing Products, including the ‘Drop Stop Seat Gap Filler’, that encourages, leads to, and in fact has led to, infringement of one or more claims of the Asserted ‘314 Patent. Kotyk has successfully purchased in the United States from Walmart an exemplary sample of the ‘Drop Stop Seat Gap Filler’ (see, EX. 13-A). A copy of the proof of mailing to a U.S. address is shown at EX. 13-B. Walmart induces infringement of the Asserted ‘314 Patent by there being evidence of at least one direct infringer. On information and belief, Walmart had knowledge of the Asserted ‘314 Patent through negotiations and communications with licensees of the Asserted ‘314 Patent for distribution of the Gap Guard Product through Walmart Stores (CONFIDENTIAL EX. 14-A), Walmart knew or was willfully blind that the instructions instructed users to use “double-sided” tape, and the instructions being included in the Inducing Product packaging (EX. 10-B). Walmart was informed of infringement through its official portal, as shown in Confidential EX. 14-B.
36. On information and belief, Walmart’s Inducing Products are manufactured in People’s Republic of China.
37. Kotyk has obtained specific evidence demonstrating that Walmart’s Inducing Products are manufactured abroad. For example, the packaging with which Walmart Inducing Products are sold in the United States indicate those products are made in China, demonstrating that these products are imported. See EX. 12.

C. The Container Store

38. On information and belief, The Container Store imports, sells for importation, and/or sells within the United States after importation Inducing Products, including the Drop Stop Seat Gap Filler, that encourages, leads to, and in fact has led to, infringement of one or more claims of the Asserted '314 Patent. Kotyk has successfully purchased in the United States from The Container Store an exemplary sample of The Container Store 'Drop Stop Seat Gap Filler' (see, EX. 15-A). A copy of mailing of the product to a U.S. address is shown at EX. 15-B. The Container Store induces infringement by there being evidence of at least one direct infringer. On information and belief, The Container Store had knowledge of the Asserted '314 Patent. The Container Store was willfully blind that instructions pertaining to the Inducing Product explicitly instructed users to infringe the patent, including through the use of "attachment means", and the fact the instructions were including in the packaging of the Inducing Product.

39. On information and belief, The Container Store Drop Stop Inducing Products are manufactured in People's Republic of China.

40. Kotyk has obtained specific evidence demonstrating that The Container Store Inducing Products are manufactured abroad. For example, the packaging with which The Container Store Inducing Products are sold in the United States indicate those products are made in China, demonstrating that these products are imported. See, EX. 12.

D. 232 Technologies Inc

41. On information and belief, 232, Inc. imports, sells for importation, and/or sells within the United States after importation Inducing Products, including the 'Drop Stop Seat Gap

Filler’, that encourages, leads to, and in fact has led to, infringement of one or more claims of the Asserted ‘314 Patent. Kotyk has successfully purchased in the United States from 232, Inc. via the Target webstore, an exemplary sample of the 232, Inc. ‘Drop Stop Seat Gap Filler’ (EX. 16-A). A copy of mailing of the product to a U.S. address is shown at EX. 16-B. 232, Inc. induces infringement by there being evidence of at least one direct infringer. On information and belief, 232, Inc. had knowledge of the Asserted ‘314 Patent. 232, Inc. was also willfully blind that their instructions pertaining to the Inducing Product explicitly instructed users to infringe the patent by adding “attachment means” including double sided tape to the Inducing Product, and the fact the instructions were included in the packaging with the Inducing Product (see, EX. 12).

42. On information and belief, 232, Inc. Drop Stop Inducing Products are manufactured in People’s Republic of China.

43. Kotyk has obtained specific evidence demonstrating that 232, Inc. Inducing Products are manufactured abroad. For example, the packaging with which 232, Inc. Inducing Products are sold in the United States indicate those products are made in China, demonstrating that these products are imported (EX. 10-B).

E. Sporty’s

44. On information and belief, Sporty’s imports, sells for importation, and/or sells within the United States after importation Inducing Products, including the ‘Drop Stop Seat Gap Filler’, that encourages, leads to, and in fact has led to, infringement of one or more claims of the Asserted ‘314 Patent. Kotyk has successfully purchased in the United States from Sporty’s webstore, an exemplary sample of the Sporty’s ‘Drop Stop Seat Gap Filler’ (EX. 32-A). A copy of mailing of the product to a U.S. address is shown at EX.

32-B. Sporty's induces infringement by there being evidence of at least one direct infringer. On information and belief, Sporty's had knowledge of the Asserted '314 Patent. Sporty's was also willfully blind that their instructions pertaining to the Inducing Product explicitly instructed users to infringe the patent by adding "attachment means" including double sided tape to the Inducing Product, and the fact the instructions were included in the packaging with the Inducing Product (see, EX. 12).

45. On information and belief, Sporty's Drop Stop Inducing Products are manufactured in People's Republic of China.

46. Kotyk has obtained specific evidence demonstrating that Sporty's Inducing Products are manufactured abroad. For example, the packaging with which Sporty's Inducing Products are sold in the United States indicate those products are made in China, demonstrating that these products are imported (EX. 10-B).

VII. UNLAWFUL AND UNFAIR ACTS

47. On information and belief, the Proposed Respondents import into the United States, sell for importation into the United States, and/or sell within the United States after importation Inducing Products in violation of Section 337 by explicitly encouraging infringement of one or more claims of the Asserted '314 Patent, literally and/or under the doctrine of equivalents. The means of explicit inducement include instructions included in the packaging of the Inducing Products, and posting on websites, such as buydropstop.com/products/dont-drop-and-drive/#easy-to-install. The following table summarizes the Asserted '314 Patent claims that are and have been infringed through inducement by each individual Proposed Respondent:

RESPONDENT	'314 PATENT ASSERTED CLAIMS
Drop Stop, LLC	1, 2, 4, 9–11, 13–16, 18, 19
Walmart	1, 2, 4, 9–11, 13–16, 18, 19
The Container Store	1, 2, 4, 9–11, 13–16, 18, 19
232, Inc.	1, 2, 4, 9–11, 13–16, 18, 19
Sporty's	1, 2, 4, 9–11, 13–16, 18, 19

48. Non-respondent C. Black infringes, literally and/or under the doctrine of equivalents, the claims of the '314 patent, as supported by the Black Declaration and as shown in the Claim Chart at EX. 17. Non-respondent C. Black is not licensed, either implicitly or explicitly, to practice the claims of the '314 patent.

49. Drop Stop, LLC is not a licensee of the Asserted '314 Patent. Claim charts comparing the asserted claims of the '314 Patent to the inducement by a representative Drop Stop, LLC Inducing Product, including photographs and drawings where applicable, are attached as EXs. 10 (A-B) and EX. 18.

50. Walmart is not a licensee to the Asserted '314 Patent. Claim charts comparing the asserted claims of the '314 Patent to the inducement by a representative Walmart Inducing Product, including photographs and drawings where applicable, are attached as EXs. 10 (A-B) and EX. 18.

51. The Container Store is not a licensee to the Asserted '314 Patent. Claim charts comparing the asserted claims of the '314 Patent to the inducement by a representative The Container Store Drop Inducing Product, including photographs and drawings where applicable, are attached as EXs. 10 (A-B) and EX. 18.
52. 232, Inc. is not a licensee to the Asserted '314 Patent. Claim charts comparing the asserted claims of the '314 Patent to the inducement by a representative 232, Inc. Drop Stop Inducing Product, including photographs and drawings where applicable, are attached as EXs. 10 (A-B) and 18.
53. Sporty's is not a licensee to the Asserted '314 Patent. Claim charts comparing the asserted claims of the '314 Patent to the inducement by a representative Sporty's Drop Stop Inducing Product, including photographs and drawings where applicable, are attached as EXs. 10 (A-B) and EX. 18.

VIII. CLASSIFICATION UNDER THE HTSUS

54. On information and belief, the Inducing Products are imported into the United States under at least the following headings and subheadings of the Harmonized Tariff Schedule of the United States ("HTSUS"): 3926.90.9990 and 8708.29.5060. These HTSUS classifications are intended for illustration only and are not intended to restrict the scope of this Investigation or any exclusion order or other remedy ordered by the Commission.

IX. RELATED LITIGATION

55. A lawsuit has been filed against Respondent Drop Stop, LLC in the Central District of California (*Jonathan Black Kotyk v. Jeffrey Simon et al.*, 2:26-cv-05158-MBK).

X. THE DOMESTIC INDUSTRY

56. Section 337 of the Tariff Act of 1930 requires a complainant to demonstrate that a domestic industry exists or is in the process of being established with respect to the articles protected by the asserted intellectual property rights. 19 U.S.C. § 1337(a)(2)–(3). One More Thing, LLC ("One More Thing"), a legal entity based in the State of Florida, satisfies the domestic industry requirement through its substantial investment in the exploitation of U.S. Patent No. 7,527,314 which covers the 'Gap Guard' product. This investment is protected and authorized by an implicit patent license running from the patent owner to One More Thing—a license arising from years of acquiescence, course of dealing, and affirmative conduct by the patent owner permitting One More Thing to manufacture, market, and sell the Gap Guard product.
57. U.S. patent law recognizes that a patent license need not be formal or written to be legally effective. The Supreme Court established that any language used by the owner of a patent, or any conduct on his part exhibited to another from which that other may properly infer that the owner consents to his use of the patent, constitutes a license and a defense to an action for infringement. *De Forest Radio Tel. & Tel. Co. v. United States*, 273 U.S. 236, 241 (1927); *see also*, *Wang Lab'ys, Inc. v. Mitsubishi Elecs. Am., Inc.*, 103 F.3d 1571 (Fed. Cir. 1997); *Windbond Elecs. Corp. v. Int'l Trade Comm'n*, 262 F.3d 1363 (Fed. Cir. 2001).
58. An implied license may arise from affirmative conduct indicating consent. *Windbond*, 262 F.3d at 1363; *TransCore, LP v. Elec. Transaction Consultants Corp.*, 563 F.3d 1271 (Fed. Cir. 2009). The test is functional: did the patentee say or do something from which

the alleged licensee could reasonably infer consent to practice the invention? *Medline Indus. v. C.R. Bard, Inc.*, No. 16-cv-03529 (N.D. Ill. Mar. 31, 2024). A licensee’s expenditures in practicing an implicitly licensed patent are precisely the type of domestic investment cognizable under Section 337. An implied license confers the same legal standing as an express license for purposes of exploiting the patent domestically. *McCoy v. Mitsuboshi Cutlery, Inc.*, 67 F.3d 917 (Fed. Cir. 1995).

A. Technical Prong.

59. One More Thing makes and has made significant and substantial investments in labor and capital, and engineering and research and development with respect to the Domestic Industry Product known as ‘Gap Guard’. The Gap Guard practices at least the following claims of the Asserted ‘314 Patent:

Asserted ‘314 Patent	Exemplary Practiced Claims
‘314 Patent	1–4, 6–10, 12–13, 14–19

60. The Gap Guard as a Domestic Industry Product practices the claims of the Asserted ‘314 Patent. These domestic industry products notably includes attachment means.

61. A claim chart demonstrating how the exemplary Domestic Industry Products practice these claims of the Asserted ‘314 Patent is attached as EX. 21.

B. Economic Prong.

62. The economic prong of the domestic industry requirement can be satisfied by demonstrating significant or substantial investment in exploitation of the patent through engineering, research and development, or licensing. 19 U.S.C. § 1337(a)(3)(A)–(C).

63. One More Thing, LLC (Entity No. L10000052465) was formed as a Florida limited liability company on or about September 19, 2013, as reflected in the 2013 Florida LLC Annual Report filed with the Florida Secretary of State (EX 22). From its inception, the company operated in the field of automotive accessories, ultimately commercializing the Gap Guard product—an article covered by the ‘314 Patent. Mr. R. Dale Pelfrey acquired rights to the ‘314 Patent in July 2011 and was the original managing member of One More Thing, LLC. Under his stewardship, One More Thing, LLC began investing in research and development, manufacturing, and marketing of the Gap Guard product as early as 2017. These expenditures were made with the full knowledge, acquiescence, and implicit authorization of Mr. Pelfrey as patent owner—creating an implied license running to One More Thing, LLC. See, *Windbond*, 262 F.3d at 1369–70 (implied license arises from acquiescence and course of dealing).
64. Effective January 1, 2021, R. Dale Pelfrey, as Trustee of the R. Dale Pelfrey Trust, transferred 100% of the membership interest in One More Thing, LLC to Jonathan Kotyk pursuant to a fully executed Sale of LLC Interest Agreement and companion Interest Assignment (CONFIDENTIAL EX. 23). These documents confirm that Kotyk acquired all ownership and operational responsibility for the company—and, critically, that the company’s ongoing commercial activities were known to and authorized by the patent owner. The Sale of LLC Interest Agreement expressly states that Pelfrey, as seller, warranted that the company was in compliance with applicable laws and was not subject to any pending or threatened legal proceedings. This warranty, made at the time of a commercial transaction involving the Gap Guard business, constitutes affirmative conduct by the patent owner indicating consent to One More Thing’s continued use of the

‘314 Patent. A patentee who sells his company’s operating business—including its core patented product line—to a buyer plainly consents to the buyer’s continued exploitation of that patent. *See, McCoy*, 67 F.3d at 920–21.

65. Mr. Kotyk subsequently obtained full rights to the ‘314 Patent on December 29, 2023, and has continued to allow One More Thing, LLC to use the ‘314 Patent in its commercial operations. Florida LLC Annual Reports for the years 2021 through 2026, each signed by Jonathan Kotyk as Manager/Owner, confirm the continuous, active operation of One More Thing, LLC throughout this period (EX. 24).
66. The record establishes an implied patent license running from the patent owner to One More Thing, LLC. From at least 2017 onward, One More Thing invested substantially in manufacturing and marketing the Gap Guard product—a product directly practicing the ‘314 Patent—with the full knowledge, participation, and acquiescence of the patent owners, R. Pelfrey (2017–2023) (wherein Mr. Kotyk was General Manager starting approx. 2019) and J. Kotyk (2023–present day). Operating under this implicit license, One More Thing, LLC has made substantial domestic investments in the Gap Guard product that satisfy multiple subsections of Section 337(a)(3). The record documents the following categories of expenditure:

1. Manufacturing and Capital Investment (19 U.S.C. § 1337(a)(3)(A)–(B))

67. One More Thing has placed substantial purchase orders for the manufacture of Gap Guard units, demonstrating significant capital investment in the production of the patented article. Purchase Order records in the record include:

- Flextech Foam Purchase Order (December 7, 2019): [[]] units of Gap Guard ([[]]) at \$[[]] per unit, totaling \$[[]], placed by One More Thing LLC DBA Gap Guard through Jonathan Kotyk as General Manager (CONFIDENTIAL EX. 25) (this material being used in the manufacture of the ‘Gap Guard’ product);
- Foundation Wellness Purchase Order (January 11, 2021): [[]] pieces of Gap Guard ([[]]) at \$[[]] per unit, totaling \$[[]] (CONFIDENTIAL EX. 26) (this material being used in the manufacture of the ‘Gap Guard’ product);
- Foundation Wellness Purchase Order (January 4, 2023): MOQ [[]] units of Dual Contour Leather FTK at \$[[]] each (\$[[]]) and MOQ [[]] units of Dual Contour Fabric FTK at \$[[]] each (\$[[]]), for a combined total of \$[[]] (CONFIDENTIAL EX. 27) (this material being used in the manufacture of the ‘Gap Guard’ product); and
- Coburn Carton Solutions Purchase Order (May 1, 2020): [[]] units of NAPA Carton (Die 3486) packaging at \$[[]] for packaging of the Gap Guard product (CONFIDENTIAL EX. 28) (this material being used in the manufacture of the ‘Gap Guard’ product).

2. Marketing and Advertising Expenditures (19 U.S.C. § 1337(a)(3)(B)–(C))

68. One More Thing has invested heavily in marketing and advertising the Gap Guard product, representing substantial labor and capital expenditure in the exploitation of the ‘314 patent:

- As Seen On TV Campaign (2018): One More Thing (then operating as One More Thing d/b/a Gap Guard) engaged AsSeenOnTV.pro (Fortune Media Group, Inc.)

pursuant to an agreement signed June 26, 2016 by Riley Dale Pelfrey, with a scheduling fee invoice dated [[]] totaling \$[[]] (CONFIDENTIAL EX. 29).

This campaign was designed to nationally broadcast and market the Gap Guard product to a mass consumer audience.

- Amazon Advertising (2017–2026): One More Thing has maintained continuous Amazon Sponsored Products and Sponsored Display advertising campaigns for the Gap Guard product since at least July 2017. The lifetime Amazon advertising data reflects total sales of \$[[]] generated from [[]] lifetime impressions and [[]] total clicks. Top advertising campaigns include “[[]” (\$[[]] in sales) and “[[]” (\$[[]] in sales), confirming sustained investment in e-commerce marketing (CONFIDENTIAL EX. 30);
- Expenditures totaling \$[[]] on Gap Guard packaging design from [[]] ([[]], ID) (CONFIDENTIAL EX. 31).

68. To summarize, One More Thing is a small-business LLC whose entire commercial enterprise is built around the Gap Guard product. Every dollar invested—in manufacturing, packaging, advertising, e-commerce infrastructure, and professional services—is an investment in the exploitation of the ‘314 patent. The record demonstrates:

- \$[[]] in direct manufacturing purchase orders ([[]]) and \$[[]] in package design ([[]]);
- \$[[]] in television advertising expenditure;

- \$[[]] in documented Amazon sales revenue driven by continuous paid advertising from [[]] to [[]];
- Continuous Florida LLC registration and compliance from 2013 through 2026—confirming an unbroken domestic commercial presence.

Taken together, these investments reflect a domestic industry that has been in continuous operation for over a decade, with no interruption in commercial activity, manufacturing procurement, or consumer-facing sales and marketing. This is precisely the type of domestic exploitation of a patent that Section 337 is designed to protect.

XI. RELIEF REQUESTED

69. The Proposed Respondents have induced infringement via their imported products and explicit instructions, and will continue to induce infringement of the Asserted ‘314 Patent as specified above unless the Commission prohibits the importation into the United States, the sale for importation, and the sale within the United States after importation of the Inducing Products.
70. Accordingly, Complainant respectfully requests that the United States International Trade Commission:
- a) Institute an immediate investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, into the Proposed Respondents’ violations of Section 337 arising from the importation into the United States, the sale for importation into the United States, and/or the sale within the United States after importation of certain vehicle space guard products, and components thereof;

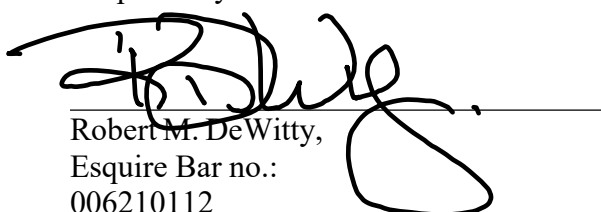
- b) Schedule and conduct a hearing, pursuant to 19 U.S.C. § 1337 (c), for purposes of receiving evidence and hearing argument concerning whether the Proposed Respondents have violated Section 337 and, following the hearing, find that the Proposed Respondents have violated Section 337;
- c) Issue a permanent limited exclusion order, pursuant to 19 U.S.C. § 1337(d)(1), excluding from entry into the United States certain **VEHICLE SPACE GUARD**, by the Proposed Respondents or any of their affiliate companies, parents, subsidiaries, licensees, or other related business entities, or their successors or assigns that induce infringement, whether that infringement be literal and/or under the doctrine of equivalents, one or more claims of the Asserted '314 Patent, including without limitation, the Inducing Products identified in this Complaint and the exhibits hereto;
- d) Issue a general exclusion order ("GEO"), pursuant to 19 U.S.C. § 1337(d)(2), excluding from entry into the United States all **VEHICLE SPACE GUARD** products that induce infringement, literally and/or under the doctrine of equivalents, one or more claims of the Asserted '314 Patent, regardless of the source, importer, seller, or distributor, on the grounds that (i) a pattern of violation of Section 337 exists and it is difficult to identify the source of all infringing products, and (ii) a general exclusion order is necessary to prevent circumvention of any limited exclusion order that may issue;
- e) Issue permanent orders, pursuant to 19 U.S.C. § 1337(f), directing the Proposed Respondents and any of their principals, stockholders, officers, directors, employees, agents, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns to cease and desist from importing, selling, offering for sale, marketing, advertising, demonstrating, packaging, warehousing

inventory for distribution, distributing, licensing, transfer, soliciting of any sale, or using in the United States certain **VEHICLE SPACE GUARD** that induce infringement, literally and/or under the doctrine of equivalents, one or more claims of the Asserted '314 Patent, including, without limitation, the Inducing Products, identified in this Complaint and the exhibits hereto;

- f) That the presiding Administrative Law Judge, at the appropriate time and in the exercise of the ALJ's discretion, consider referring this Investigation to the Commission's ADR program, subject to the agreement of all parties;
- g) Impose a bond, pursuant to 19 U.S.C. § 1337(j), on the Proposed Respondents' importation of **VEHICLE SPACE GUARD** that induce infringement of any claim of the Asserted '314 Patent sufficient to protect Complainant from further injury during the 60-day Presidential review period; and
- h) Grant all such other and further relief as is appropriate under the law, based upon the facts complained of herein and as determined by the Investigation.

DATED: May 29, 2026

Respectfully Submitted:



Robert M. DeWitty,
Esquire Bar no.:
006210112
D&A|RM DeWitty, U.S. Pat. Atty.,
LLC 1500 K Street, 2nd Fl., RM213
Washington, DC 20005

741 W. Jackson
Blvd #4216
Chicago, IL 60604
Tel: 202-571-7070 / 202-888-4309
Email: rmdewitty@dewittyip.com