

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

In the Matter of:

**CERTAIN VEHICLE SPACE
GUARDS**

Investigation No. 337-TA-_____

**AMENDED COMPLAINT OF JONATHAN BLACK
KOTYK UNDER SECTION 337 OF THE
TARIFF ACT OF 1930
PUBLIC VERSION OF CONFIDENTIAL DOCUMENT**

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I. INTRODUCTION

1. This Amended 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 Amended 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 Respondents, through their Accused/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) Respondent Drop Stop, LLC, creator of Drop Stop ® Installation Instructions (EX. 10), also directly and literally infringes one or more claims of Patent '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, 8-12, 15-16, 18, 19

4. As required by Sections 337(a)(2)-(3), an industry exists as the result of activities and investments in the United States relating to products that practice the Asserted ‘314 Patent. These activities include past and current expenditures directed to significant and substantial domestic investments in plant, equipment, labor, capital, and engineering.

5. As set forth in this Amended 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.

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 Amended 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 innovative solution involves the use of a space guard, positioned between a vehicle compartment and a vehicle seat, wherein the space guard can be contoured to fit the shape of the vehicle seat, and includes an attachment means such as Velcro or adhesive. The success of the solution resulted in an entire industry, focused on utilization of the ‘314 Patent solution. The ‘314 Patent exhibits the preeminent means of solution to this problem. In fact, the Respondents encourage and induce the utilization of the ‘314 means of solution. Drop Stop, LLC directly and literally infringes the ‘314 Patent as shown in its enclosed instructions.

11. Complainant Jonathan Black Kotyk is the owner of the ‘314 Patent and the owner of One More Thing, LLC (Florida), which makes and sells the product ‘Gap Guard’ which practices the ‘314 Patent. As set forth in paragraphs 56 – 58, One More Thing has continuously held an implicit license to the ‘314 Patent.

B. The Proposed Respondents

12. On information and belief, the Proposed Respondents include original equipment manufacturers, manufacturers, 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. Through its installation instructions (EX. 10), which are included in the packaging along with the Drop Stop product, Drop Stop, LLC verifies that it directly and literally infringes on the ‘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 40, 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 the filing of the original complaint.

iii. The Container Store, Inc.

17. Proposed Respondent The Container Store, 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, TX, 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 evidence, Respondent Walmart had knowledge of the ‘314 Patent and the allegations at least at the time of this filing (EX. 14-B).

v. Sportman's Market, Inc. (Sporty's)

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 Sporty's 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 Amended Complaint (EX. 6). As set forth in her 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 and direct infringement of the Asserted ‘314 Patent are vehicle space guards having attachment means for car seats. The Proposed Respondents induce infringement of the Asserted ‘314 Patent as (i) there is evidence of direct infringement (EXs. 6 and EX. 17) by Drop Stop, LLC and non-respondent Christine Black; (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 entitled "VEHICLE GAP GUARD" issued on May 5, 2009, naming Jewel Dohan as inventor. The '314 Patent claims priority to provisional patent application US 60/734,380 (App. 2). The '314 Patent, including term of extension, expires March 14, 2027. A copy of the '314 Patent is attached as EX. 1. The original complaint was accompanied by a copy of the prosecution history for the '314 Patent (App. 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). Copies of the assignments are attached as EXs. 1-B, 1-C.¹ Riley Dale Pelfrey and GBS HOLDINGS, LLC entered into a non-exclusive license agreement, attached as Confidential EX. 19. One More Thing, LLC, begun by Mr. Pelfrey in 2013, held an implicit license to use the '314 Patent in the development and commercialization of the Gap Guard product. The implicit license to One More Thing continued when Mr. Kotyk acquired rights to the '314 Patent.

B. Non-Technical Description

27. The '314 Patent generally relates to a product, system, and method which fills the space between a vehicle's seat and the vehicle's middle, or center, console. The inserted product may be contoured to fit between the seat and console, and includes a section for inserting over the seat belt buckle, and an attachment means for allowing the product to securely attach to the seat. The attachment can be Velcro or an adhesive.

C. Foreign Counterparts and Domestic Counterparts

¹ ¹ Complainant has requested certified copies and will file them once received from the USPTO.

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 or Velcro to its Inducing Product. These instructions were included within the packaging of the Inducing Product and on its website (EX. 10-A/10-B). 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). Drop Stop, as shown on its enclosed Installation Instructions, directly and literally, infringed the '314 Patent. On information and belief, Drop Stop Inducing Products are manufactured in People's Republic of China.

33. 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.

34. 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.

35. On information and belief, Walmart’s Inducing Products are manufactured in People’s Republic of China.

36. 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, Inc.

37. 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.

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

39. 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.

40. 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).

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

42. 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. Sportman’s Market, Inc. (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	1-4, 6, 8-12, 14-16, 18, 19
Walmart	1-4, 6, 8-12, 14-16, 18, 19
The Container Store	1-4, 6, 8-12, 14-16, 18, 19
232, Inc.	1-4, 6, 8-12, 14-16, 18, 19
Sporty's	1-4, 6, 8-12, 14-16, 18, 19

48. Non-respondent C. Black and Drop Stop, LLC. infringe, directly and literally and/or under the doctrine of equivalents, the claims of the '314 patent, as shown in the Claim Chart at EX. 17, which is applicable to both non-respondent C. Black and Drop Stop, LLC.

Non-respondent C. Black is not licensed, either implicitly or explicitly, to practice the claims of the '314 patent (see, Black Declaration).

49. Drop Stop, LLC is not a licensee of the Asserted '314 Patent. Drop Stop, as shown on its included instructions, notably the images, directly and literally infringed the claims of the '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 with respect to the articles protected by the asserted intellectual property rights. 19 U.S.C. § 1337(a)(2)-(3). One More Thing, a legal entity based in the State of Florida, satisfies the domestic industry requirement through its substantial investment in the development, engineering, and manufacture of the Gap Guard product, which is covered by the ‘314 Patent. As discussed below, One More Thing possesses an implicit license, first from Mr. R. Dale Pelfrey and then from Mr. J. Kotyk.

56A. In 2011, Mr. Pelfrey acquired rights to the ‘314 Patent from inventor Jewel Dohan. Mr. Pelfrey began One More Thing in 2013 and began working on the development of the Gap

Guard. Several years after One More Thing started operations, Mr. Kotyk became manager of the company. With Mr. Pelfrey's direction and knowledge, Mr. Kotyk continued purchasing product from U.S. suppliers to manufacture Gap Guard (EX. 52: Declaration of J. Kotyk). Mr. Kotyk worked with U.S.-based suppliers because of Mr. Pelfrey's belief in using U.S. companies (Kotyk Declaration). In 2021, Mr. Kotyk purchased One More Thing from Mr. Pelfrey and continued the manufacture, development, and marketing of the Gap Guard through the company. Mr. Kotyk acquired ownership of the '314 Patent in 2023, and, through the company, continued practicing the '314 Patent through Gap Guard.

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 the 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. *Wang Laboratories, Inc. v. Mitsubishi Electronics America, Inc.*, 103 F.3d 1571, 1580, 41 USPQ2d 1263 (Fed. Cir. 1997), quoting, *De Forest Radio Telephone Telegraph Co v. United States*, 273 U.S. 236 (1927) ("No formal granting of a license is necessary in order to give it effect."). Implied licenses have been determined to arise by acquiescence or by conduct. *AMP INCORPORATED v. United States*, 389 F.2d 448 (Fed. Cl. 1968). The labels of acquiescence and conduct set forth the rationale for reaching the determination of 'implied license'. *Id.*, *Wang Laboratories*. 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, 920 (Fed. Cir. 1995).

58. In this case, because of the direction and Mr. Pelfrey, owner of '314 Patent, to allow One More Thing to manufacture, arrange the manufacture, and market the Gap Guard, his conduct should be viewed as creating an implied license in One More Thing to the '314 Patent. In the

interim period, when Mr. Pelfrey owned the ‘314 Patent and Mr. Kotyk owned One More Thing, the manufacture, development, and marketing of Gap Guard through the company did not stop. In fact, the activity grew (Kotyk Declaration). Mr. Kotyk’s continuing activities, under the One More Thing umbrella, to manufacture, develop, and market Gap Guard, following his acquisition of the ‘314 Patent, support the determination of an implied license of the ‘314 Patent existed between Kotyk and One More Thing.

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, 8-12, 14-16, 18, 19

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

62A. United States Patent 7,527,314 is for a product that catches items that may fall from a driver's pocket during vehicle operation. The company One More Thing vigorously developed, manufactured, and promoted Gap Guard, a product covered under the patent. From the start, One More Thing sourced materials, labor, and resources for Gap Guard domestically. The promotional success of Gap Guard is clear by the number of later competitors to the 'car seat space filler' market. And while the company's expenditures to achieve promotional success are numerous and documented, they were not able to secure big box retailer placement. Nevertheless, Gap Guard achieved recognition as the most secure car seat space filler product through its attachment mechanism, resulting in copying and infringement of the patent. See, Declaration of Jonathan B. Kotyk (Confidential EX. 52).

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). 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. .

64. Effective January 1, 2021, R. Dale Pelfrey, as Trustee of the R. Dale Pelfrey Trust, transferred [REDACTED] 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, Pelfrey. 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.

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. Throughout his time both as manager and owner, Mr. Kotyk devoted significant time to growing and building the Gap Guard product (Kotyk Declaration). Mr. Kotyk is still in the process of obtaining older documents and receipts, which will be submitted during discovery. He will testify thereto at trial. Mr. Kotyk will also be reporting on tax receipts of One More Thing, LLC, which will be submitted during discovery.

67. The record establishes One More Thing, LLC has made substantial domestic investments in the Gap Guard product that satisfy multiple subsections of Section 337(a)(3). The examples presented here are representative and not exhaustive. Complainant Kotyk will testify to these and other documents in support of One More Thing's domestic industry. The record documents the following categories of expenditure:

1. Investment in Plant and Equipment (19 U.S.C. §1337(a)(3)(A))

67. One More Thing has invested at least [REDACTED] in plant and equipment for the Gap

Guard product, representing significant investment in the exploitation of the ‘314 Patent, with example expenditures including:

The die charge, plates, and file prep fees represent investment in production tooling/equipment used to manufacture the domestic product (A), including:

- Coburn Carton Solutions PO (5/1/2020) for NAPA Carton Die #3486 (4,000 @ [REDACTED]/M) (EX. 28);
- Flextech Foam Invoice #2 (12/7/2019) – 10,000 pcs Gap Guard ES202 CHAR/Fabric foam component (EX. 25);
- Foundation Wellness PO (1/11/2021) – 13,600 pcs Gap Guard foam wrapped in fabric (EX. 26); and
- Foundation Wellness PO (1/4/2023) – Dual Contour Leather FTK (EX. 27).

Print setup/tooling fee for producing custom retail displays is an investment in equipment used in connection with the domestic product, including:

- Cactus Containers order form (9/27/2017) – Stock Countertop Display Model #9007 (EX. 36)

Complainant reserves the right to supplement these expenditures in testimony and discovery (Kotyk Declaration).

2. Investment in Employment of Labor or Capital (19 U.S.C. §1337(a)(3)(B))

68. One More Thing has invested at least [REDACTED] in labor and capital for the Gap

Guard product, representing significant investment in the exploitation of the ‘314 Patent, with example expenditures including:

- Flextech Foam Invoice #2 (12/7/2019) – 10,000 pcs Gap Guard ES202 CHAR/Fabric

foam component (EX. 25);

- Foundation Wellness PO (1/11/2021) – 13,600 pcs Gap Guard foam wrapped in fabric (EX. 26);

- Foundation Wellness PO (1/4/2023) – Dual Contour Leather FTK (2,000 @ [REDACTED]) and

Dual Contour Fabric FTK (EX. 27);

- Amazon Advertising campaign performance report (EX. 30) supporting Sales figures evidence domestic sales activity;

- “Gap Guard Report” email (11/24/2017) summarizing retail placement and sales-development efforts: Penske, Porsche (sourcing leather/foam “Executive Line” from a U.S. manufacturer) (EX. 32);

- Nine-page list of Texas convenience stores (LSBA number, Store ID/DBA, brand, operating entity, sales tax number) – hundreds of Shell, Chevron, Exxon, Texaco, Valero, and Mobil locations (EX. 35);

- Gap Guard Invoice #5 (6/27/2018) to Coastline Sales Automotive Accessories – 348 units of Gap Guard single units with counter displays (EX. 38);

- Distributor Agreement (3/23/2018) between One More Thing LLC and Accent Marketing LLC – non-exclusive distribution rights (EX. 39);

- Accent Marketing Invoices (EXs. 40-43);

- One More Thing LLC DBA Gap Guard invoice to Lat Long Trade LLC DBA Primo Lines (order dated 9/23/2020, invoiced 10/6/2020) (EX. 44);

- Lat-Long Trade / Primo Lines Request for Quotation (EXs. 46-51); and

- Labor contribution by Jonathan B. Kotyk in the development of the Gap Guard as

manager/owner of One More Thing, LLC (Confidential EX. 52, ¶¶19A-19B).

Complainant reserves the right to supplement these expenditures in testimony and Discovery (Kotyk Declaration).

3. Investment in its exploitation, including engineering, research and development, and marketing (19 U.S.C. §1337(a)(3)(C))

69. One More Thing has invested at least [REDACTED] in engineering, research and development, and marketing the Gap Guard product, representing significant investment in the exploitation of the ‘314 Patent, with example expenditures including:

- Foundation Wellness PO (1/4/2023) – Dual Contour Leather FTK and Dual Contour Fabric FTK (EX. 27);
- AsSeenOnTV.pro advertising campaign per agreement signed June 26, 2016. (EX. 29);
- Amazon Advertising campaign performance report (EX. 30);
- SmashBrand branding and packaging design invoices (EX. 31);
- “Gap Guard Report” email (11/24/2017) summarizing retail placement and sales-development efforts: Penske, Porsche (sourcing leather/foam “Executive Line” from a U.S. manufacturer) (EX. 32);
- CoForce, LLC on Invoice #1086 (EX. 33);
- Email from Joe Sabo (NAPA Balkamp, 9/8/2017) re: “Possible opportunity for Gap Guard at NAPA AUTO PARTS,” (EX. 34);
- Cactus Containers order form (9/27/2017) – Stock Countertop Display Model #9007 (EX. 36);
- Lone Star Business Association Cooperative Invoice #240 (1/17/2020), billed to Gapgard LLC, for “LSBAC Member Trade Show 2020 (EX. 37);

- Nine-page Distributor Agreement (3/23/2018) between One More Thing LLC and Accent Marketing LLC – non-exclusive distribution rights (EX. 39);
- Accent Marketing Invoice (EXs. 40-43);
- Commission Agreement between One More Thing, LLC and Jonathan Kotyk (EX. 45).;
- Marketing investment by Jonathan B. Kotyk (see, EX. 52, ¶¶10, 11, 13, and 14); and
- R&D/Engineering investment made by Jonathan B. Kotyk (see, EX. 52, ¶¶ 20, 21).

Complainant reserves the right to supplement these expenditures in testimony and discovery (Kotyk Declaration).

X. RELIEF REQUESTED

70. The Proposed Respondents have induced infringement *via* their imported products and explicit instructions, and will continue to induced 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. Respondent Drop Stop, LLC directly infringes the asserted claims of the ‘314 Patent.

71. 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 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;

e) 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

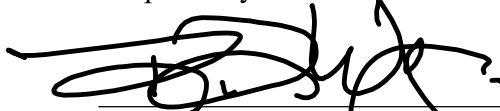
program, subject to the agreement of all parties;

f) 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

g) 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.

DATE: June 17, 2026

Respectfully Submitted:

A handwritten signature in black ink, appearing to read 'R. DeWitty', is written over a horizontal line.

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