

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

CERTAIN WOMEN’S FLATS WITH
COLORED OUTSOLES THEREOF

Investigation No. 337-TA-1428

COMMISSION OPINION

TABLE OF CONTENTS

I.	INTRODUCTION	2
II.	BACKGROUND	3
A.	Procedural History	3
B.	The Asserted Patents.....	7
C.	The Accused Products.....	7
D.	The Domestic Industry Products.....	7
III.	COMMISSION REVIEW OF THE FINAL ID.....	8
IV.	ANALYSIS OF THE ISSUE UNDER REVIEW: ECONOMIC PRONG OF THE DOMESTIC INDUSTRY WITH RESPECT TO THE D’928, D’951, D’927, D’812, and D’853 PATENTS.....	9
V.	REMEDY, THE PUBLIC INTEREST, AND BONDING.....	14
A.	Remedy	14
B.	Public Interest	21
C.	Bonding.....	24
VI.	CONCLUSION.....	25

I. INTRODUCTION

On September 8, 2025, the Commission determined to review in part the initial determination (“ID”) (Order No. 10) issued by the presiding administrative law judge (“ALJ”) on July 23, 2025. 90 Fed. Reg. 43629-630 (Sept. 10, 2025). On review, the Commission has determined that there has been a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“section 337”), with respect to U.S. Design Patent Nos. D681,928 (“D’928 patent”), D844,950 (“D’950 patent”), D844,951 (“D’951 patent”), D681,927 (“D’927 patent”), D781,035 (“D’035 patent”), D781,032 (“D’032 patent”), D686,812 (“D’812 patent”), and D688,853 (“D’853 patent”) (collectively, the “Asserted Patents”), as well as to Complainant Gavrieli Brands LLC’s (“Complainant”) trade dress (“Asserted Trade Dress”).

All respondents have been found in default. The Commission has determined that Complainant has established a domestic industry under section 337(a)(3)(B) and thus there has been a violation of section 337. Having found a violation, the Commission has determined to issue (1) a general exclusion order (“GEO”) prohibiting entry of products that infringe the claims of the D’928, D’951, D’927, D’812, and D’853 patents; and (2) a limited exclusion order (“LEO”) prohibiting entry of products that infringe the claims of the D’950, D’035, and D’032 patents and the Asserted Trade Dress as set forth in the chart below:

Issued LEO				
	D'950 Patent	D'035 Patent	D'032 Patent	Asserted Trade Dress
One Drop	X	X	X	X
Craze	X	X		X
Piergitar	X	X	X	X
Guangzhou Shou Cheng	X	X		X
Shengze Trading Company	X	X		X
Huihui	X	X		X
Bingxin Qingfeng	X	X	X	X
Baiqiuju1983	X	X		X
Tb249835650	X	X	X	X
Yuyoufang	X	X	X	X
Xu Wenping	X	X		X
Ynwll	X	X		X

The Commission also has determined to set a bond of one hundred percent (100%) of the entered value of the covered products during the period of Presidential review. The Commission finds that the public interest factors do not preclude the issuance of these remedial orders. This opinion sets forth the Commission's reasoning in support of these determinations.

II. BACKGROUND

A. Procedural History

On December 18, 2024, the Commission instituted this investigation based on a complaint filed by Complainant Gavrieli Brands LLC of Culver City, California. 89 Fed. Reg.

102951-53 (Dec. 18, 2024). The complaint, as supplemented, alleged violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain women's flats with colored outsoles thereof by reason of infringement of the claim of one or more of the Asserted Patents. *Id.* The complaint also alleged violations of section 337 based upon the importation into the United States, and in the sale within the United States after importation of certain women's flats with colored outsoles thereof by reason of infringement of the Asserted Trade Dress, the threat or effect of which is to destroy or substantially injure an industry in the United States. *Id.* at 102952. The complaint further alleged that a domestic industry exists. *Id.* The Commission's notice of investigation named as respondents Kijera's OneDrop LLC d/b/a "OneDrop Clothing" ("OneDrop") of New York, New York; CrazeFashionShoes ("Craze") of Philippines; Pierjeda Information Technology Co., Ltd. d/b/a "Piergitar" ("Piergitar"), and Guangzhou Shun Cheng Trading Co., Ltd. d/b/a "koshio_luxury_shoes" ("Guangzhou Shun Cheng") of Guangzhou, China; Zhangpu County Shengze Trading Company d/b/a "Trend is awesome" ("Shengze Trading Company") of Zhangshou City, China; Kunming Ouxiang Trading Co., Ltd. d/b/a "funny_store 23" ("Kunming Ouxiang") of Kunming City, China; Huihui Bianan d/b/a "The Other Side of HuiHui" ("Huihui") of Beijing, China; Bingxin Qingfeng d/b/a "Leather women's shoes clearance sale" ("Bingxin Qingfeng") of Zhongshan City, China; Baiqiuju1983 d/b/a "Singing barefoot in the trees" ("Baiqiuju1983"), tb249835650 d/b/a "If I am sincere, I will be free" ("tb249835650"), Yuyoufang Foreign Trade Store d/b/a "Ten Mile Chunfeng Store BBC20199" ("Yuyoufang"), and Xu Wengping 123 d/b/a "Cinderella Fashion House 888" ("Xu Wengping") of Zhongshan City, China; and Ynwll d/b/a "Xiao Chenchen's foreign trade shoes" ("Ynwll") of Huilonguan,

China (collectively, “Respondents”). *Id.* The Office of Unfair Import Investigations (“OUII”) is also a party to this investigation. *Id.*

On June 3, 2025, the Commission found all Respondents in default after they failed to respond to the order to show cause. *See* Order No. 8 (May 13, 2025), *unreviewed by* Comm’n Notice (Jun. 3, 2025).

On June 20, 2025, Complainant moved for summary determination on violation of section 337 by the Respondents seeking a GEO under section 337(g)(2) against any articles that infringe the Asserted Patents and Asserted Trade Dress and, in the alternative, an LEO under section 337(g)(1) against the Respondents’ articles that infringe the Asserted Patents and the Asserted Trade Dress.¹ Compl. SD Mot. at 1, 130. Complainant submitted a declaration by its expert, Mr. Andrew Clarke, in support of this motion.² Complainant also requested that the bond be set at one hundred percent (100%) of the entered value of the infringing articles imported during the period of Presidential review. *Id.* at 132. On July 10, 2025, Complainant filed a notice of withdrawal of its request for a GEO for the D’950, D’035, and D’032 patents. On July 11, 2025, OUII filed a response supporting Complainant’s motion for summary determination. On July 14, 2025, Complainant filed a second notice of withdrawal in which it withdrew those portions of its motion requesting a finding of a violation under section 337(g)(2) in support of issuing a GEO based on the accused products of respondents OneDrop, Guangzhou Shun Cheng, Kunming Ouxiang, and Yuyoufang.

¹ Complainant’s Memorandum in Support of its Motion for Summary Determination (“Compl. SD Mot.”) (June 20, 2025).

² Declaration of Andrew T. Clarke, CFA In Support of Complainant’s Motion for Summary Determination (“Clarke Decl.”).

On July 23, 2025, the ALJ issued the present ID, which granted Complainant's motion for summary determination of violation of section 337. Specifically, the ID found a violation of section 337 by Piergitar, Bingxin Qingfeng, and tb249835650 based on the importation of products infringing the claims of the D'928, D'951, D'927, D'812, and D'853 patents. Order No. 10 at 14-31. The ID also found that the domestic industry requirement was satisfied with respect to those patents and the evidence supporting its finding of a violation to be substantial, reliable, and probative. *Id.* at 38-42. The ID include a recommended determination ("RD") that recommended a GEO based on the claims of the D'928, D'951, D'927, D'812, and D'853 patents under section 337(g)(2), as well as a bond of one hundred percent (100%) of the entered value of the infringing articles imported during the period of Presidential review. *Id.* at 38-42. The RD did not provide a recommendation on Complainant's request for an LEO under section 337(g)(1) against Respondents' infringing articles, noting that "[u]nder Commission rules, the complaint's assertions surrounding these acts are assumed to be true, and limited exclusion orders must issue." *Id.* at 13. Thus, the ID did not make any findings or remedy recommendations with respect to the D'950, D'035, and D'032 patents and the Asserted Trade Dress. The ID also terminated the investigation before the ALJ. *Id.* at 42. No party filed a petition for review of the subject ID.

On September 8, 2025, the Commission determined to review the subject ID's findings regarding the economic prong of the domestic industry and affirmed the remainder of the ID. 90 Fed. Reg. 43629-630 (Sept. 10, 2025). The Commission also sought briefing on remedy, the public interest, and bonding. *Id.*

On September 22, 2025, Complainant and OUII each filed written submissions on remedy, the public interest, and bonding.³ On September 29, 2025, Complainant and OUII each filed a reply. No other submissions were filed.

On April 16, 2026, the Commission requested the parties to submit additional briefing on the expiration dates of the Asserted Patents. Comm’n Notice (Apr. 16, 2026). Complainant filed a reply on April 23, 2026.

B. The Asserted Patents

The designs at issue in this investigation relate to women’s ballet flats with colored outsoles thereof. The Asserted Patents generally claim an outsole design on a ballet flat and the Asserted Trade Dress consists of a blue sole on footwear. The Asserted Patents and the Asserted Trade Dress are recited in the ID. Order No. 10 at 10-13.

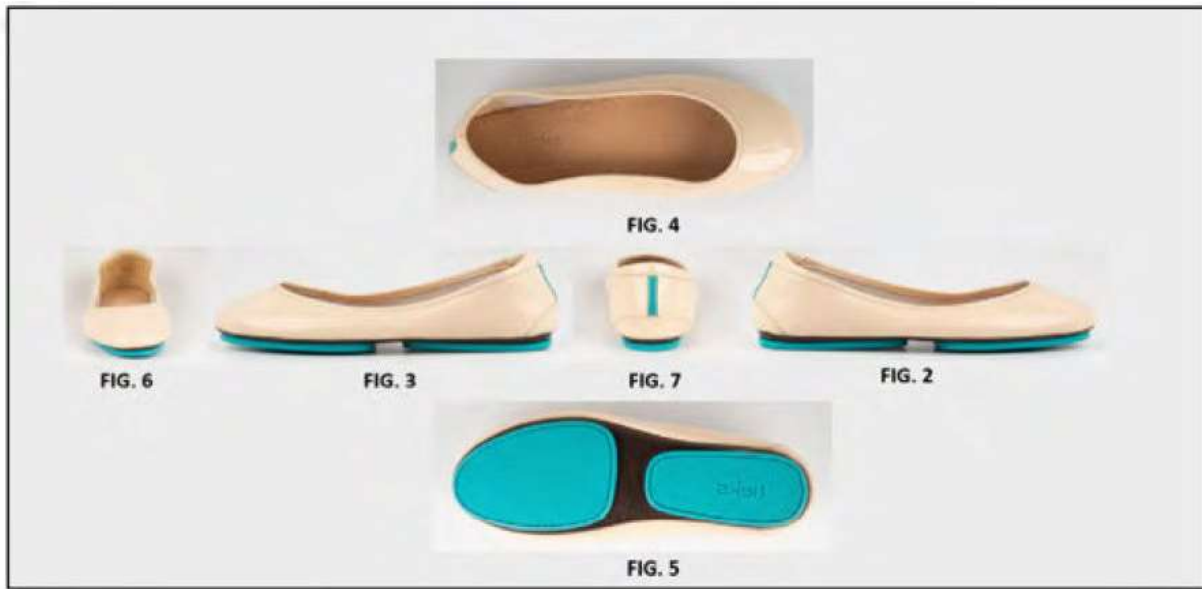
C. The Accused Products

The plain language description of the accused products is “women’s ballet flats with colored outsoles thereof.” 89 Fed. Reg. 102952 (Dec. 18, 2024). The products accused of infringing the Asserted Patents and the Asserted Trade Dress are recited in the ID at pages 22-30. Order No. 10 at 22-30.

D. The Domestic Industry Products

The domestic industry product is Complainant’s Tieks shoes (the “DI Product”), an example of which is reproduced below:

³ Complainant’s Written Submission on the Issue Under Review and n Remedy, the Public Interest, and Bonding (Sept. 22, 2025) (“Compl. Br.”); Response of the Office of Unfair Import Investigations to the Commission’s Request for Written Submission on Remedy, the Public Interest, and Bonding (Sept. 22, 2025) (“OUII Br.”).



Complaint at ¶ 289.

III. COMMISSION REVIEW OF THE FINAL ID

When the Commission reviews an initial determination, in whole or in part, it reviews the determination *de novo*. *Certain Electronic Stud Finders, Metal Detectors and Electrical Scanners*, Inv. No. 337-TA-1221, Comm’n Op. at 9 (Feb. 15, 2022) (citations omitted), *aff’d*, *Zircon Corp. v. Int’l Trade Comm’n*, 101 F.4th 817 (Fed. Cir. 2024). Upon review, the “Commission has ‘all the powers which it would have in making the initial determination,’ except where the issues are limited on notice or by rule.” *Certain Electronic Devices, Including Streaming Players, Televisions, Set Top Boxes, Remote Controllers, and Components Thereof* (“*Streaming Players*”), Inv. No. 337-TA-1200, Comm’n Op. at 7 (Nov. 10, 2021) (citations omitted), *aff’d*, *Roku, Inc. v. Int’l Trade Comm’n*, 90 F.4th 1367 (Fed. Cir. 2024). With respect to the issues under review, “the Commission may affirm, reverse, modify, vacate, or remand for further proceedings, in whole or in part, the initial determination of the administrative law judge.” 19 C.F.R. § 210.45(c). The Commission also “may take no position on specific issues or portions of the initial determination,” and “may make any findings or conclusions that in its

judgment are proper based on the record in the proceeding.” *Id.*; *see also Beloit Corp. v. Valmet Oy*, 742 F.2d 1421, 1423 (Fed. Cir. 1984).

IV. ANALYSIS OF THE ISSUE UNDER REVIEW: ECONOMIC PRONG OF THE DOMESTIC INDUSTRY WITH RESPECT TO THE D’928, D’951, D’927, D’812, and D’853 PATENTS

The Commission determined to review the ID’s findings regarding the economic prong of the domestic industry requirement for the D’928, D’951, D’927, D’812, and D’853 patents. 90 Fed. Reg. 43629-630 (Sept. 10, 2025). The Commission’s findings, conclusions, and supporting analysis follow. The Commission affirms and adopts the ID’s findings, conclusions, and supporting analysis that are not inconsistent with the Commission’s opinion.

When a section 337 investigation is based on allegations of patent infringement, the complainant must show that “an industry in the United States, relating to the articles protected by the patent . . . exists or is in the process of being established.” 19 U.S.C. § 1337(a)(2). “[A]n industry is considered to exist if there is in the United States, with respect to the articles protected by the patent . . . concerned –

(A) significant investment in plant and equipment;

(B) significant employment of labor or capital; or

(C) substantial investment in its exploitation, including engineering, research and development, or licensing.”

19 U.S.C. § 1337(a)(3). Because the statutory criteria are listed in the disjunctive, satisfaction of any one of them will be sufficient to meet the economic prong of the domestic industry requirement. *See InterDigital Commc’ns*, 707 F.3d at 1303 n.4; *Certain Variable Speed Wind Turbines and Components Thereof*, Inv. No. 337-TA-376, Comm’n Op. at 15, USITC Pub. No. 3003 (Nov. 1996).

[REDACTED]

The ID found that the Complainant satisfied the economic prong with respect to the D'928, D'951, D'927, D'812, and D'853 patents under section 337(a)(3)(B) without reaching a determination on Complainant's assertion that the economic prong under section 337(a)(3)(A) is also satisfied. As discussed below, the Commission modifies and supplements the ID's analysis and affirms the ID's finding that the economic prong has been satisfied under section 337(a)(3)(B). The Commission takes no position on section 337(a)(3)(A).

With respect to section 337(a)(3)(B), the ID credited labor expenses as well as capital expenses for advertising, information technology capabilities, and shipping and distributing. Order No. 10 at 36-37. Specifically, the ID identified approximately [REDACTED] [REDACTED] related to the DI Product, consisting of salary and bonuses of [REDACTED] and [REDACTED], respectively, and an additional [REDACTED] in payroll taxes and [REDACTED] in healthcare costs. *Id.* at 36 (citing Compl. SD Mot. at 108-109; Clarke Decl. at ¶ 69). With respect to capital, the ID identified approximately [REDACTED] in expenditures related to the DI Product consisting of [REDACTED] for advertising, [REDACTED] for certain information technology capabilities, and another [REDACTED] in product shipping and distribution. *Id.* at 36-37 (citing Compl. SD Mot. at 109-110; Clarke Decl. at ¶¶ 71-73).

The Commission determines that Complainant's domestic labor expenditures, as credited by the ID, without the capital expenses, satisfy the economic prong of the domestic industry requirement under section 337(a)(3)(B), for the reasons discussed below. The Commission takes

⁴ The ID's crediting of [REDACTED] for product shipping and distribution appears to be a typographical error, as Dr. Clarke's declaration shows [REDACTED] (Clarke Decl. at Ex. 6) and the ID's calculation of [REDACTED] for the total qualifying investment under section 337(a)(3)(B) is consistent with including the [REDACTED] amount. Order No. 10 at 36-37.

no position on the ID's findings for capital expenditures under section 337(a)(3)(B). Order No. 10 at 36-37.

As discussed herein, the Commission finds that Complainant's approximately [REDACTED] [REDACTED] in labor expenses are significant based upon a holistic review of the record.⁵ While a domestic-to-foreign comparison is not required to establish the economic prong, the record here included such evidence, and the ID relied on that evidence to make such a comparison between Complainant's domestic labor and capital investments and amounts paid to [REDACTED] [REDACTED]. Order No. 10 at 37-38 (citing *Wuhan Healthgen Biotechnology Corp. v. Int'l Trade Comm'n*, 127 F.4th 1334, 13339 (Fed. Cir. 2025)); see also *Certain Bone Cements, Components Thereof and Products Containing the Same*, 337-TA-1153, Comm'n Op. at 26 (Jan. 12, 2021) (In determining a domestic industry, "one methodological approach the Commission has used in both pre- and post-1988 investigations is 'comparing complainant's domestic expenditures to its foreign expenditures.'"); *Lelo Inc. v. Int'l Trade Comm'n*, 786 F.3d 879, 883–84 (Fed. Cir. 2015).

The ID generally describes Complainant's domestic activities. Order No. 10 at 34-35. Specifically, Complainant engages in the following domestic activities related to the DI Products: inspection and quality control; final assembly; stretching; product servicing and repair; product design and mockups; product prototyping; customer and technical support; marketing; advertising; online storefront maintenance; the creation of customer care cards and other customer-facing documents; packaging; shipping; shipping management; and sales of the

⁵ Because the D'928, D'951, D'927, D'812, and D'853 patents all cover the DI Product, (see Order No. 10 at 21, 31-34), the full [REDACTED] in labor expenses related to the DI Product is attributable to each of these patents. See *Zircon v. Int'l Trade Comm'n*, 101 F.4th 817, 824 (Fed. Cir. 2024).

[REDACTED]

DI Product. *Id.*; *see also* CX-013C at 3-4; CX-012C at Q/A 17. Complainant's employees typically engage in a range of activities attributable to the DI Products, including production-related activities (final assembly, servicing and repair, supply chain management), product design and development activities (research, design, marketing), and customer service. *See* CX-013C at 3-4; CX-012C at Q/A 17. Moreover, Complainant's production-related activities in the United States include both preliminary activities (*i.e.*, [REDACTED]), [REDACTED], final assembly activities (*i.e.*, [REDACTED]), [REDACTED], and packaging and distribution activities, which add value to the DI Products. *See* CX-013C at 3, 6-9; CX-012C at Q/A 17, 19.

The Commission modifies the ID to consider only domestic labor expenses in the domestic-to-foreign comparison given that the Commission is taking no position on the capital expenditures. The period for which Complainant provided foreign expenditure data spans January 2021 to December 2023. During that period, Complainant's total domestic expenditures for labor were [REDACTED] Clarke Decl. Exs. 6, 11. These labor expenditures were in support of the DI Product because the DI Product is Complainant's only product. Order No. 10 at 37; *see also* Clarke Decl. at ¶¶ 68, 70. Complainant has no employees, facilities or equipment outside of the U.S., [REDACTED]

[REDACTED] Order No. 10 at 35, 37. During that same time frame (January 2021 to December 2023), Complainant spent [REDACTED] on foreign expenditures for the DI Product that include [REDACTED]. Clarke Decl. at ¶¶ 89, 90, Exs. 6, 20, 21 (discussing [REDACTED] the DI Product).

Comparing the labor expenditures incurred during the January 2021 to December 2023 period shows that Complainant's domestic labor for the DI Product is significant compared to the amount paid for [REDACTED] of the DI Product (*i.e.*, [REDACTED] in domestic investments versus [REDACTED] in foreign investments). Clark Decl. at ¶¶ 89-90, Exs. 6, 11, 20, 21.

In addition to this domestic/foreign comparison, the Commission supplements the ID to address additional contextual evidence, including sales revenue evidence, that Complainant offered to support the significance of its domestic investments. *See* Compl. SD Mot. at 116. Complainant's labor expenditures in 2023 [REDACTED] are approximately [REDACTED] of total revenues [REDACTED] and [REDACTED] in 2024 [REDACTED] in labor expenditures and [REDACTED] in revenue). Clarke Decl. at ¶ 90, Exs. 3 and 6. This shows that Complainant's labor expenditures had a large investment-to-revenue ratio.

Further, Complainant's domestic labor is directed to the final assembly, design and development, customer service, and marketing efforts of the DI Product, which are performed entirely within the U.S. Clarke Decl. at ¶ 81. These U.S. based activities [REDACTED] [REDACTED] provide a significant value-add. *Id.*; *see also Wuhan*, 127 F.4th at 1339 ("We also recognize the value added by domestic operations as a quantitative factor in assessment." (citing *Lelo*, 786 F.3rd at 884)). Additionally, the DI Product is essentially Complainant's only product, with revenue of almost [REDACTED] from 2021 through September of 2024. Clarke Decl. at Ex. 3.

In view of these facts, the Commission determines that Complainant's investments in labor alone are significant and meet the economic domestic industry requirement under section

337(a)(3)(B). The Commission takes no position on the ID’s findings for capital expenditures under section 337(a)(3)(B). Order No. 10 at 36-37.

V. REMEDY, THE PUBLIC INTEREST, AND BONDING

A. Remedy

The Commission has “broad discretion in selecting the form, scope, and extent of the remedy.” *Philip Morris Products S.A. v. Int’l Trade Comm’n*, 63 F.4th 1328, 1339-1340 (Fed. Cir. 2023).

As discussed below, the Commission adopts the RDs recommendations and supporting analysis, and determines to issue (1) a GEO under section 337(g)(2) (where subparagraphs (A) and (B) of subsection (d)(2) are met) as to the claims of the D’928, D’951, D’927, D’812, and D’853 patents; and (2) an LEO under section 337(g)(1)(2) prohibiting entry of products that infringe the claims of the D’950, D’035, and D’032 patents and the Asserted Trade Dress as set forth in the chart below:

Issued LEO				
	D’950 Patent	D’035 Patent	D’032 Patent ⁶	Asserted Trade Dress
One Drop	X	X	X	X
Craze	X	X		X
Piergitar	X	X	X	X
Guangzhou Shou Cheng	X	X		X

⁶ Complainant’s motion asserted that OneDrop, Piergitar, Bingxin Qingfeng, and tb249835650 infringe the D’032 patent. Compl. SD Mot. at 32. The complaint included allegations that OneDrop, Piergitar, Bingxin Qingfeng, tb249835650, and Yuyoufang infringe the D’032 patent. Complaint at ¶¶ 166 (OneDrop), 176 (Piergitar), 207 (Bingxin Qingfeng), 223 (tb249835650), 233 (Yuyoufang).

Issued LEO				
	D'950 Patent	D'035 Patent	D'032 Patent ⁶	Asserted Trade Dress
Shengze Trading Company	X	X		X
Huihui	X	X		X
Bingxin Qingfeng	X	X	X	X
Baiqiuju1983	X	X		X
Tb249835650	X	X	X	X
Yuyoufang	X	X	X	X
Xu Wenping	X	X		X
Ynwll	X	X		X

Complainant does not request any cease and desist orders (“CDOs”); therefore, the Commission finds that CDOs are not warranted in this investigation. *See* Compl. Sd Mot. at 117-131. The Commission also finds that the public interest factors do not preclude the issuance of this remedy and determines to impose a bond in the amount of one hundred percent (100%) of the entered value of the covered products during the period of Presidential review. The Commission’s reasoning in support of these determinations is set forth below.

1. General Exclusion Order

The Commission has the authority to issue a GEO under section 337(g)(2) where, as is the case here, the respondents were found in default, and a violation by at least one respondent has been shown. Section 337(g)(2) states:

In addition to the authority of the Commission to issue a general exclusion from entry of articles when a respondent appears to contest an investigation concerning a violation of the provisions of this section, a general exclusion from entry of articles, regardless of the source or importer of the articles, may be issued if—

(A) no person appears to contest an investigation concerning a violation of the provisions of this section,

(B) such a violation is established by substantial, reliable, and probative evidence, and

(C) the requirements of subsection (d)(2) are met.

19 U.S.C. § 1337(g)(2). Section 337(d)(2) provides that “[t]he authority of the Commission to order an exclusion from entry of articles shall be limited to persons determined by the Commission to be violating this section unless the Commission determines that— (A) a general exclusion from entry of articles is necessary to prevent circumvention of an exclusion order limited to products of named persons; or (B) there is a pattern of violation of this section and it is difficult to identify the source of infringing products.” 19 U.S.C. § 1337(d)(2); *see also* 19 C.F.R. § 210.50(c).

The Commission determines that sections 337(g)(2)(A) and (B) are satisfied here because all respondents were previously found in default and have not contested the “investigation concerning a violation of the provisions of this section,” and a violation of section 337 has been proven “by substantial, reliable, and probative evidence” for the claims of the D’928, D’951, D’927, D’812, and D’853 patents. 19 U.S.C. §§ 1337(g)(2)(A) and (B); Order No. 10 at 38-41. Thus, the Commission determines to issue a GEO for the claims of the D’928, D’951, D’927, D’812, and D’853 patents for the reasons set forth below.

a. Section 337(d)(2)(A) – “Circumvention”

With respect to “prevent[ing] circumvention of an exclusion order” under section 337(d)(2)(A), the Commission determines that the defaulting Respondents were successfully served, but none appeared in this investigation, which shows they are “unlikely to abide by” a limited exclusion order. Order No. 10 at 38 (*citing Certain Blood Flow Restriction Devices With*

Rotatable Windlasses and Components Thereof, Inv. No. 337-TA-1364, Corrected Comm’n Op. at 10 (Oct. 8, 2024) (“*Blood Flow Restriction Devices*”). The evidence also shows that there are a very large number of infringers. *Id.* at 39; Clarke Decl. at ¶¶ 95, 101 (“Gavrieli [has] removed over 3,000 listing of the infringing ballet flats” from 2017 to the present and spent more than [REDACTED] on enforcement). The Commission further finds that contact information for infringing parties is either difficult to obtain or in some cases does not make any sense, thus indicating the very real concern that importers may attempt to circumvent an order by concealing or changing a vendor’s trade name. Order No. 10 at 39-40; Clarke Decl. at ¶¶ 102-103. Because ballet flat-style footwear is easy and inexpensive to make, the Commission finds that there is a low barrier to entry, which increases the likelihood that limited exclusion orders will be circumvented. Order No. 10 at 40; Clarke Decl. at ¶¶ 91-97.

Based on the record evidence and the relevant Commission precedent, the Commission determines that a GEO is necessary to prevent circumvention of an LEO under section 337(d)(2)(A).

b. Section 337(d)(2)(B) – “Pattern of Violation” and “Difficult to Identify the Source”

With respect to 337(d)(2)(B) and whether there is “a pattern of violation of this section and it is difficult to identify the source of infringing products,” the Commission finds that the entities importing the infringing ballet flat-style shoes are difficult to determine and appear to change names. Order No. 10 at 39. In addition, as noted above with respect to section (A), it can be challenging to obtain the correct contact information and trade name for infringing parties. *Id.* at 39-40; Clarke Decl. at ¶¶ 102-103. The Commission further finds that the evidence showing the presence of defaulting respondents and numerous online sales of infringing products supports the finding of a pattern of violation. *Blood Flow Restriction Devices* at 16-17;

Certain Loom Kits for Creating Linked Articles, Inv. No. 337-TA-923, Comm’n Op. at 14 (May 21, 2015); Order No. 10 at 38-40. Complainant’s efforts to enforce its intellectual property rights also support the finding of a pattern of violation. *Certain Electric Skin Care Devices, Brushes and Chargers Therefor, and Kits Containing the Same*, Inv. No. 337-TA-959, Comm’n Op. at 18 (Feb. 6, 2017); Order No. 10 at 39; Clarke Decl. at ¶¶ 95, 101. The Commission finds that the evidence showing difficulty of service due to inaccurate addresses or contact information of respondents and anonymity of sellers on online marketplaces also indicates that it would be difficult to identify the source of infringing products. Order No. 10 at 39-40; *see also Blood Flow Restriction Devices* at 16-17; *Certain Vaporizer Cartridge and Components Thereof*, Inv. No. 337-TA-1211, Comm’n Op. at 12 (Feb. 14, 2022); *Certain Cases for Portable Electronic Devices*, Inv. No. 337-TA-867/861, Comm’n Op. at 10 (June 20, 2014).

Based on the record evidence and the relevant Commission precedent, the Commission determines that a GEO is necessary under section 337(d)(2)(B) because there is “a pattern of violation of this section and it is difficult to identify the source of infringing products.”

2. Limited Exclusion Order

For the reason discussed below, the Commission finds that the issuance of an LEO directed to the claims of the D’950, D’035, and D’032 patents and the Asserted Trade Dress by the defaulting respondent under section 337(g)(1) as set forth in the chart above is appropriate. *See* Order No. 10 at 13; Compl. SD Mot. at 118, 130. The ID provided a short statement that because the Respondents defaulted, “[u]nder Commission rules, the complaint’s assertions surrounding these acts are assumed to be true, and limited exclusion orders must issue.” Order No. 10 at 13.

However, Complainant’s request for an LEO is broader than these three patents and the Asserted Trade Dress. Specifically, Complainant also requested an LEO for the patents for

which it had sought a GEO, *i.e.*, the claims of the D'928, D'951, D'927, D'812, and D'853 patents. Compl. Br. at 3. Because the Commission has determined to issue a GEO for the D'928, D'951, D'927, D'812, and D'853 patents, it declines to issue an LEO for these five patents.

Section 337(g)(1) provides that if:

- (A) a complaint is filed against a person under this section;
- (B) the complaint and a notice of investigation are served on the person;
- (C) the person fails to respond to the complaint and notice or otherwise fails to appear to answer the complaint and notice;
- (D) the person fails to show good cause why the person should not be found in default; and
- (E) the complainant seeks relief limited solely to that person;

the Commission shall presume the facts alleged in the complaint to be true and shall, upon request, issue an exclusion from entry or a cease and desist order, or both, limited to that person unless, after considering the effect of such exclusion or order upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, the Commission finds that such exclusion or order should not be issued.

19 U.S.C. § 1337(g)(1); *see also Laerdal Med. Corp. v. Int'l Trade Comm'n*, 910 F.3d 1207, 1212-13 (Fed. Cir. 2018) (“Through the use of the word ‘shall,’ the statute unambiguously requires the Commission to, upon findings that elements (A) through (E) are satisfied, (1) presume the facts alleged in the complaint to be true and (2) upon request, issue an exclusion order, cease and desist order, or both, subject to public interest concerns.”).

Having examined the record of this investigation, the RD, and the parties' submissions, the Commission finds that Complainant has satisfied all the requirements of section 337(g)(1)(A)-(E). In accordance with section 337(g)(1)(A), Complainant filed the complaint

pursuant to Commission Rule 210.12, including “a statement of the facts constituting the alleged unfair methods of competition and unfair acts.” *See* 19 C.F.R. § 210.12(a)(2); Compl. ¶¶ 154-246. Section 337(g)(1)(B) is satisfied because Complainant effected service of the complaint and notice of investigation on the defaulting Respondents. 19 U.S.C. § 1337 (g)(1)(B); *see* Order No. 7 (Feb. 26, 2025); Complainant’s Submission regarding Proof of Service to Embassies and Respondents (Jan. 10, 2025); Complainant’s Supplemental Submission regarding Proof of Service to Respondents (Jan. 23, 2025); Complainant’s Second Supplemental Submission regarding Proof of Service to Respondents and Embassies (Apr. 23, 2025). Sections 337(g)(1)(C) and (D) are satisfied because all of the defaulting Respondents failed to respond to the complaint and notice of investigation and failed to show good cause why they should not be found in default. 19 U.S.C. §§ 1337 (g)(1)(C), (D); Order No. 8, *unreviewed by* Comm’n Notice (June 4, 2025). Section 337(g)(1)(E) is satisfied because Complainant seeks relief limited solely to the defaulting Respondents regarding the claims of the D’950, D’035, and D’032 patents and the Asserted Trade Dress. 19 U.S.C. § 1337 (g)(1)(E); Compl. Br. at 3-4. Lastly, section 337(g)(1) is satisfied because the LEO is consistent with Complainant’s “request” and “the facts alleged in the complaint.” 19 U.S.C. § 1337 (g)(1); Complaint, ¶ 11; Compl. Br. at 3-4.

Therefore, subject to the public interest considerations as discussed *infra*, the Commission has determined to issue an LEO prohibiting entry of products that infringe the claims of the D’950, D’035, and D’032 patents and the Asserted Trade Dress as set forth in the chart below:

Issued LEO				
	D’950 Patent	D’035 Patent	D’032 Patent	Asserted Trade Dress
One Drop	X	X	X	X

Issued LEO				
	D'950 Patent	D'035 Patent	D'032 Patent	Asserted Trade Dress
Craze	X	X		X
Piergitar	X	X	X	X
Guangzhou Shou Cheng	X	X		X
Shengze Trading Company	X	X		X
Huihui	X	X		X
Bingxin Qingfeng	X	X	X	X
Baiqiuju1983	X	X		X
Tb249835650	X	X	X	X
Yuyoufang	X	X	X	X
Xu Wenping	X	X		X
Ynwill	X	X		X

B. Public Interest

Section 337 requires the Commission, upon finding a violation of section 337, to issue remedial orders “unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.” 19 U.S.C. §§ 1337(d)(1), (g)(1).

Under appropriate facts and circumstances, the Commission may determine that no remedy should issue because of the adverse impacts on the public interest. *See, e.g., Certain*

Fluidized Supporting Apparatus & Components Thereof, Inv. Nos. 337-TA-182/188, USITC Pub. 1667, Comm’n Op. at 1-2, 23-25 (Oct. 1984) (finding that the public interest warranted denying complainant’s requested relief); *see Philip Morris Products*, 63 F.4th at 1339-1340 (the Commission has “wide latitude for judgment and the courts will not interfere except where the remedy selected has no reasonable relation to the unlawful practices found to exist”) (citation omitted).

The statute requires the Commission to consider and make findings on the public interest in every case in which a violation is found regardless of the quality or quantity of public interest information supplied by the parties. 19 U.S.C. §§ 1337(d)(1), (g)(1)). Thus, the Commission publishes a notice inviting the parties as well as interested members of the public and interested government agencies to gather and present evidence on the public interest at multiple junctures in the proceeding. 19 U.S.C. §§ 1337(d)(1), (g)(1). Complainant and OUII, in their submissions, contend that the public interest factors enumerated in section 337 do not preclude the issuance of the requested GEO and LEO. Compl. Br. at 7; OUII Br. at 10. The Commission agrees.

1. Public Health and Welfare

Complainant and OUII stated that the requested remedy will not adversely impact the public health and welfare because ballet flats do not raise public health and welfare concerns. Comp. Br. at 6 (citing *Certain Toothbrushes & the Packaging Thereof*, Inv. No. 337-TA-391, Comm’n Op. on Remedy, the Public Interest, and Bonding at 6 (Oct. 15, 1997) (explaining that the articles at issue “are not the type of product that have in the past raised public interest concerns (such as, for example, drugs or medical devices)”)); OUII Br. at 9 (citing *Certain Coin-Operated Audio-Visual Games and Components Thereof*, Inv. No. 337-TA-87, Comm’n Op. at 30, USITC Pub. 1160 (June 1981) (“Because of the nature of the articles involved (audio-visual games), it is unlikely that [an exclusion order] would have a detrimental impact on the public

health and welfare.”)). The Commission agrees. There is no indication that the remedial orders in this investigation raise public health or welfare concerns.

2. Competitive Conditions in the United States

Complainant and OUII stated that the requested remedy will not reduce competitive conditions in the United States. Compl. Br. at 7; OUII Br. at 9. Specifically, Complainant explains that the market for women’s ballet flats is a multi-billion dollar industry with dozens of competing brands. Comp. Br. at 7. Third parties are only restricted from importing women’s ballet flats that infringe Complainant’s intellectual property, not ballet flats in general. Comp. Br. at 7. Complainant also argued that the requested remedy would benefit the public health and welfare “because it will reduce the distribution of lower quality copies of women’s ballet-style flats.” *Id.* The Commission agrees with Complainant that there are numerous alternatives to the infringing products excluded by remedial orders in this investigation and therefore the remedial orders will not have an adverse impact on the competitive conditions in the United States.

3. The Production of Like or Directly Competitive Articles in the United States

Complainant and OUII contended that the issuance of the requested remedial orders would not reduce production of directly competitive articles in the United States. Comp. Br. at 7; OUII Br. at 10. OUII specifically noted that all the accused products are manufactured abroad. OUII Br. at 10. The Commission finds that there is no indication that the remedial orders in this investigation would have an adverse impact on the production of like or directly competitive conditions in the United States

4. United States Consumers

Complainant and OUII both contended that there would be no harm to United States consumers due to the requested remedial orders. Comp. Br. at 7; OUII Br. at 10. Complainant

and OUII noted that other competing products are available to consumers, including Complainant's DI Product. Comp. Br. at 7; OUII Br. at 10. The Commission agrees and finds that the remedial orders in this investigation would not have an adverse impact on United States consumers.

5. The Commission's Determination

Based on the record evidence and relevant Commission precedent, the Commission agrees with Complainant and OUII that the public interest factors discussed above do not preclude the issuance of the requested remedy. Comp. Br. at 7; OUII Br. at 10. The Commission finds that the record contains no information showing that the requested remedy would adversely impact any of the public interest factors in section 337. The Commission therefore determines that the public interest factors of section 337 do not preclude the issuance of the requested remedy.

C. Bonding

If the Commission enters an exclusion order or a cease and desist order, a respondent may continue to import and sell its products during the 60-day period of Presidential review under a bond in an amount determined by the Commission to be "sufficient to protect the complainant from any injury." 19 U.S.C. § 1337(j)(3); *see also* 19 C.F.R. § 210.50(a)(3). When reliable price information is available in the record, the Commission has often set the bond in an amount that would eliminate the price differential between the domestic product and the imported, infringing product. *See Streaming Players*, Comm'n Op. at 41-42 (citations omitted). Where the record establishes that the calculation of a price differential is impractical or there is insufficient evidence in the record to determine a reasonable royalty, the Commission has imposed a one hundred percent (100 %) bond. *See, e.g., id.*

Complainant requested that the Commission set a bond of one hundred percent (100%) of the entered value of infringing articles imported during the period of Presidential review.

Compl. Br. at 4-5. The RD and OUII agreed that a one hundred percent (100%) bond rate is appropriate. Order No. 10 at 41-42; OUII Br. at 8.

The Commission agrees with the RD's recommendation to set a bond of one hundred percent (100%) of the entered value of the covered products as requested by Complainant. Order No. 10 at 41-42; Compl. Br. at 4. The evidence indicates that the defaulting Respondents sometimes have a price difference of more than 100% of the accused products value. Order No. 10 at 42. A one hundred percent (100%) bond is also supported because the defaulting Respondents did not participate in the investigation, and thus Complainant could not obtain "full information on pricing and royalty." Compl. SD Mot. at 132 (citing Clarke Decl. at ¶ 117). Therefore, the Commission determines to impose a bond of one hundred percent (100%) of the entered value of the covered products during the period of Presidential review.

VI. CONCLUSION

For the reasons set forth herein, the Commission determines that with respect to the D'928, D'951, D'927, D'812, and D'853 patents Complainant has met the economic prong of the domestic industry requirement under section 337(a)(3)(B) based on only Complainant's labor expenses and takes no position on the capital expenditures under section 337(a)(3)(B). The Commission thus determines that there has been a violation of section 337 based on substantial, reliable, and probative evidence with respect to the D'928, D'951, D'927, D'812, and D'853 patents under section 337(g)(2) and the Commission has determined that the appropriate remedy is a GEO as to the claims of the D'928, D'951, D'927, D'812, and D'853 patents. The Commission has also determined that there has been a violation under section 337(g)(1) and determines that the appropriate remedy is an LEO prohibiting entry of products that infringe the



claims of the D'950, D'035, and D'032 patents and the Asserted Trade Dress as to certain respondents. The Commission further determines that the public interest does not preclude the remedy, and the bond during the period of Presidential review is set at 100 percent (100%) of the entered value.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'L.R. Barton', enclosed within a large, loopy oval.

Lisa R. Barton
Secretary to the Commission

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