

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN PILLOWS AND SEAT
CUSHIONS, COMPONENTS THEREOF,
AND PACKAGING THEREOF**

Investigation No. 337-TA-1328

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION PARTIALLY TERMINATING THE INVESTIGATION AS TO
CERTAIN RESPONDENTS AND CERTAIN CLAIMS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (the “Commission”) has determined not to review an initial determination (“ID”) (Order No. 19) issued by the presiding administrative law judge (“ALJ”) granting complainant’s unopposed motion to partially terminate the investigation due to withdrawal of allegations as to multiple respondents and as to complainant’s claims based on its allegations of trade dress, trademark, and design patent infringement.

FOR FURTHER INFORMATION CONTACT: Michelle Klancnik, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-3104. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket system (“EDIS”) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone (202) 205-1810.

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

dress infringement, the threat or effect of which is to destroy or substantially injure an industry in the United States. *Id.* at 56086-87.

The Commission's notice of investigation named the following respondents, among others: Global Ocean Trading Co. Ltd.; Guang An Shi Lin Chen Zai Sheng Wuzi Co., Ltd.; Guangzhou Epsilon Import and Export Co., Ltd.; Guangzhoushi Baixiangguo Keji Youxian Gongsi Co., Ltd.; Hangzhou Lishang Import & Export Co., Ltd.; Hebei Zeyong Technology Co., Ltd.; Hubei Sheng Bingyi Dianzi Keji Youxian Gongsi Co., Ltd.; Kaifeng Shi Long Ting Qu Chen Yi Shangmao Youxian Gongsi Co., Ltd.; Lankao Junchang Electronic Commerce Co., Ltd.; Nanchang Shirong Bao Er Guanggao Youxian Gongsi Co., Ltd.; Ruian Xiu Yuan Guoji Mao Yi Youxian Gongsi Co., Ltd.; Shanxi Chao Ma Xun Keji Youxian Gongsi Co., Ltd.; Shenzhen Baibaikang Technology Co., Ltd.; Shenzhen Shi Yan Huang Chu Hai Keji Youxian Gongsi Co., Ltd.; Shenzhen Shi Yuxiang Meirong Youngju Youxian Gongsi Co., Ltd.; Shenzhen Tianrun Material Co., Ltd.; Wuhan Chenkuxuan Technology Co., Ltd.; Xiao Dawei; Xiao Xiao Pi Fa Shang Mao You Xian Ze Ren Gongsi Co.; YaRu Wang; Yiwu Youru E-commerce Co., Ltd.; and Zhou Meng Bo (collectively, "Unserved Respondents"), as well as Guang Zhou Wen Jie Shang Mao Youxian Gongsi Co., Ltd. ("Guang Zhou"); Shenzhen Shi Mai Rui Ke Dianzi Shangwu Co. Ltd. ("Shenzhen Shi Mai"); and Shandong Jiu Hui Xinxi Keji Youxian Gongsi Co., Ltd. ("Shenzhen Jiu Hui"). *Id.* at 56087-88. The Office of Unfair Import Investigations ("OUII") is also a party to this investigation. *Id.* at 56088.

On February 3, 2023, Complainant filed an unopposed motion to partially terminate the investigation based upon withdrawal of the allegations as to the Unserved Respondents and based on the withdrawal of its claims based on its allegations of trade dress, trademark (the '556 mark and the '053 mark), and design patent (the '092 patent) infringement. Complainant also sought to withdraw the allegations against respondents Guang Zhou, Shenzhen Shi Mai, and Shandong Jiu Hui, because those respondents are only accused of infringing Complainant's trade dress, trademark, and design patent claims. No party responded to the motion.

On February 16, 2023, the presiding ALJ issued the subject ID (Order No. 19) granting Complainant's unopposed motion to partially terminate the investigation as to the Unserved Respondents. The ALJ also granted Complainant's unopposed motion to partially terminate the investigation as to Complainant's claims based on its allegations of trade dress, trademark (the '556 mark and the '053 mark), and design patent (the '092 patent) infringement as well as the three respondents, who were only accused of infringing those rights. The subject ID found that Complainant's unopposed motion complies with the requirements of Commission Rule 210.21(a)(1) (19 CFR 210.21(a)(1)), in that there are no other agreements, oral or written, express or implied, between the Complainant and the Unserved Respondents or between Complainant and respondents Guang Zhou, Shenzhen Shi Mai, and Shandong Jiu Hui concerning the subject matter of the investigation. The ID further found that there are no extraordinary circumstances that weigh against termination of the investigation as to the Unserved Respondents or respondents Guang Zhou, Shenzhen Shi Mai, and Shandong Jiu Hui.

No party filed a petition for review of the subject ID.

The Commission has determined not to review the subject ID.

The following Respondents are hereby terminated from this investigation: Global Ocean Trading Co. Ltd.; Guang An Shi Lin Chen Zai Sheng Wuzi Co., Ltd.; Guangzhou Epsilon Import and Export Co., Ltd.; Guangzhoushi Baixiangguo Keji Youxian Gongsi Co., Ltd.; Hangzhou Lishang Import & Export Co., Ltd.; Hebei Zeyong Technology Co., Ltd.; Hubei Sheng Bingyi Dianzi Keji Youxian Gongsi Co., Ltd.; Kaifeng Shi Long Ting Qu Chen Yi Shangmao Youxian Gongsi Co., Ltd.; Lankao Junchang Electronic Commerce Co., Ltd.; Nanchang Shirong Bao Er Guanggao Youxian Gongsi Co., Ltd.; Ruian Xiu Yuan Guoji Mao Yi Youxian Gongsi Co., Ltd.; Shanxi Chao Ma Xun Keji Youxian Gongsi Co., Ltd.; Shenzhen Baibaikang Technology Co., Ltd.; Shenzhen Shi Yan Huang Chu Hai Keji Youxian Gongsi Co., Ltd.; Shenzhen Shi Yuxiang Meirong Youngju Youxian Gongsi Co., Ltd.; Shenzhen Tianrun Material Co., Ltd.; Wuhan Chenkuxuan Technology Co., Ltd.; Xiao Dawei; Xiao Xiao Pi Fa Shang Mao You Xian Ze Ren Gongsi Co.; YaRu Wang; Yiwu Youru E-commerce Co., Ltd.; Zhou Meng Bo; Guang Zhou Wen Jie Shang Mao Youxian Gongsi Co., Ltd.; Shenzhen Shi Mai Rui Ke Dianzi Shangwu Co. Ltd.; and Shandong Jiu Hui Xinxi Keji Youxian Gongsi Co., Ltd.

Complainant's claims based on its allegations of trade dress, trademark (the '556 mark and the '053 mark), and design patent (the '092 patent) infringement are also terminated from the investigation.

The Commission voted to approve this determination on March 20, 2023.

The authority for the Commission's determinations is contained in Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: March 20, 2023