

**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 (1) TO RECONSIDER PART OF A  
PREVIOUSLY UNREVIEWED INITIAL DETERMINATION AND (2) NOT TO  
REVIEW SEVEN INITIAL DETERMINATIONS TERMINATING THE  
INVESTIGATION BASED ON SETTLEMENT AGREEMENTS AND CONSENT  
ORDER STIPULATIONS; ISSUANCE OF SEVEN CONSENT ORDERS**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission (the “Commission”) has determined (1) to reconsider part of a previously unreviewed initial determination (“ID”) (Order No. 19) granting Complainant Purple Innovation, LLC’s (“Purple”) Motion for Partial Termination of This Investigation as to Certain Claims, (2) to extend the whether to review date for that ID (Order No. 19) to May 19, 2023, and (3) not to review seven IDs (Order No. 23, 24, 25, 26, 27, 28, and 29) issued by the presiding administrative law judge (“ALJ”) terminating the investigation based on settlement agreements and consent order stipulations. The Commission has determined to issue seven respective consent orders against Shenzhen Shi Xin Shangpin Dianzi Shangwu Youxian Gongsi Co., Ltd. (“Shenzhen Shi Xin”) of Shenzhen, Guangdong, China; Bedmate-U Co., Ltd. (“Bedmate-U”) of Gwangju-si, Gyeonggi-do, Republic of Korea; Henson Holdings, LLC d.b.a. SelectSoma Henson Holdings, LLC d.b.a. SelectSoma (“Henson Holdings”) of Lafayette, Louisiana; Hetaibao of Linquan, Anhui, China; Lei Lei Wang of Linquan, Anhui, China; Ningbo Minzhou Import & Export Co., Ltd. (“Ningbo Minzhou”) of Haishu, Beijing, China; and Ningbo Bolian Import & Export Co., Ltd. of Ningbo, Zhejiang, China (“Ningbo Bolian”). The Commission has further determined not to review the portion of the ID (Order No. 19) that the Commission reconsidered. The Commission has determined to enter seven respective consent orders against Shenzhen Shi Xin, Bedmate-U, Henson Holdings, Ningbo Minzhou, Lei Lei Wang, Hetaibo, and Ningbo Bolian. No further consent orders will be issued in this investigation on the basis of these claims.

**FOR FURTHER INFORMATION CONTACT:** Paul Lall, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2043. 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](mailto: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 alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation, the sale for importation, or sale within the United States after importation of certain pillows and seat cushions, components thereof, and packaging thereof by reason of infringement of the sole claim of U.S. Design Patent No. D909,092 ("the '092 patent"); claims 1-16, 18, 19, 21-33, and 35 of U.S. Patent No. 10,772,445; 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 alleges the existence of a domestic industry. *Id.* at 56086. The complaint also alleges 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 names forty-one (41) respondents. *Id.* at 56087-88. The Office of Unfair Import Investigations ("OUII") is also a party to this investigation. *Id.* at 56088.

In early January 2023, Purple filed seven separate motions for partial termination as to the following respondents based on settlement agreements, consent order stipulations, and proposed consent orders: Shenzhen Shi Xin; Bedmate-U; Henson Holdings; Hetaibao; Lei Lei Wang; Ningbo Minzhou; and Ningbo Bolian. Thereafter, OUII filed six responses opposing each respective motion (except as to Bedmate-U) on the grounds that the proposed consent orders were broader than what Purple would achieve through a limited exclusion order. *See, e.g.*, Staff Response to Purple's Motion for Partial Termination of Investigation as to Respondent Hetaibao on the Basis of Consent Order Stipulation and Proposed Consent Order (Motion No. 1328-016), EDIS Doc. ID 788254 (Jan. 18, 2023). Purple withdrew all seven motions, including its motion with respect to Bedmate-U.

Thereafter, on February 3, 2023, Purple filed an unopposed motion to (1) withdraw its claims against 22 unserved respondents; (2) withdraw its claims based on the allegations of trade dress, trademark (the '556 mark and the '053 mark), and design patent (the '092 patent) infringement; and (3) withdraw its claims against Respondents Guang Zhou Wen Jie Shang Mao Youxian Gongsi Co., Ltd., Shandong Jiu Hui Xinxi Keji Youxian Gongsi Co., Ltd., and Shenzhen Shi Mai Rui Ke Dianzi Shangwu Co., Ltd., which were accused of infringing only the trade dress, trademark and design patents. *See* Purple's Unopposed Motion for (1) Partial Termination of This Investigation as to Certain Respondents and Certain Claims, (2) Suspension of Existing Procedural Schedule, and (3) Leave to Resolve Remaining Issues Through Summary Determination Briefing (Motion No. 1328-021), EDIS Doc. ID 789391 (Feb. 3, 2023) ("Motion to Withdraw Claims"). In its motion, Purple stated that for seven respondents, renewed motions for partial termination based on settlement and a consent order stipulation would be filed shortly. *See* Motion to Withdraw Claims at 3-4. Purple represented that "the termination of the respondents and claims requested herein would result in the Investigation having no remaining participating respondents." *Id.* at 11. The Chief ALJ granted Purple's Motion to Withdraw Claims. Order No. 19 (Feb. 16, 2023), *unreviewed by* Comm'n Notice (March 20, 2023). On

February 27, 2023, the Chief ALJ issued a notice reassigning this investigation to ALJ Doris Johnson Hines (the “presiding ALJ”). *See* Notice to the Parties, EDIS Doc. ID 791313 (Feb. 27, 2023).

Purple later filed renewed motions for partial termination of this investigation as to seven respondents: Shenzhen Shi Xin, Bedmate-U, Henson Holdings, Ningbo Minzhou, Lei Lei Wang, Hetaibo, and Ningbo Bolian. On March 16, 2023, the presiding ALJ issued an order asking for “briefing from the parties regarding whether entry of any consent order in this investigation is appropriate as to respondent Shenzhen Shi Xin and as to the remaining respondents against which only trade dress, trademark, and/or design patent infringement claims were asserted.” Order No. 22 (March 16, 2023), at 12.

On March 22, 2023, Shenzhen Shi Xin, Henson Holdings, Ningbo Minzhou, Lei Lei Wang, Hetaibo, and Ningbo Bolian (collectively, the “Participating Respondents”), Bedmate-U, Purple, and OUII each filed a response. In its response, Purple argued that the Commission could issue consent orders against the Participating Respondents based on the specific claims asserted in its complaint, even though Purple later withdrew these claims: “Because the now-revised consent order stipulations contain only the claims... alleged in Purple’s Complaint against each Respondents-at-Issue [sic], their inclusion in the consent order stipulations is proper under [Rule] 210.21(c)(4)(i).” Purple’s Additional Briefing Re: Order No. 22 at 7-8, EDIS Doc. ID 792998 (Mar. 22, 2023). The Participating Respondents argued that the Commission could not issue the proposed consent orders because the claims recited in these consent orders were no longer a part of this investigation: “[N]o consent order should issue as to the terminated common law trade dress, trademarks, and design patent because the Commission’s final determination terminated those claims, and a consent order that includes those terminated causes of action would be at odds with the Commission Rules.” Participating Respondents’ Brief in Response to Order No. 22 at 8, EDIS Doc. ID 792983 (Mar. 22, 2023). OUII asserted that “the ALJ has the discretion to issue consent orders that include or omit reference to the now-terminated trade dress, trademark, and/or design patent infringement claims, in view of the unique circumstances and sequence of events surrounding the settling parties’ consent order stipulations and proposed consent orders, and related termination motions.” Commission Investigative Staff Response to Order No. 22 at 1, EDIS Doc. ID 792986 (Mar. 22, 2023).<sup>1</sup>

Subsequently, the presiding ALJ granted Purple’s motions to terminate based on settlement agreements, consent order stipulations, and proposed consent orders in seven IDs with different time periods for Commission review: Order Nos. 23 (Shenzhen Shi Xin); Order No. 24 (Bedmate-U); Order No. 25 (Henson Holdings); Order No. 26 (Ningbo Minzhou); Order No. 27 (Lei Lei Wang); Order No. 28 (Hetaibao); and Order No. 29 (Ningbo Bolian). In Order No. 23, the presiding ALJ noted that Commission Rule 210.21(c)(4)(i) states that “a consent order will include a statement ‘of any allegation in the complaint’” and therefore “the scope of a consent order is driven by the allegations against a respondent in the complaint, not necessarily by the allegations that remain in an investigation.” Order No. 23 at 6-7. In addition, the presiding ALJ rejected the arguments made by the Participating Respondents, explaining: “[S]o long as the scope of a proposed consent order is not broader than the claims asserted in the complaint against

---

<sup>1</sup> Bedmate-U filed a short response stating that it takes no position on the issues in Order No. 22.

Shenzhen Shi Xin (and the other requirements are met), I have the authority to issue an initial determination terminating Shenzhen Shi Xin based on a consent order stipulation and proposed consent order agreed to by Purple and Shenzhen Shi Xin and including subsequently terminated claims.” *Id.* at 9. The subsequent six IDs (Order Nos. 24, 25, 26, 27, 28, and 29) granting Purple’s motions to terminate each referred to the Court’s reasoning discussed in Order No. 23. *See, e.g.*, Order No. 29 at 3 (May 10, 2023).

No party filed petitions for review of the respective IDs (Order Nos. 23, 24, 25, 26, 27, 28, and 29).

The Commission has determined on its own initiative (1) to reconsider the part of the ID (Order No. 19) granting Purple’s Motion to Withdraw Claims that dealt with the claims based on the allegations of trade dress, trademark (the ’556 mark and the ’053 mark), and design patent (the ’092 patent) infringement, *see* 19 CFR 210.47, and (2) to extend the deadline for determining whether to review this part of the ID (Order No. 19) to May 19, 2023. The Commission has also determined not to review seven IDs (Order Nos. 23, 24, 25, 26, 27, 28, and 29) issued by the presiding ALJ terminating the investigation based on settlement agreements and consent order stipulations. The Commission has determined to issue seven respective consent orders against Shenzhen Shi Xin, Bedmate-U, Henson Holdings, Hetaibao, Lei Lei Wang, Ningbo Minzhou, and Ningbo Bolian and to terminate the investigation as to those respondents. Finally, the Commission has further determined not to review the portion of the ID (Order No. 19) that the Commission reconsidered. No further consent orders will be issued in this investigation on the basis of these claims since the allegations of trade dress, trademark (the ’556 mark and the ’053 mark), and design patent (the ’092 patent) infringement are hereby terminated from this investigation.

The Commission voted to approve this determination on May 19, 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: May 19, 2023