

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

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

Investigation No. 337-TA-1328

NOTICE OF REQUEST FOR SUBMISSIONS ON THE PUBLIC INTEREST

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that on July 13, 2023, the presiding administrative law judge (“ALJ”) issued an Initial Determination granting Complainant Purple Innovation, LLC’s motion for summary determination on violation and a Recommended Determination on remedy and bonding (“ID/RD”). The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation. This notice is soliciting comments from the public only.

FOR FURTHER INFORMATION CONTACT: Edward S. Jou, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3316. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (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 on (202) 205-1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States 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)). A similar provision applies to cease and desist orders. (19 U.S.C. 1337(f)(1)).

The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation. The ALJ recommended the issuance of a limited exclusion order (“LEO”) directed to certain pillows and seat cushions, components thereof, and packaging thereof that infringe certain claims of U.S. Patent No.

10,863,837 imported, sold for importation, and/or sold after importation by respondent Foshan Dirani Design Furniture Co., Ltd. In addition, the ALJ recommended the issuance of a general exclusion order (“GEO”) directed to certain pillows and seat cushions, components thereof, and packaging thereof that infringe certain claims of U.S. Patent No. 10,772,445 (the “445 patent”). In the alternative, the ALJ recommended the issuance of a LEO as to subject products that infringe the ‘445 patent imported, sold for importation, and/or sold after importation by respondents Dongguan Jingrui Silicone Technology Co., Ltd., Hangzhou Lydia Sports Goods Co., Ltd., or Shenzhen Leadfar Industry Co. Ltd. Regardless of whether a GEO or LEO issues, the ALJ also recommended the issuance of cease and desist orders as to each of the respondents.¹ The ALJ further recommended that bond during the Presidential review period be set at one hundred percent (100%) of the entered value of subject products. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ’s ID/RD. Comments should address whether issuance of the recommended remedial orders in this investigation, should the Commission find a violation, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

- (i) explain how the articles potentially subject to the recommended remedial orders are used in the United States;
- (ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;
- (iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;
- (iv) indicate whether complainant, complainant’s licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and
- (v) explain how the recommended orders would impact consumers in the United States.

¹ The respondents addressed in the ID/RD are Foshan Dirani Design Furniture Co., Ltd., Dongguan Jingrui Silicone Technology Co., Ltd., Hangzhou Lydia Sports Goods Co., Ltd., and Shenzhen Leadfar Industry Co. Ltd., who were each found in default pursuant to Order No. 16 (Jan. 11, 2023), *unreviewed by* Comm’n Notice (Feb. 8, 2023), and Order No. 21 (Mar. 8, 2023), *unreviewed by* Comm’n Notice (Mar. 30, 2023).

Written submissions must be filed no later than by close of business on August 14, 2023.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (Mar. 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1328") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing and must be served in accordance with Commission Rule 210.4(f)(7)(ii)(A) (19 CFR 210.4(f)(7)(ii)(A)). All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

This action is taken under the authority of 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.

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

Lisa R. Barton
Secretary to the Commission

Issued: July 14, 2023