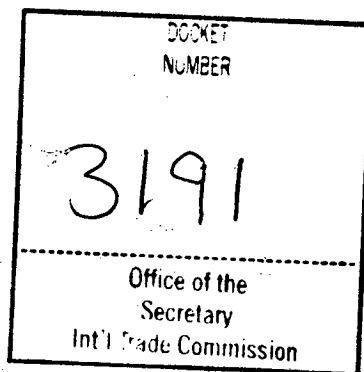


DANIEL E. YONAN
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 **Sterne Kessler
Goldstein Fox**
ATTORNEYS AT LAW

December 30, 2016

The Honorable Lisa R. Barton
Secretary to the Commission
U.S. International Trade Commission
500 E Street S.W.
Washington, DC 20436



Via Hand Delivery

Re: *Certain Basketball Backboard Components and Products Containing the Same*

Dear Secretary Barton:

Enclosed for filing on behalf of Complainant Lifetime Products, Inc. ("Lifetime") are the following documents in support of Lifetime's request that the Commission commence an investigation pursuant to Section 337 of the Tariff Act of 1930, as Amended.

Accordingly, Lifetime submits the following documents for filing:

1. An original and eight (8) paper copies of the verified Non-Confidential Complaint (original unbound); one (1) CD of the accompanying Non-Confidential exhibits, and one (1) CD with Confidential exhibits (Commission Rules 201.6(c), 210.4(f)(2) and 210.8(a)(l)(i));
2. An original and eight (8) paper copies of the Confidential Public Interest Statement (original unbound) (Commission Rules 201.6(c) and 210.8(b));
3. An original and eight (8) paper copies of the Redacted Non-Confidential Public Interest Statement (original unbound) (Commission Rules 201.6(c) and 210.8(b));
4. Two (2) additional paper copies of the verified Non-Confidential Complaint, Redacted Non-Confidential Statement of Public Interest, and two (2) CDs of the Non-Confidential Exhibits for service upon each proposed Respondent (Commission Rules 210.8(a)(l)(iii) and 210.11(a)(i));
5. Two (2) additional copies of the Confidential Exhibits on CD and two (2) additional copies of the Confidential Public Interest Statement for service upon each proposed Respondent once appropriate subscriptions to a protective order have been filed (Commission Rule 210.8(a)(l)(iii));
6. One (1) additional paper copy of the verified Non-Confidential Complaint for service upon the Embassy of China (Commission Rule 210.8(a)(l)(iv));

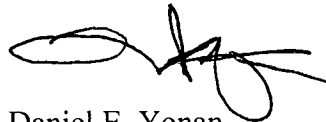
7. One (1) certified copy of the involved United States Patent Nos.: 7,749,111 ("the '111 patent"), 8,852,034 ("the '034 patent"), and 8,845,463 ("the '463 patent") listed as Exhibits 1, 2, and 3 in the Complaint (Commission Rules 210.8(a)(1)(i) and 210.12(a)(9)(i));
8. One (1) certified copy of each of the assignments for the '111 patent, '463 patent, and '034 patent listed as Exhibits 4, 5, 6 in the Complaint (Commission Rules 210.8(a)(1)(i) and 210.12(a)(9)(ii));
9. One (1) certified copy on separate CDs of the prosecution histories of the '111 patent, the re-examination of the '111 patent, the '463 patent, and the '034 patent listed as Appendices A, C, E, and G in the Complaint and three (3) additional copies on separate CDs (Commission Rule 210.12(c)(1));
10. Four (4) CDs containing each reference document identified in the prosecution histories of the '111 patent, the re-examination of the '111 patent, the '463 patent, and the '034 patent listed as Appendices B, D, F, and H in the Complaint on separate CDs (Commission Rule 210.12(c)(2)); and
11. A letter of certification pursuant to Commission Rules 201.6(b) and 210.5(d) requesting confidential treatment of information appearing in Confidential Exhibits 7 and 28 to the verified Non-Confidential Complaint.

Lifetime respectfully requests that the investigation be given an expedited target date. The involved patents have been litigated by the parties in a stayed¹ district court action. Fact discovery, expert discovery, and summary judgment briefing in that litigation were completed. The claims of the involved patents were also construed and do not require reconstruction. Thus, given the extensive litigation history between the parties with the involved patents, Lifetime respectfully requests an expedited target date.

Please contact me if you have any questions about this request, or if this request is not granted in full. Thank you for your attention to this matter.

Very truly yours,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Daniel E. Yonan

DEY/gac

Enclosures

¹ The district court action is stayed pending appeal of reexamination decisions that do not involve the patents asserted in this investigation.

DANIEL E. YONAN
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December 30, 2016

The Honorable Lisa R. Barton
Secretary to the Commission
U.S. International Trade Commission
500 E Street S.W.
Washington, DC 20436

Via Hand Delivery

Re: Certain Basketball Backboard Components and Products Containing the Same

Dear Secretary Barton:

Sterne, Kessler, Goldstein & Fox P.L.L.C. represents Complainant Lifetime Products, Inc. ("Lifetime") in its action pursuant to Section 337 of the Tariff Act of 1930, as amended.

Pursuant to Commission Rules 201.6(b) and 210.5(d), Lifetime respectfully requests confidential treatment of Confidential Exhibits 7 and 28 to the Complaint.

The information for which confidential treatment is sought is propriety and not otherwise publicly available. Specifically, Confidential Exhibits 7 and 28 contain proprietary commercial information regarding the basketball backboard products and systems at issue, Lifetime's patented technology and its infringement in the import trade by the proposed Respondents, as well as Lifetime's investments and employment activities made in furtherance of its domestic industry under 19 U.S.C. 1337(a)(3).

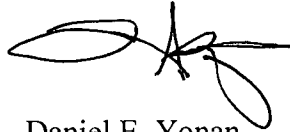
The Commission has routinely held that this type of information qualifies as confidential business information pursuant to Rule 201.6(a) because:

- (A) It is not publicly available;
- (B) Unauthorized disclosure of such information could cause substantial harm to the competitive position of Lifetime; and
- (C) The disclosure of such information could impair the Commission's ability to obtain information necessary to perform its statutory function.

The Honorable Lisa R. Barton
December 30, 2016
Page 2

Please contact me if you have any questions about this request, or if this request is not granted in full. Thank you for your attention to this matter.

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

A handwritten signature in black ink, appearing to read 'Daniel E. Yonan', with a stylized, looping flourish at the end.

Daniel E. Yonan

DEY/gac

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.**

In the Matter of

**CERTAIN BASKETBALL BACKBOARD
COMPONENTS AND PRODUCTS
CONTAINING THE SAME**

Investigation No. 337-TA - _____

COMPLAINANT'S STATEMENT ON THE PUBLIC INTEREST

Pursuant to 19 C.F.R. § 210.8(b), Complainant Lifetime Products, Inc. ("Lifetime") respectfully submits this Statement of Public Interest, filed concurrently with the Complaint. Issuance of an exclusion order and cease-and-desist order covering the accused products will not have an adverse effect on public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

As an initial matter, the Commission should *not* request that the Administrative Law Judge ("ALJ") take discovery into the public interest for purposes of this Investigation because there are no unique circumstances here that adversely affect the health, safety, or welfare of the U.S. consumer. To the contrary, recognition and enforcement of Lifetime's intellectual property rights, through the entry of the requested remedial orders against the infringing articles of Proposed Respondents Russell Brands, LLC and Reliable Sports Equipment (Wujiang) Co. Ltd. (collectively, "Proposed Respondents") would actually promote the public interest for at least the following reasons.

I. Explanation of How the Articles Potentially Subject to the Requested Remedial Orders are Used in the United States

The accused products in this matter are basketball backboard components and products containing the same. These products are typically used at a residence for sport, fun, and

entertainment. The infringing articles include, at least, the following model numbers: 71454, 71562, 71564, 72351, 72354, 75355, 75746, 75747, 75748, 75749, 75750, 75761, 75763, 79307, 79349, 79351, 79354, 79355, 79564, 88349, 88355, 88365, 88531, 66365R, 77537T, 88307PR, 88354PR, 88454G, 88454G, 88461G. These products are imported and available for purchase at retail stores such as Target and Dick's Sporting Goods, among others.

II. Identification of Any Public Health, Safety, or Welfare Concerns Relating to the Requested Remedial Orders

The issuance of an exclusion order and cease-and-desist order against the Proposed Respondents would have no adverse impact upon public health, safety, or welfare concerns in the U.S. as the accused products do not promote public health, safety, or welfare. The basketball products at issue do not concern any public interest that the Commission has previously identified as warranting denial of relief. Further, Lifetime only seeks a limited exclusion order covering the accused products using the technology protected by Lifetime's asserted patents.

Additionally, the public interest overall favors recognition and enforcement of Lifetime's presumptively valid patents. *Certain Two-Handle Centerset Faucets and Escutcheons, and Components Thereof*, Inv. No. 337-TA-422, USITC Pub. No. 3332, Comm'n Op. at 9 (July 2000). And this Investigation is no different—Lifetime has aggressively defended its market share, and sought protection of its intellectual property rights in federal court before filing at the Commission, highlighting the urgency in stopping Proposed Respondents' unfair acts.

III. Identification of Like or Directly Competitive Articles that Lifetime and Third Parties Make That Could Replace the Subject Articles If They Were to be Excluded

Lifetime produces and sells its own basketball products and systems, which are readily available and could replace the accused products if they were to be excluded. Given its substantial market share and robust sales record, Lifetime is more than equipped to replace the

Proposed Respondents as a supplier of the basketball products for all of Proposed Respondents' customers. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Thus the public's health and welfare would not be disserved by precluding the accused products from entry into the United States, given the availability of competing products and alternative suppliers available to consumers.

IV. Indication of Whether Lifetime and Third Parties Have the Capacity to Replace the Volume of Articles Subject to the Requested Remedial Orders in a Commercially Reasonable Time in the United States

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Even if the Proposed Respondents' market share were to improperly grow (as a result of their patent infringement), Lifetime has demonstrated the capacity to meet any increased demand for these products. Lifetime employs around 1800 domestic employees and has facilities in Utah, Missouri, Ohio, and China. [REDACTED]

[REDACTED]

[REDACTED]

V. Statement of How the Requested Remedial Order Would Impact U.S. Consumers

Lifetime and other third-party companies produce and sell non-infringing basketball products and systems which can easily replace the infringing products sold by the Proposed Respondents. The issuance of an exclusion order and a cease and desist order in this Investigation will not adversely impact consumers but will alternatively benefit the public welfare by protecting Lifetime's intellectual property.

Dated: December 30, 2016

Respectfully submitted,



Daniel E. Yonan
STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 New York Avenue
Washington, DC 20005
(202) 371-2600

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.**

In the Matter of

**CERTAIN BASKETBALL BACKBOARD
COMPONENTS AND PRODUCTS
CONTAINING THE SAME**

Investigation No. 337-TA - ____

**VERIFIED COMPLAINT
UNDER SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED**

Complainant

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Clearfield, Utah 84016
(801) 776-1532

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(202) 371-2600

Proposed Respondents

Russell Brands, LLC d/b/a Spalding
One Fruit of the Loom Drive
Bowling Green, Kentucky 42102
(270) 781-6400

**Reliable Sports Equipment (Wujiang) Co.
Ltd**
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Lili Town, Wujiang City
Jiangsu, China 215212

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EXHIBIT LIST

Exhibit No.	Description
Exhibit 1	Certified Copy of U.S. Patent No. 7,749,111 (“’111 Patent”)
Exhibit 2	Certified Copy of U.S. Patent No. 8,852,034 (“’034 Patent”)
Exhibit 3	Certified Copy of U.S. Patent No. 8,845,463 (“’463 Patent”)
Exhibit 4	Certified Copy of Assignment of the ’111 Patent
Exhibit 5	Certified Copy of Assignment of the ’463 Patent
Exhibit 6	Certified Copy of Assignment of the ’034 Patent
Confidential Exhibit 7	Confidential Declaration of Brian Slagle
Exhibit 8	Press Release, Lifetime Products Wins Consent Judgment in Patent Case
Exhibit 9	Press Release, Lifetime Products Breaks Ground in Tennessee
Exhibit 10	Press Release, Lifetime Products Celebrates “Made in America” Month
Exhibit 11	Press Release, Lifetime Receives Export Achievement Award
Exhibit 12	Press Release, Lifetime Products 2015 Utah Manufacturer of the Year
Exhibit 13	Press Release, Lifetime Products 2016 Utah Manufacturer of the Year
Exhibit 14	Press Release, Lifetime Products Receives Greatest Contributor Award
Exhibit 15	Press Release, Lifetime Named Wal-Mart Supplier of the Year
Exhibit 16	ImportGenius.com Records regarding Reliable
Exhibit 17	Panjiva.com Record regarding Russell and Reliable Showing Addresses
Exhibit 18	2016 Spalding Retail Catalog
Exhibit 19	2017 Spalding Retail Catalog
Exhibit 20	Photographs of Spalding Model 66365R
Exhibit 21	Photographs of Spalding Model 77537T

Exhibit No.	Description
Exhibit 22	Photographs of Spalding Model 88454G
Exhibit 23	Receipt for Purchase of Russell Model Nos. 66365R and 77537T
Exhibit 24	Receipt for Purchase of Russell Model No. 88454G
Exhibit 25	Exemplary Chart Showing Infringement of the '111 Patent by the Accused Products
Exhibit 26	Exemplary Chart Showing Infringement of the '463 Patent by the Accused Products
Exhibit 27	Exemplary Chart Showing Infringement of the '034 Patent by the Accused Products
Confidential Exhibit 28	Confidential Exemplary Chart Showing that Lifetime's Domestic Articles Practice the Claims of the Asserted Patents.
Exhibit 29	Complaint for Patent Infringement in <i>Lifetime Products, Inc. v. Russell Brands, LLC</i> , Case No. 1:12-cv-00026-DN-EJF
Exhibit 30	Memorandum Decision and Order regarding Claim Construction and Denying Russell's Motion to Reopen in <i>Lifetime Products, Inc. v. Russell Brands, LLC</i> , Case No. 1:12-cv-00026-DN-EJF
Exhibit 31	Memorandum Decision and Order regarding Supplemental Claim Construction in <i>Lifetime Products, Inc. v. Russell Brands, LLC</i> , Case No. 1:12-cv-00026-DN-EJF
Exhibit 32	Docket No. 81-5, Exhibit D to motion filed by Russell Brands, LLC in <i>Lifetime Products, Inc. v. Russell Brands, LLC</i> , Case No. 1:12-cv-00026-DN-EJF
Exhibit 33	Technical Document for Bostik ISR 70-03A adhesive
Exhibit 34	Material Safety Data Sheet for Bostik ISR 70-03A
Exhibit 35	Safety Data Sheet for Bostik ISR 70-03A
Exhibit 36	Silanol Fluids, Krayden, Inc.
Exhibit 37	European Patent Application, EP 1 605 008 A2

Exhibit No.	Description
Exhibit 38	Silyl-terminated Polyethers for Sealant Use: Performance Updates, Hashimoto, K. Imai, K, <i>Adhesives Age</i> , Aug. 1998.
Exhibit 39	MS Polymers in “Hybrid” Sealants, Edward M. Petrie
Exhibit 40	Russell Brands, LLC’s Supplemental Responses to Lifetime Products, Inc.’s Second Set of Interrogatories to Russell Brands, LLC in <i>Lifetime Products, Inc. v. Russell Brands, LLC</i> , Case No. 1:12-cv-00026-DN-EJF
Exhibit 41	Website print-out from Lifetime.com of Model No. 71522
Exhibit 42	User Manual for Lifetime Model No. 71522

PHYSICAL EXHIBITS

Physical Exhibit	Description
Physical Exhibit 1	Physical Sample of Russell Model No. 66365R
Physical Exhibit 2	Physical Sample of Lifetime Model No. 71522

APPENDICES

Appendix	Description
A	Certified Copy of the File History of the '111 Patent
B	References Cited in the Certified File History of the '111 Patent
C	Certified Copy of the File History for the reexamination of the '111 Patent
D	References Cited in the Certified File History for the reexamination of the '111 Patent
E	Certified Copy of the File History of the '463 Patent
F	References Cited in the Certified File History of the '463 Patent
G	Certified Copy of the File History of the '034 Patent
H	References Cited in the Certified File History of the '034 Patent

I. INTRODUCTION

1. Complainant Lifetime Products, Inc. requests that the United States International Trade Commission (“Commission”) institute an investigation into violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”), based on the proposed Respondents’ unlawful importation into the United States, sale for importation into the United States, and sale within the United States after importation of certain basketball backboard components and products containing the same (“Accused Products”) that infringe U.S. Patent No. 7,749,111 (“’111 Patent”), U.S. Patent No. 8,845,463 (“’463 Patent”), and U.S. Patent No. 8,852,034 (“’034 Patent”) (collectively, the “Asserted Patents”). Certified copies of the Asserted Patents accompany this Complaint as **Exhibits 1, 2, and 3**.

2. Lifetime is the world’s leading manufacturer of, *inter alia*, residential basketball systems—a position achieved by applying innovation and cutting-edge technology in plastics and metals to develop new products having superior strength and durability.

3. The Asserted Patents are directed to improved basketball backboard components, products that contain the same, and methods of making them. Before the inventions, Lifetime and its competitors used double-sided foam-core adhesive tape, prepared and applied by hand, to attach a backboard (often constructed of rectangular sheets of acrylic, polycarbonate, or glass) to a metal frame.

4. After years of research and development, Lifetime discovered the improved basketball backboard assemblies. The invention of the Asserted Patents allowed Lifetime to replace the manually prepared and applied tape with a bead of robotically applied liquid adhesive

sandwiched between the backboard and frame, resulting in significant cost-savings in the manufacturing process.

5. Lifetime has an established United States domestic industry for basketball backboard products, and it continues to support and grow that industry with continuing investments in areas such as manufacturing, research and development, and customer support.

6. The proposed Respondents are Russell Brands, LLC d/b/a Spalding (“Russell”) and Reliable Sports Equipment (Wujiang) Co. Ltd (“Reliable”) (collectively, “Respondents”). Each Respondent imports into the United States, sells for importation into the United States, and/or sells in the United States after importation Accused Products. The Accused Products infringe the claims listed in the table below for the ’111 Patent, the ’463 Patent, and the ’034 Patent (the “Asserted Claims”).

Asserted Patent	Asserted Claims
’111 Patent	1, 10, 19, 25, and 35
’463 Patent	1, 2, 6, 12, and 23
’034 Patent	18, 26, 28, 39, and 43

7. This Complaint is based on, and the Commission’s jurisdiction is invoked upon, the unlawful and unauthorized importation into the United States, sale for importation, and/or the sale within the United States after importation of the Accused Products.

8. Lifetime seeks as relief: (i) a permanent limited exclusion order under 19 U.S.C. § 1337(d) barring from entry into the United States Respondents’ Accused Products; (ii) a permanent cease and desist order under 19 U.S.C. § 1337(f) prohibiting Respondents and/or their affiliates, subsidiaries, successors, and assigns from importing, marketing, distributing, selling, offering for sale, selling after importation, holding warehousing inventory for distribution, or otherwise transferring or bringing into the United States the Accused Products and all

components thereof that infringe the Asserted Patents; and (iii) any other relief deemed appropriate by the Commission.

9. Further, Lifetime requests that the Commission impose a bond upon Respondents' importation of infringing Accused Products during the 60-day Presidential review period pursuant to 19 U.S.C. § 1337(j) to prevent further injury to Complainant and its domestic industry relating to each of the Asserted Patents.

II. THE PARTIES

A. The Complainant

10. Lifetime is a privately held corporation organized and existing under the laws of Utah, with its corporate headquarters at Freeport Center, Building D-11, Clearfield, Utah 84016.

11. Lifetime began operations in 1986 making residential basketball products. While Lifetime started as a local Utah business with 15 employees, it has grown into the worldwide market leader in the manufacture and sale of residential basketball products. Lifetime currently employs about 2,000 individuals, most of whom reside and work in Utah.

12. Lifetime's products are sold into more than 80 countries, and Lifetime has been recognized, including by the U.S. Department of Commerce, as a top exporter of U.S. made products, including residential basketball products. **Exhibit 10** (Press Release, Lifetime Products Celebrates "Made in America" Month); **Exhibit 11** (Press Release, Lifetime Receives Export Achievement Award).

13. As a U.S. manufacturer, Lifetime has been recognized by the Utah Manufacturers Association as a 2015 and 2016 Utah Manufacturer of the Year. **Exhibit 12** (Press Release, Lifetime Products 2015 Utah Manufacturer of the Year); **Exhibit 13** (Press Release, Lifetime

Products 2016 Utah Manufacturer of the Year). And Lifetime has led efforts to promote a uniformly high standard for labeling “Made in the USA.” **Exhibit 10** (Press Release, Lifetime Products Celebrates “Made in America” Month). In 2014, Lifetime was recognized for its commitment to quality U.S. manufacturing:

14. Utah Governor Gary R. Herbert stated that “Domestic manufacturing is the foundation of the U.S. economy. More than 95 percent of Americans have favorable views of American-made products with good reason. In celebration of Made in America Month, we are proud to acknowledge Utah’s own Lifetime Products as an excellent example of quality American manufacturing.” *Id.*

15. Congressman Rob Bishop for Utah’s 1st Congressional District stated that “United States manufacturers are global leaders in productivity and product quality and companies like Lifetime Products illustrate the excellence found in products made in America. As one of Utah’s premier manufacturing companies, Lifetime Products continues to represent the state on a global stage as a leader in innovation and ingenuity.” *Id.*

16. Lifetime is the sole owner by assignment of the Asserted Patents with the right to sue for all past, present, and future infringement thereof. *See* **Exhibit 4** (Certified Copy of Assignment of the ’111 Patent); **Exhibit 5** (Certified Copy of Assignment of the ’463 Patent); **Exhibit 6** (Certified Copy of Assignment of the ’034 Patent).

17. Lifetime exploits the technologies covered by the Asserted Patents through various activities in the United States, including manufacturing, research and development, marketing and selling residential basketball backboard products and components thereof. Lifetime sells both portable and in-ground basketball products. As such, Lifetime maintains

operations in the United States with respect to its patented materials and processes under the Asserted Patents. *See* **Confidential Exhibit 7** (Slagle Decl.).

18. Lifetime has made and continues to make investments in the United States in the design and development of products and processes protected by the Asserted Patents. *See Id.* As discussed more fully below in Section VIII, these investments in the United States in research and development, facilities, equipment, labor, and capital establish and maintain a domestic industry.

19. Lifetime zealously protects its patented inventions from unauthorized use and, if necessary, enforces rights against infringers of its proprietary, claimed technologies.

B. The Proposed Respondents

1. Russell

20. On information and belief, Russell is a Delaware corporation with its principal place of business at One Fruit of the Loom Drive, Bowling Green, Kentucky 42102. **Exhibit 17.**

21. Upon information and belief, Russell, under the Spalding brand name, sells, imports, and distributes, and has sold, imported, and distributed the Accused Products in the United States. **Exhibit 18** (2016 Spalding Retail Catalog), p. 50; **Exhibit 16** (ImportGenius.com Records regarding Reliable to Russell).

2. Reliable

22. On information and belief, Reliable is a Chinese manufacturing company with its principal place of business located at No 4888 Linhu Road Lili Town, Wujiang City, Jiangsu, China 215212. **Exhibit 17.**

23. On information and belief, Reliable is an overseas manufacturer for Russell of the Accused Products, which are manufactured in China, in whole or in part, and sold within the United States.

24. Upon information and belief, Reliable manufactures and has manufactured, imports and has imported into the United States, and sells and has sold for importation into the United States, the Accused Products. **Exhibit 16** (ImportGenius.com Records regarding Reliable).

III. THE ASSERTED PATENTS

A. Identification and Ownership of the '111 Patent

25. On July 6, 2010, the United States Patent and Trademark Office ("USPTO") duly and lawfully issued the '111 Patent, entitled System and Method for Bonding an Acrylic Surface to a Frame, to inventor Larry Stevens. The '111 Patent issued from United States Application No. 09/228,325, filed January 11, 1999. The '111 Patent has 56 claims, including 9 independent claims and 47 dependent claims. All maintenance fees for the '111 Patent have been paid, and there are no fees currently due.

26. A certified copy of the '111 Patent is attached hereto as **Exhibit 1**. Pursuant to Commission Rule 210.12(c), a certified copy of the File History of the '111 Patent is included as **Appendix A**. Copies of the references cited in the certified file history of the '111 Patent are included as **Appendix B**. A certified copy of the File History for the reexamination of the '111 Patent is included as **Appendix C**. Copies of the references cited in the certified file history for the reexamination of the '111 Patent are included as **Appendix D**.

27. By way of assignment, Lifetime holds all rights, title and interest to the '111 Patent. A certified copy of the assignment record for the '111 Patent is attached hereto as **Exhibit 4**.

28. The '111 Patent has not been licensed.

B. Identification and Ownership of the '463 Patent

29. On October 7, 2014, the USPTO duly and lawfully issued the '463 Patent, entitled Basketball Backboard, to inventor Larry Stevens. The '463 Patent issued from United States Application No. 13/275,174, filed October 17, 2011. The '463 Patent is a continuation of U.S. Patent No. 8,038,550, which is a continuation of the '111 Patent. The '463 Patent has 50 claims, including 5 independent claims and 45 dependent claims. All maintenance fees for the '463 Patent have been paid, and there are no fees currently due.

30. A certified copy of the '463 Patent is attached hereto as **Exhibit 3**. Pursuant to Commission Rule 210.12(c), a certified copy of the File History of the '463 Patent is included as **Appendix E**. Copies of the references cited in the certified file history of the '463 Patent are included as **Appendix F**.

31. By way of assignment, Lifetime holds all rights, title and interest to the '463 Patent. A certified copy of the assignment record for the '463 Patent is attached hereto as **Exhibit 5**.

32. The '463 Patent has not been licensed.

C. Identification and Ownership of the '034 Patent

33. On September 30, 2014, the USPTO duly and lawfully issued the '034 Patent, entitled Method of Constructing a Basketball Backboard, to inventor Larry Stevens. The '034

Patent issued from United States Application No. 13/270,149, filed October 10, 2011. The '034 Patent is a continuation of U.S. Patent No. 8,033,935, which is a continuation of the '111 Patent. The '034 Patent has 63 claims, including 3 independent claims and 60 dependent claims. All maintenance fees for the '034 Patent have been paid, and there are no fees currently due.

34. A certified copy of the '034 Patent is attached hereto as **Exhibit 2**. Pursuant to Commission Rule 210.12(c), a certified copy of the File History of the '034 Patent is included as **Appendix G**. Copies of the references cited in the certified file history of the '034 Patent are included as **Appendix H**.

35. By way of assignment, Lifetime holds all rights, title and interest to the '034 Patent. A certified copy of the assignment record for the '034 Patent is attached hereto as **Exhibit 6**.

36. The '034 Patent has not been licensed.

D. Foreign Counterparts to the Asserted Patents

37. In accordance with Commission Rule 210.12(a)(9)(v), Lifetime states that it is aware of no foreign counterparts issued, filed, abandoned, withdrawn, or rejected corresponding to the Asserted Patents.

IV. NON-TECHNICAL DESCRIPTION OF THE ASSERTED PATENTS

38. The following non-technical description of the patented technology is provided solely for compliance with the Commission Rules. It is not intended to, and does not, limit, define, or otherwise affect the construction and/or application of each patent's claim language and should not be understood to do so.

39. Traditionally, residential basketball backboards were constructed from little more than a rigid board behind a basketball hoop. The rigid board could be comprised of various materials, including solid fiberglass or wood materials.

40. Through the rise in popularity of professional basketball, and its use of clear glass backboards, consumers wanted home-use basketball backboards that were aesthetically similar to those seen in professional basketball games. Due to this demand, consumer backboards began using sheets of glass or other clear materials, such as acrylic or polycarbonate, reinforced by a metal backboard frame.

41. Before the inventions of the Asserted Patents, Lifetime and its competitors used double-sided foam-core adhesive tape to attach the backboards to their metal frames. The double-sided tape was expensive and needed to be cut to size and applied by hand—a process which was both time and labor intensive for manufactures.

42. Lifetime's Asserted Patents address the difficulties previously experienced by allowing Lifetime to replace the manually prepared and applied tape with a bead of robotically applied adhesive sandwiched between the backboard and frame, thereby presenting substantial cost savings in terms of labor and material.

43. Each of the Asserted Patents describes backboard components, products containing the same, and methods of making backboards adhesively attached to their frames.

V. THE ACCUSED PRODUCTS

44. The Accused Products are residential basketball backboards and products containing basketball backboards, including at least the following model numbers: 71454, 71562, 71564, 72351, 72354, 75355, 75746, 75747, 75748, 75749, 75750, 75761, 75763, 79307, 79349,

79351, 79354, 79355, 79564, 88349, 88355, 88365, 88531, 66365R, 77537T, 88307PR, 88354PR, 88454G, 88454G, 88461G. *See* **Exhibit 18** (2016 Spalding Retail Catalog); **Exhibit 19** (2017 Spalding Retail Catalog); **Exhibit 20** (Photographs of Spalding Model 66365R); **Exhibit 21** (Photographs of Spalding Model 77537T); **Exhibit 22** (Photographs of Spalding Model 88454G).¹

45. The Accused Products infringe the Asserted Claims.

VI. RESPONDENTS' UNLAWFUL AND UNFAIR ACTS

A. Importation and Sale

46. On information and belief, the Accused Products are or have been manufactured by Reliable abroad and sold for importation into the United States by Reliable. **Exhibit 16** (ImportGenius.com Records). On information and belief, the Accused Products then are or have been imported and sold in the United States after importation by Russell. **Exhibits 18–19** (Spalding Retail Catalogs).

47. Specifically, based on importation records, Respondents Russell and Reliable imported residential basketball systems into the United States at least by October 2012 and throughout 2013–2016. **Exhibit 16** (ImportGenius.com Records regarding Reliable to Russell). Following importation, Russell sells at least a 54" acrylic backboard under the model number 66365R, a 44" polycarbonate backboard under the model number 77537T, and a glass backboard under the model number 88454G. The packaging included with all three models states “Made in China.” **Exhibit 20** (Photographs of Model No. 66365R); **Exhibit 21** (Photographs of

¹ Lifetime has identified these products based on information that is publicly available at this time. This list is non-limiting, and Lifetime expects to identify additional infringing products by model number during discovery.

Model No. 77537T), **Exhibit 22** (Photographs of Model No. 88454G); *see also* **Physical Exhibit 1** for the purchased acrylic backboard.

48. The 66365R and 77537T models were purchased by Lifetime at Target in Layton, Utah. **Exhibit 23** (Receipt for Purchase of Russell Model Nos. 66365R and 77537T). The 88454G model was likewise purchased online from Dick's Sporting Goods. **Exhibit 24** (Receipt for Purchase of Russell Model No. 88454G).

49. Based on this information, it is believed that Respondents import, have imported, sell for importation, have sold for importation, or sell or have sold within the United States after importation certain basketball backboard components and/or products containing the same that infringe the Asserted Patents.

B. Direct Infringement

50. Respondents infringe and continue to infringe, literally or under the doctrine of equivalents, the Asserted Claims by at least the manufacturing, importation, sale for importation, and/or sale after importation of the Accused Products without authority from Lifetime.

51. A claim chart comparing an exemplary Accused Product to the '111 Patent's Asserted Claims is attached as **Exhibit 25**. A claim chart comparing an exemplary Accused Product to the '463 Patent's Asserted Claims is attached as **Exhibit 26**. A claim chart comparing an exemplary Accused Product to the '034 Patent's Asserted Claims is attached as **Exhibit 27**.

C. Indirect Infringement

52. On information and belief, Russell has induced and continues to induce Reliable to infringe the Asserted Patents by the manufacture, use, sale, offer for sale, and importation of the Accused Products. For example, Russell has, on information and belief, specifically

instructed its supplier, Reliable, to manufacture the Accused Products on its behalf, which are then purchased, imported, and sold domestically in the United States by Russell. Earlier notice of the Asserted Patents is also undisputed since Russell has been accused of infringement of them through previous litigation that began in 2010 with respect to the '111 Patent and continued with the addition of the '463 Patent and the '034 Patent. *See* § 9, *infra*.

VII. HARMONIZED TARIFF SCHEDULE

53. The Accused Products fall within at least the following headings and subheadings of the United States Harmonized Tariff Schedule (“HTS”): 9506.99.60 80. This HTS number is illustrative only and not intended to limit the scope of the investigation.

VIII. THE DOMESTIC INDUSTRY

54. A domestic industry, as defined by 19 U.S.C. §§ 1337(a)(2) and (a)(3), exists in the United States relating to the claims of the Asserted Patents.

55. Lifetime invests in plant and equipment, labor and capital, and engineering and research and development related to its domestically-manufactured backboard models that use patented technology from the Asserted Patents (“Domestic Articles”). **Confidential Exhibit 7** (Slagle Decl.) is a declaration that further describes Lifetime’s activities and investments as to its Domestic Articles, which are identified in Appendix 1 of **Confidential Exhibit 7**.

A. Lifetime’s Economic Activity in the United States Relating to the Domestic Articles

1. Investment in Plant and Equipment

56. Lifetime operates in the United States primarily from a facility located in Clearfield, Utah. This facility is used for researching, developing, testing, manufacturing, packaging, warehousing, shipping, selling, marketing, and supporting Lifetime’s Domestic

Articles. All of Lifetime's Domestic Articles are manufactured at this facility. *See Confidential Exhibit 7* (Slagle Decl.), ¶¶ 3–9.

57. Lifetime's Clearfield, Utah facility is 3,157,000 square feet. Lifetime's Utah facility contains all of the equipment used to manufacture the Domestic Articles. *Id.* at ¶¶ 8–9. Lifetime's Utah facility also houses or housed all the development tools that Lifetime used in the research, development, and testing of the Domestic Articles. *Id.* at ¶ 9. Lifetime employs laborers at its Utah facility that are engaged in the research, development, engineering, testing, manufacture, packaging, storage, shipping, sales, marketing, customer service, and business administration for the Domestic Articles. *Id.* This facility also houses Lifetime's corporate headquarters.

58. Lifetime also has additional warehousing and distribution facilities for the Domestic Articles in Kansas City, Missouri and Columbus, Ohio. *Id.* at ¶ 10.

2. Investment in Labor and Capital

59. As detailed in *Confidential Exhibit 7* (Slagle Decl.), Lifetime's technical and non-technical personnel located in the United States are engaged in activities necessary to commercialize and support Lifetime's Domestic Articles.

60. Lifetime currently employs people in the United States who develop, manufacture, market, support, and sell Lifetime's Domestic Articles. *See, e.g., id.*, ¶¶ 9, 15, 20–21, 24. These employees include personnel dedicated to the manufacture, packaging, and shipment of the Domestic Articles, as well as engineers and technicians either partially or fully dedicated to researching and developing the Domestic Articles.

61. Other personnel in the United States provide administrative, accounting, accounts payable, and marketing/business development support for Lifetime's business activities related to the Domestic Articles. *Id.* at ¶ 9, 24.

3. Investment in Engineering and Research and Development

62. In addition, Lifetime has invested to research and develop the Domestic Articles. *Id.*, ¶¶ 20–22. Lifetime holds over 40 issued patents in the field of innovative basketball products. The Asserted Patents are an important part of Lifetime's patent portfolio and are a key Lifetime asset. *Id.*, ¶ 5.

B. The Domestic Articles Practice the Asserted Patents

63. Exemplary claim charts attached as **Confidential Exhibit 28** demonstrate that the Domestic Articles are manufactured using processes claimed in at least claims 1, 2, 6, 12, and 23 of the '463 Patent and fall within the scope of at least claims 1, 10, 19, 25, and 35 of the '111 Patent and claims 18, 26, 28, 39, and 43 of the '034 Patent.

64. A representative physical sample of the Domestic Articles is provided to the Commission. *See* **Physical Exhibit 2** (Physical Sample of Lifetime Model No. 71522); *see also* **Confidential Exhibit 7** (Slagle Decl.), ¶ 20.

IX. RELATED LITIGATION

65. Lifetime has asserted the Asserted Patents in a related litigation.

66. On February 10, 2012, Lifetime filed a complaint against Russell alleging infringement of the '111 Patent. *See Lifetime Products, Inc. v. Russell Brands, LLC, d/b/a Spalding*, Case No: 1:12-cv-00026-DN (D. Utah). *See* **Exhibit 29** (Complaint for Patent Infringement). Later, Russell filed declaratory judgment counterclaims with respect to the '463

and '034 Patents, in response to which Lifetime brought claims for infringement of the '463 and '034 Patents against Russell. All discovery has been completed, and the case was poised for trial. Currently, the case is stayed pending USPTO appeals related to family member patents that are not at issue in this investigation.

67. About seven months into the case, Russell petitioned the USPTO for *ex parte* reexamination of the '111 Patent. The USPTO reaffirmed the patentability of claims 1–20 and 23–26 of the original '111 Patent, affirmed the patentability of claims 21 and 22 as amended during reexamination, and allowed new claims 27–56. **Exhibit 1** ('111 Patent) at Ex Parte Reexamination Certificate. The reexamination certificate for the '111 Patent issued on May 21, 2014.

68. After the USPTO issued the reexamination certificate for the '111 Patent, Lifetime and Russell fully briefed claim construction issues for, *inter alia*, the '111 Patent, and the Court issued its claim construction order construing the claims of the '111 Patent and terms and phrases therein, on September 2, 2015. *See Exhibit 30* (Mem. Dec. and Order regarding Claim Constr. and Denying Russell's Mot. to Reopen). Then, after the '463 and '034 Patents were brought into the case, the Court held supplementary claim construction proceedings, and issued a supplementary claim construction order that affirmed the Court's prior claim construction order with respect to the '111 Patent and construed the claims of the '463 and '034 Patents. *See Exhibit 31* (Mem. Dec. and Order Regarding Supplemental Claim Constr.).

69. In 2015, Lifetime also asserted the '111 Patent against Pro Performance Sports, LLC. *Lifetime Products, Inc. v. Pro Performance Sports, LLC*, 1:14-cv-00172-EJF (D. Utah). The case was settled and dismissed that same year.

70. Other than the items specified above, to Lifetime's knowledge the Asserted Patents are not and have not been the subject of any current or prior litigation.

X. RELIEF REQUESTED

71. WHEREFORE, by reason of the foregoing, Complainant Lifetime requests that the United States International Trade Commission:

A. Institute an immediate investigation under Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, with respect to Respondents' violations of that section based on the unlawful importation into the United States, the sale for importation into the United States, and/or the sale within the United States after importation of the Accused Products, and all components thereof, that infringe one or more claims of one or more of the Asserted Patents;

B. Schedule and conduct an evidentiary hearing on permanent relief under 19 U.S.C. §§ 1337(d) and (f) of the Tariff Act of 1930, as amended;

C. Determine that each Respondent has violated Section 337;

D. Issue a Limited Exclusion Order under 19 U.S.C. § 1337(d) specifically directed to each named Respondent barring and excluding from entry into the United States any article that infringes one or more claims of one or more of the Asserted Patents;

E. Issue permanent cease and desist orders under 19 U.S.C. § 1337(f) prohibiting any and all Respondents and their affiliates, subsidiaries, successors, or assigns, from importing, selling for importation, marketing, demonstrating, distributing, offering for sale, selling after importation, or transferring, including moving or shipping inventory in the United States, any article that infringes one or more claims of one or more of the Asserted Patents;

F. Impose a bond upon Respondents who continue to import infringing articles during the 60-day-Presidential review period per 19 U.S.C. § 1337(j);

G. Issue such other and further relief as the Commission deems just and proper under the law based upon the facts determined by the investigation and the authority of the Commission; and

H. Find that public interest is not affected by the remedial orders requested by Lifetime and, therefore, refuse to delegate this issue for further discovery to the Administrative Law Judge.

Dated: December 30, 2016

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Daniel E. Yonan', is written over a horizontal line.

Daniel E. Yonan

VERIFICATION OF COMPLAINT

I, Timothy Schade, General Counsel of Complainant Lifetime Products, Inc.

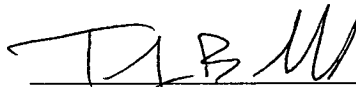
("Lifetime"), for and on behalf of Lifetime, in accordance with the provisions of Rule 210.4 and 210.12(a), declare that:

1. I am duly authorized to execute this verification.
2. I have read the complaint and am familiar with the allegations and statements contained therein, and that to the best of my knowledge, information and belief founded after reasonable inquiry, the allegations and statements made in the complaint are well grounded in fact and are warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

This document is not being filed for any improper purpose.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on DEC 30 2016.



Timothy Schade
General Counsel
Lifetime Products, Inc.