

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

In the Matter of

**CERTAIN WOVEN TEXTILE FABRICS
AND PRODUCTS CONTAINING SAME**

Investigation No. 337-TA- _____

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

Complainant

AAVN, Inc.
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Richardson, TX 75080
Tel. (469) 726-3368

Proposed Respondents

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EXHIBIT LIST

Exhibit	Description
1	Copy of U.S. Patent No. 9,131,790
2	Assignment Records for U.S. Patent No. 9,131,790
3	Information Regarding Inventor Arun Agarwal
4	Belk Advertisement for Creative Textile and AQ Textiles' Sterling Manor Sheets
5	Packaging for Creative Textile and AQ Textiles' Sterling Manor Sheets
6	FTC Opinion Letter
7	Confidential List of Licensees
8	Test Report on Creative Textile and AQ Textiles' Accused Products
9	Patent Infringement Claim Chart for Creative Textile and AQ Textiles' Accused Products
10	Zepol Bill of Lading Detail for Creative Textile and AQ Textiles' Accused Products
11	Confidential Domestic Industry Claim Chart
12	Confidential Declaration of Arun Agarwal
13	Macy's Online Advertisement for Creative Textile and AQ Textiles' Products
14	Amazon and eBay Advertisements for Creative Textile and AQ Textiles' Products
15	Confidential Declaration of Rohan Bhatt
16	Confidential Test Report Results on NEXTT's Alpha Cotton Sheet
P1	Physical Exhibit – NEXTT's Alpha Cotton Sheet
P2	Physical Exhibit – Creative Textile and AQ Textiles' Sterling Manor Sheet

APPENDIX LIST

Appendix	Description
A	Prosecution History of U.S. Patent No. 9,131,790
B	Patents and Applicable Pages of Technical References Mentioned in the Prosecution History of U.S. Patent No. 9,131,790

I. INTRODUCTION

1. AAVN, Inc. (“AAVN” or “Complainant”) files this complaint under Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, based on the unlawful importation into the United States, sale for importation into the United States, and/or sale within the United States after importation by proposed respondents AQ Textiles, LLC and Creative Textile Mills Pvt. Ltd. (collectively “Proposed Respondents”) of certain woven textile fabrics and products containing same that infringe one or more claims of United States Patent No. 9,131,790 (“the ’790 patent” or “the Asserted Patent”), either literally or under the doctrine of equivalents.

2. AAVN, and its wholly-owned subsidiary Next Creations Holdings, LLC (“NEXTT”) develop and design woven textile fabrics and products containing same protected by the ’790 patent, including the revolutionary “Alpha Cotton” high thread count cotton and polyester blend sheets and bedding products made possible by the ’790 patent. AAVN is the owner of all rights, title, and interest in and to the ’790 patent.

3. Proposed Respondents manufacture abroad, sell for importation, import, and/or sell or offer for sale after importation into the United States certain woven textile fabrics and products containing same that infringe at least the following claims of the Asserted Patent (independent claim in **bold**):

Patent No.	Asserted Claims
9,131,790	1, 2-7

4. A domestic industry as required by 19 U.S.C. § 1337(a)(2) and (3) exists or is the process of being established in the United States relating to the ’790 patent. AAVN’s domestic industry includes substantial domestic investments in, *inter alia*, the exploitation of the

inventions claimed in the '790 patent through engineering, research and development, and design of articles protected by the asserted patent and in licensing the Asserted Patent.

5. Due to the rapid growth of imports of infringing articles from numerous sources and the difficulty in identifying infringers, AAVN seeks as relief a general exclusion order, or, alternatively, a limited exclusion order barring from entry into the United States infringing woven textile fabrics and products containing same that are manufactured abroad, sold for importation, imported, and/or sold in the United States after importation by or on behalf of the Proposed Respondents. AAVN further seeks as relief permanent cease and desist orders prohibiting the importation, sale, sale for importation, marketing, advertisement, distribution, offering for sale, use after importation, sale after importation, packaging, transfer (except for exportation), solicitation of United States agents or distributors, or aiding and abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of woven textile fabrics and products containing same that infringe the Asserted Patent.

II. COMPLAINANT

6. AAVN, Inc. is a corporation incorporated and existing under the laws of Texas. AAVN has a principal place of business at 1401 North Central Expressway, Suite 370, in Richardson, Texas 75080. AAVN is in the business of researching and developing woven textile products and licensing its intellectual property. AAVN is also the sole owner of NEXTT, a domestic textile design studio with offices in Texas, New York, North Carolina and Minnesota. NEXTT produces designs under brand names including Raymond Waites and Royal Sateen, conducts product design for major national retailer chains, and sells woven textile products incorporating its designs.

7. AAVN was founded in 2012 by Arun Agarwal. AAVN and NEXTT have swiftly grown to over 100 employees and become the largest supplier of sheets and bedding products in the United States. AAVN and NEXTT work closely with their supplier and manufacturer, Alok Industries Ltd. (“ALOK”), a licensee to the '790 patent, to manufacture Alpha Cotton sheets and bedding products for sale in the United States.

8. AAVN and NEXTT are the brainchild of the '790 patent's inventor, Arun Agarwal. Mr. Agarwal has been called “The King of Home Textiles,” and has received several honors for his technical and business acumen, including being named 2013 Entrepreneur of the Year by the Greater Dallas Indo-American Chamber of Commerce and the 2014 outstanding entrepreneur by the Indian American Friendship Council. Mr. Agarwal also received the minority business leader award by the Dallas Business Journal in 2013 and the Times Now/ICICI Bank Non-Resident Indian of the Year Award for his business success in the textile marketplace. *See Exhibit 3.*

9. Mr. Agarwal's most recent breakthrough in woven textile fabric manufacturing, known as Alpha Cotton, is made possible by the inventions described in the '790 patent. The skyrocketing price of cotton prompted Mr. Agarwal to seek a substitute fabric that would lower his businesses' cotton needs while maintaining customer comfort and increasing durability. Mr. Agarwal drew on his childhood memories of polyester being a “rich man's fabric” to create a process that would create a cotton-polyester blended fabric that allowed for high thread counts, and therefore high comfort, without sacrificing structural integrity. Sheets and bedding products made using Alpha Cotton produced according to the '790 patent have met considerable and growing commercial success, but have been subject to widespread copying by unlicensed

manufacturers in South Asia. A sample of NEXTT's 800 thread count Alpha Cotton sheet is attached at Physical Exhibit 1.

10. As discussed below, AAVN and NEXTT have invested considerable time, effort, and resources in the United States researching, developing, and designing woven textile fabrics protected by the '790 patent and in licensing the '790 patent.

III. PROPOSED RESPONDENTS

A. AQ Textiles

11. Proposed Respondent AQ Textiles, LLC ("AQ Textiles"), is a limited liability company with a principal place of business at 7622 Royster Road, Greensboro, NC 27455.

12. AQ Textiles imports, and/or sells after importation woven textile fabrics and products containing same, including the Sterling Manor brand 620 thread count sheets (the "Sterling Manor" sheets) manufactured by Proposed Respondent Creative Textile.

13. The Sterling Manor sheets are currently offered for sale through Belk, a department store. *See* Exhibit 4. A copy of the packaging for the Sterling Manor sheets is contained in Exhibit 5. A sample of the Sterling Manor sheets accompanies this complaint as Physical Exhibit 2.

B. Creative Textile

14. Proposed Respondent Creative Textile Mills Pvt. Ltd. ("Creative Textile") is a private limited company organized and operating under the laws of the Republic of India with a place of business at 115/116, Sun Industrial Estate, Sun Mill Compound, Lower Parel (W), Lower Parel, Mumbai, Maharashtra 400013, India.

15. Creative Textile manufactures and sells for importation in the United States woven textile fabrics and products containing same, including the Sterling Manor sheets imported by Proposed Respondent AQ Textiles. *See* ¶¶ 12-13 *supra*.

IV. THE PRODUCTS AT ISSUE

16. Pursuant to Commission Rule 210.12(a)(12), the products at issue in this investigation include woven textile fabrics and products containing same, including without limitation high thread count cotton and polyester sheets and bedding products such as the Proposed Respondents' Sterling Manor sheets (the "Accused Products").

V. THE ASSERTED PATENT AND NONTECHNICAL DESCRIPTIONS OF THE INVENTIONS¹

A. Non-Technical Overview of the Inventions in the Asserted Patent

17. Consumer textiles, such as bed sheets or clothing, can have several appealing characteristics. One such characteristic for textiles is comfort, especially for textiles that are designed to contact human skin. Another such characteristic is durability, so that textiles do not degrade during use or cleaning. Manufacturers of woven textiles often have to strike a balance between comfort and durability, and the industry as a whole strives to find inventions that can allow one to be improved without diminishing the other.

18. Comfort is often increased by using cotton yarns in woven textiles. Cotton has high absorbency and breathability, and generally feels pleasant on human skin. However cotton is not as durable as other fabrics, and can degrade when used in an environment with heavy machine laundering, such as in hotels. Thus, manufacturers of woven textiles can increase comfort by using cotton, but usually must accept that such products will be less durable than other options.

¹ All non-technical descriptions of the '790 patent herein are presented to give a general background of that patent. These statements are not intended to be used nor should they be used for purposes of patent claim construction. Complainant presents these statements subject to and without waiver of its right to argue that claim terms should be construed in a particular way under claim interpretation jurisprudence and the relevant evidence.

19. Cotton's durability can be increased by blending it with a more robust fiber. This can be done by weaving cotton in combination with a synthetic fiber such as polyester. This increases the woven textile fabric's durability, while maintaining the feel of cotton for the end user.

20. The comfort of a woven textile fabric can be further improved by increasing the fabric's "thread count." The thread count is a measurement of how many yarns – individual spun threads – can be found in a square inch of fabric. By using smaller and finer yarns, manufacturers of woven textile fabrics can increase the thread count. A higher thread count is often recognized as an indication of higher quality woven textile fabric, as well as improved tactile sensations for consumers. High thread count sheets have become particularly attractive to consumers.

21. It is difficult to incorporate synthetic fibers, such as polyester, into a high thread count woven textile fabric. Synthetic fibers such as polyester become increasingly brittle when made smaller and finer, and can break when fed into a loom apparatus for use in a high thread count cotton-polyester blended fabric product. Thus, high thread count woven textile fabrics could not take advantage of the benefits to durability of a cotton-polyester hybrid weave.

22. To circumvent this problem, some manufacturers twist individual yarns together, then use the twisted combination as if it was a single yarn in the weaving process. The twisted yarn is often more durable. Some of these manufacturers then counted the individual pre-twisted yarns when advertising their thread counts in order to appeal to customers, even though the end product often did not have the luxurious feeling of high thread count sheets to the end consumer. The Federal Trade Commission considers the practice of counting individual yarns within the twisted yarns to be a deceptive advertising process. *See* Exhibit 6.

23. The Asserted Patent overcomes the shortcomings of having to sacrifice comfort for durability when weaving high thread count cotton-synthetic blended fabrics. The Asserted Patent allows for the manufacturing of woven textile fabrics with a thread count between 200 and 1,000, while maintaining a considerable minimum tensile strength throughout the end product. The resulting fabric is of exceptionally high quality compared to prior cotton-synthetic blended weaves due to its high thread count.

24. The combination of the inventive elements of the Asserted Patent substantially improves the quality of cotton-synthetic hybrid weaves while maintaining the durability of the end product, allowing manufacturers to produce a fabric that feels luxurious and can withstand rigorous use and cleaning. This provides an overall benefit to consumers by virtue of increased comfort and extended product lifetime, as well as lowering costs by decreasing the amount of expensive cotton needed to manufacture the fabric.

B. The '790 Patent

1. Identification and Ownership of the '790 Patent

25. AAVN owns by assignment the right, title and interest in United States Patent No. 9,131,790, titled "Proliferated Thread Count of a Woven Textile by Simultaneous Insertion within a Single Pick Insertion Event of a Loom Apparatus Multiple Adjacent Parallel Yarns Drawn from a Multi-Pick Yarn Package," which issued on September 15, 2015, naming Arun Agarwal as the sole inventor. A copy of the '790 patent is attached as Exhibit 1.² A copy of the assignment from Mr. Agarwal to AAVN is attached as Exhibit 2. A copy of the prosecution history of the '790 patent is attached as Appendix A. Copies of each patent and applicable

² Certified copies of the '790 patent, assignment and prosecution history have been ordered from the U.S. Patent and Trademark Office and will be provided to the Commission upon receipt.

pages of each technical reference mentioned in the prosecution history of the '790 patent are attached as Appendix B.

2. Foreign Counterparts to the '790 Patent

26. No foreign patents or patent applications corresponding to the '790 patent have been filed, abandoned, withdrawn, or rejected.

C. Licensees to the Asserted Patent

27. A list of all licensees to the '790 patent is attached at Confidential Exhibit 7.

VI. UNLAWFUL AND UNFAIR ACTS OF RESPONDENTS – PATENT INFRINGEMENT.

28. Proposed Respondents infringe claims 1-7 of the Asserted Patent by manufacturing abroad, selling for importation, importing and/or selling after importation into the United States the Accused Products, either directly or under the doctrine of equivalents. The Accused Products satisfy all claim limitations of claims 1-7 at the time of importation into the United States.

29. A test report analyzing Proposed Respondents' Sterling Manor sheets is attached as Exhibit 8. A claim chart comparing the '790 patent's asserted independent claim 1 to Proposed Respondents Creative Textile and AQ Textiles' Sterling Manor sheets is attached as Exhibit 9.

VII. SPECIFIC INSTANCES OF UNFAIR IMPORTATION

30. The Accused Products have been imported into the United States for sale and distribution.

31. The Sterling Manor sheets manufactured by Proposed Respondent Creative Textile and imported by Proposed Respondent AQ Textiles are labeled as "Made in India." *See*

Exhibit 5. They are available for purchase at Belk department stores and on Belk's website in the United States. *See* Exhibit 4.

32. As shown in bill of lading information obtained attached at Exhibit 10, Proposed Respondents Creative Textile has sold for importation and AQ Textiles has imported Accused Products into the United States.

VIII. CLASSIFICATION OF THE INFRINGING PRODUCTS UNDER THE HARMONIZED TARIFF SCHEDULE

33. On information and belief, the Accused Products are classified under at least the following items of the Harmonized Tariff Schedule of the United States: 6302.31.90.10, 6302.31.90.20, 6304.19.05.00, and 9404.90.10.00. These classifications are exemplary in nature and not intended to restrict the scope of any exclusion order or other remedy ordered by the Commission.

IX. RELATED LITIGATION

34. On September 16, 2015, AAVN filed a complaint in the U.S. District Court for the Eastern District of Texas, against Proposed Respondent AQ Textiles, captioned *AAVN, Inc. v. AQ Textiles, LLC*, 2:15-cv-01527, asserting the same patent asserted here.

35. On September 16, 2015, AAVN filed a complaint in the U.S. District Court for the Eastern District of Texas, against Proposed Respondent Creative Textile, captioned *AAVN, Inc. v. Creative Textile Mills Private Ltd.*, 2:15-cv-01534, asserting the same patent asserted here.

36. On September 16, 2015, AAVN filed a complaint in the U.S. District Court for the Eastern District of Texas, against Indo Count Global, Inc., captioned *AAVN, Inc. v. Indo Count Global, Inc.*, 2:15-cv-01531, asserting the same patent asserted here.

37. On September 16, 2015, AAVN filed a complaint in the U.S. District Court for the Eastern District of Texas, against GHCL Limited, captioned *AAVN, Inc. v. GHCL Ltd.*, 2:15-cv-01532, asserting the same patent asserted here.

38. On September 16, 2015, AAVN filed a complaint in the U.S. District Court for the Eastern District of Texas, against Globe Cotyarn Private Limited, captioned *AAVN, Inc. v. Globe Cotyarn Private Ltd.*, 2:15-cv-01533, asserting the same patent asserted here.

39. The unfair acts asserted here, or the subject matter thereof, have not been the subject of any other previous litigation in any domestic or foreign court or administrative agency.

X. THE DOMESTIC INDUSTRY RELATING TO THE ASSERTED PATENT

40. An industry as required by Section 337(a)(2) and defined by Section 337(a)(3) exists or is in the process of being established in the United States relating to the Asserted Patent and Complainants' products protected by the Asserted Patent.

A. Complainant's Practice of the Asserted Patent (Technical Prong)

41. AAVN and NEXTT engineer, design and have produced woven textile fabrics and products containing same that practice at least one claim of the Asserted Patent at their facilities in the United States.

42. Claim charts demonstrating that a representative woven textile fabric, the NEXTT Alpha Cotton 800 thread count sheet attached as Physical Exhibit 1, practices at least one claim of the Asserted Patent is attached as Confidential Exhibit 11.³

³ Domestic industry products are manufactured by a method that practices additional claims of the Asserted Patent, and AAVN may establish the technical prong of the domestic industry requirement through claims other than the representative claim used in this exhibit.

B. United States Economic Activity Relating to the Domestic Industry Products (Economic Prong)

43. Complainant has dedicated a substantial amount of its business to the development and exploitation of the Asserted Patent through engineering, research and development, design, sale, and support of its Alpha Cotton woven textile fabric products.

44. AAVN has made substantial investments in engineering and research and development to develop and support production of its Alpha Cotton woven textile fabrics and products containing them. AAVN conducts all of its engineering and research and development from its facilities in Texas, where it employs engineers, technicians, sales and marketing teams, logistics personnel and administrative professionals to support its domestic industry in woven textile fabrics and products containing same. *See Confidential Exhibit 12.*

45. NEXTT has also made substantial investments to design and support production of Alpha Cotton products. NEXTT conducts its design work from its facilities in Texas, New York, Minnesota and North Carolina, where it employs textile designers, sales and marketing teams, logistics personnel and administrative professionals to support AAVN's domestic industry in woven textile fabrics and products containing same. *See id.*

46. AAVN has also expended substantial resources on domestic licensing efforts focused on the '790 patent. AAVN invests substantially in the exploitation of the '790 patent and the protection of its Alpha Cotton products through its licensing activities, which are singularly focused on the '790 patent. AAVN expressly identifies the '790 patent during licensing negotiations. AAVN employees have carefully monitored the textile market for potential infringement, analyzed competitors' woven textile fabrics and products containing same, and conducted licensing negotiations with potential licensees. AAVN continues to engage in licensing, and has made considerable expenditures for purchases of potential

infringers' products, testing of those products, and communications and negotiations with potential licensees and infringers. *See id.*

XI. GENERAL EXCLUSION ORDER

47. A general exclusion order is necessary to prevent the circumvention of an order limited to the Proposed Respondents and due to the widespread pattern of infringement and difficulty in identifying the source of imported infringing products.

48. The woven textile fabrics and products containing same manufactured by Creative Textile and imported by AQ Textiles have been marketed and sold for importation into the United States through multiple retailers and under multiple brand names, including, for example, the "Prescott 600" branded bed sheets available at macys.com. *See* Exhibit 13.

49. Woven textile fabrics and products containing same, including those of the Proposed Respondents, are offered regularly for sale and sold via the Internet. In addition to the Proposed Respondents' exemplary retail partners named above, woven textile fabrics and products containing same are offered for sale and sold via the websites of distributors and retailers of fabric products such as bed linens and clothing, as well as on Amazon and E-bay. *See, e.g.* Exhibit 14.

50. There has been a rapidly growing, widespread pattern of infringement of the Asserted Patent by imported woven textile fabrics and products containing same, and it is very difficult to identify the sources of infringing products. Based on recent testing of retail articles by AAVN, infringing woven textile fabrics and products containing same are imported into the United States, sold for importation into the United States, and/or sold within the United States after importation by numerous unknown entities using product labeling practices that obscure the name of the manufacturer and/or importer.

51. In this Complaint, Complainant has identified those entities about which it has substantial evidence of importation of infringing woven textile fabrics and products containing same into the United States. Complainant continues to investigate the manufacturers and importers of infringing products and will seek to amend the complaint to add additional proposed respondents if appropriate.

52. In addition to existing infringers, numerous other entities are capable of shifting, at minimal expense, a substantial amount of their production of 100% cotton woven textile fabrics to manufacture infringing woven textile fabrics and products containing same for importation into the United States.

53. Business conditions suggest that foreign manufacturers other than the Proposed Respondents will attempt to enter the United States with infringing products. There is an established and growing demand in the United States for high thread count cotton and polyester blend sheets and bedlinens that copy Complainant's patent and Alpha Cotton products due to their luxurious feel, increased durability and reduced cost.

54. Entry into the market for woven textile fabrics and products containing same is relatively easy due, in part, because the time needed for an existing textile mill to start manufacturing infringing woven textile fabrics and products containing same is relatively short. On information and belief, the startup costs for an existing textile mill to begin manufacturing substantial quantities of infringing woven textile fabrics and products containing same is relatively modest. There are many producers of fabrics, particularly in Asia, that could readily and inexpensively retool their production facilities to produce infringing woven textile fabrics and products containing same to replace the Proposed Respondents should the Commission enter only limited relief.

XII. RELIEF REQUESTED

55. Complainant respectfully requests that the Commission:

(a) Institute an investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, with respect to Proposed Respondents' violations of that section arising from the importation into the United States, sale for importation, and/or the sale within the United States after importation of woven textile fabrics and products containing same that infringe one or more claims of the Asserted Patent;

(b) Schedule and conduct a hearing pursuant to Section 337(c) for the purposes of (i) receiving evidence and hearing argument concerning whether there has been a violation of Section 337, and (ii) following the hearing, determining that there has been a violation of Section 337;

(c) Issue a permanent general exclusion order, or, alternatively, a limited exclusion order, pursuant to Section 337(d), forbidding entry into the United States of all woven textile fabrics and products containing same that infringe U.S. Patent No. 9,131,790;

(d) Issue a permanent cease and desist order pursuant to Section 337(f) prohibiting Proposed Respondents, their subsidiaries, related companies and agents from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), soliciting United States agents or distributors, or aiding and abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of woven textile fabrics and products containing same that infringe one or more claims of the Asserted Patent;

(e) Impose a bond upon importation of certain woven textile fabrics and products containing same that infringe one or more claims of the Asserted Patent during the 60-day Presidential review period pursuant to Section 337(j); and

(f) Issue such other and further relief as the Commission deems just and proper under the law, based on the facts determined by the investigation and the authority of the Commission.

Dated: October 1, 2015

Respectfully submitted,



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