In the Matter of:

Certain Beverage Brewing Capsules, Components Thereof, and Products Containing the Same

Investigation No. 337-TA-__________

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

Complainants:

Adrian Rivera  
14979 Lodosa Dr.  
Whittier, CA 90605

ARM Enterprises, Inc.  
9737 Bell Ranch Drive  
Santa Fe Springs, CA 90670

Counsel for Complainants:

John R. Fuisz  
Sudip Kundu  
The Fuisz-Kundu Group LLP  
1455 Pennsylvania Avenue NW  
Suite 400  
Washington, D.C. 20004  
T. 202.621.1889  
F. 202.625.2309  
E. Jfuisz@fuiszkundu.com  
E. Skundu@fuiszkundu.com

Proposed Respondents:

Solofill LLC  
3515 Avignon Court  
Houston, Texas 77802  
T. (832) 483-2987

DonGuan Hai Rui Precision Mould Co., Ltd.  
No 1 Chuangxing Rd  
DaNig Industry  
HuMen Town, Dong Guan City  
GuangDong Province, China  
523000  
T. 86-0769-81583896

Eko Brands, LLC  
6029 238th St SE Suite 130,  
Woodinville, WA 98072  
T. (612) 747-8450
Evermuch Technology Co., Ltd.
Room 515-516, 5/F, Technology Park, 18,
On Lai Street, Shatin, New Territories,
Hong Kong
T. (852) 2649-7807

Ever Much Company Ltd.
East No.1, Pak Shek Ha Village,
Fu Yong, BaoAn,
Shenzhen, China 5181000
T. (86-755) 2730-7988

Melitta USA, Inc.
13925 58th Street
North Clearwater, Florida 33760-3712
T. (888)-635-4882

LBP Mfg. Inc.
1325 S Cicero Ave,
Cicero, IL 60804
T. (708) 652-5600

LBP Packaging (Shenzhen) Co. Ltd.
1 F Bldg A Reservoir Rd No 3 Huangpu
Shajing Office Of The Streets
Baoan District Shenzhen
Guangdon China 5181000
T. (708) 652-5600

Spark Innovators, Corp.
41 Kulick Road
Fairfield, New Jersey 07004
T. (973) 244-9695

B. Marlboros International Ltd. (HK)
Unit A 12f Billion Center Tower A
No 1 Wang Kwong Rd Kowloon Bay
Hong Kong
T. 00852-23667312

Amazon.com, Inc.
410 Terry Avenue North
Seattle, WA 98109-5210
T. (888) 280-3321
TABLE OF CONTENTS

I. INTRODUCTION ................................................................................................................. 1

II. COMPLAINANT ................................................................................................................. 3

III. PROPOSED RESPONDENTS .......................................................................................... 5
    A. Solofill Respondent Group ....................................................................................... 5
    B. Eko Brands Respondent Group .............................................................................. 6
    C. Melitta Respondent Group ...................................................................................... 7
    D. Spark Respondent Group ....................................................................................... 7
    E. Amazon Respondent ............................................................................................... 7

IV. THE RELEVANT INDUSTRY ........................................................................................... 8

V. THE ‘320 PATENT ............................................................................................................ 16
    A. Identification of the Patent and Ownership by Mr. Rivera ....................................... 16
    B. Nontechnical Description of the Patented Invention .............................................. 17

VI. FOREIGN COUNTERPARTS TO THE ‘320 PATENT ..................................................... 18

VII. UNLAWFUL AND UNFAIR ACTS OF PROPOSED RESPONDENTS .................. 19
    A. Solofill Respondent Group and Amazon ................................................................. 19
    B. Eko Brands Respondent Group and Amazon ......................................................... 20
    C. Melitta Respondent Group and Amazon ................................................................. 21
    D. Sparks Respondent Group and Amazon ................................................................. 23

VIII. TARIFF CODE CLASSIFICATION ............................................................................. 24

IX. SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE ......................... 24
    A. Solofill Respondent Group and Amazon ................................................................. 24
    B. Eko Brands Respondent Group and Amazon ......................................................... 25
C. Melitta Respondent Group and Amazon .................................................. 25
D. Spark Respondent Group and Amazon .................................................. 26
X. LICENSE .................................................................................................. 27
XI. DOMESTIC INDUSTRY .......................................................................... 27
   A. Technical Prong .................................................................................. 28
   B. Economic Prong ................................................................................ 28
XII. RELATED LITIGATION ......................................................................... 29
XIII. RELIEF REQUESTED .......................................................................... 30
EXHIBITS

Exhibit 1  U.S. Patent No. 8,720,320
Exhibit 2  Panjiva.com import record identifying Hai Rui as the source for the Solofill K2 filter cups
Exhibit 3  Panjiva.com import record identifying Evermuch Technologies as the source for the EkoBrew Elite and EkoBrew (China)
Exhibit 4  Panjiva.com import record identifying LBP Packaging as the source for the Melitta E-Filter product
Exhibit 5  Panjiva.com import record identifying B. Marlboros as the source for the Café Cup product
Exhibit 6  Solofill claim chart
Exhibit 7  Eko Brands claim chart
Exhibit 8  Melitta claim Chart
Exhibit 9  Sparks claim chart
Exhibit 10  Solofill order from its website
Exhibit 11  Records of Amazon purchase of Solofill product
Exhibit 12  Solofill K2 packaging
Exhibit 13  Solofill K3 packaging
Exhibit 14  Receipt for Solofill K2
Exhibit 15  Receipt for Solofill K3
Exhibit 16  Ekobrew order from its website
Exhibit 17  Records of Amazon purchase of Ekobrew product
Exhibit 18  Records showing Ekobrew Elite as being imported
Exhibit 19  Records showing Ekobrew China as being imported
Exhibit 20  Receipt for Ekobrew Elite
Exhibit 21  Receipt for Ekobrew China
Exhibit 22  E-filter from Melitta website
Exhibit 23  Records of Amazon purchase of E-filter from Amazon
Exhibit 24  E-filter packaging showing product made in China
Exhibit 25  E-filter receipt
Exhibit 26  Records of Amazon purchase of Café cup
Exhibit 27  Records of Café cup made in China and product packaging
Exhibit 28  Café cup receipt
Exhibit 29C  Rivera and ARM confirmatory license agreement
Exhibit 30  EZ-Cup claim chart
Exhibit 31  Eco-fill claim chart
Exhibit 32C  Adrian Rivera declaration
Exhibit 33C  Dino Ditta declaration

PHYSICAL EXHIBITS

PE-1  EZ- Cup
PE-2  EZ-Cup filters
PE-3  Eco-Fill
PE-4  Solofill K2
PE-5  Solofill K3
PE-6  Ekobrew Elite
PE-7  Ekobrew China
PE-8  Melitta E-filter
PE-9  Café cup

APPENDICES

Appendix A  A certified copy of the file history of the ‘320 patent.
Appendix B  References cited in the file history of the ‘320 patent.
I. INTRODUCTION

1. ARM Enterprises, Inc. and Adrian Rivera (collectively referred to as “ARM”) request that the United States International Trade Commission commence an investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”), to remedy the unlawful importation into the United States, the sale for importation, and/or the sale within the United States after importation by the owner, importer, consignee (or any agent of the owner, importer or consignee), of Certain Beverage Brewing Capsules, Components Thereof, and Products Containing the Same that infringe a valid and enforceable United States Patent owned by ARM.

2. On information and belief, the respondents (i) Solofill LLC, (ii) DonGuan Hai Rui Precision Mould Co., Ltd., (iii) Eko Brands, LLC, (iv) Evermuch Technology Co., Ltd., (v) Ever Much Company Ltd., (vi) Melitta USA, Inc., (vii) LBP Mfg. Inc., (viii) LBP Packaging (Shenzhen) Co. Ltd., (ix) Spark Innovators, Corp., (x) B. Marlboros International Ltd. (HK), and (xi) Amazon.com, Inc. collectively “Respondents” have engaged in violations of Section 337 through the unlicensed importation into the United States, the sale for importation, and/or the sale within the United States after importation of accused products that infringe claims 5-8 and 18-20 of United States Patent No. 8,720,320 (“the ‘320 patent”). The Respondents can be grouped based on the product and its manufacturer and/or imported as identified in the import records obtained from pangiva.com which are attached as Exhibits 2-5. Thus, the Respondents can be divided into the following five respondent groups: The Solofill Respondents, which includes (i) Solofill LLC which sells the Solofill K3 and K2 products and its manufacturer (ii) DonGuan Hai Rui Precision Mould Co., Ltd. The Eko Brands Respondents, which includes (iii) Eko Brands, LLC which sells the Eko Brew Elite and Eko Brew (China) products and the
importer and manufacturer which includes (iv) Evermuch Technology Co., Ltd. and (v) Ever Much Company Ltd. The Melitta Respondents, which includes (vi) Melitta USA, Inc., which sells the E-Filter product and the manufacturer and importer of the product (vii) LBP Mfg. Inc., and (viii) LBP Packaging (Shenzhen) Co. Ltd. The Spark Respondents, which includes (ix) Spark Innovators, Corp. which sells the Café Cup product and the manufacturer and importer (x) B. Marlboros International Ltd. (HK). The Amazon Respondent group consists of (xi) Amazon.com, Inc. and sells one or more of the accused products after importation as agent of one or more of the SoloFill, Eko Brands, Melitta or Sparks Respondent groups as part of the Fulfillment by Amazon (FBA) service. This includes a Chinese made Eko Brew (China) product that does not appear to be available directly from Eko Brands, LLC.

3. The products at issue in this complaint are beverage brewing capsules; products that contain beverage brewing capsules, such as ARM’s K2V-cup and SoloFill’s SoloFill Grinder; and components of beverage brewing capsules, such as the filter paper that is used with ARM’s EZ-cup.

4. The respondent groups, products and claims alleged to be infringed are set forth below:

<table>
<thead>
<tr>
<th>Respondent Groups</th>
<th>Non-Limiting Accused Products</th>
<th>Claims alleged to be infringed</th>
</tr>
</thead>
<tbody>
<tr>
<td>SoloFill</td>
<td>Amazon</td>
<td></td>
</tr>
<tr>
<td></td>
<td>SoloFill K3</td>
<td>5, 7, 8, 18, 19 and 20</td>
</tr>
<tr>
<td></td>
<td>SoloFill K2</td>
<td>5, 6, 7, 8, 18, 19 and 20</td>
</tr>
<tr>
<td>Eko Brands</td>
<td>Amazon</td>
<td></td>
</tr>
<tr>
<td></td>
<td>EkoBrew Elite</td>
<td>5, 6, 8, 18, 19 and 20</td>
</tr>
<tr>
<td></td>
<td>EkoBrew China</td>
<td>5, 6, 8, 18, 19 and 20</td>
</tr>
<tr>
<td>Melitta</td>
<td>Amazon</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Melitta E-Filter</td>
<td>5 and 8</td>
</tr>
<tr>
<td>Sparks</td>
<td>Amazon</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Café Cup</td>
<td>5, 6 and 8</td>
</tr>
</tbody>
</table>

5. As described in more detail below, the technology invented and claimed in the '320 patent launched a market segment within the beverage brewing industry. As also described
below the companies in this industry typically are small often with a single individual running
domestic operations. The instant action is being filed to protect Complainants’ domestic
industry, including the U.S. market share of its own products that practice the ‘320 patent, from
the proposed Respondents each of whom import and/or sell after importation infringing product.

6. A certified copy of the ‘320 patent is shown in Exhibit 1.

7. A certified copy of the file history for the ‘320 patent, and references cited
therein, is attached as Appendix A and Appendix B, respectively.

8. Mr. Rivera of Whittier, CA, is the named inventor of the ‘320 patent and is the
President and 100% owner of ARM Enterprises, Inc. Mr. Rivera owns all rights, title and
interest in the ‘320 Patent.

9. As required by Section 337(a)(2) and defined in Section 337(a)(3), an industry in
the United States exists relating to ARM’s beverage brewing capsules, which practice the ‘320
patent. ARM has three products that practice the ‘320 patent.

10. Complainants seek a limited exclusion order, pursuant to Section 337(d),
permanently excluding the accused beverage brewing capsules from entry into the United States.
Complainants also seek a permanent cease and desist order, pursuant to Section 337(f), directing
respondents to cease and desist from importing, marketing, advertising, demonstrating,
warehousing inventory for distribution, offering for sale, selling, distributing, or using beverage
brewing capsules that infringe either the ‘320 Patent.

II. COMPLAINANT

11. Adrian Rivera, the named inventor of the ‘320 patent, is an entrepreneur residing
at 14979 Lodosa Dr., Whittier, California 90605. Mr. Rivera is the founder and president of
ARM Enterprises, Inc. Mr. Rivera is 100% owner of ARM Enterprises, Inc.
12. Mr. Rivera is the quintessential American entrepreneur. Mr. Rivera, a married father of three, was born in Mexico and immigrated to the United States where he settled in southern California. Mr. Rivera has never been accepting of the status quo and has always believed that things can be made better. Those talents have resulted in a career that has focused on identifying problems with existing products and inventing solutions to those problems. Mr. Rivera and his U.S. company, ARM Enterprises, develop products that embody these inventions, which are then marketed and sold to consumers. Mr. Rivera and his success in this country embody the American dream, of coming to this country and having the desire and ambition not only to start a business, but also to prosper in the United States based on the virtues of hard work, dedication and innovation.

13. Mr. Rivera is the inventor on several patents in the area of beverage brewing, in addition to the ‘320 patent. As described in more detail below, ARM’s beverage brewing capsules, which utilize the technology claimed in the ‘320 patent launched an entire market segment in the coffee industry.

14. Complainant ARM Enterprises, Inc. is a United States corporation currently located at 9737 Bell Ranch Drive, Santa Fe Springs, CA 90670. ARM is involved in the design, research and development, manufacturing, marketing, and distribution of coffee products including beverage brewing capsules that practice the ‘320 patent. ARM’s focus is to develop quality products that are easy to use, environmentally friendly, and provide economical solutions to traditional coffee systems that can cause significant expense to consumers over time. After creating the market for the subject beverage brewing capsules, ARM began to face competition from copycat entities that have minimal U.S. presence and ship in product from China. ARM’s
products are sold side-by-side at major retailers, such as Bed Bath and Beyond, to the products of some of the named respondents.

III. PROPOSED RESPONDENTS

A. Solofill Respondent Group

15. On information and belief, respondent Solofill LLC is a Texas limited liability company with a principal place of business at 3515 Avignon Court, Houston Texas 77082. On information and belief, Solofill LLC operates www.solofill.com and is run by Robert Vu. The address for Solofill LLC registered with the State of Texas Secretary of Commerce appears to be a residential location as shown below:

![Residential Address](image1.png)

16. On information and belief, Solofill’s beverage brewing capsules were introduced in 2012 at the International Home and Housewares show:

![Capsules Introduction](image2.png)

17. On information and belief, respondent DonGuan Hai Rui Precision Mould Co., Ltd. is a Chinese corporation with its place of business at No 1 Chuangxing Rd DaNig Industry
HuMen Town, Dong Guan City GuangDong Province, China 523000. On information and belief the company web site is http://www.hairuimould.com. As set forth in Exhibit 2, the import records available from the Panjiva.com service identifies Hai Rui as the source for the Solofill K2 filter cups.

B. Eko Brands Respondent Group

18. On information and belief, respondent Eko Brands, LLC is headquartered at 6029 238th St. SE Suite 130, Woodinville, WA 98072 ("Eko Brands"). On information and belief Eko Brands sells infringing beverage brewing capsules under the brand Ekobrew, which includes the accused EkoBrew Elite and EkoBrew (China). On information and belief, the Eko Brands headquarters appears to be one office in a larger warehouse complex as shown below:

![Image](image.png)

19. On information and belief, Evermuch Technology Co., Ltd. is a Hong Kong company based at Room 515-516, 5/F, Technology Park, 18, On Lai Street, Shatin, New Territories, Hong Kong. On information and belief, Evermuch Technology is the sales arm of Ever Much Company Ltd., which is located at East No.1, Pak Shek Ha Village, Fu Yong, BaoAn, Shenzhen, China 5181000. The Evermuch Technology website can be found at http://www.evermuch.com.hk/. As set forth in Exhibit 3, the import records available from the Panjiva.com service identifies Evermuch Technologies as the source for the EkoBrew Elite and
EkoBrew (China) product, which on information and belief is manufactured by Ever Much Company Ltd.

C. Melitta Respondent Group

20. On information and belief, respondent Melitta USA Inc. is headquartered in Clearwater Florida and is part of the Melitta Group of Minden Germany. Melitta USA is the sales and marketer for the coffee filters and non-electric coffee systems in the United States. Melitta USA is located at 13925 58th Street, North Clearwater Florida, 33760-3712. Melitta sells the accused Melitta E-Filter.

21. On information and belief, LBP Mfg. Inc. is located at 1325 S Cicero Ave, Cicero, IL 60804. On information and belief, LBP Packaging (Shenzhen) Co. Ltd. is located at 1 F Bldg A Reservoir Rd No 3 Huangpu Shajing Office Of The Streets Baoan District Shenzhen Guangdon China 5181000. As set forth in Exhibit 4, the import records available from the Panjiva.com service identifies LBP Packaging as the source for the Melitta E-Filter product, which on information and belief is first shipped to LBP MFG. and then transferred to Melitta.

D. Spark Respondent Group

22. On information and belief, respondent Spark Innovators, Corp. is headquartered at 41 Kulick Road, Fairfield, New Jersey 07004. On information and belief, Spark markets and sells in the United States beverage brewing capsules under the brand Café Cup.

23. On information and belief, B. Marlboros International Ltd. (HK) is located at Unit A 12f Billion Center Tower A No 1 Wang Kwong Rd Kowloon Bay Hong Kong. As set forth in Exhibit 5, the import records available from the Panjiva.com service identifies B. Marlboros as the source for the Café Cup product.

E. Amazon Respondent
24. On information and belief, Proposed Respondent Amazon.com, Inc. ("Amazon") is a Delaware corporation with a principal place of business at 410 Terry Avenue North, Seattle, Washington 98109-5210. On information and belief, Amazon as part of its Fulfillment by Amazon (FBA) program, works with each of the respondent groups to store the accused products in Amazon's fulfillment centers, and then pick, pack, ship, and provide customer service for these products so as to effectuate the sale after importation of the accused products. Certain product, such as EkoBrew (China) is not available directly from Eko Brands and is sold directly by Amazon after importation.

IV. THE RELEVANT INDUSTRY

25. The past decade has seen an increase in the popularity of single-serve coffee brewers typified by Keurig's K-Cup. Different than a traditional drip brewer, single-serve coffee machines typically receive a disposable capsule containing coffee from which a single serving of coffee is produced.

26. With respect to the Keurig single-serve machine, there is a brewing chamber in which a user can insert a disposable capsule called a "K-cup." Below is a picture of the brewing chamber in the Keurig machine, and a picture of the brewing chamber with a disposable capsule inserted therein:
27. The disposable capsule includes brewing material such as ground coffee. The construct of the disposable capsules can differ. For products such as ground coffee they are typified by a sealed top, a plastic bottom and an inner filter suspended near the top. For products such as hot chocolate, the powdered material is simply held in the plastic bottom. Brewed liquid is extracted through the use of two needles. One needle punctures the top of the disposable capsule and permits an inflow of water into the capsule. The second needle, located in the bottom of the brewing chamber punctures the bottom of the capsule, permitting the outflow of brewed material. For coffee products, where the grounds are not supposed to end up in the beverage, the capsules are designed so the lower needle does not penetrate the grounds. Below is a picture of the brewing chamber showing the two needles:
28. There are several problems with disposable capsules. First, they are expensive in that each one can cost up to around one dollar. Disposable capsules also limit consumer choices to the coffee contained in the capsules. Next, they adversely impact the environment. Discarded capsules are not recycled but instead fill landfills in this country by the billions due to the popularity of single-serve brewers. Overtime, the costs to both the environment and consumers are significant.

29. Keurig has created a reusable capsule called "My K-cup" that allows users to use their own coffee versus disposable K-cups. The My K-cup includes a receptacle and a cap in which a filtered cup containing coffee is placed. Below is a picture of the My K-cup showing the receptacle cap and filtered cup containing coffee:
30. Mr. Rivera recognized that the My K-cup did not present a realistic or practical solution to the problems posed by the disposable capsules. For one, to use the My K-cup a user has to remove the brewing chamber containing the lower needle in order to use the My K-cup. Below is a picture of the brewing chambered removed, and the picture following is the My K-cup inserted in the machine:
31. The My K-cup suffers from several disadvantages to a user. First, the brewing chamber has to be removed. This fact cuts against the convenience of the disposable K-cups, which are simply inserted in the machine, without any modifications to it. In an office environment, where multiple people are using a Keurig machine, users wanting coffee via K-cups, and others wanting coffee via My K-cups are subject to the inconvenience of constantly removing and installing the brewing chamber. The longevity of the machine is subject to the lowest mechanical aptitude on those using it. It is not uncommon for the needles in the machines to be broken through improper use and the machine to be destroyed. What users are not aware of is that the design of the My K-cup results in coffee with poorer quality than that of disposable K-cups. The disparities in quality biases users who try the My K-cup back to the single serve disposable capsules.

32. Mr. Rivera looked at the Keurig systems differently. He identified why the machines worked and what their limitations were. Mr. Rivera also knew things could be better.
He went to work on a solution that allowed the convenience of consumers using their own coffee, in a reusable system that lowers cost to consumers and the impact on the environment. The reusable system, Mr. Rivera recognized, would need the convenience of a disposable one. That is, a user could simply place the capsule in the machine without modification. The quality of the coffee, how the brewing actually occurred, also needed to be improved.

33. Mr. Rivera further recognized that a reusable system that solved the problems posed by K-cup and My K-cups represented a market segment that did not exist, and would be a system that consumers would purchase and on which Mr. Rivera could grow his company, ARM Enterprises, Inc.

34. Mr. Rivera and ARM developed reusable capsules that could be used in single-serve coffee machines without modifying that machine. That was important because the machines appeal to users wanting a quickly brewed product. The new system had to be quick and avoid the necessity of taking apart the machine and reassembling it after each cup. A quick cup of coffee is not worth making if it is bad. The new system also had to produce a comparable quality of coffee within the confines of the machines. Further, the design of ARM’s reusable capsules would offer consumers the ability to use their own coffee, a choice that the single-serve capsules restricted. The new system also had to be environmentally friendly. A reusable product would mean lower cost.

35. ARM’s “EZ-cup” reusable capsule is a two-part system. It has a receptacle that has sidewalls and a base supported on a spring. The base is configured so as to allow a passageway to exist so that brewed fluid can exit the receptacle. A top is also provided that has an inlet for the upper needle of the Keurig machine. A filter paper is inserted which is then filled with ground coffee. The spring-loaded base helps tamp the grounds to improve the brew
process. The top of the filter paper is folded over and the cover pushed on. The filled device can then be placed into the Keurig brewer without modification. The spring biases the base upward and avoids contact with the lower needle. The upper needle goes through the inlet in the cover and pierces the filter paper. The hot water that is injected mixes with the ground coffee and exits through the filter paper and through the rear of the receptacle. The user can remove the filter paper and grounds and the system is ready for the next cup of coffee or tea.

36. The “EZ-cup” and the refillable filters are sold at major retailers around the United States. The photo below shows the product on sale at the Bed Bath and Beyond in Arlington, Virginia. The other products on the same display are those of one of the named respondents.
37. Mr. Rivera and ARM did not limit themselves to one potential solution and has also developed the “Eco-Fill”, which is available for purchase from on-line retailers. This embodiment dispenses with the filter paper. Instead the base and sides of the devices have mesh that prevents the grounds from passing into the brewed liquid. The base of the device is curved so that it avoids contact with the lower needle of the Keurig system. Pictures of the “Eco-Fill” are shown below:

38. Mr. Rivera and ARM’s product development was not limited to these two commercial products. And the sale of ARM’s products in the United States is the result of the Mr. Rivera and ARM’s efforts in this country.
39. In addition to the American dream, Mr. Rivera also believed in the U.S. Patent system. On July 13, 2007, Mr. Rivera filed U.S. Patent Application No. 11/777,831 titled “Pod Adaptor System For Single Service Beverage Brewers.” That application would issue May 13, 2014 as U.S. Patent No. 8,720,320. Both the “EZ-Cup” and “Eco-Fill” practice one or more claims of the ‘320 patent. The length of time that the ‘320 patent took to prosecute and the relative ease in which others could copy ARM’s products has resulted in the current situation.

V. THE ‘320 PATENT

A. Identification of the Patent and Ownership by Mr. Rivera


38. Mr. Adrian Rivera is the named inventor of the ‘320 patent. All rights, title and interest in the ‘320 Patent are owned by Mr. Rivera. The ‘320 patent is valid, enforceable, and currently is in full force and effect. The ‘320 patent erroneously identifies Mr. Rivera’s company, ARM Enterprises, Inc. as the assignee but no formal assignment has been perfected. ARM Enterprises operated as a sole proprietorship owned by Mr. Rivera, until it incorporated in 2013. Mr. Rivera remains 100% owner of ARM. Exhibit 29C is a confirmatory license agreement between Mr. Rivera and ARM confirming Mr. Rivera’s ownership of the ‘320 patent and that ARM has been and is authorized by Mr. Rivera to use the ‘320 patent.

38. Pursuant to Rule 210.12(c) of the Commission’s Rules of Practice and Procedure, this Complaint is accompanied by an Appendix containing: (A) Four copies of the file history of the ‘320 patent, and (B) four copies of each patent and applicable pages of each technical reference mentioned in that prosecution history.
B. **Nontechnical Description of the Patented Invention**

39. The ‘320 patent relates to accessories for single serve beverage brewers, and more particularly, relates to an adaptor assembly configured to effect operative compatibility between a single serve beverage brewer and beverage pods.

40. Single serve beverage brewers inherently limit the use of the machine to cup-shaped cartridges. Additionally, conventional automated pod brewers typically include a brewing chamber adapted to receive an individual pod. During the brewing process, hot water is injected into the brewing chamber across the surface of the pod while brewed beverage is directed to flow out of an outlet into a cup. Some coffee connoisseurs believe that coffee brewed using pod brewers do not have as good flavor extraction as coffee brewed by baristas who usually tamp or compact the coffee prior to brewing. The ‘320 patent is directed to ameliorating one or both of these shortcomings.

41. For example, in one embodiment a pod adaptor assembly is provided for use in combination with a single serve beverage brewer designed with upper and lower puncturing devices for piercing cup-shaped cartridges. The pod adaptor assembly comprises a receptacle and a cover adapted to sealingly engage with the receptacle. The receptacle preferably comprises a base having an interior surface and an exterior surface. A raised portion is formed on the interior surface of the base, wherein the raised portion is adapted to provide a support surface for a pod. Preferably, the base of the receptacle is also adapted to receive an upwardly extending puncture needle from the brewer in a manner such that the needle extends through the base and does not puncture the pod.

---

1 The content of this Complaint, including this section (i.e, "Description of the Patented Invention"), does not, and is not intended to, construe either the specification or claims of the ‘320 patent).
42. Claim 5 of the '320 patent provides:

5. A beverage brewer, comprising:

a brewing chamber;

a container, disposed within the brewing chamber and adapted to hold brewing material while brewed by a beverage brewer, the container comprising:

a receptacle configured to receive the brewing material; and

a cover;

wherein the receptacle includes

a base, having an interior surface and an exterior surface, wherein at least a portion of the base is disposed a predetermined distance above a bottom surface of the brewing chamber, and

at least one sidewall extending upwardly from the interior surface of the base,

wherein the receptacle has at least one passageway that provides fluid flow from an interior of the receptacle to an exterior of the receptacle;

wherein the cover is adapted to sealingly engage with a top edge of the at least one sidewall, the cover including an opening, and

wherein the container is adapted to accept input fluid through the opening and to provide a corresponding outflow of fluid through the passageway;

an inlet port, adapted to provide the input fluid to the container; and

a needle-like structure, disposed below the base;

wherein the predetermined distance is selected such that a tip of the needle-like structure does not penetrate the exterior surface of the base.

VI. FOREIGN COUNTERPARTS TO THE '320 PATENT

44. There are no foreign patents, no foreign patent applications (not already issued as patents) and no foreign patent applications that have been denied, abandoned or withdrawn corresponding to the '320 patent.
VII. UNLAWFUL AND UNFAIR ACTS OF PROPOSED RESPONDENTS

A. Solofill Respondent Group and Amazon

45. On information and belief, the Solofill Respondents' accused Solofill K2 and K3 directly (35 U.S.C. §271(a)) infringe at least the following independent claims of the '320 Patent: claim 18. On information and belief, the accused Solofill K2 and K3 indirectly infringe through the Solofill Respondents' end users (35 U.S.C. §271(b) and (c) and at least the following independent and dependent claims of the '320 Patent: claims 5, 6, 7, 8, 18, 19 and 20.

46. The Solofill Respondents Group and Amazon infringe the '320 patent by inducement. They are aware of the '320 patent at least as of the filing of this complaint. And the Solofill Respondents Group and Amazon induce purchasers of the accused Solofill K2 and K3 to infringe the '320 patent at least by providing instructions such as those on their packaging indicating that the Solofill K2 and K3 are to be used with single serve brewers such as the Keurig.

47. The Solofill Respondents Group and Amazon contributorily infringe the '320 patent. The accused Solofill K2 and K3 are material parts (i.e., brewing capsules) of the inventions claimed in the '320 patent. Moreover, the Solofill Respondent Group and Amazon know, at least as of the filing of this complaint, that the accused Solofill products are especially made or especially adapted for use in an infringement of the '320 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

48. Discovery may reveal that proposed respondents infringe additional claims of the asserted patent. A representative claim chart applying independent claims 5 and 18 is attached as Exhibit 6.

49. The Solofill Respondent Group’s use, sale, offer for sale, importation, sale for importation and sale after importation of the accused Solofill K2 and K3 directly and indirectly
infringes at least the foregoing claims of the '320 Patent. Amazon’s offer for sale and sale after importation of the accused Solofill K2 and K3 directly and indirectly infringes at least the foregoing claims of the '320 Patent.

50. In addition, respondents will be given notice of their direct and indirect infringement of the '320 Patent by at least the service and filing of this Complaint as well as by receipt of a copy of the public filing of the Complaint which will be send by overnight courier.

51. Discovery may reveal additional products that infringe the '320 Patent that are imported by the respondents.

B. Eko Brands Respondent Group and Amazon

52. On information and belief, Eko Brands Respondents’ accused EkoBrew Elite and EkoBrew (China) directly (35 U.S.C. §271(a)) infringe at least the following independent claims of the '320 Patent: claim 18. On information and belief, the accused EkoBrew Elite and EkoBrew (China) indirectly infringes through the Eko Brands Respondents’ end users (35 U.S.C. §271(b) and (c) and at least the following independent and dependent claims of the '320 Patent: claims 5, 6, 8, 18, 19 and 20.

53. The Eko Brands Respondent Group and Amazon infringe the '320 patent by inducement. They are aware of the '320 patent at least as of the filing of this complaint. And the the Eko Brands Respondent Group and Amazon induce purchasers of the accused EkoBrew Elite and EkoBrew (China) to infringe the '320 patent at least by providing instructions such as those on their packaging indicating that the EkoBrew Elite and EkoBrew (China) are to be used with single serve brewers such as the Keurig.

54. The Eko Brands Respondents Group and Amazon contributorily infringe the '320 patent. The accused EkoBrew Elite and EkoBrew (China) are material parts (i.e., brewing capsules) of the inventions claimed in the '320 patent. Moreover, the Eko Brands Respondent
Group and Amazon know, at least as of the filing of this complaint, that the accused Eko Brands products are especially made or especially adapted for use in an infringement of the ‘320 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

55. Discovery may reveal that proposed respondents infringe additional claims of the asserted patent. A representative claim chart applying independent claims 5 and 18 is attached as Exhibit 7.

56. The Eko Brands Respondent Group’s use, sale, offer for sale, importation, sale for importation and sale after importation of the accused EkoBrew Elite and Ekobrew (China) directly and indirectly infringes at least the foregoing claims of the ‘320 Patent. Amazon’s offer for sale and sale after importation of the accused EkoBrew Elite and Ekobrew (China) directly and indirectly infringes at least the foregoing claims of the ‘320 Patent.

57. In addition, respondents will be given notice of their direct and indirect infringement of the ‘320 Patent by at least the service and filing of this Complaint as well as by receipt of a copy of the public filing of the Complaint which will be send by overnight courier.

58. Discovery may reveal additional products that infringe the ‘320 Patent that are imported by the respondents.

C. Melitta Respondent Group and Amazon

59. On information and belief, proposed Melitta Respondents’ accused E-Filter indirectly (35 U.S.C. §271(a)) infringes at least the following independent claim of the ‘320 Patent: claim 5. On information and belief, the accused E-Filter indirectly infringes through the Melitta Respondents’ end users (35 U.S.C. §271(b) and (c) and at least the following independent and dependent claims of the ‘320 Patent: claims 5 and 8.
60. The Melitta Respondent Group and Amazon infringe the '320 patent by inducement. They are aware of the '320 patent at least as of the filing of this complaint. And the the Melitta Respondent Group and Amazon induce purchasers of the accused E-Filter to infringe the '320 patent at least by providing step-by-step instructions such as those on their packaging indicating that the E-Filter is to be used with single serve brewers such as the Keurig.

61. The Melitta Respondents Group and Amazon contributorily infringe the '320 patent. The accused E-Filter constitute a material part (i.e., brewing capsules) of the inventions claimed in the '320 patent. Moreover, the Melitta Respondent Group and Amazon know, at least as of the filing of this complaint, that the accused E-Filter products are especially made or especially adapted for use in an infringement of the '320 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

62. Discovery may reveal that proposed respondents infringe additional claims of the asserted patent. A representative claim chart applying independent claim 5 is attached as Exhibit 8.

63. The Melitta Respondent Group's use, sale, offer for sale, importation, sale for importation and sale after importation of the accused E-Filter indirectly infringes at least the foregoing claims of the '320 Patent. Amazon's offer for sale and sale after importation of the accused E-Filter indirectly infringes at least the foregoing claims of the '320 Patent.

64. In addition, respondents will be given notice of their indirect infringement of the '320 Patent by at least the service and filing of this Complaint as well as by receipt of a copy of the public filing of the Complaint which will be send by overnight courier.

65. Discovery may reveal additional products that infringe the '320 Patent that are imported by the respondents.
D. Sparks Respondent Group and Amazon

66. On information and belief, proposed Sparks Respondents’ accused Café Cup indirectly (35 U.S.C. §271(a)) infringes at least the following independent claim of the ’320 Patent: claim 5. On information and belief, the accused Café Cup indirectly infringes through the Sparks Respondents’ end users (35 U.S.C. §271(b) and (c) and at least the following independent and dependent claims of the ’320 Patent: claims 5, 6 and 8.

67. The Sparks Respondent Group and Amazon infringe the ’320 patent by inducement. They are aware of the ’320 patent at least as of the filing of this complaint. And the Sparks Respondent Group and Amazon induce purchasers of the accused Café Cup to infringe the ’320 patent at least by providing step-by-step instructions such as those on their packaging indicating that the Café Cup is to be used with single serve brewers such as the Keurig.

68. The Sparks Respondents Group and Amazon contributorily infringe the ’320 patent. The accused Café Cup constitute a material part (i.e., brewing capsules) of the inventions claimed in the ’320 patent. Moreover, the Sparks Respondent Group and Amazon know, at least as of the filing of this complaint, that the accused Café Cup products are especially made or especially adapted for use in an infringement of the ’320 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

69. Discovery may reveal that proposed respondents infringe additional claims of the asserted patent. A representative claim chart applying independent claim 5 is attached as Exhibit 9.

70. The Sparks Respondent Group’s use, sale, offer for sale, importation, sale for importation and sale after importation of the accused Café Cup indirectly infringes at least the
foregoing claims of the '320 Patent. Amazon's offer for sale and sale after importation of the accused Café Cup indirectly infringes at least the foregoing claims of the '320 Patent.

71. In addition, respondents will be given notice of their indirect infringement of the '320 Patent by at least the service and filing of this Complaint as well as by receipt of a copy of the public filing of the Complaint which will be send by overnight courier.

72. Discovery may reveal additional products that infringe the '320 Patent that are imported by the respondents.

VIII. TARIFF CODE CLASSIFICATION

73. On information and belief, the accused products when imported into the United States are classified under tariff code 3924.10 with the following suffix .4000.

IX. SPECIFIC Instances OF UNFAIR IMPORTATION AND SALE

A. Solofill Respondent Group and Amazon

75. On information and belief, the accused SoloFill K2 and K3 are sold by Amazon and Solofill. Exhibits 10 and 11. On information and belief, the Solofill K2 and K3 are manufactured abroad, including in China, and/or sold for importation by DonGuan Hai Rui Precision Mould Co., Ltd. Exhibit 2. On information and belief, the Solofill Respondents import the Solofill K2 and K3 into the United States for sale, sell those accused products for importation, and/or sell those accused products after importation. See Exhibits 2, 10, 12, 13. On information and belief, Amazon sells the Solofill K2 and K3 after importation. See Exhibit 11.

76. Exhibits 12, 13 show the product packaging for the Solofill K2 and K3, which states that the products were made in China.

77. Exhibits 14-15 show the receipt for the purchase of the Solofill K2 and K3 in the United States, demonstrating that the products were imported and sold after importation in the United States.
78. A Solofill K2 is set forth in Physical Exhibit PE-4.

79. A Solofill K3 is set forth in Physical Exhibit PE-5.

B. **Eko Brands Respondent Group and Amazon**

80. On information and belief, the accused Ekobrew Elite and Ekobrew (China) are sold by Amazon and that Ekobrew Elite is also sold by EkoBrew. Exhibits 16, 17. On information and belief, the Ekobrew Elite and the Ekobrew (China) are manufactured abroad, including in China, and/or sold for importation by Ever Much Company Ltd. and sold through its sales arm Evermuch Technology Co., Ltd. into the United States. Exhibit 3. On information and belief, the Eko Brands Respondents import the Ekobrew Elite and Ekobrew (China) into the United States for sale, sell those accused products for importation, and/or sell those accused products after or for importation. *See* Exhibits 3, 16, 18, 19. On information and belief, Amazon sells the Ekobrew Elite and Ekobrew (China) after importation. *See* Exhibit 17.

81. Exhibits 18, 19 shows the product packaging for the Ekobrew Elite and Ekobrew (China), which states that the products were made in China.

82. Exhibit 20, 21 shows the receipt for the purchase of the Ekobrew Elite and Ekobrew (China) in the United States, demonstrating that the products were imported and sold after importation in the United States.

83. An Ekobrew Elite is set forth in Physical Exhibit PE-6.

84. An Ekobrew (China) is set forth in Physical Exhibit PE-7.

C. **Melitta Respondent Group and Amazon**

85. On information and belief, the accused Melitta E-Filter are sold by the Melitta Respondents and Amazon Exhibits 22, 23. On information and belief, the Melitta E-filer is manufactured abroad, including in China, and/or sold for importation by LBP Packaging (Shenzhen) Co. Ltd, and imported to LBP Mfg. Inc. in the United States who then transfers the
product to Melitta. Exhibit 4. On information and belief, the Melitta Respondents import the Melitta E-Filter into the United States for sale, sell those accused products for importation, and/or sell those accused products after importation. See Exhibit 24. On information and belief, Amazon sells the Melitta E-Filter after importation. See Exhibit 23.

86. Exhibits 24 shows the product packaging for the Melitta E-Filter which states that the products were made in China.

87. Exhibit 25 shows the receipt for the purchase of the Melitta E-Filter in the United States, demonstrating that the products were imported and sold after importation in the United States.

88. A Melitta E-Filter is set forth in Physical Exhibit PE-8.

D. Spark Respondent Group and Amazon

89. On information and belief, the accused Café Cup are sold by the Spark Respondents and Amazon. Exhibits 26. On information and belief, the Café Cup is manufactured abroad, including in Hong Kong, and/or sold for importation by B. Marlboros International Ltd. (HK). Exhibit 5. On information and belief, the Spark Respondents import the Café Cup into the United States for sale, sell those accused products for importation, and/or sell those accused products after importation. See Exhibits 5, 25, 27. On information and belief, Amazon sells the Café Cup after importation. See Exhibit 26.

90. Exhibit 27 shows the product packaging for the Café Cup which states that the products were made in China.

91. Exhibit 28 shows the receipt for the purchase of the Café Cup in the United States, demonstrating that the products were imported and sold after importation in the United States.

X. LICENSE

93. There is a license to the '320 patent between Mr. Rivera and ARM confirming that ARM has been and continues to be authorized to use the '320 patent. Exhibit 29C.

XI. DOMESTIC INDUSTRY

94. As described in section IV describing the technology, Mr. Rivera's recognition of the limitations with K-cups and My K-cups led to the inventions claimed in the '320 patent and embodied in ARM's beverage brewing capsules. This case is unique in that Complainants' domestic industry investments led to the creation of an entire market segment. In other words, the domestic investments by ARM created the industry in the United States. Viewed in this light, Complainants' investments relating to its domestic industry products are significant and substantial under 19 U.S.C. § 1337(a)(3)(A), (B) and (C).

95. More specifically, a domestic industry, as defined by 19 U.S.C. § 1337(a)(3)(A), (B) and (C), exists with respect to the Complainant's activities, including its licensee's (ARM's) activities, in the United States related to articles protected by the '320 Patent by reasons of: (a) significant investment in plant and equipment, including that used for R&D, design, development and manufacturing; (b) significant employment of labor and capital, including that used for R&D, design, development and manufacturing; and (c) substantial investment in the exploitation of the '320 Patent, such as substantial engineering activities, patent procurement, R&D, consultation, manufacturing, product sales, sales support, and operations. In addition, a domestic industry, as defined by 19 U.S.C. § 1337(a)(3)(A), (B) and (C), is currently being established with respect to the Complainant's activities, including its licensee's (ARM's) activities, in the United States related to the '320 Patent by reasons of (a) significant investment
in plant and equipment, including that used for R&D, design, development and manufacturing; (b) significant employment of labor and capital, including that used for R&D, design, development and manufacturing; and (c) substantial investment in the exploitation of the ‘320 Patent, such as substantial engineering activities, patent procurement, R&D, consultation, manufacturing, product sales, sales support, and operations.

A. Technical Prong

96. For technical prong Complainants will rely on its beverage capsule products that practice the ‘320 patent, as well as prototypes that are currently being developed that also practice the asserted patent. Section IV of this Complaint described Complainants’ beverage brewing capsules that practice the ‘320 patent. These products are marketed as the EZ-cup and Eco-fill beverage brewing capsules. An EZ-cup capsule and filters are being submitted as Physical Exhibits 1, 2, and an Eco-fill capsule is being submitted as Physical Exhibit 3. The EZ-cup product practices claims 1, 5, 10 and 18 of the ‘320 patent, and a claim chart demonstrating this is shown in Exhibit 30. The Eco-fill product practices claims 5, 10 18 of the ‘320 patent, and a claim chart demonstrating this is shown in Exhibit 31. It is the investments in these products, along with investments in developing new beverage brewing capsules, including investments in developing prototypes, that will be relied on for domestic industry.

B. Economic Prong

97. The domestic industry in this case is based on the investments ARM have made in designing, developing, engineering, manufacturing, including manufacturing prototypes, inspection and testing, packaging, product sales, sales support, and operations in connection with ARM’s beverage brewing capsules that practice the ‘320 patent. Exhibit 32C, A Rivera Decl. at ¶¶ 6-11; Exhibit 33C, D. Ditta at ¶¶ 4-6. These investments include labor and capital, research and development, and plant and equipment. For example, ARM have invested in Mr. Rivera
himself in the development of the technology claimed in the '320 patent and the development of
ARM's beverage brewing capsules. *Id.* ARM have also invested in Dino Ditta, a consultant for
ARM, who has assisted Mr. Rivera in the development of beverage brewing capsules that
practice the '320 patent, and also assists in the development of prototypes of potential new
beverage brewing capsules that also practice the '320 patent. Exhibit 32C, A Rivera Decl. at ¶ 6-
10; Exhibit 33C, D. Ditta at ¶¶ 4-6. Furthermore, ARM have invested in plant and equipment
including ARM’s facility and warehouse in Santa Fe Springs, California, which is used for
packaging, sales and marketing operations. ARM also invest in the employees that work at this
facility. Exhibit 32C, A Rivera Decl. at ¶ 8.

98. ARM’s investments in labor and capital, research and development, and plant and
equipment have been significant and substantial. For example, since 2012, ARM’s beverage
brewing capsules and products associated with them such as EZ-cup filter papers, represent over
90% of the sales of ARM. Exhibit 32C, A Rivera Decl. at ¶ 16. Moreover, as described above
in section IV, ARM investments in developing the '320 patent and beverage brewing capsules
that practice the asserted patent created an entire market segment in the coffee industry. Indeed,
the Respondents’ accused products do not pre-date the '320 patent or the introduction of ARM’s
beverage brewing capsules. Thus, in addition to ARM investments being substantial and
significant with respect to the company because the associated domestic industry products
represent over 90% of the sales of ARM, the investments are also significant and substantial
because they created an entire market segment.

XII. RELATED LITIGATION

99. The '320 patent is not and has not been the subject of any court or agency
litigation.
XIII. RELIEF REQUESTED

WHEREFORE, by reason of the foregoing, Mr. Rivera and ARM request that the United States International Trade Commission:

a. Institute an investigation, pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, with respect to violations of that section based on the unlawful importation into the United States of products that infringe the ‘320 patent;

b. Render a determination that Mr. Rivera and ARM have established an industry in the United States relating to articles protected by the ‘320 patent;

c. Render a determination that the asserted claims 1, 5, 6, 7, 8, 10 and 18 of the ‘320 patent is valid and enforceable;

d. Render a determination that the Solofill, Eko Brands, Melitta, Spark Respondent Groups, and the Amazon Respondent are importing, selling for importation and/or selling after importation by the owner, importer, consignee (or any agent of the owner, importer or consignee) into the United States, certain beverage brewing capsules, components thereof, and products containing the same that infringe one or more of the asserted claims of the ‘320 patent;

e. Render a determination that Respondents’ are importing, selling for importation and/or selling after importation by the owner, importer, consignee (or any agent of the owner, importer or consignee) into the United States, certain beverage brewing capsules, components thereof, and products containing the same that infringe one or more of the asserted claims of the ‘320 patent constitutes one or more violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337;

f. Issue a permanent limited exclusion order pursuant to Section 337(d) of the Tariff Act of 1930, as amended, excluding from entry into the United States all certain beverage brewing capsules, components thereof, and products containing the same that are manufactured,
imported, or sold for importation by or on behalf of Respondents and which infringe one or more of the asserted claims of the ‘320 patent;

g. Issue permanent cease and desist orders pursuant to Section 337(f) of the Tariff Act of 1930, as amended, prohibiting the Respondents from importing, selling for importation and/or selling by the owner, importer, consignee (or any agent of the owner, importer or consignee) after importation into the United States, certain beverage brewing capsules, components thereof, and products containing the same that infringe one or more of the asserted claims of the ‘320 patent;

h. Grant 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: August 4, 2014

John R. Fuisz
Sudip Kundu
The Fuisz-Kundu Group LLP
1455 Pennsylvania Avenue NW
Suite 400
Washington, D.C. 20004
T. 202.621.1889
F. 202.625.2309
E. Jfuisz@fuiszkundu.com
E. Skundu@fuiszkundu.com