

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

In the Matter of

**CERTAIN REUSABLE DIAPERS,
COMPONENTS THEREOF, AND
PRODUCTS CONTAINING THE
SAME**

Investigation No. 337-TA-_____

NON-CONFIDENTIAL COMPLAINT

COMPLAINANT

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Huizhou, Guangdong, China

TABLE OF CONTENTS

<u>Page</u>	
I.	INTRODUCTION 1
II.	COMPLAINANT AND ITS PRODUCTS 3
III.	RESPONDENTS AND THEIR PRODUCTS 7
A.	The Alvababy Respondents 7
B.	Injury Caused By The Respondents..... 9
IV.	THE ASSERTED TRADEMARK 11
V.	THE PATENT-IN-SUIT..... 12
A.	Ownership of the ‘007 Patent 12
B.	Licenses Under the ‘007 Patent 13
C.	Foreign Counterpart Patents and Applications 13
D.	Nontechnical Description of the Patented Invention 13
VI.	RELATED LITIGATION 14
VII.	UNLAWFUL AND UNFAIR ACTS OF THE RESPONDENTS 14
A.	Alvababy Trademark Infringing and Patent Infringing Diapers..... 14
B.	Trademark Infringement By Representative Alvababy Trademark Infringing Diapers..... 20
C.	Patent Infringement by Representative Alvababy Patent Infringing Diapers..... 22
D.	Specific Instances of Sale and Importation..... 22
VIII.	ADDITIONAL INFRINGING PRODUCTS 25
IX.	CLASSIFICATION OF THE INFRINGING PRODUCTS UNDER THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES 26
XI.	THE DOMESTIC INDUSTRY 26
A.	Technical Prong 26
1.	The Asserted Trademark..... 26
2.	The Asserted Patent 27
B.	The Economic Prong..... 28

1. Significant Investment in Plant and Equipment.....	28
2. Significant Employment of Labor and Capital.....	29
3. Substantial Investment in Exploiting the Trademark Through Engineering and Research and Development.....	29
XII. REQUEST FOR GENERAL EXCLUSION ORDER.....	30
XIII. REQUEST FOR RELIEF	31

EXHIBIT LIST

Exhibit No.	Description
1	CONFIDENTIAL Declaration of J. Labit
2	Declaration of J. Samuels
3	Alvababy USA- N Series (N01) September 2015
4	Alvababy USA-YA Series (YA123) September 2015
5	Alvababy USA-Z Series (ZM05) September 2015
6	U.S. Trademark Reg. No. 4,120,270
7	Flip® Diapers - by Cotton Babies
8	bumGenius® Free Time - Benefits
9	bumGenius® Freetime All-In-One One-Size
10	Certified Copy of US Pat. 8,518,007
11	CONFIDENTIAL Exclusive License Agreement
12	Alvababy USA Series September 2015
13	Alvababy USA Series August 2016
14	Alvababy USA Series August 2016
15	Alvababy USA Series August 2016
16	Alvababy USA Classic Series August 2017
17	Alvababy USA H Series August 2017
18	Alvababy USA N Series August 2016
19	Alvababy USA N Series August 2017
20	Alvababy USA S Series September 2015
21	Alvababy USA S Series August 2016
22	Alvababy USA S Series August 2017
23	Alvababy USA Minky Series September 2015
24	Alvababy USA Minky Series August 2016
25	Alvababy USA Minky Series August 2017
26	Alvababy USA YA Series August 2016
27	Alvababy USA YA Series 2 August 2016
28	Alvababy USA YA Series August 2017
29	Alvababy USA BB Series September 2015
30	Alvababy USA BB Series August 2016
31	Alvababy USA BB Series August 2017
32	Alvababy USA CH Series September 2015
33	Alvababy USA Charcoal Series August 2016
34	Alvababy USA Charcoal Series August 2017
35	Alvababy USA NB Series September 2015

36	Alvababy USA-NB Series August 2016
37	Alvababy USA-NB Series August 2017
38	Alvababy USA-AO Series September 2015
39	Alvababy USA-AO Series August 2016
40	Alvababy USA-AO Series August 2017
41	Alvababy USA-DC Series Solid Gussets DC Series - DC-B07 September 2015
42	Alvababy USA-DC Solid Series August 2016
43	Alvababy USA-DC Series August 2017
44	Alvababy USA-DC Series August 2017
45	Alvababy USA-DC Series Printed Gussets DC Series - DC-S31 September 2015
46	Alvababy USA-DC Printed Series August 2016
47	Alvababy USA-Z Series August 2016
48	Alvababy USA-Z Series August 2017
49	Alvababy USA C Series September 2015
50	Alvababy USA-C Series August 2016
51	Alvababy USA-C Series August 2017
52	Alvababy USA Series- E05 - 1 Alva Baby Digital Printing Trademark Claim Chart
53	Alvababy USA-N Series N01 - Baby Colorful Re-usable Pocket Cloth Diaper Trademark Claim Chart
54	Alvababy USA-S Series (S09) - Baby Colorful Re-usable Pocket Cloth Diaper Trademark Claim Chart
55	Alvababy USA-Minky Series D06 - Baby Minky Colorful Re-usable Cloth Diaper Trademark Claim Chart
56	Alvababy USA-YA Series YA123 - Baby Colorful Re-usable Pocket Cloth Diaper Trademark Claim Chart
57	Alvababy USA-BB Series BS33 - Resusable Bamboo Baby Cloth Diaper Trademark Claim Chart
58	Alvababy USA-CH Series CH-YA13 - Resusable Bamboo Charcoal Baby Cloth Diaper Trademark Claim Chart
59	Alvababy USA-NB Series SB08 - Baby Solid Re-usable Newborn Baby Cloth Diaper Trademark Claim Chart
60	Alvababy US-AO Series AO-YA120 - Alva Baby Classical AIO Diaper Trademark Claim Chart
61	Alvababy USA-DC (Solid) Series DC-B07 - 1pc Solid Baby Color Snap with Double Gussets Trademark Claim Chart
62	Alvababy USA-DC (Printed) Series DC-S31 - 1pc Printed Baby Color Snap with Double Gussets Trademark Claim Chart
63	Alvababy USA-Z Series ZM05 - Baby Re-usable Big Size Cloth Diaper Trademark Claim Chart
64	Alvababy USA-N Series (N01) Patent Claim Chart
65	Alvababy USA-S Series (S09) Patent Claim Chart
66	Alvababy USA Minky Series (D06) Patent Claim Chart
67	Alvababy USA-YA Series (YA123) Patent Claim Chart

68	Alvababy USA-Z Series (ZM05) Patent Claim Chart
69	Alvababy USA Series - (E05) Patent Claim Chart
70	Alvababy US-AO Series (A0-YA120) Patent Claim Chart
71	Alvababy USA-C Series (CB01) Patent Claim Chart
72	Alvababy Shopping Cart
73	Alvababy Purchase Slip
74	Alvababy About Us
75	Alvababy Contact Us
76	bumGenius® Patent Claim Chart
77	Flip® Patent Claim Chart
78	Alibaba.com Reusable Diaper Product Listing
79	Collection of Alvababy Product Listings on Amazon. Com
80	Alvababy USA-N Series (N05 Diaper Picture)
81	Alvababy USA-S Series (S09 Diaper Picture)
82	Alvababy USA-Minky Series (D06 Diaper Picture)
83	Alvababy USA-YA Series (YA123 Diaper Picture)
84	Alvababy USA-BB Series (BS33 Diaper Picture)
85	Alvababy USA-Charcoal Series (CH-YA13 Diaper Picture)
86	Alvababy USA-NB Series (SB08 Diaper Picture)
87	Alvababy USA-AO Series (AO-YA120 Diaper Picture)
88	Alvababy USA-DC Solid Series (DC-B07 Diaper Picture)
89	Alvababy USA-DC Printed Series (DC-S31 Diaper Picture)
90	Alvababy USA-Z Series (ZM05 Diaper Picture)
91	Alvababy USA Series (E05 Diaper Picture)
92	bumGenius® Freetime All-In-One One-Size Cloth Diaper - All-In-One Diapers
93	Flip Diapers, - by Cotton Babies
94	Flip Diapers, Flip Cover - by Cotton Babies
Physical Exhibit	
PE1	bumGenius® series reusable diaper
PE2	Flip® series reusable diaper
Appendices	
1	Certified Copy of '007 Patent Prosecution History
2	Patent and Technical Reference Identified in the Prosecution History
Table 1	
	Patent Infringing Diapers (complaint paragraph 87)

I. INTRODUCTION

1. Complainant Cotton Babies, Inc. was founded approximately 13 years ago by two individuals whose previous jobs had been outsourced. It started with \$100 worth of product in a kitchen, then grew into a commercial space in 2005 and now has hundreds of employees with retail and manufacturing operations in several states. The founders, having experienced first-hand, the effects of outsourcing American jobs overseas, made it Cotton Babies' mission to produce quality reusable cloth diapers in America, with material—as much as possible—sourced from America. In 2005, Cotton Babies introduced its first products with a unique, trademarked, tab enclosure. The market now associates the trademarked design with Cotton Babies. Cotton Babies has also developed innovative aspects of reusable diapers that are protected by duly-issued U.S. patents. In disregard of those trademark and patent rights, foreign competitors have imported reusable cloth diapers that infringe the trademarked design, infringe the patent, or both. This trademark and patent infringement continues and the competitor products are sold for less than half of Cotton Babies' products. As a result, Cotton Babies has been forced to shut down retail operations in Washington State and has reduced its staff. Cotton Babies will be forced to endure additional economic losses unless infringement is stopped.

2. This Complaint is filed pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(a)(1)(B) and (C), by Complainant, Cotton Babies, Inc. ("Cotton Babies" or "Complainant") against Alvababy.com ("Alvababy"), Shenzhen Adsel Trading Co., Ltd ("Shenzhen"), and Huizhou Huapin Garment Co., Ltd. ("Huizhou") (collectively, "Respondents"). Respondents are unlawfully importing, selling for importation, and/or selling, after importation into the United States, reusable cloth diapers and components and packaging thereof that are manufactured abroad and which infringe Cotton Babies trademark rights ("Trademark Infringing Products") or patent rights ("Patent Infringing Products").

3. The Trademark Infringing Diapers imported and sold by the Respondents copy the unique, well-known and distinctive and trademarked look of Cotton Babies bumGenius® and Flip® series reusable cloth diapers including the two rounded, front tabs of a reusable diaper which, when brought together, form a “butterfly,” “bow-tie,” or “mirror-imaged capital D,” design, in violation 15 U.S.C. § 1114(1)(a) and (b). The Trademark Infringing Diapers infringe Cotton Babies trademark rights that protect the unique appearance of its popular reusable cloth diapers as set forth in Reg. No. 4,120,270 (“the ‘270 registration”).

4. The Patent Infringing Diapers imported and sold by the Respondents infringe claims 1, 13, 20 and 21 of Cotton Babies’ U.S. Patent No. 8,518,007 (“the ‘007 Patent”) in violation of 35 U.S.C. § 271(a).

5. Cotton Babies has a domestic industry under 19 U.S.C. § 1337(a)(1)(A), (B) and (C). Specifically, Cotton Babies maintains significant manufacturing operations in the United States for its reusable cloth diapers, including reusable cloth diapers that are protected by the ‘270 Trademark and the ‘007 Patent, and employs several hundred United States workers that make Cotton Babies’ industry-leading reusable cloth diapers, a substantial majority of the materials for which are United States sourced. Cotton Babies has sold millions of its American-made reusable cloth diapers which contain the unique look of its bumGenius® and Flip® series reusable cloth diapers. These products practice the ‘270 Trademark and the ‘007 Patent, and will be relied on for domestic industry. As further detailed in the confidential Declaration of Jennifer Labit attached as Confidential Exhibit 1, Cotton Babies has made and continues to make substantial investments in the United States related to its bumGenius® and Flip® series reusable cloth diapers.

6. Cotton Babies seeks, as relief, a general exclusion order, or in the alternative, a permanent limited exclusion order, barring from entry into the United States the Trademark Infringing and Patent Infringing Diapers. Cotton Babies also seeks, as relief, a permanent cease and desist order against Respondents prohibiting the importation, sale, offer for sale, use or solicitation of any sale by Respondents of reusable cloth diapers that would violate Cotton Babies' trademarks or cause dilution of those famous marks.

II. COMPLAINANT AND ITS PRODUCTS

7. Cotton Babies, Inc. was founded over 13 years ago by Jennifer Labit and James Labit, after their previous jobs had been outsourced. Confidential Declaration of Jennifer Labit, Ex. 1 at ¶ 4. Cotton Babies' mission is to produce quality reusable cloth diapers made in America. *Id.* Cotton Babies started with \$100 worth of product in a kitchen, then grew into commercial space in 2005 and now has hundreds of employees with retail and manufacturing operations in several states and corporate headquarters in Saint Louis, Missouri. *Id.* at ¶¶ 5–7. Further details regarding Cotton Babies' founding is set forth in the Confidential Declaration of Jennifer Labit, Ex. 1 at ¶¶ 4–15.

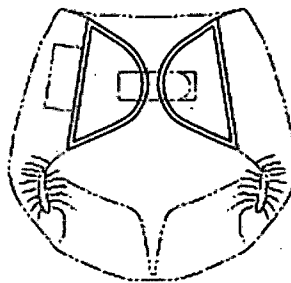
8. Cotton Babies is a Missouri corporation with its principal place of business located at 1299 N. Highway Dr., Fenton, MO 63026. Ex. 1 at ¶ 3. Operations at this 45,000 square foot facility include a distribution center and warehouse containing inventory, retail store services, on-line retail store services featuring cotton products, including parenting, nursing, maternity, diapering items, baby and toddler care, safety items and baby and toddler toys. Ex. 1 at ¶ 11.

9. Cotton Babies owned and operated an approximately 19,650 square feet manufacturing facility located at 2609 S. Raritan Street, Englewood, CO 80110 from which it manufactured its reusable cloth diapers, including its bumGenius® and Flip® series product lines.

Ex. 1 at ¶ 12. Cotton Babies was forced to close this Colorado facility. Ex. 1 at ¶ 8. Cotton Babies has a retail outlet in Saint Louis, Missouri located at 1200 Town and Country Crossing, Town and Country, Missouri 63017. Ex. 1 at ¶ 44. Cotton Babies recently was forced to close its retail operations in Vancouver, Washington located at 106 Grand Blvd., Vancouver, Washington 98661. Ex. 1 at ¶ 48.

10. For 14 years, Cotton Babies has been in the business of developing and manufacturing reusable cloth diapers in the United States. Ex. 1 at ¶ 4. From the invention of its reusable cloth diaper, in 2002, Cotton Babies has driven advancements in the performance and brand recognition of reusable cloth diapers. Ex. 1 at ¶ 4.

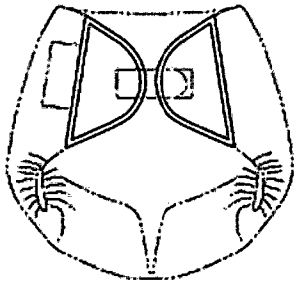
11. The Cotton Babies butterfly design trademark consists of two rounded, front tabs of a reusable diaper which, when brought together, form a “butterfly,” “bow-tie,” or “mirror-imaged capital D” design. Cotton Babies has obtained U.S. Trademark Registration No. 4,120,270 on its “butterfly,” “bow-tie,” or “mirror-imaged capital D” design. The trademark is shown below:



U.S. Trademark Registration No. 4,120,270

12. Cotton Babies introduced its bumGenius® series in 2005 which has the trademarked butterfly design described above. Ex. 1 at ¶ 6.

13. The trademark is shown below compared to an example of bumGenius® series reusable cloth diaper.



U.S. Trademark Registration No. 4,120,270



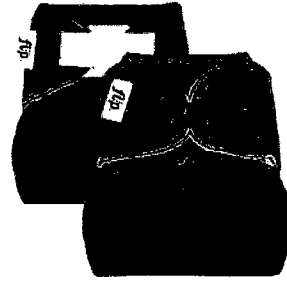
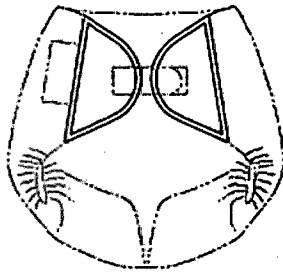
bumGenius® Freetime All-In-One One-Size Cloth Diaper
(Hummingbird)

14. The first use in commerce of Cotton Babies' trademarked butterfly design was at least as early as December 21, 2005. Ex. 1 at ¶ 25.

15. Cotton Babies has manufactured and sold bumGenius® series reusable cloth diapers utilizing the trademarked butterfly design continuously and exclusively since its introduction in 2005. Ex. 1 at ¶ 26. Millions of reusable cloth diapers have been sold to date. Ex. 1 at ¶ 26.

16. In 2009, Cotton Babies introduced its Flip® series reusable cloth diapers. Ex. 1 at ¶ 35. The Flip® series was designed to give parents a less expensive, hybrid diapering system that provided both reusable and disposable diapering options. Ex. 1 at ¶ 36. As compared with Cotton Babies' other products, the Flip® series product line is a multi-piece system, allowing the inner piece to be replaced, and the outer piece to be reused. Ex. 1 at ¶ 37.

17. The Flip® series uses the trademarked butterfly design. The trademark is shown below compared to an exemplary Flip® series reusable cloth diaper.



U.S. Trademark Registration No. 4,120,270

Flip® Diapers Flip One-Size Diaper Cover- Mirror

18. Cotton Babies has manufactured and sold Flip® series reusable cloth diapers utilizing the trademarked butterfly design continuously and exclusively since its introduction in 2009. Ex. 1 at ¶ 35. Millions of reusable cloth diapers have been sold to date. Ex. 1 at ¶ 30.

19. Cotton Babies asserts trademark rights in the unique appearance of its butterfly design and makes the public aware of these rights in its marketing materials and by prominently marking its bumGenius® and Flip® series products with the ™ or ® designator.

20. Because of Cotton Babies' promotion and long use of the butterfly design, parents and other consumers have come to recognize the appearance, which is typically displayed in stores and shown on product packaging, as a source indicator for Cotton Babies.

21. Cotton Babies' Flip® and bumGenius® series reusable cloth diapers retail for about \$20.00 USD. Ex. 1 at ¶ 31.

22. Cotton Babies' Flip® and bumGenius® series reusable cloth diapers are covered by one or more claims of the '007 Patent. The '007 Patent is generally directed to reusable diapers. Embodiments disclosed in the '007 Patent include an array of snap members that allow for different size settings for the reusable diapers. In this way, a reusable diaper can be utilized for babies as they grow. Figures 1 and 6 of the '007 Patent displayed below show examples of the arrays of snap members.

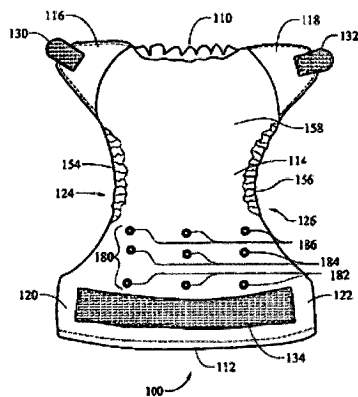


Fig. 6

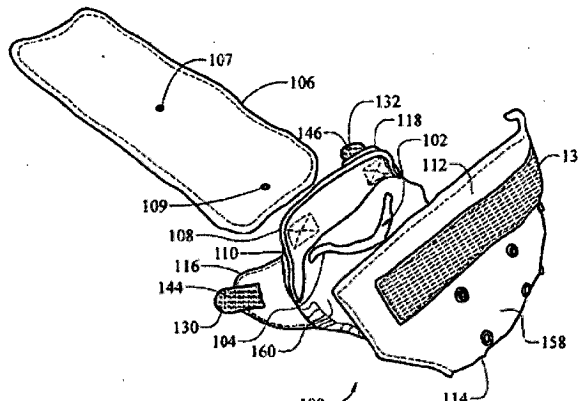


Fig. 1

III. RESPONDENTS AND THEIR PRODUCTS

A. The Alvababy Respondents

23. Alvababy, upon information and belief, is a Chinese website operated by Shenzhen Adsel Trading Co., Ltd. and Huizhou Huapin Garment Co., Ltd. Upon information and belief, Alvababy.com is located at 4th Floor, Qingxiechang, Yaqiuhu Industrial Park, Mumianwan, Buji Street, Longgang District, ShenZhen, Guangdong, China (Mainland). Ex. 2, Declaration of Joel R. Samuels at ¶ 2.

24. Shenzhen Adsel Trading Co. Ltd. is registered in Shenzhen City. Upon information and belief, Shenzhen Adsel is the export merchant of the Alvababy Trademark Infringing and Patent Infringing Diapers. Ex. 2 at ¶ 3. Upon information and belief, Shenzhen Adsel is located at Room 802, 8/F Haoyunlai Building, Yanhe Road, Luohu District, Shenzhen, Guangdong, China 518000.

25. Huizhou Garment Co., Ltd. is registered in Huizhou City. Upon information and belief, Huizhou Garment is the manufacturer of the Alvababy Trademark Infringing and Patent Infringing Diapers. Ex. 2 at ¶ 4. Upon information and belief, Huizhou Garment is located at Plant 23, Gexin Street, Sandong Town, Huizhou, Guangdong, China.

26. The biggest shareholder of both Shenzhen and Huizhou is Peng Shihua, who is also the registrant of the domain alvababy.com. Ex. 2 at ¶ 5.

27. Alvababy.com, Shenzhen Adsel Trading Co. Ltd., Huizhou Garment Co., Ltd., and Peng Shihua are collectively referred to herein as “Alvababy.”

28. On information and belief, Alvababy has manufactured, imported and sold reusable cloth diapers that copy the look of Cotton Babies’ Butterfly Design reusable cloth diapers. On information and belief, Alvababy has imported and/or sold the Trademark Infringing and Patent Infringing Diapers under its Alvababy brand and under brands for shopdiaper.com and sunflowerbaby.com.

29. The Alvababy website has a section dedicated to United States sales entitled “Stock in U.S.” Ex. 2 at ¶ 6.

30. On information and belief, Alvababy’s Trademark Infringing and Patent Infringing Diapers are sold via the alvababy.com website and third-party retailers such as Amazon.com. Ex. 2 at ¶ 7.

31. Alvababy sells the Trademark Infringing and Patent Infringing Diapers under multiple product lines, each line containing multiple versions of infringing products. *See* Section VI.A.1 *infra*. The Trademark Infringing and Patent Infringing Diapers sell from \$3.80 USD-\$7.50 USD. Ex. 2 at ¶ 8.

32. Photos of several of Alvababy’s Trademark Infringing and Patent Infringing Diapers are shown below. For example, N01 and YA123 and ZM05 infringe the claims of the ‘007 Patent that claim the 3x3 snap array and also infringe Cotton Babies’ trademark rights in Cotton Babies’ Butterfly Design.



Exs. 3–5.

B. Injury Caused By The Respondents

33. On information and belief, Respondents have intentionally priced the Trademark Infringing and Patent Infringing Diapers at a price at least 50%, and in some instances 80% lower than Cotton Babies' product in order to cause Cotton Babies harm in the marketplace.

34. Respondents' wrongful conduct as detailed above threatens to substantially injure and has caused substantial injury to Cotton Babies' domestic industry for reusable cloth diapers.

35. In particular, Respondents' importation and sales of Trademark Infringing and Patent Infringing Diapers has already caused Cotton Babies to lose sales of its bumGenius® and Flip® series reusable cloth diapers, components and packaging thereof and causes confusion and/or dilution in the marketplace. Although the specific amount of lost sales is unknown at this time, Confidential Exhibit 1 sets forth facts regarding Cotton Babies' sales and production volumes, inventories, and profits over the past five years as baseline information about Cotton Babies and its bumGenius® and Flip® series reusable cloth diapers.

36. Further, Respondents illegal and unfair acts have the potential to substantially decrease Cotton Babies' sales of bumGenius® and Flip® series reusable cloth diapers in the

United States to an amount where Cotton Babies will be forced to cut back on manufacturing, lay off employees and/or reduce research, engineering and other expenditures. Indeed, Cotton Babies has already closed a retail location and has made personnel reductions in the wake of Respondent's infringement. Ex. 1 at ¶¶ 48-51.

37. On information and belief, the Trademark Infringing and Patent Infringing Diapers are proliferating rapidly in the marketplace. In the fall of 2013, Cotton Babies learned that Respondents were importing and selling the Trademark Infringing and Patent Infringing Diapers through one website, www.alvababy.com. Within just a few months, other distributors began marketing the Trademark Infringing and Patent Infringing Diapers, as set forth in Confidential Exhibit 1. Cotton Babies has reason to believe that the number of distributors will increase. Ex. 1 at ¶ 53.

38. On information and belief, Respondents and their distributors are pricing the Trademark Infringing and Patent Infringing Diapers far less than Cotton Babies' bumGenius® and Flip® series reusable cloth diapers. Respondents' pricing strategy shows a predatory practice designed to trade on the goodwill of Cotton Babies, while eroding the pricing established for Cotton Babies' bumGenius® and Flip® series reusable cloth diapers with the cheaper Trademark Infringing and Patent Infringing Diapers. *See* Confidential Exhibit 1 for further facts relating to the pricing of disposers in the marketplace.

39. Not only may Cotton Babies lose sales to the Trademark Infringing and Patent Infringing Diapers, but Respondents' unlawful conduct, if left unchecked, may invite other infringers to enter the marketplace thereby magnifying the harm to Cotton Babies.

40. Further, confusion in the marketplace, as well as, dilution and impairment of the goodwill Cotton Babies has worked to build is also likely to result.

IV. THE ASSERTED TRADEMARK

41. Cotton Babies has a protectable trademark in the overall appearance of its Butterfly Design used in the bumGenius® and Flip® series reusable cloth diapers.

42. In 2010, Cotton Babies applied for a registration on its Butterfly Design, and, in 2012 received Trademark Registration Serial No. 4,120,270 (Ex. 6) (“the ‘270 Trademark”). Ex. 2 at ¶ 9.

43. The trademark, includes two rounded, front tabs of a reusable cloth diaper which, when brought together, form a “butterfly,” “bow-tie,” or “mirror-imaged capital D” design. Ex. 2 at ¶ 10.

44. The ‘270 Trademark is valid and subsisting. Ex. 2 at ¶ 11.

45. Cotton Babies has not licensed the ‘270 Trademark to any party. Ex. 1 at ¶ 31.

46. Millions of reusable cloth diapers have been sold over the last ten years, all utilizing the unique Butterfly Design described and shown above. Ex. 1 at ¶ 26.

47. Since its introduction, Cotton Babies has expended and continues to expend substantial time, money, and other resources in an effort to develop and maintain the goodwill that has come to be associated with its bumGenius® and Flip® series reusable cloth diapers incorporating the unique and recognizable Butterfly Design. Ex. 1 at ¶ 54.

48. Cotton Babies has invested a significant amount in advertising and promoting its bumGenius® and Flip® series reusable cloth diapers, including advertising directed to the unique and non-functional aspects of the appearance of the bumGenius® and Flip® series reusable cloth diapers. Ex. 1 at ¶¶ 20, 23, 38, 41.

49. Cotton Babies promotes the use of the Butterfly Design in connection with its Flip® series reusable cloth diapers:



Look for our unique butterfly closure system to ensure that you are getting genuine Cotton Babies™ brand cloth diapers.

Ex. 7.

50. Cotton Babies promotes the use of the Butterfly Design in connection with its bumGenius® series reusable cloth diapers:



Look for our unique butterfly closure system to ensure that you are getting genuine Cotton Babies™ brand cloth diapers.

*Look for our unique
butterfly closure
system to ensure
that you are getting
genuine Cotton
Babies™ brand cloth
diapers*

Exs. 8, 9.

51. As a result of Cotton Babies' efforts, the Butterfly Design has come to be well and favorably known to the public as being associated with the high quality products of Cotton Babies.

~~52. Cotton Babies has built up and now owns valuable goodwill that is represented by~~
its distinctive Butterfly Design.

V. THE PATENT-IN-SUIT

A. Ownership of the '007 Patent

53. The '007 Patent, entitled "Reusable Diapers" issued on August 27, 2013, and names Jennifer Lynn Labit and James Andrew Labit as inventors. A certified copy of the '007 Patent is attached to the Complaint as Ex. 10.

54. Cotton Babies is the exclusive licensee of the '007 Patent, with all rights to enforce the '007 Patent in the marketplace and recover for patent infringement.

55. The '007 Patent is valid, enforceable, and is currently in full force and effect.

56. Together with this Complaint, Cotton Babies has filed a certified copy (Appendix 1) and three (3) additional copies of the prosecution history of the '007 Patent (Application Serial No. 12/632,315). Cotton Babies has filed four (4) copies of each patent and technical reference identified in the prosecution history of the application leading to the issuance of the '007 Patent. These patents and technical references are included as Appendix 2.

B. Licenses Under the '007 Patent

57. Cotton Babies is the exclusive licensee of the '007 Patent with the right to enforce and the right to recover for infringement of the '007 Patent. A copy of the exclusive licensee agreement is attached as Confidential Exhibit 11. Cotton Babies has granted no sub-licenses to the '007 Patent.

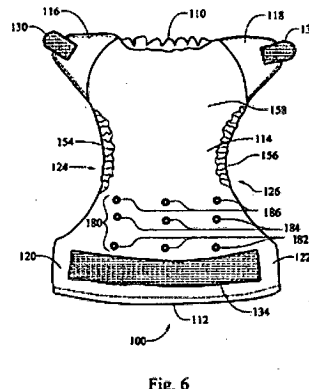
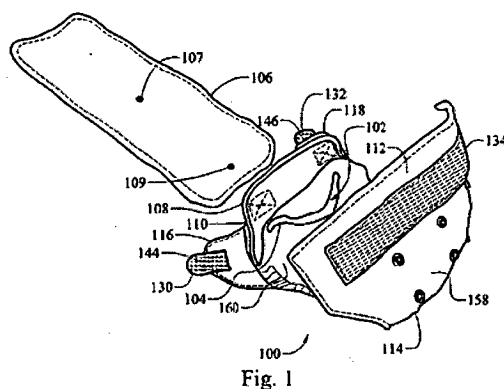
C. Foreign Counterpart Patents and Applications

58. There are foreign patents or foreign patent applications pending, filed, abandoned, withdrawn or rejected relating to the '007 Patent. They are MX 302908 B; CA 2632792; WO2008/030984; and Australian patent 2008202394.

D. Nontechnical Description of the Patented Invention¹

59. The '007 Patent is generally directed to reusable diapers. Embodiments disclosed in the '007 Patent include an array of snap members that allow for different size settings for the reusable diapers. In this way, a reusable diaper can be utilized for babies as they grow. The '007 specification and embodiments describe further features including an outer polyester layer, and an inner suede cloth layer. Figures 1 and 6 are examples of embodiments disclosed in the '007 Patent.

¹ The content of this Complaint, including this section (*i.e.*, "Nontechnical Description of the Patented Invention"), does not, and is not intended to, construe either the specification or claims of the '007 Patent).



VI. RELATED LITIGATION

60. The alleged unfair methods of competition or the subject matters thereof are not the subject of any other court or agency litigation.

VII. UNLAWFUL AND UNFAIR ACTS OF THE RESPONDENTS

A. Alvababy Trademark Infringing and Patent Infringing Diapers

61. Alvababy currently sells the 1 Alva Baby Digital Printing Pocket Diaper+ 1 Insert USA series of reusable cloth diapers ("the Alvababy USA Series"). In September 2015 there were 5 products in this series with product nos. J07, J30, E05, H006 and H009. Ex. 12. In 2016, this product line was divided into the Models E, G, H, J and Y series with product model nos. E05, E20, E22, Y01, Y08, Y10, G01, G13 J01, J18, J30, H004, H005, H006, H009, H10, H012, H014, H016, H017, H018, H021, H022, H023, H024, H025, H026, H027, H028, H029, H030, H031, H032, H033, H034, H035, H036, H037 and H038. Ex. 13-15. As of August 2017, this product line is called the Alva Baby Digital Printing Pocket Diaper With 1 Microfiber Insert and consists of the Classic and H series. There are 69 products in this series with product model nos. Q03, J30, J01, G13, J18, G01, Y01, E20, E22, HL01, H065, H050, H055, H040, H006, H051, H034, H042, H030, H062, H052, H066, H035, H061, H022, H028, H037, H027, H048, H064, H063, H041, H053, H059; H036, H021, H056, H054, H038, H024, H045, H057, H039, H017,

H049, H071, H044, H025, H043, H047, H074, H019, H031, H009, H072, H068, H046, H069, H058, H026, H012, H067, H029, H014, H016, H070, H073, H075, and H076. Ex. 2 at ¶ 12; Ex. 16, Ex. 17.

62. Alvababy currently sells the 1 Baby Colorful Re-usable Pocket Cloth Diapers with 1 Insert USA-N series of reusable cloth diapers (the “Alvababy USA-N Series”). In September 2015 there were 15 products in this series with product nos. N01, N41, N09, N10, N15, N17, N22, N31, N35, N39, N42, N19, N13T, N12T and N11T. Ex. 3. In August 2016 there were 35 products in this series with product nos. N01, N06, N09, N15, N16, N17, N18, N19, N20, N22, N23, N24, N25, N26, N28, N30, N31, N32, N33, N34, N35, N36, N37, N38, N39, N40, N41, N14T, N08, N10, N42, N43, N11T, N12T and N13T. Ex. 18. As of August 2017, this product line is called the 1 Baby Printed Re-Usable Washable Baby Cloth Diaper Nappy Pocket Diaper With 1 Microfiber Insert – N Series and there are 28 products in this series with the model nos. N06, N12T, N11T, N14T, N40, N41, N01, N26, N35, N43, N09, N42, N25, N16, N20, N39, N15, N24, N37, N13T, N22, N30, N31, N28, N23, N17, N19 and N36. Ex. 2 at ¶ 13; Ex. 19.

63. Alvababy currently sells the 1 Baby Colorful Re-usable Pocket Cloth Diapers with 1 Insert USA-S series of reusable cloth diapers (“the Alvababy USA-S Series”). In September 2015 there were 8 products in this series with product nos. S31, S33, S34, S09, S44, S45, S30 and S35. Ex. 20. In August 2016, there were 18 products in this series with the product nos. S09, S10, S12, S28, S29, S30, S20, S23, S31, S33, S34, S35, S43, S44, S45, S01, S06 and S18. Ex. 21. As of August 2017, this product line is called the 1 Baby Printed Re-Usable Washable Baby Cloth Diaper Nappy Pocket Diaper With 1 Microfiber Insert – S Series and there

are 13 products in this series with the model nos. S09, S10, S12, S20, S28, S29, S30, S31, S33, S34, S43, S44 and S45. Ex. 2 at ¶ 14; Ex. 22.

64. Alvababy currently sells the 1 Baby Minky Colorful Re-usable Cloth Diapers with 1 Insert USA-Minky series of reusable cloth diapers (“the Alvababy Minky Series”). In September 2015 there were 12 products in this series with product nos. A11, D06, M03, M07, M09, M11, M12, M14, M20, M26, M28 and M31. Ex. 23. In August 2016, there were 34 products in this series with product nos. A10, A11, A12, A16, A20, A24, D06, P06, P05, P02, P01, M02, M03, M07, M11, M12, M14, M19, M20, M25, M26, M27, M28, M29, M30, M31, M33, M34, M35, M36, M39, M40, E02, and I12. Ex. 24. As of August 2017, this product line is called the 1 Baby Minky Print Re-Usable Cloth Diaper Nappy +1 Insert – Minky series and there are 32 products in this series with the model nos. MD06, A24, A10, A11, M19, MD03, MD02, MD05, M33, M12, P06, A16, M11, MD04, M20, M07, M29, M31, D06, M26, M35, M03, M27, M14, M02, P05, M30, E02, MD01, M28, M40 and M34. Ex. 2 at ¶ 15; Ex. 25.

65. Alvababy currently sells the 1 Baby Colorful Re-usable Pocket Cloth Diapers with 1 Insert USA-YA series of reusable cloth diapers (“the Alvababy USA-YA Series”). In September 2015 there were 6 products in this series with product nos. YA121, YA123, YA128, YA129, YA139 and YA140. Ex. 4. In August 2016, there were 64 products in this series with product nos. YA13, YA16, YA26, YA28, YA29, YA30, YA32, YA37, YA38, YA39, YA41, YA52, YA54, YA65, YA75, YA80, YA81, YA84, YA104, YA106, YA111, YA112, YA113, YA114, YA01, YA07, YA09, YA10, YA11, YA12, YA27, YA88, YA94, YA95, YA97, YA103, YA115, YA116, YA117, YA118, YA119, YA120, YA121, YA122, YA123, YA124, YA125, YA126, YA127, YA128, YA129, YA130, YA131, YA137, YA138, YA139, YA140, YA141, YA142, YA143, YA144, YA145, YA146 and YA147. Exs. 26–27. As of August 2017,

this product line is called the 1 Baby Printed Re-Usable Washable Baby Cloth Diaper Nappy Pocket Diaper With 1 Microfiber Insert –YA Series and there are 48 products in this series with the model nos. YA54, YA88, YA112, YA39, YA114, YA11, YA75, YA32, YA123, YA119, YA131, YA84, YA126, YA118, YA121, YA30, YA124, YA65, YA116, YA28, YA122, YA10, YA97, YA130, YA38, YA115, YA120, YA111, YA142, YA125, YA106, YA117, YA37, YA104, YA95, YA103, YA129, YA113, YA80, YA16, YA01, YA52, YA94, YA140, YA138, YA81, YA137, YA144. Ex. 2 at ¶ 16; Ex. 28.

66. Alvalbaby currently sells the 1 Reusable Bamboo Baby Cloth Diaper+ 1 Bamboo Insert USA-BB series of reusable cloth diapers (“the Alvalbaby USA-BB Series”). In September 2015 there were 3 products in this series with product nos. BA18, BS33 and BN43. Ex. 29. In August 2016 there were 14 products in this series with the model nos. BA11, BB06, BB10, BE20, BN06, BG01, BG13, BJ01, BM26, BS33, BYA28, BYA39 and BYA103. Ex. 30. As of August 2017, this product line is called the 1 reusable Bamboo Baby Cloth Diaper+ 1 bamboo Insert BB Series and there are 15 products in this series with the model nos. BA11, BB06, BB10, BE20, BA02, BJ01, BS33, BYA28, BA11, BYA39, BG13, BM26, BN06, BG01, BYA103. Ex. 2 at ¶ 17; Ex. 31.

67. Alvalbaby currently sells the 1 Reusable Bamboo Charcoal Baby Cloth Diaper+ 1 Bamboo Charcoal Insert USA series of reusable cloth diapers (“the Alvalbaby USA-CH Series”). There are 4 products in this series with product nos. CH-YA10, CH-YA13, CH-YA27 and CH-YA37. Ex. 32; Ex. 33. As of August 2017, this product line is called the 1 Reusable Bamboo Charcoal Baby Cloth Diaper with one 4-layer Bamboo Charcoal Inserts and there are 4 products in this series with the model nos. CH-YA10, CH-YA13, CH-YA37, CH-YA27. Ex. 2 at ¶ 18; Ex. 34.

68. Alvababy currently sells the 1 Baby Solid Re-Usable Newborn Baby Cloth Diaper with 1 pc. 3-layer microfiber Insert USA-NB series of reusable cloth diapers (“the Alvababy USA-NB Series”). In September 2015 there were 2 products in this series with product nos. SB08 and SB18. Ex. 35. In August 2016 this series was called the One Size Newborn Baby Snap Pure Cloth Diaper With 1 Insert-Snap NB (Solid) and had 15 products in this series with the model nos. SB01, SB02, SB03, SB06, SB07, SB08, SB09, SB13, SB14, SB16, SB17, SB18, SB22, SB25 and SB26. Ex. 36. As of August 2017, this product line is called the 1 Baby Pure Re-Usable Cloth Diaper Nappy With 1 Microfiber Insert – Solid Series and there are 30 products in this series with the model nos. B09, B29, B26, B03, B14, B25, B02, B07, B17, B05, B18, B15, B04, B10, B30, B01, B16, B06, B12, B08, B20, B19, B24, B22, B11, B27, B21, B23, B13, B28. Ex. 2 at ¶ 19; Ex. 37.

69. Alvababy currently sells the Alvababy Classical AIO Diaper with Sewn-in 4-layer Bamboo Insert USA-AO series of reusable cloth diapers (also known as the “AO 3x3 snaps series”) (“the Alvababy USA-AO Series”). There were 4 products in this series with product nos. AO-YA120, AO-YA124, AO-YA125 and AO-YA132. Ex. 38; Ex. 39. As of August 2017, there are 8 products in this series with the model nos. AO-H021, AO-S09, AO-YA124, AO-YA132, AO-H024, AO-YA120, AO-YA125, AO-S20. Ex. 2 at ¶ 20; Ex. 40.

70. Alvababy currently sells the 1pc Solid Baby Color Snap Covers with Double Gussets USA-DC series (solid) of reusable cloth diapers (“the Alvababy USA-DC (solid) Series”). In September 2015 there were 5 products in this series with product nos. DC-B07, DC-B09, DC-B18, DC-B25 and DC-B26. Ex. 41. In August 2016 there were 7 products in this series with model nos. DC-B01, DC-B07, DC-B09, DC-B10, DC-B18, DC-B25 and DC-B26. Ex. 42. As of August 2017, this product line is listed under the Diaper Cover Series and there are 26

products in this series with the model nos. USA-DC-B25, USA-DC-B07, USA-DC-B18, USA-DC-S32, USA-DC-S44, USA-DC-YA103, USA-DC-YA84, USA-YA54, USA-CYA88, USA-S45, DC-B26, DC-B25, DC-B10, DC-B09, DC-B07, DC-B01, DC-B18, DC-YA54, DC-S31, DC-YA126, DC-H065, DC-S44, DC-YA013, DC-YA84, DC-YA37, DC-S33. Ex. 2 at ¶ 21; Exs. 43–44.

71. Alva Baby currently sells the 1 pc. Printed Baby Color Snap Covers with Double Gussets USA-DC series (printed) of reusable cloth diapers (“the Alvababy USA-DC (printed) Series”). In September 2015 there were 4 products in this series with product nos. DC-S31, DC-S44, DC-YA84 and DC-YA37. Ex. 45. In August 2016 there were 7 products in this series with model nos. DC-S31, DC-S44, DC-YA37, DC-YA54, DC-YA84, DC-YA103 and DC-YA126. Ex. 46. As of August 2017, this product line is listed under the Diaper Cover Series and there are 26 products in this series with the model nos. USA-DC-B25, USA-DC-B07, USA-DC-B18, USA-DC-S32, USA-DC-S44, USA-DC-YA103, USA-DC-YA84, USA-YA54, USA-CYA88, USA-S45, DC-B26, DC-B25, DC-B10, DC-B09, DC-B07, DC-B01, DC-B18, DC-YA54, DC-S31, DC-YA126, DC-H065, DC-S44, DC-YA013, DC-YA84, DC-YA37, DC-S33. Ex. 2 at ¶ 22; Exs. 43–44.

72. Alvababy currently sells the 1 Baby Re-usable Big Size Cloth Diaper (42CM x 45.5CM) + 1 Insert USA-Z series of reusable cloth diapers (“the Alvababy USA-Z Series”). In September 2015 there were 2 products in this series with product nos. ZM05 and ZS31. Ex. 5. In August 2016 there were 17 products in this series with model nos. ZB02, ZB03, ZB04, ZB05, ZB08, ZB10, ZB11, ZB12, ZB15, ZB16, ZB17, ZB19, ZB21, ZB23, ZB24, ZYA11 and ZS31. Ex. 47. As of August 2017, there are 15 products in this series with the model nos. ZYA11,

ZB15, ZB10, ZB12, ZS31, ZB05, ZB02, ZB08, ZB17, ZB23, ZB03, ZB16, ZB21, ZB24 and ZB19. Ex. 2 at ¶ 23; Ex. 48.

73. Alvababy currently sells the 1 Alva Baby AI2 4.0 Cloth Diapers With Double Gussets + Snap-in 1 Insert USA C series of reusable cloth diapers. In September 2015 there were 6 products in this series with product nos. CB01, CB06, CB07, CB09, CB10 and CB26. Ex. 49 In August 2016 there were 16 products in this series with model nos. CA10, CB01, CB06, CB07, CB09, CB10, CB15, CB17, CB24, CB26, CE02, CY01, CB18, CS33, CYA37 and CYA88. Ex. 50. As of August 2017, there are 20 products in this series with the model nos. CH030, CS33, CH021, CN06, CH022, CB18, CYA88, CB09, CB26, CB06, CY01, CB15, CYA37, CE02, CB10, CB01, CB07, CB17, CB24 and CA10. Ex. 2 at ¶ 24; Ex. 51.

B. Trademark Infringement By Representative Alvababy Trademark Infringing Diapers

74. On information and belief, the Alvababy diapers include Trademark Infringing Diapers, which infringe the ‘270 trademark. These products include two rounded, front tabs of a reusable diaper which, when brought together, form a “butterfly,” “bow-tie,” or “mirror-imaged capital D” design, in violation 15 U.S.C. § 1114(1) (a) and (b). The Alvababy Trademark Infringing Diapers infringe Cotton Babies trademark rights that protect the unique appearance of its popular reusable cloth diapers.

75. The Alvababy USA series infringes on the trademarked “butterfly” design as shown in Ex. 52 comparing the E05 model to the ‘270 Trademark. The E05 model is representative of the other models in the Alvababy USA series and only differs in color.

76. The Alvababy USA-N series infringes on the trademarked “butterfly” design as shown in Ex. 53 comparing the N01 model to the ‘270 Trademark.

77. The Alvababy USA-S series infringes on the trademarked “butterfly” design as shown in Ex. 54 comparing the S09 model to the ‘270 Trademark.

78. The Alvababy USA-Minky series infringes on the trademarked “butterfly” design as shown in Ex. 55 comparing the D06 model to the ‘270 Trademark.

79. The Alvababy USA-YA series infringes on the trademarked “butterfly” design as shown in Ex. 56 comparing the YA123 model to the ‘270 Trademark.

80. The Alvababy USA-BB series infringes on the trademarked “butterfly” design as shown in Ex. 57 comparing the BB33 model to the ‘270 Trademark.

81. The Alvababy USA-CH series infringes on the trademarked “butterfly” design as shown in Ex. 58 comparing the CH-YA13 model to the ‘270 Trademark.

82. The Alvababy USA-NB Series infringes on the trademarked “butterfly” design as shown in Ex. 59 comparing the SB08 model to the ‘270 Trademark.

83. The Alvababy USA-AO series infringes on the trademarked “butterfly” design as shown in Ex. 60 comparing the AO-YA120 model to the ‘270 Trademark.

84. The Alvababy USA-DC (solid) series infringes on the trademarked “butterfly” design as shown in Ex. 61 comparing the DC-B07 model to the ‘270 Trademark.

85. The Alvababy USA-DC (printed) series infringes on the trademarked “butterfly” design as shown in Ex. 62 comparing the DC-S31 model to the ‘270 Trademark.

86. The Alvababy USA-Z series infringes on the trademarked “butterfly” design as shown in Ex. 63 comparing the ZM05 model to the ‘270 Trademark. The ZM05 model is representative of the other models in the Alvababy USA-Z series and only differs in color.

C. Patent Infringement by Representative Alvababy Patent Infringing Diapers

87. The Alvababy Patent Infringing Diapers infringe at least claim 1 of the '007 Patent. Specific examples, based on information discovered during investigation, are listed in Table 1.

88. On information and belief, Respondents cause to be manufactured, manufacture, sell for importation, import and/or sell after importation in the United States Patent Infringing Diapers that include the limitations of at least claim 1 of the '007 Patent in violation of 35 U.S.C. 271(a).

89. By way of example, as shown in the claim chart attached as Ex. 64, the USA-N Series as illustrated by the 1 Baby Colorful Re-usable Pocket Cloth Diapers with 1 Insert USA-N (N01) meets every limitation of Claim 1 of the '007 Patent and is a Patent Infringing Diaper. Other Patent Infringing Diapers include: S09; D06; YA-123; ZM05; E05; A0-YA120 and CB01. *See* Exs. 65–71.

D. Specific Instances of Sale and Importation

90. On information and belief, Alvababy has manufactured, sold for importation, imported, and/or sold after importation within the United States, infringing reusable cloth diapers and components and packaging thereof to consumers in the United States under names, such as 1 BABY AI2.

91. In September 2015, a representative of Cotton Babies made several purchases in the United States of reusable cloth diapers originating from Alvababy and bearing the brand names Alvababy, Happy Flute and Sunny Baby. Sales receipts for these exemplary Respondents products, purchased from www.alvababy.com for delivery in the United States, are attached as Exs. 72–73.

92. The “About Us” portion of the alvababy.com website states that “Alvababy.com is a China-based global online retailer.” Further, the “Contact Us” portion of the alvababy.com website lists an address of “The 4th Floor, Building 5, Zone 2, Yaqiuhu Industrial District, Mumianwan, Buji Longgang ShenZhen City, China.” Exs. 74–75.

93. The order confirmation identifies these products as originating from China and the products were received in the United States. Examples of these indications of origin are shown in Exs. 72–73.

94. In September 2015, a representative of Cotton Babies purchased the E05 model from www.alvababy.com. *See* Ex. 73; Ex. 2, ¶ 26. The Order Confirmation indicates this product originated from China. Ex. 73. The product label says “Made in China.” The E05 model is both a Trademark Infringing Diaper and Patent Infringing Diaper.

95. In September 2015, a representative of Cotton Babies purchased the N01 model from www.alvababy.com. *See* Ex. 73; Ex. 2, ¶ 27. The Order Confirmation indicates this product originated from China. Ex. 73. The product label says “Made in China.” The N01 model is both a Trademark Infringing Diaper and Patent Infringing Diaper.

96. In September 2015, a representative of Cotton Babies purchased the S09 from www.alvababy.com. *See* Ex. 73; Ex. 2, ¶ 28. The Order Confirmation indicates this product originated from China. Ex. 73. The product label says “Made in China.” The S09 model is both a Trademark Infringing Diaper and Patent Infringing Diaper.

97. In September 2015, a representative of Cotton Babies purchased the D06 model from www.alvababy.com. *See* Ex. 73; Ex. 2, ¶ 29. The Order Confirmation indicates this product originated from China. Ex. 73. The product label says “Made in China.” The D06 model is both a Trademark Infringing Diaper and Patent Infringing Diaper.

98. In September 2015, a representative of Cotton Babies purchased the YA123 model from www.alvababy.com. *See* Ex. 73; Ex. 2, ¶ 30. The Order Confirmation indicates this product originated from China. Ex. 73. The product label says “Made in China.” The YA123 model is both a Trademark Infringing Diaper and Patent Infringing Diaper.

99. In September 2015, a representative of Cotton Babies purchased the BS33 model from www.alvababy.com. *See* Ex. 73; Ex. 2, ¶ 31. The Order Confirmation indicates this product originated from China. Ex. 73. The product label says “Made in China.” The BS33 model is a Trademark Infringing Diaper.

100. In September 2015, a representative of Cotton Babies purchased the CH-YA13 model from www.alvababy.com. *See* Ex. 73; Ex. 2, ¶ 32. The Order Confirmation indicates this product originated from China. Ex. 73. The product label says “Made in China.” The CH-YA13 model is a Trademark Infringing Diaper.

101. In September 2015, a representative of Cotton Babies purchased the SB08 model from www.alvababy.com. *See* Ex. 73; Ex. 2, ¶ 33. The Order Confirmation indicates this product originated from China. Ex. 73. The product label says “Made in China.” The SB08 model is a Trademark Infringing Diaper.

102. In September 2015, a representative of Cotton Babies purchased the A0-YA120 model from www.alvababy.com. *See* Ex. 73; Ex. 2, ¶ 34. The Order Confirmation indicates this product originated from China. Ex. 73. The product label says “Made in China.” The A0-YA120 model is both a Trademark Infringing Diaper and Patent Infringing Diaper.

103. In September 2015, a representative of Cotton Babies purchased the DC-B07 model from www.alvababy.com. *See* Ex. 73; Ex. 2, ¶ 35. The Order Confirmation indicates this

product originated from China. Ex. 73. The product label says “Made in China.” The DC-B07 model is a Trademark Infringing Diaper.

104. In September 2015, a representative of Cotton Babies purchased the DC-S31 model from www.alvababy.com. *See* Ex. 73; Ex. 2, ¶ 36. The Order Confirmation indicates this product originated from China. Ex. 73. The product label says “Made in China.” The DC-S31 model is a Trademark Infringing Diaper.

105. In September 2015, a representative of Cotton Babies purchased the ZM05 model from www.alvababy.com. *See* Ex. 73; Ex. 2, ¶ 37. The Order Confirmation indicates this product originated from China. Ex. 73. The product label says “Made in China.” The ZM05 model is both a Trademark Infringing Diaper and Patent Infringing Diaper.

106. In September 2015, a representative of Cotton Babies purchased the CB01 model from www.alvababy.com. *See* Ex. 73; Ex. 2, ¶ 38. The Order Confirmation indicates this product originated from China. Ex. 73. The product label says “Made in China.” The CB01 model is a Patent Infringing Diaper.

VIII. ADDITIONAL INFRINGING PRODUCTS

107. On information and belief, additional products of Respondents may infringe one or more claims of the patent-in-suit or asserted trademark. Cotton Babies believes it is likely that, after reasonable opportunity for further investigation and discovery, Cotton Babies will be able to show that additional products of Respondents infringe one or more claims of the asserted patent or infringe the asserted trademark under circumstances that would give rise to further violations of Section 337.

IX. CLASSIFICATION OF THE INFRINGING PRODUCTS UNDER THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

108. On information and belief, the Harmonized Tariff Schedule of the United States (“HTSUS”) tariff classification for the Trademark Infringing and Patent Infringing Diapers is Section XI, Chapter 63, “Other Made Up Textile Articles,” HTS Number 6309.00.00.10, “Worn Clothing.”

XI. THE DOMESTIC INDUSTRY

109. A domestic industry exists in connection with Cotton Babies’ development and sales of its bumGenius® and Flip® series reusable cloth diapers under each of the three disjunctive sections of 19 U.S.C. § 1337(a)(3).

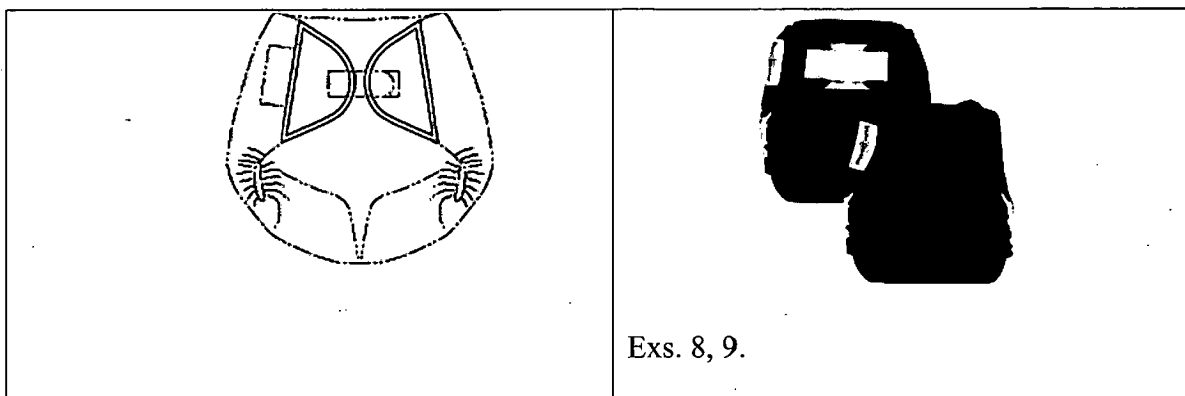
A. Technical Prong

1. The Asserted Trademark

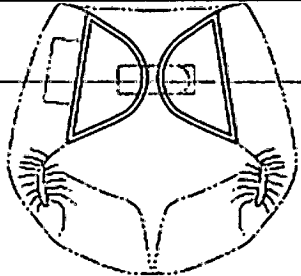
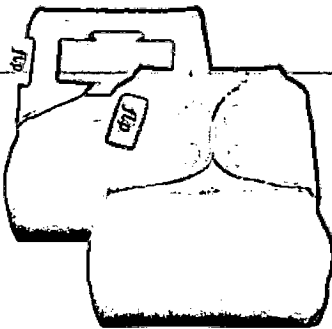
110. As explained in Paragraphs 12 and 13, above, the Cotton Babies Butterfly Design trademark consists of two rounded, front tabs of a reusable diaper which, when brought together, form a “butterfly,” “bow-tie,” or “mirror-imaged capital D” design. The trademark is shown below compared to an example of bumGenius® series reusable cloth diaper. The Butterfly Design is covered by U.S. Trademark Registration Serial No. 4,120,270. A copy of the ‘270 Trademark is attached as Ex. 6.

111. Cotton Babies’ bumGenius® series of reusable cloth diapers practices the ‘270 Trademark as shown below.

U.S. Trademark Registration Serial No. 4,120,270	bumGenius® Freetime All-In-One One-Size Cloth Diaper (Hummingbird)
The mark consists of two rounded, front tabs of a reusable diaper which, when brought together, form a “butterfly,” “bow-tie,” or “mirror-imaged capital D” design.	The mark consists of two rounded, front tabs of a reusable diaper which, when brought together, form a “butterfly,” “bow-tie,” or “mirror-imaged capital D” design.



112. Cotton Babies' Flip[®] series of reusable cloth diapers practices the '270 Trademark as shown below.

U.S. Trademark Registration Serial No. 4,120,270	Flip [®] Diapers Flip One-Size Diaper Cover- Mirror
The mark consists of two rounded, front tabs of a reusable diaper which, when brought together, form a "butterfly," "bow-tie," or "mirror-imaged capital D" design.	The mark consists of two rounded, front tabs of a reusable diaper which, when brought together, form a "butterfly," "bow-tie," or "mirror-imaged capital D" design.
	 Ex. 7.

2. The Asserted Patent

113. For the technical prong Cotton Babies will rely on its bumGenius[®] and Flip[®] series of reusable cloth diapers that practice the '007 Patent

114. A bumGenius® series reusable diaper is being submitted as Physical Exhibit PE1. The bumGenius® series reusable diaper practices at least claim 1 of the '007 Patent, shown in the claim chart provided as Ex. 76.

115. A Flip® series reusable diaper is being submitted as Physical Exhibit PE2. The Flip® series reusable diaper practices at least claim 1 of the '007 Patent, shown in the claim chart provided as Ex. 77.

B. The Economic Prong

1. Significant Investment in Plant and Equipment

116. A domestic industry exists in the United States by virtue of Cotton Babies' significant domestic investments in its plant and equipment devoted to manufacturing, developing, testing, and distributing the reusable cloth diapers, including the bumGenius® and Flip® series reusable cloth diapers. Ex. 1 at ¶¶ 10–15.

117. Cotton Babies facility in Saint Louis, Missouri manufactures, develops and tests the bumGenius® and Flip® series reusable cloth diapers. See Confidential Exhibit 1, at ¶¶ 10–15.

118. Cotton Babies has made, and continues to make, substantial investments in this facility, and in the equipment used within this facility to develop and test its reusable cloth diapers, including its bumGenius® and Flip® series reusable cloth diapers. Confidential Exhibit 1 sets forth further facts regarding these investments. Ex. 1 at ¶¶ 16–17; 23.

119. For example, Cotton Babies has spent approximately \$ [REDACTED] in manufacturing-related capital expenditures for reusable cloth diapers, of which approximately [REDACTED] % relates to the manufacturing of the bumGenius® and Flip® series reusable cloth diapers. Ex. 1 at ¶ 16.

120. Moreover, from the fiscal years of 2010–2015, Cotton Babies spent approximately an average of \$ [REDACTED] on research, engineering, and development relating to reusable cloth diapers. Ex. 1 at ¶ 17.

2. Significant Employment of Labor and Capital

121. Cotton Babies currently employs approximately [REDACTED] persons in the United States, a significant number of whom are involved in the domestic development and sales of reusable cloth diapers. *See* Confidential Ex. 1 at ¶¶ 10–15.

122. These employees include personnel dedicated to the development, sale, and distribution of the bumGenius® and Flip® series reusable cloth diapers, including various engineers and engineering technicians either partially or fully dedicated to research and development, technical support and field applications related to the bumGenius® and Flip® series reusable cloth diapers. Confidential Ex. 1 sets forth further facts regarding these employees. Ex. 1 at ¶¶ 7–15, 23.

3. Substantial Investment in Exploiting the Trademark Through Engineering and Research and Development

123. Cotton Babies is a recognized leader in the research and development of reusable cloth diapers and has made, and continues to make, very substantial investments in research and development. That financial commitment has established Cotton Babies as a leader in the design, development and manufacture of state of the art reusable cloth diaper products like the bumGenius® and Flip® series reusable cloth diapers. Confidential Exhibit 1 sets forth further facts regarding these engineering, research and development expenditures. Ex. 1 at ¶¶ 10–17, 23.

124. Cotton Babies will continue to make substantial investments in engineering and research and development related to existing and future reusable cloth diapers.

XII. REQUEST FOR GENERAL EXCLUSION ORDER

125. Cotton Babies seeks a general exclusion order as part of its relief.

126. A general exclusion order is warranted when such exclusion is necessary to prevent circumvention of an exclusion order limited to named persons or where there is a pattern of violation of Section 337 and it is difficult to identify the source of the infringing products. A general exclusion order is warranted here both to prevent circumvention of any exclusion order limited to products of named entities, and because there is a pattern of violation of Section 337 and it is difficult to identify the source of infringing products.

127. As set forth above and in the Confidential Declaration of Jennifer Labit, there are numerous infringing products entering the United States, under brand name or private label, and it is extremely difficult to identify the sources of these infringing products. While Cotton Babies has identified herein multiple manufacturers and distributors of numerous infringing products, discovery will likely show additional, unrelated manufacturers in China and perhaps other locations, and unrelated distributors that also import infringing reusable cloth diapers. Indeed, manufacturers (and distributors) of reusable cloth diapers appear to employ complex business arrangements, do business under more than one name and/or form intricate arrays of confusingly similar affiliates, which will make it difficult, if not impossible, for Customers to determine the source of the infringing products. *See*, for example, Ex. 1 at ¶¶ 47-56.

128. On information and belief, the Trademark Infringing and Patent Infringing Diapers are proliferating rapidly in the marketplace. In the fall of 2013, Cotton Babies learned that Respondents were importing and selling the Trademark Infringing and Patent Infringing Diapers through one website, www.alvababy.com. Within just a few months, other distributors began marketing the Trademark Infringing and Patent Infringing Diapers, as set forth in

Confidential Exhibit 1. Cotton Babies has reason to believe that the number of distributors will increase. Ex. 1 at ¶ 53.

129. Moreover, Respondents are actively trying to gain more distributors in the United States that will import and sell after importation infringing reusable cloth diapers, sometimes under private label. As shown above, distributors easily offer for sale and sell infringing reusable cloth diapers over the Internet. Given the difficulty in identifying the source of the infringing products and the ease of distribution of infringing reusable cloth diapers, such distributors may easily evade an exclusion order limited to named Respondents.

130. A search of Alibaba.com finds that there are a multitude of manufacturers of reusable cloth diapers including those that make products that infringe the Asserted Trademark and Asserted Patent. *See* Ex. 2 ¶ 25; Ex. 78. These product listings identify these products as originating from China. *Id.* The sellers of these products do not reveal the manufacturing source making the enforcement against those sources difficult, at best.

131. Further, there are no significant technical barriers to copying Cotton Babies protected trademark and patent. Ex. 1 ¶ 54. The Cotton Babies trademarked design, while unique, is not difficult to copy. *Id.* Likewise, the composition covered by Cotton Babies' '007 Patent is not cost prohibitive to manufacture. *Id.*

132. Accordingly, given the apparent numerous sources abroad of infringing reusable cloth diapers and components thereof, the difficulty in identifying the manufacturing source of such infringing products and the ease of distribution of imported infringing products, a general exclusion order is necessary to protect Cotton Babies and its substantial domestic industry.

XIII. REQUEST FOR RELIEF

WHEREFORE, Complainant Cotton Babies respectfully requests 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, into the violation of Section 337 arising from the importation into the United States, and/or sale for importation, and/or sale within the United States after importation of reusable cloth diapers, components and packaging thereof, that infringe the '270 trademarked Butterfly Design under the Lanham Act, and infringe the '007 Patent;

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

C. Issue a permanent, limited and/or general exclusion order forbidding entry into the United States of reusable cloth diapers and components and packaging thereof that infringe the '270 trademarked Butterfly Design and constitutes Passing Off under the Lanham Act;

D. Issue permanent cease and desist orders, pursuant to Section 337(f), directing Respondents to cease and desist from the importation, sale, offer for sale, advertising, packaging, or solicitation of any sale by Respondents of reusable cloth diapers, components and packaging thereof that infringe the '270 trademarked Butterfly Design under the Lanham Act;

E. Issue a permanent, limited and/or general exclusion order forbidding entry into the United States of reusable cloth diapers and components and packaging thereof that infringe the '007 Patent;

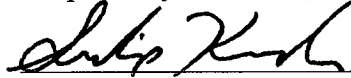
F. Issue permanent cease and desist orders, pursuant to Section 337(f), directing Respondents to cease and desist from the importation, sale, offer for sale, advertising, packaging,

or solicitation of any sale by Respondents of reusable cloth diapers, components and packaging thereof that infringe the '007 Patent; and

G. Grant all such other and further relief as it deems appropriate under the law, based upon the facts complained of herein and as determined by the investigation.

Dated: September 19, 2017

Respectfully submitted,



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