

**UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, D.C. 20436**

In the Matter of

CERTAIN LOAD SUPPORTING SYSTEMS,  
INCLUDING COMPOSITE MAT SYSTEMS,  
AND COMPONENTS THEREOF

Investigation No. 337-TA-\_\_\_\_\_

**COMPLAINT OF NEWPARK MATS & INTEGRATED SERVICES LLC  
UNDER SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED**

COMPLAINANT:

Newpark Mats & Integrated Services LLC  
9320 Lakeside Blvd., Suite 100  
The Woodlands, Texas 77381  
Tel: (281) 362-6800

PROPOSED RESPONDENTS:

Checkers Industrial Products, LLC  
620 Compton Street  
Broomfield, CO 80020.  
Tel: (720) 890-1187

Checkers Safety Group UK LTD  
3rd Floor 1 Ashley Road  
Altrincham, Cheshire, United Kingdom,  
WA14 2DT  
Tel: +44-84-5643-5388

COUNSEL FOR COMPLAINANT:

Joseph V. Colaianni, Jr.  
Thomas S. Fusco  
Fish & Richardson P.C.  
901 15th Street NW, Suite 700  
Washington, DC 20005  
Tel: (202) 783-5070  
Fax: (202) 783-2331

Zigma Ground Solutions LTD  
Unit 11 M11 Business Link Parsonage Lane  
Stansted, Essex, United Kingdom, CM24 8GF  
Tel: +44-84-5643-5388

Jayme Partridge  
Anthony Nguyen  
Raisa Ahmad  
Fish & Richardson P.C.  
1221 McKinney Street, Suite 2800  
Houston, Texas 77010  
Tel: (713) 654-5300  
Fax: (713) 652-0109

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### LIST OF EXHIBITS

1. Certified copy of U.S. Patent No. 6,511,257 (“the ’257 Patent”)
2. Certified copy of U.S. Patent No. 6,695,527 (“the ’527 Patent”)
3. Certified assignment of the ’257 Patent
4. Certified assignment of the ’527 Patent
5. Webpage printout – TuffTrak Products- Heavy Ground Protection
6. Webpage printout – TuffTrak Products – Heavy Duty Ground Protection - TuffTrak® XT
7. Checkers Import Record from panjiva.com
8. S&P Capital IQ – Checkers Industrial Safety Products, Inc.
9. Checkers Safety Group UK LTD (Formerly Linebacker UK Limited) Report and Financial Statements For The Year Ended 31 December 2016
10. S&P Capital IQ – Checkers Industrial Safety Products, Inc. > Corporate Structure Tree
11. <b>CONFIDENTIAL:</b> Amended And Restated Credit Agreement
12. <b>CONFIDENTIAL:</b> Security Agreement
13. Exemplary Claim Chart Comparing the Independent Claims of the ’257 Patent with a Checkers TuffTrak XT mat
14. Exemplary Claim Chart Comparing the Independent Claims of the ’527 Patent with a Checkers TuffTrak XT mat
15. TuffTrak® XT Extreme Heavy Duty Cellular Core XL Overlap Mat Product Brochure
16. <b>CONFIDENTIAL:</b> Claim Chart Demonstrating Newpark’s Practice of the ’257 Patent
17. <b>CONFIDENTIAL:</b> Claim Chart Demonstrating Newpark’s Practice of the ’527 Patent
18. <b>CONFIDENTIAL:</b> Declaration of Matthew Lanigan Regarding Domestic Industry
19. Streettraffic.com webpage printout – Heavy Equipment Construction Mats & Mud Mats
20. TuffTrakXT Leaflet
21. Durabase Alternative Website
22. TuffTrakXT – Product Innovation – Products & Innovation – Checkers Safety Group Zigma Ground Solutions
23. DuraBase Brochure

24. Newpark Technical Information Website
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25. Newpark DURA-BASE® Advanced Composite Mats & Matting Systems
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## **LIST OF APPENDICES**

- A. Prosecution History of the '257 Patent (four copies)
- B. References Mentioned in the Prosecution History of the '257 Patent (four copies)
- C. Prosecution History of the '527 Patent (four copies)
- D. References Mentioned in the Prosecution History of the '527 Patent (four copies)

## I. INTRODUCTION

1.1 Complainant Newpark Mats & Integrated Services LLC (“Newpark” or “Complainant”) requests 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, sale for importation into the United States, and/or sale within the United States after importation by the owner, importer, or consignee (or agents thereof), of certain load supporting systems, including composite mat systems, and components thereof (collectively referred to as “Accused Products”) that infringe valid and enforceable United States patents owned by Newpark.

1.2 The proposed respondents are Checkers Industrial Products, LLC, Checkers Safety Group UK LTD, and Zigma Ground Solutions LTD (collectively, “Checkers” or “Respondents”). Upon information and belief, Respondents have engaged in unfair acts in violation of Section 337 through and in connection with the unlicensed importation into the United States, sale for importation into the United States, and/or sale within the United States after importation of accused products that infringe one or more claims of United States Patent No. 6,511,257 (“the ’257 Patent”) and one or more claims of United States Patent No. 6,695,527 (“the ’527 Patent”). The ’257 and ’527 Patents are collectively referred to herein as “the Asserted Patents.”

1.3 Complainant asserts that Respondents directly infringe, contributorily infringe, and/or induce the infringement of at least claims 1-4 of the ’257 Patent and at least claims 1, 4-5 and 7-8 of the ’527 Patent (collectively, “the Asserted Claims”). Below is a summary table identifying which Accused Products infringe which specific claims of the Asserted Patents (independent claims are in boldface), based on information currently available to Complainant:

<b>U.S. Patent No.</b>	<b>Asserted Claims</b>	<b>Accused Products</b>
6,511,257	1, 2, 3 and 4	Checkers TuffTrak XT composite mats
6,695,527	1, 4-5, and 7-8	Checkers TuffTrak XT composite mats

Complainant reserves the right to identify additional accused products after obtaining discovery from Respondents.

1.4 Certified copies of the Asserted Patents accompany this Complaint as Exhibits 1 and 2. Newpark owns by assignment the entire right, title, and interest in and to these patents. Certified copies of the recorded assignments accompany this Complaint as Exhibits 3 and 4.

1.5 As required by Section 337(a)(2) and defined by Section 337(a)(3), an industry in the United States exists relating to articles covered by the Asserted Patents.

1.6 Complainant seeks a permanent limited exclusion order, pursuant to Section 337(d), excluding from entry into the United States all of Respondents' Accused Products that infringe one or more claims of the Asserted Patents. Complainant also seeks permanent cease and desist orders, pursuant to Section 337(f), directing each Respondent to cease and desist from activities including, but not limited to, importing, marketing, advertising, demonstrating, warehousing inventory for distribution, offering for sale, selling, distributing, servicing, repairing, or using such Accused Products in the United States. Complainant also seeks the imposition of a bond on any imports during the Presidential review period.

## **II. COMPLAINANT**

2.1 Newpark Mats & Integrated Services LLC is a corporation organized under the laws of the State of Texas, with its principal place of business in The Woodlands, Texas. Newpark Mats & Integrated Services LLC is a wholly-owned subsidiary of Newpark Resources,

Inc., which was founded in 1932 as New Park Mining Company. In 1972, the company changed its name to Newpark Resources, Inc.

2.2 Newpark Mats & Integrated Services LLC (“Newpark”) provides industry leading composite matting solutions and work site construction services to diverse industry segments in the United States and around the world. Newpark’s patented Dura-Base® composite mats have made Newpark the industry leader in the heavy-duty composite mat market – a market created by Newpark over 15 years ago.

2.3 In addition to protecting its market and technology through patents, Newpark has invested and continues to invest in technology to ensure its Dura-Base® mats are the best in the industry. For example, in 2015, Newpark completed the Mats R&D Center in Louisiana to support the continued improvement and advancement of the Dura-Base® composite mats. Also, in 2015, Newpark completed an over \$40 million expansion of its Dura-Base® manufacturing facility, also in Louisiana, resulting in increased manufacturing quality, capacity, and efficiency. As a result, Newpark has become the dominant provider of temporary working surfaces and roads in the oil and gas industry, where Dura-Base® is the mat of choice. Newpark is in the early stages of gaining significant traction in other industries such as utilities, military, construction, and pipeline.

2.4 Newpark has extensive involvement with the U.S. market with its innovative Dura-Base® mats. As detailed, *infra*, Newpark employs approximately 100 people in the United States who are dedicated to the manufacture, design, research, development, sales, service, and technical support of its mats.



### **III. PROPOSED RESPONDENTS**

#### **A. Checkers Industrial Products, LLC**

3.1 On information and belief, Checkers Industrial Products, LLC, doing business as Checkers Industrial Safety Products, LLC, is a Colorado company with its principal place of business at 620 Compton Street, Broomfield, Colorado 80020. According to its website (<https://tufftrak-safety.com/>), Checkers Industrial Products, LLC, or others on its behalf, offers for sale the TuffTrak® line of products. *See* Exhibit 5. In particular, the TuffTrak line of products includes the TuffTrak XT. *See* Exhibit 6.

3.2 On information and belief, Checkers Industrial Products, LLC, or others on its behalf, manufactures the TuffTrak XT products in Europe and/or another country other than the United States. On information and belief, Checkers Industrial Products, LLC then imports them into the United States, sells them for importation into the United States, and/or sells them after importation into the United States.

#### **B. Checkers Safety Group UK LTD**

3.3 On information and belief, Checkers Safety Group UK LTD is a United Kingdom company with its principal place of business at 3rd Floor 1 Ashley Road, Altrincham, Cheshire, United Kingdom, WA14 2DT. According to importation records obtained from panjiva.com, Checkers Safety Group UK LTD imports the accused TuffTrak XT composite mats. *See* Exhibit 7.

3.4 On information and belief, Checkers Safety Group UK LTD, or others on its behalf, manufactures the TuffTrak XT products in Europe and/or another country other than the United States. On information and belief, Checkers Safety Group UK LTD then imports them into the United States, sells them for importation into the United States, and/or sells them after importation into the United States.

3.5 On information and belief, Checkers Industrial Safety Products, LLC, acquired Linebacker UK LTD in October 2015. *See* Exhibit 8. Linebacker UK LTD then became Checkers Safety Group UK LTD. *See* Exhibit 9.

**C. Zigma Ground Solutions LTD**

3.6 On information and belief, Zigma Ground Solutions LTD is a United Kingdom company with its principal place of business at Unit 11 M11 Business Link Parsonage Lane, Stansted, Essex, United Kingdom, CM24 8GF. According to importation records obtained from panjiva.com, Zigma Ground Solutions LTD imports the TuffTrak XT composite mats. *See* Exhibit 7.

3.7 On information and belief, Zigma Ground Solutions LTD, or others on its behalf, manufactures the TuffTrak XT products in Europe and/or another country other than the United States. On information and belief, Zigma Ground Solutions LTD then imports them into the United States, sells them for importation into the United States, and/or sells them after importation into the United States.

3.8 On information and belief, Zigma Ground Solutions LTD is a wholly-owned subsidiary of Checkers Industrial Safety Products, LLC. *See* Exhibit 10.

**IV. THE TECHNOLOGY AND PRODUCTS AT ISSUE**

4.1 The technologies at issue relate generally to composite mats that provide a heavy-duty working platform for temporary work sites and access roads. As explained, *infra*, the Asserted Patents are directed to heavy-duty industrial mats with a unique interlocking connection system. The patented mats generally consist of two rectangular panels made out of composite materials, which are joined to form a single mat. The panels have an internal honeycomb structure. The identical mats are offset when joined such that two adjacent sides have a lip extending from the top panel and the other two adjacent sides have a lip extending from the

bottom panel. The individual mats can be connected to form a continuous work surface by overlapping the upper and lower lips and pinning the lips together. The mats have raised treads on the outer surface of each panel to aid in traction control. The raised treads generally align with the walls of the internal honeycomb structure for stability and strength.

4.2 Pursuant to 19 C.F.R. § 210.12(a)(12), the Accused Products are Respondents' load supporting systems, including but not limited to Checkers' TuffTrak XT heavy-duty composite mats (the "TuffTrak XT composite mat") that, without permission, implement Newpark's patented technologies as described and claimed in the Asserted Patents.

## **V. THE ASSERTED PATENTS**

### **A. The '257 Patent**

#### **1. Identification of the Patent and Ownership by Newpark**

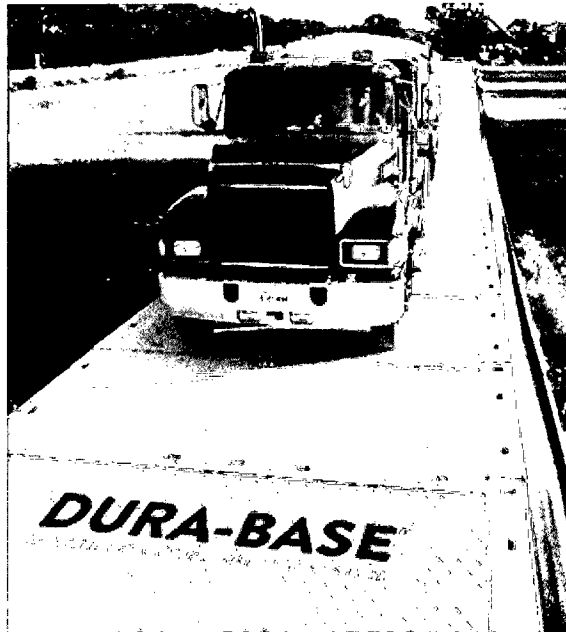
5.1 U.S. Patent No. 6,511,257 ("the '257 Patent") is entitled "Interlocking Mat System for Construction of Load Supporting Surfaces" and was duly and legally issued on January 28, 2003. The '257 Patent issued from U.S. Patent Application Serial No. 09/585,253, filed May 31, 2000. The inventors of the '257 Patent are Ores Paul Seaux, Kenneth P. Seaux, and Donald S. Rogers. A copy of the '257 Patent is provided as Exhibit 1.

5.2 Newpark is the owner, by valid assignment, of the entire right, title and interest in and to the '257 Patent. *See* Confidential Exhibits 11 and 12. Prior to issuance, the '257 Patent inventors assigned all right, title and interest in U.S. Patent Application Serial No. 09/585,253. These assignments are recorded at the United States Patent and Trademark Office at Reel/Frame 013718/0912-923, 013718/0924-928, 013727/0147-149, 017776/0421-428, 018515/0864-871, 018524/0031-38, 018861/0426-433, 020317/0363-368, 020317/0501-505, 020317/0853-861, 039056/0141-150, and 039060/0025-31. *See* Exhibit 3. The '257 Patent is valid, enforceable, and is currently in full force and effect.

5.3 Pursuant to Rule 210.12(c) of the Commission's Rules of Practice and Procedure, this Complaint is accompanied by Appendices A and B containing: A) a certified copy and three additional copies of the prosecution history of the '257 Patent; and B) four copies of each reference mentioned in that prosecution history.

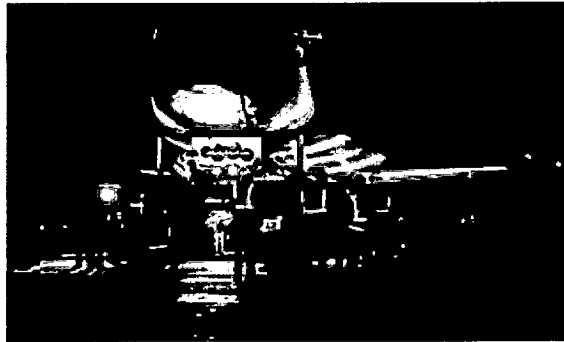
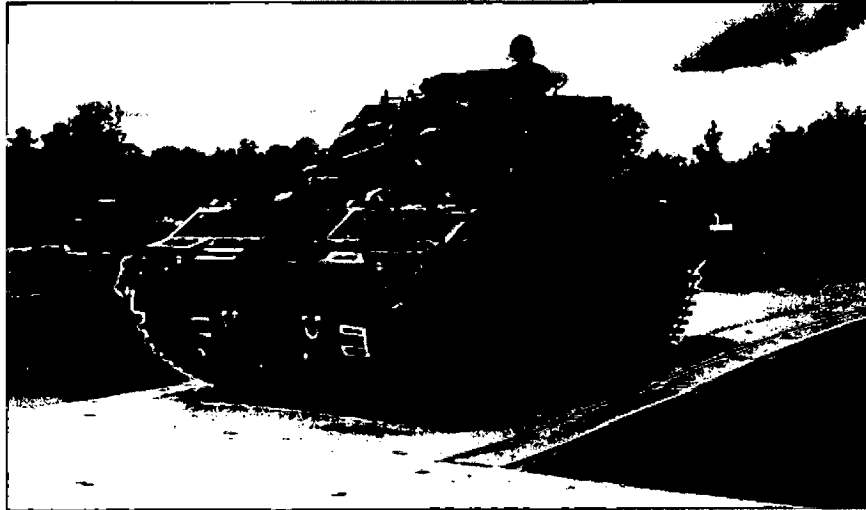
**2. Non-Technical Description of the Patented Invention<sup>1</sup>**

5.4 The '257 Patent relates to heavy-duty industrial mats with a unique interlocking connection system, as shown below:



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<sup>1</sup> The non-technical descriptions of the Asserted Patents herein are presented to give a general background of the inventions. Such statements are not intended to be used, nor should be used, for purposes of patent claim interpretation. Complainant presents these statements subject to, and without waiver of, its right to argue that claim terms should be construed in a particular way, as contemplated by claim interpretation jurisprudence and the relevant evidence.



The covered mats generally consist of two rectangular panels made out of composite materials, which are joined to form a single mat. The panels have an internal honeycomb structure. The identical mats are offset when joined such that two adjacent sides have a lip extending from the top panel and the other two adjacent sides have a lip extending from the bottom panel. The individual mats can be connected to form a continuous work surface by overlapping the upper and lower lips and pinning the lips together. The mats have raised treads on the outer surface of each panel to aid in traction control. The raised treads generally align with the walls of the internal honeycomb structure for stability and strength.

**3. Foreign Counterparts to the '257 Patent**

5.5 The following foreign patent(s) and/or patent application(s) correspond to the '257 Patent:

<b>Patent/Application No.</b>	<b>Status</b>
Canadian Patent No. CA2407574A1/C	Published December 6, 2001
International PCT Application Publication No. WO 2001092638A1	Published December 6, 2001
Australian Patent No. AU750010A	Published December 11, 2001

No other foreign patents or patent applications corresponding to the '257 Patent have been filed, abandoned, withdrawn or rejected.

**B. The '527 Patent**

**1. Identification of the Patent and Ownership by Newpark**

5.6 U.S. Patent No. 6,695,527 ("the '527 Patent") is entitled "Interlocking Mat System for Construction of Load Supporting Surfaces" and was duly and legally issued on February 24, 2004. The '527 Patent issued from U.S. Patent Application Serial No. 10/351,807 filed January 27, 2003. The '527 Patent is a continuation of the '257 Patent. The inventors of the '527 Patent are Ores Paul Seaux, Kenneth P. Seaux and Donald S. Rogers. A copy of the '527 Patent is provided as Exhibit 2.

5.7 Newpark is the owner, by valid assignment, of the entire right, title and interest in and to the '527 Patent. *See Confidential Exhibits 11 and 12.* Prior to issuance, the '527 inventors assigned all right, title and interest in U.S. Patent Application Serial No. 10/351,807. The assignment of the '527 Patent to Newpark is recorded at the United States Patent and Trademark Office at Reel/Frame 017776/0433-440, 018515/0894-901, 018524/0031-38, 018861/0426-433,

020317/0363-368, 020317/0501-505, 020317/0853-861, 039056/0141-150, and 039060/0025-31.

See Exhibit 4. The '527 Patent is valid, enforceable, and is currently in full force and effect.

5.8 Pursuant to Rule 210.12(c) of the Commission's Rules of Practice and Procedure, this Complaint is accompanied by Appendices C and D containing: C) a certified copy and three additional copies of the prosecution history of the '527 Patent; and D) four copies of each reference mentioned in that prosecution history.

### **2. Non-Technical Description of the Patented Invention**

5.9 The '527 Patent relates to heavy-duty industrial mats with a unique interlocking connection system, as shown in the figures, *supra*. The covered mats generally consist of two rectangular panels made out of composite materials, which are joined to form a single mat. The panels have an internal honeycomb structure. The identical mats are offset when joined such that two adjacent sides have a substantially solid lip extending from the top panel and the other two adjacent sides have a substantially solid lip extending from the bottom panel. The individual mats can be connected to form a continuous work surface by overlapping the upper and lower lips and pinning the lips together. Further, the mats comprise a plurality of bores extending through the lips to allow for them to be pinned together. The mats have raised treads on the outer surface of each panel to aid in traction control. The raised treads generally align with the walls of the internal honeycomb structure for stability and strength.

### **3. Foreign Counterparts to the '527 Patent**

5.10 The following foreign patent(s) and/or patent application(s) correspond to the '527 Patent:

<b>Patent/Application No.</b>	<b>Status</b>
Canadian Patent No. CA2407574A1/C	Published December 6, 2001

International PCT Application Publication No. WO 2001092638A1	Published December 6, 2001
Australian Patent No. AU750010A	Published December 11, 2001

No other foreign patents or patent applications corresponding to the '527 Patent have been filed, abandoned, withdrawn or rejected.

**VI. UNFAIR ACTS OF PROPOSED RESPONDENTS**

6.1 Based on information and belief, Respondents' Accused Products directly infringe, and Respondents contributorily infringe and/or induce the infringement of at least the Asserted Claims—*i.e.*, claims 1-4 of the '257 Patent and claims 1, 4-5, and 7-8 of the '527 Patent. Discovery may reveal that Respondents infringe additional claims of the Asserted Patents.

6.2 Based on information and belief, Respondents manufacture and assemble the Accused Products outside the United States, specifically, at least in Europe. Respondents then sell for importation, import into the United States, and/or sell within the United States after importation, the Accused Products.

6.3 Based on information and belief, and by way of example, Respondents' Accused Products directly infringe, and Respondents contributorily infringe and/or induce infringement of the Asserted Claims selling for importation, importing, offering for sale and selling in the United States after importation TuffTrak XT composite mats. Claim charts demonstrating how the Accused Products infringe claims 1 and 3 of the '257 Patent and claim 1 of the '527 Patent are attached to the Complaint as Exhibits 13 and 14, respectively.



6.4 Based on information and belief, Respondents have induced, and continue to induce, infringement of the Asserted Patents with the specific intent that these acts infringe the Asserted Patents. Based on information and belief, Respondents induce such infringing acts and know or should have known that their actions would induce actual infringement of the Asserted Patents. Respondents had actual notice of the '257 and '527 Patents at least as early as June 1, 2017 when Newpark filed suit in the U.S. District Court for the Western District of Pennsylvania and provided Respondents with copies of the Complaint for Patent Infringement, including the '257 and '527 Patents, explaining how Respondents directly and/or indirectly infringed the Asserted Patents. Respondents additionally had actual notice of the '257 and '527 Patents upon being served with this complaint, including detailed allegations and claim charts explaining how Respondents directly and/or indirectly infringed the Asserted Patents. In addition, Respondents create and distribute promotional and product literature for the Accused Products and offer technical support and services for the Accused Products that are designed to instruct, encourage, enable, and facilitate the use of the Accused Products and thus infringe the Asserted Patents.

6.5 Based on information and belief, Respondents actively induce others to infringe the Asserted Patents through their sale of the Accused Products to customers and/or distributors in the United States. Respondents encourage and facilitate the infringement of the Asserted Patents by, among other things, providing the Accused Products to customers and/or distributors with instructions on how to use the Accused Products. *See Exhibit 15.*

6.6 For example, based on information and belief, Respondents knowingly and intentionally aid, assist, and encourage their customers to use TuffTrak XT composite mats and thus directly infringe the '257 Patent through Respondents' manufacture, importation into the United States, offer for sale, and sale of TuffTrak XT composite mats and by, among other

things, providing TuffTrak XT composite mats to customers and/or distributors with instructions on how to use the TuffTrak XT composite mats that encourages and facilitates the use of TuffTrak XT composite mats. *See Exhibit 15.*

6.7 For example, based on information and belief, Respondents knowingly and intentionally aid, assist, and encourage their customers to use TuffTrak XT composite mats and thus directly infringe the '527 Patent through Respondent's manufacture, importation into the United States, offer for sale, and sale of TuffTrak XT composite mats and by, among other things, providing TuffTrak XT composite mats to customers and/or distributors with instructions on how to use the TuffTrak XT composite mats that encourages and facilitates the use of TuffTrak XT composite mats. *See Exhibit 15.*

6.8 Based on information and belief, Respondents also contributorily infringe certain Asserted Claims through their sale and offers to sell within the United States and/or import into the United States components of the Accused Products, constituting a material part of the Asserted Claims, knowing the same to be especially made or especially adapted for use in an infringement of the Asserted Patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use. For example, on information and belief, the Accused Products and/or components thereof are specifically designed for creating load supporting structures utilizing a unique interlocking connection system. Due to their specific designs, the Accused Products and/or components thereof do not have any substantial non-infringing uses.

6.9 Based on information and belief, Respondents sell the Accused Products with the knowledge that the devices infringe. Respondents had actual notice of the '257 and '527 Patents at least as early as June 1, 2017 when Newpark filed suit in the U.S. District Court for the Western District of Pennsylvania and provided Respondents with copies of the Complaint for

Patent Infringement, including the '257 and '527 Patents, explaining how Respondents directly and/or indirectly infringed the Asserted Patents. Respondents additionally had actual notice of the '257 and '527 Patents upon being served with this complaint, including detailed allegations and claim charts explaining how Respondents directly and/or indirectly infringed the Asserted Patents.

6.10 For example, Respondents, upon information and belief, sell for importation into the United States, import into the United States, sell within the United States after importation, and/or repair, service, or support Accused Products creating load supporting structures utilizing a unique interlocking connection system for which there is no suitable or substantial noninfringing use and which embody a material part of the inventions described in the '257 and '527 Patents. In addition, upon information and belief, Accused Products creating load supporting structures utilizing a unique interlocking connection system are known by Respondent to be made or especially adapted for use in the infringement of the Asserted Patents.

## **VII. SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE**

7.1 Respondents, or others on their behalf, manufacture the Accused Products in Europe and/or another country other than the United States and then import them into the United States, sell them for importation into the United States, and/or sell them after importation into the United States. *See Exhibit 7.*

7.2 Respondents, or others on their behalf, import and distribute TuffTrak XT composite mats to customers and/or distributors in the United States. For example, United Rentals recently purchased TuffTrak XT composite mats from Respondents for use by its customers in the United States. *See Exhibit 7.*

7.3 Discovery is expected to reveal additional specific acts of Respondents' importation, sale for importation, and/or sale after importation of the Accused Products.

#### **VIII. CLASSIFICATION UNDER THE HARMONIZED TARIFF SCHEDULE**

8.1 The Accused Products are believed to fall within at least the following classification of the Harmonized Tariff Schedule of the United States: 3920.10.00.00. These classifications are intended for illustration only and are not intended to be restrictive of the Accused Products.

#### **IX. LICENSEES**

9.1 To date, Newpark has not licensed any of the Asserted Patents to any third party.

#### **X. DOMESTIC INDUSTRY**

10.1 As required by Section 337(a)(2) and defined by Section 337(a)(3), a domestic industry exists in the United States in connection with articles protected by the '257 and '527 Patents.

##### **A. Technical Prong**

10.2 Claim charts demonstrating how Newpark's Dura-Base® composite mats practice at least one claim of each of the '257 and '527 Patents are attached as Confidential Exhibits 16 and 17. Newpark's Dura-Base® composite mats are therefore protected by the '257 and '527 Patents, and a technical domestic industry for those articles exists.

##### **B. Economic Prong**

10.3 A domestic industry, under subparts (A), (B), and/or (C) of Section 337(a)(3), exists by virtue of Newpark's significant U.S. investment in plant and equipment, significant employment of U.S. labor and capital, and substantial investment in U.S. exploitation of the Asserted Patents, including through engineering and research and development. Newpark manufactures its Dura-Base® composite mats in the U.S. Newpark's Dura-Base® composite

mats are protected by at least the '257 and '527 Patents. Newpark's domestic activities and investments related to its Dura-Base® composite mats ("the domestic industry product") protected by the Asserted Patents are described in the Confidential Declaration of Matthew Lanigan. *See* Confidential Exhibit 18.

10.4 Newpark employs approximately 100 employees in the United States including approximately 15 employees in its U.S. facilities located in Carencro, Louisiana devoted to manufacturing its Dura-Base® composite mats. Newpark's technical work, *i.e.*, research, design, development, engineering, and testing on its Dura-Base® composite mats also occurs in the United States at its Carencro, Louisiana facility. *Id.* at ¶ 6.

10.5 Newpark has made and continues to make significant investment in plant and equipment in the United States with respect to its Dura-Base® composite mats protected by the Asserted Patents. Newpark has made and continues to make substantial investment in its Carencro, Louisiana facilities. *Id.* at ¶ 9. Further details of Newpark's investment in plant and equipment in the United States are provided in Confidential Exhibit 18.

10.6 Newpark has made and continues to make significant investments in labor and capital with respect to its Dura-Base® composite mats protected by the Asserted Patents. Newpark employs approximately 20 employees in its Carencro, Louisiana and The Woodlands, Texas facilities who devote substantial man-hours toward the manufacturing, research, design, engineering, service, and support of its Dura-Base® composite mats protected by the Asserted Patents. Additionally, Newpark has made and continues to make significant investments in capital with respect to the domestic industry product through its investments into its Dura-Base® composite mat rental fleet. Further details of Newpark's employment of labor or capital are provided in Confidential Exhibit 18.

10.7 Newpark has made and continues to make substantial investment in the exploitation of the Asserted Patents. Newpark has invested and continues to invest in the design, research, development, engineering, service, and support of its Dura-Base® composite mats covered by the Asserted Patents through its investments in the technical work performed at its Carencro, Louisiana facilities. *Id.* at ¶¶ 15-16. Confidential Exhibit 18 sets forth in more detail Newpark's significant investment associated with the exploitation of Newpark's rights in the Asserted Patents.

## **XI. RELATED LITIGATION**

11.1 On June 1, 2017, Newpark filed an original complaint against one of the proposed Respondents – Checkers Industrial Products, LLC – in the U.S. District Court for the Western District of Pennsylvania, Erie Division, alleging infringement of one or more claims of the '257 and '527 Patents. *Newpark Mats & Integrated Services LLC v. Checkers Industrial Products, LLC d/b/a Checkers Safety Group*. (Civil Action No. 17-cv-00142). The defendant filed an answer to the complaint on July 31, 2017, and fact discovery is ongoing.

11.2 Per 19 CFR 210.12(a)(5), Complainant certifies that the Asserted Patents, or the subject matter thereof, have not been the subject of any other previous or current court or agency litigation.

## **XII. REQUESTED RELIEF**

12.1 WHEREFORE, by reason of the foregoing, Complainants request that the United States International Trade Commission:

(a) Institute an immediate investigation, pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, with respect to violations of Section 337 based on Respondents' unlawful importation into the United States, sale for importation into the United

States, and/or sale within the United States after importation of certain load supporting systems, including composite mat systems, and components thereof that infringe one or more claims of United States Patent Nos. 6,511,257 and 6,695,527;

(b) Schedule and conduct a hearing on the unlawful acts and, following the hearing, determine that there has been a violation of Section 337;

(c) 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 of Respondents' certain load supporting systems, including composite mat systems, and components thereof that infringe one or more claims of United States Patent Nos. 6,511,257 and 6,695,527;

(d) Issue permanent cease and desist orders, pursuant to Section 337(f) of the Tariff Act of 1930, as amended, directing the Respondents to cease and desist from the importation, marketing, advertising, demonstrating, warehousing inventory for distribution, servicing, repairing, maintaining, selling, and using certain load supporting systems, including composite mat systems, and components thereof that infringe one or more claims of United States Patent Nos. 6,511,257 and 6,695,527;


(e) Impose a bond, pursuant to Section 337(j) of the Tariff Act of 1930, as amended, upon the Respondents during the Presidential review period; and

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

Dated: December 15, 2017

Respectfully submitted,

FISH & RICHARDSON P.C.



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Joseph V. Colaianni, Jr.  
Thomas S. Fusco  
Fish & Richardson P.C.  
901 15th Street NW, Suite 700  
Washington, DC 20005  
Tel: (202) 783-5070  
Fax: (202) 783-2331

Jayne Partridge  
Anthony Nguyen  
Raisa Ahmad  
Fish & Richardson P.C.  
1221 McKinney Street, Suite 2800  
Houston, Texas 77010  
Tel: (713) 654-5300  
Fax: (713) 652-0109

*Counsel for Complainant  
Newpark Mats & Integrated Services LLC*