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January 15, 2021

The Honorable Lisa R. Barton  
Secretary to the Commission  
U.S. International Trade Commission  
500 E. Street S.W., Room 112-A  
Washington, D.C. 20436

Re: *Certain Blowers and Components Thereof*, Enforcement Complaint

Dear Secretary Barton:

Enclosed for filing on behalf of Regal Beloit America, Inc. (Regal) are the following documents in support of Regal's request that the Commission commence an enforcement proceeding under Section 337 of the Tariff Act of 1930, as amended.

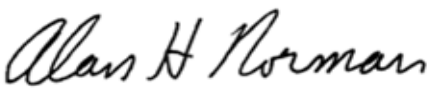
Accordingly, Regal submits the following documents:

1. One (1) electronic copy of Regal's verified Enforcement Complaint, and the accompanying exhibits, including one (1) electronic copy of the certified copy of U.S. Patent No. 8,079,834 (the '834 Patent) (Commission Rule 210.12(a)(9)(ii)) and one (1) electronic copy of the certified copy of each of the assignments for the '834 Patent (Commission Rule 210.12(a)(9)(ii));
2. One (1) electronic copy of Appendix A, containing a certified copy of the prosecution history for the '834 Patent pursuant to Rule 210.12(c)(i);
3. One (1) electronic copy of Appendix B containing each reference document mentioned in the prosecution history of the '834 Patent pursuant to Rule 210.12(c)(1); and

Thank you for your attention in this matter. Please contact the undersigned if there are any questions pertaining to this submission.

Very truly yours,

Thompson Coburn LLP

By:   
Alan H. Norman  
Partner

Enclosures

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

In the Matter of

CERTAIN BLOWERS AND COMPONENTS  
THEREOF

Investigation No. \_\_\_\_\_

**VERIFIED ENFORCEMENT COMPLAINT OF REGAL BELOIT AMERICA, INC.  
UNDER SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED**

**Complainant:**

Regal Beloit America, Inc.  
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Beloit, WI 53511  
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**Proposed Respondent(s):**

East West Manufacturing, LLC  
4170 Ashford Dunwoody Road, Suite 375  
Atlanta, GA 30319  
Telephone: (404) 252-9441

East West Industries  
No. 27 Street No. 2, VSIP 2  
Hoa Phu Ward  
Thu Dau Mot City, Binh Duong  
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## TABLE OF EXHIBITS

Exhibit Number	Description
1.	Certified Copy of U.S. Patent No. 8,079,834 (the '834 Patent)
2.	Certified Copy of the Assignment Record for U.S. Patent No. 8,079,834
3.	Infringement Claim Chart comparing the East West Blower and Modified East West Blower to the claims of the '834 Patent
4.	Photographic Evidence of the East West Blower
5.	Photographic Evidence of the Modified East West Blower
6.	Consent Order, USITC Inv. No. 337-TA-1217 (Nov. 12, 2020)
7.	Copy of East West Manufacturing's "Our Story" Webpage
8.	Copy of East West Industries' Webpage

## LIST OF APPENDICES

Appendix Letter	Description
A.	Certified Copy of File History of U.S. Patent No. 8,079,834
B.	Copies of the technical references mentioned in the prosecution history of the '834 Patent

## **I. INTRODUCTION**

1. Plaintiff Regal Beloit America, Inc. (Regal Beloit) requests that the United States International Trade Commission (the Commission) institute an enforcement investigation into continued violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C § 1337, by East West Manufacturing, LLC and East West Industries (collectively the East West Respondents) of a Consent Order terminating Commission Case No. 337-TA-1217, *In the Matter of Certain Blowers and Components Thereof* (the Investigation).

2. Regal Beloit filed the Investigation on July 30, 2020, seeking to protect its domestic industry from the effect of the destructive unfair competition caused by the infringement of Regal Beloit's patent by the East West Respondents importation of the East West Power Direct Vent Blower (East West Blower).

3. In its Complaint in the Investigation, Regal Beloit explained that the East West Blower and Regal Beloit's blowers were purchased and used by original equipment manufacturers of water heaters to cool the exhaust gasses and permit gas water heaters to burn fuel more efficiently. These manufacturers include A.O. Smith Water Products, Co., APCOM Inc., Bradford White Mfg., Kentwood Packaging Corp., Rheem Am., Inc. and Usine Giant Factories Inc. Regal Beloit's blowers and the infringing East West Blowers were and are the only significant domestic competition to supply blowers to gas water heater manufacturers.

4. The Commission instituted that Investigation on September 1, 2020 and the matter was assigned to the Honorable Mary Joan McNamara.

5. On October 14, 2020, the East West Respondents filed a motion to terminate the investigation based on entry of a Proposed Consent Order.

6. On October 22, 2020, the Honorable Mary Joan McNamara entered an Initial Determination terminating the Investigation based on the Proposed Consent Order.

7. On November 12, the Commission issued a Notice that it did not intend to review the Initial Determination. On that date, the Commission entered the Consent Order and terminated the Investigation.

8. That Consent Order states, in pertinent part: “East West shall not sell for importation, import, or sell after importation the Subject Articles, directly or indirectly, and shall not aid, abet, encourage, participate in, or induce the sale for importation, the importation, or the sale after importation except under consent or license from Complainant.” The Subject Articles were defined by the Commission as the “certain blowers and components thereof that infringe claims 1, 2, 7-10, and 15 of the ’834 Patent” sold for importation, imported into the United States, and/or sold after importation in the United States by the East West Respondents.

9. Shortly thereafter, East West notified Regal Beloit that it had “redesigned” the East West Blower such that it believed that it did not infringe the ’834 Patent. The “redesigned” East West Blower is virtually identical to the original that East West Respondents acknowledged infringed the ’834 Patent. In reality, the new design represents only a minor modification of the original East West Blower (Modified East West Blower). The similarities between the East West Blower and Modified East West Blower are striking:



10. Because the changes to the Modified East West Blower are insufficient to avoid infringement, the Modified East West Blower practices, either literally or under the doctrine of equivalents, multiple claims of U.S. Patent No. 8,079,834 (the '834 Patent). These claims include at least 1, 2, 7, 8, 9, 10, and 15 of the '834 Patent and represent a violation of the Consent Order.

11. Therefore, the East West Respondents' importation, sale for importation, or sale after importation into the U.S. of the Modified East West Blower are unlawful under 19 U.S.C. § 1337 and violate the Consent Order in that they constitute continued infringement of Regal Beloit's valid and enforceable patent. Regal Beloit continues to be in competition with the East West Respondents and are being, and will continue to be, injured as a result of the violation of the Consent Order.

12. Neither of the East West Respondents have received consent or license from Regal Beloit to import, sell or sell after importation the Modified East West Blower.

13. Accordingly, Regal Beloit seeks relief from the Commission in the form of an enforcement proceeding to confirm the violations of the Consent Order described herein. After confirming such violations, Regal Beloit requests that the Commission issue a permanent cease and desist order pursuant to 19 U.S.C. §1337(f) and 19 C.F.R. Section 210.75, modify the Administrative Law Judge's Consent Order in any manner that would assist in the prevention of the unfair practices that were originally the basis for issuing the Consent Order, including entry of a limited exclusion order, impose appropriate civil penalties pursuant to 19 U.S.C. § 1337(f), and such other relief deemed proper by the Commission.



## **II. THE PARTIES**

### **A. Complainant Regal Beloit America, Inc. (19 C.F.R. § 210.12(a)(7))**

14. Complainant Regal Beloit America, Inc. is a Wisconsin corporation with a principal place of business at 200 State Street, Beloit, Wisconsin 53511.

15. Regal Beloit America, Inc. is a direct wholly owned subsidiary of Regal Beloit Corporation, a leading manufacturer of electric motors, electrical motion controls, power generation and power transmission products serving markets throughout the world.

16. Regal Beloit America, Inc. and its affiliates have manufacturing, engineering, sales, and service facilities throughout the United States, Canada, Latin America, Europe and Asia.

17. Regal Beloit America, Inc. and its affiliates design and manufacture, among other things, inducers and blowers for use in a variety of applications.

### **B. East West Respondents (19 C.F.R. § 210.12(a)(4))**

18. On information and belief, Respondent East West Manufacturing, LLC, (EWM) is a Georgia limited liability company with a principal place of business at 4170 Ashford Dunwoody Road, Suite 375, Atlanta, Georgia 30319.

19. According to its website, EWM is a “global manufacturing services company” that was founded in 2001 with the goal of “help[ing] companies become more competitive by manufacturing their products in lower cost locations,” by providing them “access to a global supply chain” through East West’s “operations in the U.S., China, Vietnam, and India.” Exhibit 7.

20. Other information about EWM from its official website is attached as Exhibit 7.

21. On information and belief, East West Industries (EWI) is a Vietnamese company with a principle place of business at No. 27 Street No. 2, VSIP 2, Hoa Phu Ward, Thu Dau Mot City, Binh Duong, Vietnam 72000. *See* Exhibit 8.

22. According to its website, ewi.ewmfg.com, EWI is owned by EWM, and EWI “manufactures custom industrial, consumer, and retail products” from its location “just north of Ho Chi Minh City in Vietnam.” EWI advertises itself as providing various advantages, including “lower labor costs, lower tooling costs, fewer quota and possible tariff treatment, a more stable exchange rate, comparable freight costs, and supply-chain diversification,” all due to its location in Vietnam. Exhibit 8.

23. Other information about EWI from its official website is attached as Exhibit 8.

24. The East West Respondents have stipulated to the Commission’s *in rem, in personam*, and subject matter jurisdiction as part of the Consent Order. *See* Ex. 6 ¶ 13.

### **III. U.S. PATENT NO. 8,079,834**

#### **A. Prosecution and Ownership (19 C.F.R. § 210.12(a)(7))**

25. U.S. Patent Application No. 10/830,695, was filed on April 23, 2004, claiming priority to applications filed as early as April 4, 2002. *See* Exhibit 1.

26. On December 20, 2011, the U.S. Patent and Trademark Office granted the Application No. 10/830,695, issuing U.S. Patent No. 8,079,834 in compliance with Title 35 of the United States Code. *See* Exhibit 1.

27. A copy of the prosecution history for the ’834 patent is included as Appendix A to this Complaint. A copy of each of the technical references cited during prosecution is attached as Appendix B.

28. The ’834 Patent is entitled “Exhaust Dilution Blower Housing with Remote Air Intake.” A certified copy of the ’834 Patent is attached as Exhibit 1.

29. The named inventors for the '834 patent are William Stuart Gatley, Jr., and Michael Lynn Kennedy. *See* Exhibit 1.

30. Complainant Regal Beloit owns all rights, title, and interest in the '834 Patent. A certified copy of the assignment record for the '834 Patent is attached as Exhibit 2.

**B. Licensees and Foreign Counterparts (19 C.F.R. § 210.12(a)(9))**

31. Regal Beloit has not expressly licensed the '834 Patent to any other entity.

32. The '834 Patent has no foreign counterparts.

33. The '834 Patent will expire August 25, 2027. *See* Exhibit 1.

**C. Non-technical description of the '834 Patent (19 C.F.R. § 210.12(a)(9)(v))**

34. The '834 Patent discloses an improved blower for use with high-efficiency gas and propane water heaters. These blowers draw air into and through the combustion chamber of water heaters and also draw in dilution air to mix with the hot exhaust gasses to cool them before they are discharged through the flue. Regal Beloit supplies these blowers to water heater OEMs, such as Bradford White, Rheem, and A.O. Smith. The OEMs incorporate the blowers into their water heaters before they sell the water heater to their customers.

35. The claimed invention is described in the claims of the '834 Patent. Claim 1 reads:

1. A blower housing comprising:

one side of the blower housing that is positioned in a single plane, the single plane of the one side of the blower housing facilitating mounting the one side of the blower housing on a flat surface having a flue opening of a heater with which the blower housing is used;

a fan compartment inside the blower housing and positioned directly above the one side of the blower housing for stable support of the fan compartment when the one side of the blower housing is attached to the flat surface of the heater, the fan compartment having an enclosed interior volume;

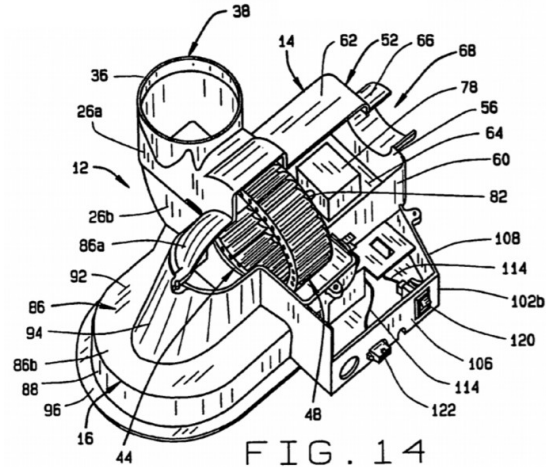
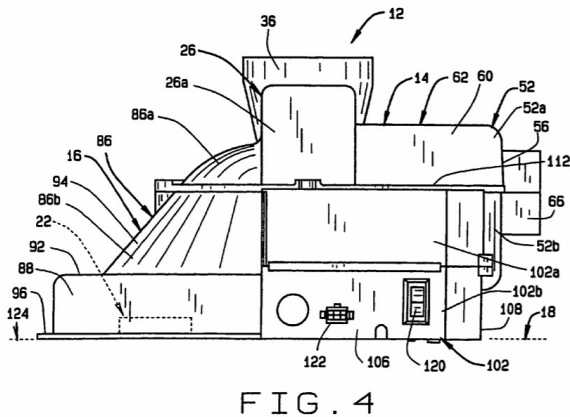
a fan inside the fan compartment interior volume;

a motor on the blower housing, the motor being operatively connected to the fan for rotating the fan inside the fan compartment;

a dilution compartment inside the blower housing and positioned on the one side of the blower housing, the dilution compartment having an interior volume that communicates with the fan compartment interior volume, the dilution compartment having a side wall that extends around the dilution compartment interior volume and forms a part of the one side of the blower housing, the side wall having a single dilution air intake opening through the side wall communicating the interior volume of the dilution compartment with an exterior environment of the blower housing, the side wall being dimensioned to extend around and be spaced outwardly from the flue opening of the heater when the one side of the blower housing is mounted on the flat surface of the heater whereby the dilution compartment interior volume is dimensioned sufficiently large to enable mixing of exhaust gas received in the dilution compartment interior volume from the flue opening with ambient air received in the dilution compartment interior volume through the dilution air intake opening, the side wall and the one side of the blower housing providing a continuous engagement with the flat surface of the heater around the flue opening when the one side of the blower housing is mounted on the flat surface of the heater whereby ambient air can enter into the dilution compartment interior volume only through the one dilution air intake opening in the side wall; and

a circuitry compartment inside the blower housing and positioned on the one side of the blower housing, the circuitry compartment having at least one wall that extends around an interior volume of the circuitry compartment and forms a part of the one side of the blower housing that is positioned in the single plane.

36. An exemplary embodiment of this claim is shown in Figures 4 and 14 of the '834 patent, included below. As shown in these figures, the blower housing has a side that is configured to rest against the flat side of a water heater. This arrangement allows exhaust gases to flow into the housing. These fumes are mixed with dilution air that come from an external source through opening 68, and mix with the exhaust gases in the dilution compartment 86. The pull of a motorized fan pulls gasses into the fan compartment and out the exit conduit 36, thereby venting the gases away from both the water heater and the blower. *See generally* '834 Patent at 5:40-8:14.



#### IV. UNLAWFUL AND UNFAIR ACTS OF RESPONDENTS

##### A. Category of Accused Products (19 C.F.R. § 210.12(a)(12))

37. The category of products accused of infringing the '834 Patent is heater blowers that draw in external dilution air for mixing with exhaust gases from the heater before being expelled from the blower.

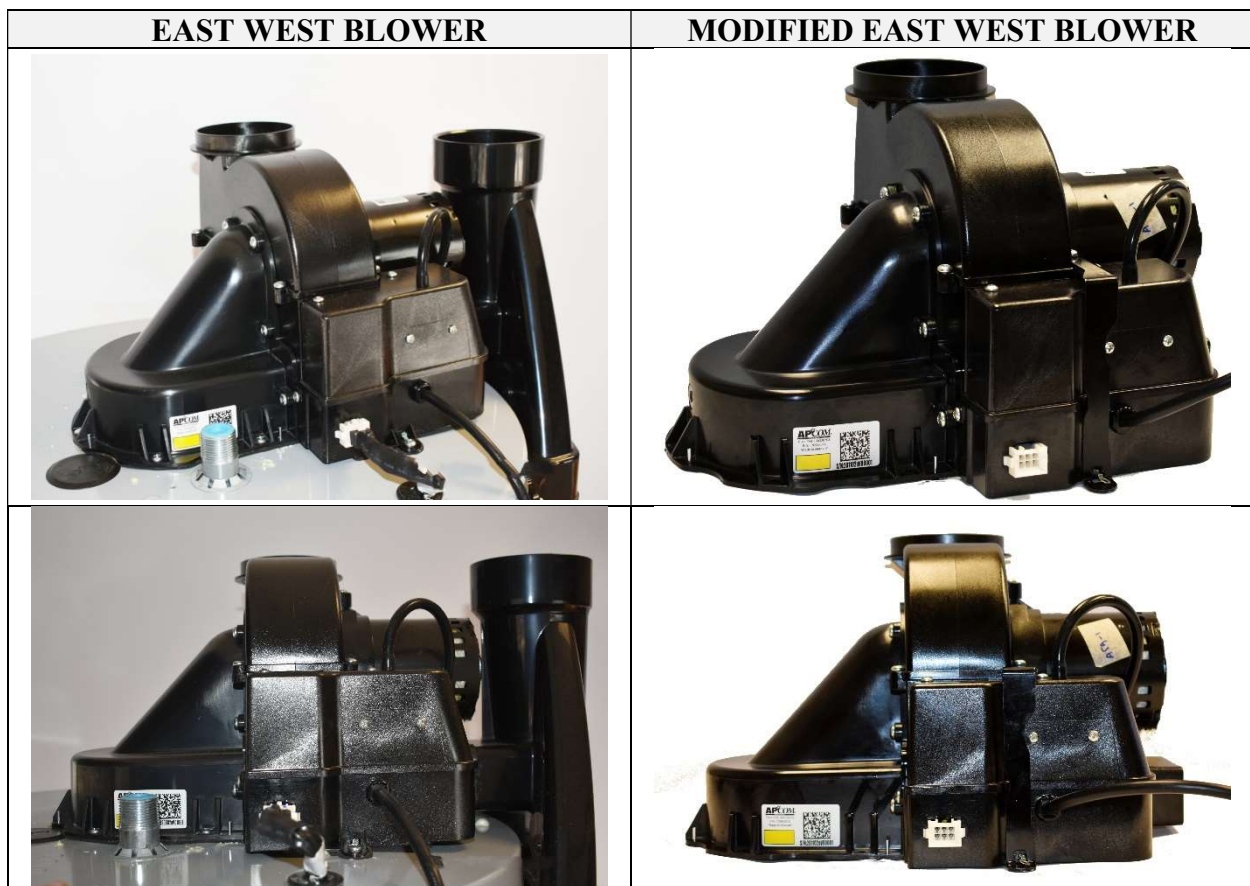
38. The Harmonized Tariff Schedule number for the unlawfully imported blowers is 8414.59.65.

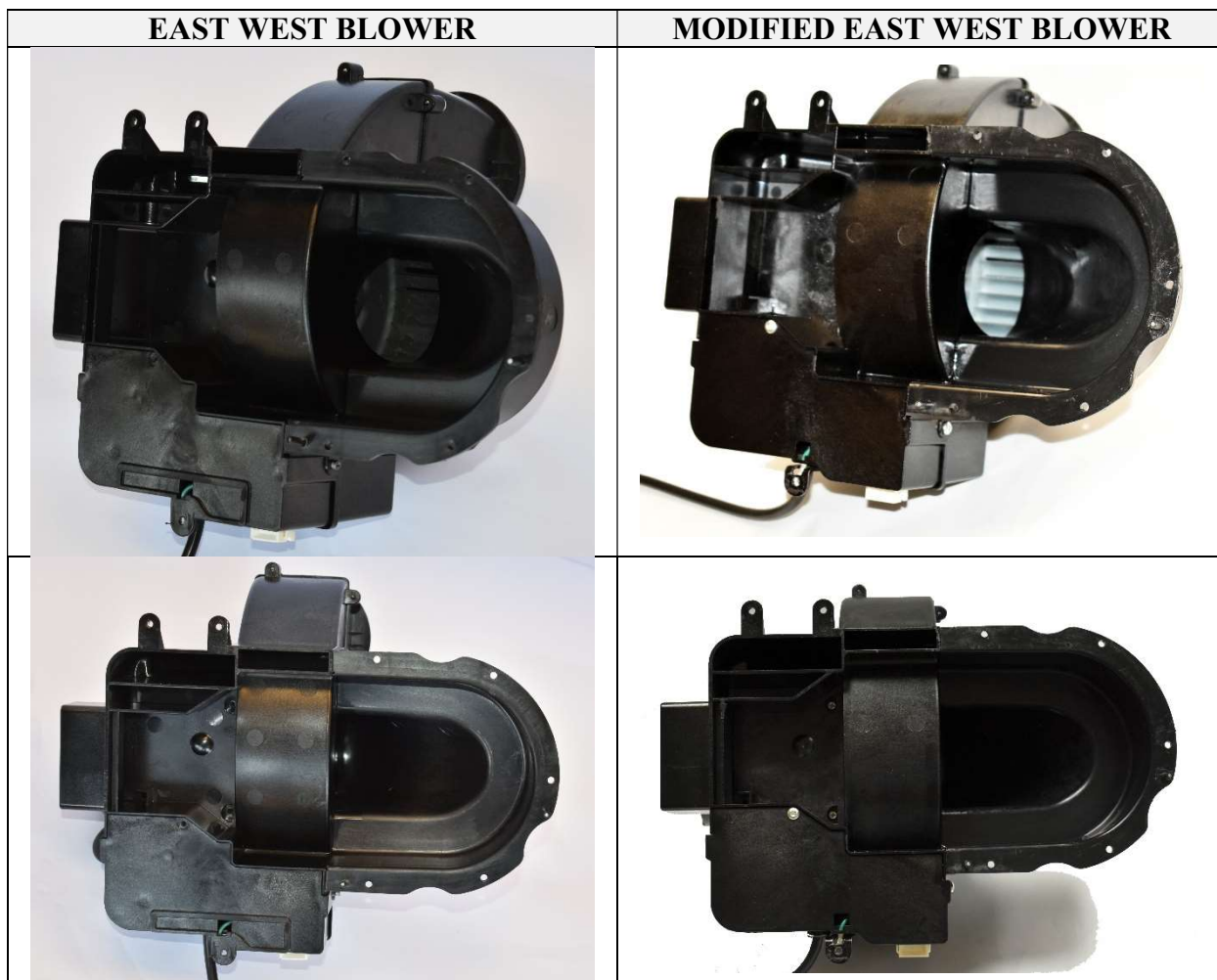
##### B. The East West Modified Blower Has Been Only Slightly Modified From the Original

39. The East West Respondents continue to import into the United States, sell for importation into the United States, and/or sell in the United States after importation the Modified East West Blower, a picture of which is included below next to a picture of the original East West Blower. Both infringe the '834 Patent.

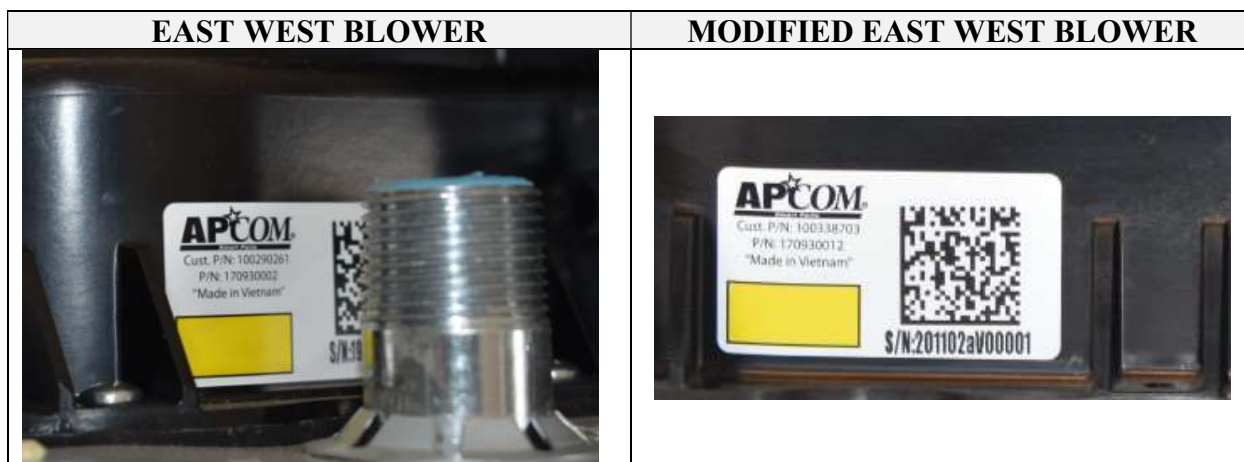


40. When examined from several angles, it is easy to see just how modest the changes made by East West are:





41. Just as with the East West Blower, the Modified East West Blowers purports to be manufactured in Vietnam.



42. On information and belief, the Modified East West Blowers are imported into the United States, just as the original East West Blower was, and sold to A.O. Smith. The Modified East West Blower Infringes Claims 1, 2, 7, 8, 9, 10, and 15 of the '834 Patent.

43. The importation, sale, and sale after importation of the Modified East West Blower constitutes direct infringement, literally and/or under the doctrine of equivalents, under 35 U.S.C. § 271 of at least Claims 1, 2, 7, 8, 9, 10, and 15 of the '834 Patent. Claims 1 and 9 are independent claims.

44. A claim chart demonstrating infringement of Claims 1, 2, 7, 8, 9, 10, and 15 of the '834 Patent by the East West Blower and the Modified East West Blower is attached as Exhibit 3.

#### **V. RELATED LITIGATION (19 C.F.R. § 210.12(A)(5))**

45. The '834 Patent and East West's infringement thereof are the subject of Regal Beloit's complaint against East West in the U.S. District Court for the Northern District of Georgia, Case No. 20-cv-02989-TWT, filed July 17, 2020. The '834 Patent is not the subject of any litigation before any other court or agency.

#### **VI. EAST WEST RESPONDENTS' VIOLATION OF THE CONSENT ORDER**

46. The East West Respondents previously imported into the United States, sold for importation into the United States, and/or sold in the United States after importation the East West Blower. Now, since the entry of the Consent Order, the East West Respondents import into the United States, sell for importation into the United States, and/or sell in the United States after importation the Modified East West Blower (S/N:201102aV0001).

47. The Modified East West Blowers are manufactured in Vietnam. *See* Exhibit 5 at 5 (image of Modified East West Blower with "Made in Vietnam" label).



48. The Modified East West Blowers are then imported into the United States and sold to A.O. Smith or other OEM water heater manufacturers.

49. On information and belief, based on the known manufacturing processes of A.O. Smith, the infringing Modified East West Blowers are provided to A.O. Smith at its manufacturing facilities in Tennessee, where A.O. Smith then installs the blowers onto water heaters. The Modified East West Blowers are installed onto water heaters sold under A.O. Smith brands.

## **VII. RELIEF REQUESTED (19 C.F.R. § 210.12(A)(10))**

50. WHEREFORE, Regal Beloit respectfully requests that the United States International Trade Commission:

- a. Institute a formal enforcement proceeding, pursuant to 19 C.F.R. Section 210.75 to confirm the violations of the Consent Order described herein;
- b. Promptly refer this matter to the Administrative Law Judge for issuance of an Initial and Final Determination on the issues of the enforcement violation and remedy requested;
- c. Direct the Administrative Law Judge to (1) issue a supplemental protective order to protect Complainant' confidential business information; (2) permit a necessary and expedited period of fact discovery on the East West Respondents, and parties acting in concert with it, regarding continued violation of the Consent Order; (3) hold a hearing; and (4) issue a Final Determination of Enforcement within four months of initiation of the enforcement proceeding; and
- d. After the enforcement proceeding, in the event the Commission determines that there has been a violation of the Commission's Consent Order, issue the following remedies:

- i. Issue a permanent cease and desist order pursuant to 19 U.S.C. § 1337(f) and 19 C.F.R. § 210.75, prohibiting the East West Respondents and parties acting in concert with it from engaging in illegal activities;
- ii. Modify the Administrative Law Judge's Consent Order in any manner that would assist in the prevention of the unfair practices that were originally the basis for issuing the Consent Order, or in the detection of any further violations;
- iii. Impose civil penalties pursuant to 19 U.S.C. § 1337(f) that are twice the value of the goods, or \$100,000.00, whichever is greater, for each day the Consent Order is and has been violated, and if necessary, bring a civil action in an appropriate United States District Court to recover such Civil penalties; and
- iv. issue such other and further relief as the Commission deems appropriate.

Dated January 15, 2021

Respectfully,



Alan Norman  
David Jenkins  
Matthew Braunel  
Jonathan Musch  
Nathan Fonda  
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### **Verification of Enforcement Complaint**

I, W. Stuart Galey, Jr., declare, in accordance with 19 C.F.R. §§ 210.4 and 210.12(a), under penalty of perjury, that the following statements are true:

I am Vice President of Advanced Engineering for Regal Beloit, and am duly authorized to sign this Verification of Complaint on behalf of Regal Beloit America, Inc.;

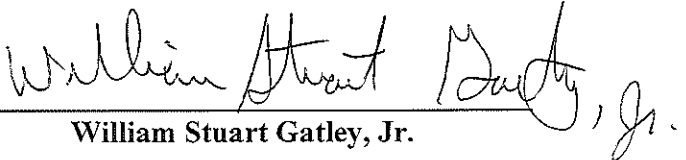
I have read the foregoing Enforcement Complaint and the Exhibits thereto;

To the best of my knowledge, information, and belief, based on reasonable inquiry, the foregoing Enforcement Complaint is well-founded in fact and is warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

The allegations and other factual contentions have evidentiary support or are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

The foregoing Enforcement Complaint is not being filed for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

Executed on 1-14, 2021.

  
\_\_\_\_\_  
**William Stuart Galey, Jr.**