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September 9, 2020

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

Re: Complaint of Lashify, Inc. Concerning Certain Artificial Eyelash Extension Systems,
Products, and Components Thereof

Dear Secretary Barton:

Enclosed for filing on behalf of Lashify, Inc. (“Lashify”), please find the following documents in support of Lashify’s request that the Commission commence an investigation pursuant to Section 337 of the Tariff Act of 1930, as amended. Please note that, pursuant to the Commission Rules of Practice and Procedure, a request for confidential treatment of Exhibit 126C, the Confidential Declaration of Sahara Lotti Regarding Domestic Industry, is included with this submission.

On March 16, 2020, the Commission provided “notice that it is temporarily waiving and amending certain of the Commission’s rules that required the filing of paper copies, CD-ROMS, and other physical media in section 337 investigations to address concerns about COVID-19.” Temporary Change to Filing Procedures, Fed. Reg. Vol. 85, No. 54 (Mar. 19, 2020). Accordingly, and pursuant to the temporary amendments to these rules, Lashify submits the following:

1. One (1) electronic copy of Complainant Lashify’s Verified Complaint (Rule 210.8(a)(1)(i));
2. One (1) electronic copy of the public exhibits to the Verified Complaint and one (1) electronic copy of Confidential Exhibit 126C, the Confidential Declaration of Sahara Lotti Regarding Domestic Industry, segregated from the public exhibits (Rules 201.6(c) and 210.8(a)(1)(i));
3. One (1) electronic copy of certified versions of U.S. Patent Nos. 10,660,388, 10,721,984, D877,416, and D867,664 (the “Asserted Patents”) (Rule 210.12(a)(9)(i));

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4. One (1) electronic copy of certified versions of the assignments of the Asserted Patents (Rule 210.12(a)(9)(ii));
5. One (1) electronic copy of certified versions of the U.S. Patent and Trademark Office prosecution history for each of the Asserted Patents (Rule 210.12(c)(1));
6. One (1) electronic copy of each patent and applicable pages of each technical reference mentioned in the prosecution history for each of the Asserted Patents (Rule 210.12(c)(2));
7. A letter and certification pursuant to Commission Rules 201.6(b) and 210.5(d) requesting confidential treatment of information appearing in Confidential Exhibit 126C, the Confidential Declaration of Sahara Lotti Regarding Domestic Industry; and
8. A Statement on the Public Interest with respect to the remedial orders Lashify seeks against the proposed respondents pursuant to Commission Rule 210.8(b).

Please contact me if you have any questions or concerns.

Sincerely,

FENWICK & WEST LLP

/s/ Bryan A. Kohm

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Enclosures

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Secretary to the Commission
U.S. International Trade Commission
500 E Street, S.W.
Washington, D.C. 20436

Re: Complaint of Lashify, Inc. Concerning Certain Artificial Eyelash Extension Systems,
Products, and Components Thereof

Dear Secretary Barton:

Fenwick & West LLP represents Complainant Lashify Inc. (“Lashify”) in the matter of the above referenced Complaint filed pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

Pursuant to Commission Rules 201.6(b) and 210.5(d), Lashify respectfully requests confidential treatment of the information contained in Exhibit 126C, the Confidential Declaration of Sahara Lotti Regarding Domestic Industry. The information contained in this declaration qualifies as confidential information pursuant to 19 C.F.R. § 201.6 in that it discloses proprietary commercial information, proprietary commercial relationships, and/or proprietary business information that is not otherwise publicly available, and because the disclosure of such information would cause substantial harm to Lashify, and would also impair the Commission’s ability to obtain such information in the performance of its statutory function in the future.

I certify that the proprietary commercial information, proprietary commercial relationships, and/or proprietary business information contained in Exhibit 126C, the Confidential Declaration of Sahara Lotti Regarding Domestic Industry, is not reasonably available to the public, and thus warrants confidential treatment.

The Honorable Lisa R. Barton
September 9, 2020
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Please contact me if you have any questions or concerns.

Sincerely,

FENWICK & WEST LLP

/s/ Bryan A. Kohm

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

In the Matter of

CERTAIN ARTIFICIAL EYELASH EXTENSION
SYSTEMS, PRODUCTS, AND COMPONENTS
THEREOF

Investigation No. 337-TA-_____

**COMPLAINANT LASHIFY, INC.'S
STATEMENT OF THE PUBLIC INTEREST UNDER 19 C.F.R. § 210.8(b)**

Pursuant to 19 C.F.R. § 210.8(b), Lashify Inc. (“Lashify”) submits its Statement of the Public Interest with respect to the general and limited exclusion orders and cease and desist orders it seeks.¹ The requested remedial orders will not adversely affect the public health, safety, or welfare in the United States, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the U.S., or U.S. consumers.

I. THE REQUESTED REMEDIAL ORDERS WILL HAVE NO ADVERSE EFFECT ON THE PUBLIC INTEREST

Since its inception in 2016, Lashify has served customers all throughout the United States. Lashify was founded by CEO Sahara Lotti, who is synonymous with the company, and who invented “the most natural-looking false eyelash system of all time.” Lashify creates superior products, provides client services of the highest caliber, and has emerged as a U.S. and world leader in luxury artificial eyelash extensions and application systems. Accordingly, the Lashify system is the subject of extensive media coverage and is used by Oscar-winning celebrities, world-renowned beauticians, popular magazines, online publications, and its many users. Lashify’s

¹ Lashify submits this Statement of the Public Interest with its Complaint. Capitalized terms used herein but not defined shall have the meaning set forth for those terms in Lashify’s Complaint.

creative team, including Ms. Lotti herself, designs all of its products, and Lashify employs approximately 40 employees involved in design, manufacturing, sales, and fulfillment for Lashify's innovative system.

Section 337 imposes a high burden to preclude a remedy for public interest concerns—such concerns must outweigh the “strong public interest” in enforcing intellectual property rights. *Certain Broadband Processor Chips and Chipsets, Transmitter and Receiver (Radio) Chips, Power Control Chips*, Inv. No. 337-TA-543, Comm'n Op., 2007 ITC LEXIS 621, at *220, *240 (Jun. 19, 2007). This public interest creates incentives for innovators, such as Lashify, to disclose their technology in exchange for the statutory right to exclude others. *See id.* at *219. Therefore, the Commission very rarely denies relief on public interest grounds. *Id.* at *240. In the few instances in which the Commission has denied relief, it found facts not present here, namely, “inadequate supply within the United States—by both the patentee and domestic licensees—meant that an exclusion order would deprive the public of products necessary for some important health or welfare need.” *Spanision, Inc. v. ITC*, 629 F.3d 1331, 1360 (Fed. Cir. 2010).

Unlike those rare cases, this Investigation involves cosmetic products, *i.e.*, artificial eyelash extension systems, products, and components thereof, that do not raise any issues relating to public health, safety, or welfare. Moreover, Lashify and a variety of third parties (including certain Respondents) that make non-infringing products will continue to make like or directly competitive products available to consumers in the event of exclusion. Accordingly, and as set forth further below, the requested remedial orders do not raise any public interest concerns that outweigh the important interest of protecting Lashify's intellectual property rights and domestic industry.

A. How the Articles Potentially Subject to the Requested Remedial Orders are Used in the United States

The subject articles are artificial eyelash extension systems, products, and components thereof, including artificial eyelash extensions, cartridges for packaging and storage of artificial eyelash extensions, application devices, bonding agents, and removers. The artificial eyelash extensions are intended to be used for cosmetic purposes: to be attached to a user's natural eyelashes to extend, fill, and enhance the visual effect of the human eyelash. The applicator is used to attach the artificial eyelashes to the user's natural eyelash. The patented artificial eyelash extension system also includes other tools and compositions that facilitate attachment of the artificial eyelashes to the natural eyelash, such as an adhesive and removers.

B. No Public Health, Safety, or Welfare Concerns Are Implicated by the Requested Remedial Orders

The requested remedial orders present no material concerns relating to the public health, safety, or welfare. As described above, the subject articles in this investigation are cosmetic products including artificial eyelash extensions, cartridges for packaging and storage of artificial eyelash extensions, application devices, bonding agents, and removers. They are not medical devices or otherwise health-related, nor do they serve a public safety or welfare need.

Rather, the primary benefit of the subject articles is that they enhance the appearance of users' natural eyelashes by adding volume, length, or both. In any event, as discussed further below, consumers have an ample number of suitable, non-infringing alternatives to choose from. *See e.g., Certain Elec. Digital Media Devices & Components Thereof*, Inv. No. 337-TA-796, Comm'n Op. at 114 (Sept. 6, 2013).

C. The Subject Articles Could be Replaced by Like or Directly Competitive Articles of Complainant or Third Parties

Lashify has the capacity to replace the products subject to exclusion with its own products that are protected by the Asserted Patents. Moreover, the products subject to exclusion could also be replaced by non-infringing alternative products sold by some of the named Respondents and third parties, such as Sephora and Velour. Antedated artificial lashes, such as traditional strip lashes, will also remain available to consumers through a number of sources. Accordingly, consumers will have access to a number of like or directly competitive products in the event of exclusion.

D. The Complainant and/or Third Parties Have the Capacity to Replace the Volume of Articles Subject to the Requested Remedial Orders in a Commercially Reasonable Time in the United States

Lashify has the capacity to replace the volume of products subject to exclusion with its own products, and can do so in a commercially reasonable timeframe. In addition, as mentioned above, an ample number of alternative products will continue to be available to consumers following exclusion from a variety of sources, including certain named Respondents and third parties.

E. U.S. Consumers Would Feel Minimal Effects

A slight reduction in consumer choice is not a basis for denying relief. *See Certain Pers. Data & Mobile Comms. Devices & Related Software*, Inv. No. 337-TA-710, Comm'n Op. at 69 (Dec. 29, 2011). As discussed above, consumers would not be deprived of suitable alternative artificial eyelash products in the event of exclusion. Due to the existence of numerous other sources for alternative products, including from Lashify itself, exclusion would have no significant impact on U.S. consumers. *See Certain Mobile Devices, Assoc. Software, & Components Thereof*, Inv. No. 337-TA-744, Comm'n Op. at 30 (Jun. 5, 2012).

II. CONCLUSION

The articles subject to exclusion are not necessary to public health, safety, or welfare in the United States, and an adequate supply of suitable alternatives will remain available to consumers through numerous sources, including Lashify, certain named Respondents, and third parties. The strong public interest in protecting Lashify's intellectual property rights therefore outweighs any potential adverse effect on the public from the requested remedial orders. Accordingly, the Commission need not delegate public interest fact-finding to the ALJ.

Dated: September 9, 2020

Respectfully submitted,

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By: /s/ Bryan A. Kohm

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

In the Matter of

CERTAIN ARTIFICIAL EYELASH EXTENSION
SYSTEMS, PRODUCTS, AND COMPONENTS
THEREOF

Investigation No. 337-TA-_____

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

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2	U.S. Patent No. 10,721,984
3	U.S. Patent No. D877,416
4	U.S. Patent No. D867,664
5	InStyle, “What You Need to Know About Lashify: the False Eyelash System” (June 6, 2018), available at https://www.instyle.com/beauty/lashify-false-eyelash-system .
6	Lashify Website, available at https://lashify.com/ .
7	Lashify – About, available at https://lashify.com/pages/about .
8	Lashify, “The 62 nd Grammy Awards” (Feb. 11, 2020), available at https://lashify.com/blogs/lashify-news/the-62nd-grammy-awards .
9	Lashify, “The 77 th Golden Globe Awards” (Jan. 9, 2020), available at https://lashify.com/blogs/lashify-news/golden-globes .
10	Lashify, “Mother of Invention” (Apr. 16, 2020), available at https://lashify.com/blogs/lashify-news/mother-of-invention .
11	Lashify, “The 92 nd Academy Awards” (Feb. 11, 2020), available at https://lashify.com/blogs/lashify-news/the-92nd-academy-awards .
12	Lashify, “Met Gala” (May 16, 2019), available at https://lashify.com/blogs/lashify-news/the-celebrity-makeup-artists-who-used-lashify-to-complete-their-met-gala-2019-looks .
13	Lashify, “Patents & Trademarks,” available at https://lashify.com/pages/patents .
14	LIVEGlam, “Strip Lashes vs Lash Extensions- the best lashes for your lifestyle!” (Feb. 3, 2018), available at https://liveglam.com/strip-lashes-vs-lash-extensions-best-lashes-lifestyle/ .
15	Lashify, “Cooler Than Your Average (CEO and Founder)” (Apr. 16, 2020), available at https://lashify.com/blogs/lashify-news/sicker-than-your-average-ceo-and-founder .
16	KISS, “Terms and Conditions Rev. 10/2018,” available at https://www.kissusa.com/terms .
17	Influenster, “KISS Falscara Eyelash Starter Kit 01,” available at https://www.influenster.com/reviews/kiss-falscara-eyelash-starter-kit-01 .
18	Supergreat, “I Tried the \$15 Dupe For Lashify's \$145 False Lash Extension Kit” (July 2, 2020), available at https://supergreat.reviews/articles/2020-6-30-dupe-lashify-false-lash-extensions-system .
19	YouTube, “*NEW* KISS FALSCARA LASH EXTENSION KIT FIRST IMPRESSION LASHIFY DUPE??” (Jan 11, 2020), available at https://www.youtube.com/watch?v=FdDeTw6Bsb4 .
20	YouTube, “LASHIFY DUPE! Review of Falscara vs. Lashify” (Jan. 29, 2020), available at https://www.youtube.com/watch?v=SHV8KF0v3aM .
21	YouTube, “KISS FALSCARA – Lashify Dupe – First Impression” (Jan. 23, 2020), available at https://www.youtube.com/watch?v=RpHMeEFX62c .

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22	Bloomberg, “Ulta Beauty Inc.,” available at https://www.bloomberg.com/profile/company/ULTA:US .
23	Bloomberg, “Walmart Inc.,” available at https://www.bloomberg.com/profile/company/WMT:US .
24	Bloomberg, “CVS Health Corp.,” available at https://www.bloomberg.com/profile/company/CVS:US .
25	Panjiva, “Supply Chain Intelligence about: Qingdao Hollyren Cosmetics Co., Ltd.,” available at https://panjiva.com/Qiengdao-Hollyren-Cosmetics-Co-Ltd/10311229 .
26	Alibaba.com, “Qingdao Hollyren Cosmetics Co., Ltd.,” available at https://hollyren.en.alibaba.com/company_profile.html?spm=a2700.ic-buShop.88.55.7f2d5e964wzTHI .
27	Hollyren, “Why us,” available at https://www.hollyren.com/about_us.html .
28	Alibaba.com, “Qingdao Xizi International Trading Company Limited,” available at https://xizilashes.en.alibaba.com/company_profile.html?spm=a2700.ic-buShop.88.52.49f07426IIF3Su .
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34	Lilac St., “Refund policy,” available at https://lilacst.com/policies/refund-policy .
35	Lilac St., “Privacy policy,” available at https://lilacst.com/policies/privacy-policy .
36	Lilac St., “DIY extensions, Minus the markup,” available at https://lilacst.com .
37	Lilac St., “Lilac Lashes,” available at https://lilacst.com/collections/frontpage .
38	Lashify, “Lashify® Control Kit™,” available at https://lashify.com/products/lashify-control-kit .
39	Lashify, “The Gossamer Lashes,” available at https://lashify.com/collections/the-gossamer-lashes .
40	Lashify, “Fuse Control Wand V2 – Silver,” available at https://lashify.com/products/fuse-control-wand-v2-silver .
41	Lashify, “Whisper Light™ Dual Sided Bond with Micro Mascara Tip,” available at https://lashify.com/products/whisperlight-dual-sided-bond-with-micro-tip .
42	Lashify, “Glass Waterproof Gossamer® Lash Coating with Macro Tip,” available at https://lashify.com/products/glass-waterproof-gossamer-lash-coating-with-macro-tip .
43 ¹	Infringement Claim Chart for U.S. Patent No. 10,660,388 for KISS Falscara

¹ Lashify submits photographs of the Accused Products and Domestic Industry Products within the claim charts in lieu of physical samples, given the current remote operations of the Commission. Lashify will provide physical samples on request.

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45	KISS, “KISS Falscara Starter Kit 01,” available at https://www.kissusa.com/kiss-falscara-eyelash-starter-kit-01 .
46	KISS, “KISS Falscara Eyelash Bond & Seal,” available at https://www.kiss-susa.com/eyelashes/falscara/kiss-falscara-eyelash-bond-seal .
47	KISS, “KISS Falscara Eyelash Applicator,” available at https://www.kiss-susa.com/eyelashes/falscara/kiss-falscara-eyelash-applicator .
48	KISS, “KISS Falscara Eyelash Wisps 01,” available at https://www.kiss-susa.com/eyelashes/falscara/kiss-falscara-eyelash-wisps-01-lengthening-wisps .
49	YouTube, “False Lashes FALSCARA by KISS the NEW Alternative to Eyelash Extensions” (Dec. 23, 2019), available at https://youtu.be/cQfRFdZa1zE .
50	YouTube, “Falscara Lash System Review” (Feb. 9, 2020), available at https://youtu.be/mtFSqgIoZSg .
51	Instagram, Influenster, “Get falsies in a 📸 flash with @kissproducts Falscara Eyelash Starter Kit! . . .” (Feb. 20, 2020), available at https://www.instagram.com/p/B8y6HT4J9oe/ .
52	YouTube, “KISS FALSCARA REVIEW... \$20 LASHIFY DUPE YoseilyMaria” (Feb. 17, 2020), available at https://youtu.be/N06UpmtvbgU .
53	Infringement Claim Chart for U.S. Patent No. 10,721,984 for KISS Falscara
54	Photographs Showing Packaging of KISS Falscara Eyelash – Starter Kit 01
55	Invoice Showing Purchase of KISS Accused Products
56	Ulta Beauty, “Kiss Falscara Eyelash Starter Kit,” available at https://www.ulta.com/falscara-eyelash-starter-kit?productId=pimprod2014161 .
57	Ulta Beauty, “Kiss Falscara Eyelash Applicator,” available at https://www.ulta.com/falscara-eyelash-applicator?productId=pimprod2014177 .
58	Ulta Beauty, “Kiss Falscara Eyelash Bond & Seal,” available at https://www.ulta.com/falscara-eyelash-bond-seal?productId=pimprod2014174 .
59	Ulta Beauty, “Kiss Falscara Eyelash Lengthening Wisps,” available https://www.ulta.com/falscara-eyelash-lengthening-wisps?productId=pimprod2014170 .
60	Ulta Beauty, “Kiss Falscara Eyelash Volumizing Wisps,” available https://www.ulta.com/falscara-eyelash-volumizing-wisps?productId=pimprod2014172 .
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62	Ulta Beauty, “Kiss Falscara Eyelash Remover,” available at https://www.ulta.com/falscara-eyelash-remover?productId=pimprod2014175 .
63	YouTube, “Kiss Falscara Eyelash Starter Kit Ulta Beauty” (Mar. 11, 2020), available at https://www.youtube.com/watch?v=1w5Web6gJzg&feature=emb_logo .
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80	Hollyren, “DIY Eyelash Extensions Superfine Band Cluster Lashes Kit,” available at https://www.hollyren.com/DIY-Eyelash-Extensions-Superfine-Band-Cluster-Lashes-Kit_7740.html .
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Appendix List

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I. INTRODUCTION

1. Starting with its founding in 2016 as a California start-up, Complainant Lashify, Inc. (“Lashify”) has revolutionized the do-it-yourself (“DIY”) luxury cosmetics market. Today, led by its CEO and founder, Ms. Sahara Lotti, Lashify is widely known for its award-winning and patented eyelash extension system. The Lashify system is the culmination of the tireless work and ingenuity of Ms. Lotti in the United States, and indeed, created an entire market in the United States that did not exist before. Lashify’s innovation did not go unnoticed; the Lashify system has been recognized, used, and touted by Oscar-winning celebrities, world-renowned beauticians, popular magazines, online publications, and its many users.

2. Unfortunately, Lashify’s innovation also attracted the attention of companies seeking to reap the benefits of Lashify’s hard work. Countless foreign counterfeits and copycat products have begun to flood the market that Lashify created, blatantly copying the Lashify system without license or attribution for Lashify’s intellectual property. Many of the companies behind these counterfeits disguise their identity or “white label” their products so that they may be resold and imported in greater volumes, and in ways that are more difficult to detect. Through this Complaint, Lashify seeks to put an end to the unfair importation of copycat products designed to profit from Lashify’s substantial investments and innovations in the United States.

3. Lashify respectfully requests that the United States International Trade Commission (the “Commission”) institute an investigation into violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”) to address the unlawful importation into the United States, the sale for importation into the United States, and/or the sale within the United States after importation, of certain artificial eyelash extension systems, products, and components thereof.

4. The proposed Respondents are KISS Nail Products, Inc. (“KISS”); Ulta Beauty, Inc. (“Ulta Beauty”); Walmart, Inc. (“Walmart”); CVS Health Corporation (“CVS”); Qingdao Hollyren Cosmetics Co., Ltd. d/b/a Hollyren (“Hollyren”); Qingdao Xizi International Trading Co., Ltd. d/b/a Xizi Lashes (“Xizi Lashes”); Qingdao LashBeauty Cosmetic Co., Ltd. d/b/a Worldbeauty (“Worldbeauty”); Alicia Zeng d/b/a Lilac St., and Artemis Family Beginnings, Inc. (collectively, “Lilac St.”); and Rachael Gleason d/b/a Avant Garde Beauty Co. (“Avant Garde”) (all collectively, “Respondents”).

5. Respondents have violated and continue to violate Section 337 through the importation, sale for importation, and/or the sale within the United States after importation of artificial eyelash extension systems, products, and components thereof (the “Accused Products”) that infringe Lashify’s intellectual property, including claims of United States Patent No. 10,660,388 (“the ’388 patent”), United States Patent No. 10,721,984 (“the ’984 patent”), United States Patent No. D877,416 (“the ’416 patent”); and United States Patent No. D867,664 (“the ’664 patent”) (collectively, the “Asserted Patents”). Certified copies of each of the Asserted Patents accompany this Complaint as Exhibits 1-4. The following is a list of the claims asserted by Lashify in this investigation:

Asserted Patent	Asserted Claims²
U.S. Patent No. 10,660,388	1*, 2-4, 7-8, 9*, 10-17, 18*, 19-22
U.S. Patent No. 10,721,984	1*, 2-14, 15*, 16-22, 23*, 24-27, 28*, 29
U.S. Patent No. D877,416	1
U.S. Patent No. D867,664	1

6. In addition to their direct infringement, Respondents have also violated and continue to violate Section 337 through the importation, sale for importation, and/or the sale within

² Asserted independent claims are noted in this table with an asterisk (*).

the United States after importation of certain artificial eyelash extension systems, products, and components thereof that indirectly infringe, by induced or contributory infringement, one or more of Lashify's Asserted Patents. Respondents have knowledge of the Asserted Patents at least by virtue of Lashify's marking efforts and service of this Complaint or corresponding district court complaints by Lashify on the Respondents, and have continued to provide the Accused Products to the marketplace in a manner that indirectly infringes Lashify's Asserted Patents.

7. In light of the widespread pattern of infringement and the difficulties in identifying the sources of all infringing products—as explained throughout this Complaint and particularly in Section IX, below—Lashify seeks a general exclusion order under 19 U.S.C. § 1337(d)(2) barring from entry into the United States any artificial eyelash extension systems, products, and components thereof that infringe the Asserted Patents, regardless of source.

8. At a minimum, if the Commission does not issue a general exclusion order, Lashify requests a limited exclusion order under 19 U.S.C. § 1337(d)(1) barring from entry into the United States artificial eyelash extension systems, products, and components thereof that infringe the Asserted Patents and that are imported into the United States, sold for importation into the United States, and/or sold in the United States after importation by or on behalf of one or more Respondents.

9. Lashify also seeks cease and desist orders under 19 U.S.C. § 1337(f) prohibiting Respondents and their affiliates, subsidiaries, successors, or assigns from importing, selling for importation, marketing, advertising, demonstrating, warehousing inventory for distribution, offering for sale, selling, distributing, packaging, transferring, or using within the United States artificial eyelash extension systems, products, and components thereof that infringe the Asserted Patents, and soliciting or aiding and abetting others in such conduct.

10. Lashify further seeks the imposition of a bond upon importation of infringing products during the 60-day Presidential review period pursuant to 19 U.S.C. § 1337(j).

II. THE PARTIES

A. Complainant

11. Lashify is a corporation organized under the laws of Delaware, having a place of business at 11437 Chandler Boulevard, Suite A, Glendale, California 91601.

12. Lashify is a California start-up founded by Ms. Sahara Lotti who invented “the most natural-looking false lash system you’ve ever seen.” Ex. 5. The Lashify system is a revolutionary, award-winning DIY luxury lash extension system that creates salon quality lash extensions in record time and in the comfort of one’s home. Ex. 6. The system is easy to use and, unlike salon extensions, is damage-free to natural lashes; it creates infinite possibilities for all eye shapes in minutes. As a result, the Lashify system has been recognized, used, and touted by Oscar-winning celebrities, world-renowned beauticians, popular magazines, online publications, and its many users.

13. Indeed, the Lashify system has been used by over one hundred thousand customers. Ex. 7. Renée Zellweger, Reese Witherspoon, Nicole Kidman, Lupita Nyong’o, Kristen Bell, Kourtney Kardashian, Claire Danes, Melissa McCarthy, Janelle Monáe, Cynthia Nixon, Jessica Simpson, Maggie Gyllenhaal, Tracie Ellis Ross, Salma Hayek, Awkwafina, Liv Tyler, and Lena Dunham are just a few of the artists and influential figures who have used the Lashify system. The Lashify system “walked” the red carpets at the Golden Globes, Grammys, Emmys, Met Gala, and other globally-followed events. Exs. 8-12. The Lashify system has been used by influential makeup-artists Ariel Tejada, Jessica Smalls, Nick Barose, Anton Khachaturian, Matthew Van Leeuwen, Kirin Bhatty, and many more. Exs. 8-9, 12. It has been featured in publications such as InStyle, Elle, Glamour, Vogue, Allure, The Knot, Shape, and many others. And it has received

numerous industry awards, including 2019 Glamour Beauty Award Winner, The Knot Beauty Awards 2019 Winner, and 2019 Shape Editor Pick. Ex. 6.

14. Thus, unsurprisingly, customers of the Lashify system call it “the best invention since sliced bread,” a “game changer,” and “[t]he lash system you didn’t know you needed.” Ex. 6.

15. Today, Lashify’s users recognize Lashify as a market leader in the design of revolutionary lash extension products. A testament to its innovation and the strength of its brand is Lashify’s extensive worldwide intellectual property portfolio relating to its lash solutions, including issued United States and foreign patents, federally registered trademarks, know-how, trade secrets, as well as many more pending patent and trademark applications. Ex. 13.

16. Individual lash extensions done at salons are time-consuming, and attach to a single lash with glue. Due to the ingredients of the glue and excess fiber weight, traditional lash extensions can be damaging. They can pull on natural lash roots, causing damage and lash loss. This time-consuming, costly process needs to be repeated every three weeks to maintain the desired results.

17. DIY artificial lashes did exist before the Lashify system, and still do. One option is strip lashes, a band of lashes designed to be applied with a removable adhesive over a natural top lash line. These weigh heavily on the natural lashes, appear “faux,” and are not comfortable to be worn for long periods of time. Another option are cluster lashes that are sections of a strip lash or groups of individual lashes designed to be applied with a hard glue, making them similarly heavy to the eyes, difficult to apply, and damaging if worn for extended periods of time or slept with. Ex. 14.

18. Ms. Lotti, a frequent wearer of salon lash extensions, uninspired and frustrated by the lack of options in the lash industry and recognizing the need for innovation in the industry, set out to design a product that would meet her high standards. Ex. 15. Ms. Lotti, herself a relentless innovator, put aside her career to fully devote herself to a new enterprise and passion. She created a lash lab in her living room; immersed herself in extensive studies of the human eyelid, the shape of lash lines, and various chemical compositions; and tested on her own lashes various prototypes and potential new product options. After years of working tirelessly toward her goal, she had created the Gossamer® lash: the lightest, flattest, and most natural-looking lash that merges with natural lashes like a coat of mascara—all without the skill of a lash artist or the time-consuming and damaging process offered by the salons. Ms. Lotti’s research and development efforts also resulted in her discovery of Lashify’s unique, hypoallergenic chemical compositions that are safe even for sensitive eyes. She invented the four components of the Lashify system in Lashify’s Control Kit™: (1) the Gossamer® lashes in sterile lash cartridges, (2) the Fuse Control® Wand for applying the lashes, (3) the Whisper Light™ Flexible Bond, and (4) the Glass lash extender that seals the lashes in the event of tackiness. Each is innovative and, in combination, is a revolution that changed the lash industry.

16. Unsurprisingly, albeit unfortunately, Lashify’s innovative system attracted not just a loyal customer base but also copycats, Respondents being among them, seeking to profit from the fruits of Ms. Lotti’s hard work, dedication, and ingenuity, all the while proclaiming the technology to be their own.

B. Proposed Respondents

17. As discussed in greater detail below, Respondents import into the United States, sell for importation, and/or sell within the United States after importation artificial eyelash extension systems, products, and components thereof that infringe one or more claims of Lashify's Asserted Patents.

18. Lashify alleges the following regarding each proposed Respondent upon information and belief:

1) KISS Nail Products, Inc.

19. KISS Nail Products, Inc. is a company organized under the laws of New York, having a place of business at 25 Harbor Park Drive, Port Washington, NY 11050. Ex. 16. Upon information and belief, KISS Nail Products, Inc. also does business under the name KISS Products, Inc., including for purposes of marketing and selling the Accused Products. *Id.*

20. KISS is one of the world's largest artificial strip lashes and nails companies, and launched its new product "Falscara" in January of 2020. Many users have recognized the striking similarity that KISS's products bear to Lashify's innovative system. Beauty writers, influencers, and customers refer to KISS's Falscara as a "dupe" of Lashify's system. Exs. 17-21. As described in further detail below, KISS's Accused Products infringe the Asserted Patents.

2) Ulta Beauty, Inc.

21. Ulta Beauty is a company organized under the laws of Delaware, having a place of business at 1000 Remington Boulevard, Suite 120, Bolingbrook, IL 60440. Ex. 22.

22. Ulta Beauty operates a chain of beauty stores throughout the United States, offering cosmetics, fragrance, skin, and hair care products, and salon services. *Id.* As described below, Ulta Beauty is a reseller of Accused Products of Respondent KISS.

3) Walmart, Inc.

23. Walmart is a company organized under the laws of Delaware, having a place of business at 702 SW 8th Street, Bentonville, AR 72716. Ex. 23.

24. Walmart operates discount stores, supercenters, and neighborhood markets throughout the United States in which it sells a variety of products including, for example cosmetics. *Id.* As described below, Walmart is a reseller of Accused Products of Respondent KISS.

4) CVS Health Corporation

25. CVS is a company organized under the laws of Delaware, having a place of business at One CVS Drive, Woonsocket, RI 02895. Ex. 24.

26. CVS operates a chain of pharmacy and retail clinics throughout the United States in which it sells, for example, cosmetics products. *Id.* As described below, CVS is a reseller of Accused Products of Respondent KISS.

5) Qingdao Hollyren Cosmetics Co., Ltd. d/b/a Hollyren

27. Qingdao Hollyren Cosmetics Co., Ltd. does business under the name “Hollyren.” Ex. 25. Hollyren is a company organized and existing under laws of China, having a place of business at No. 3 Qianbali East Road, Pingdu Development Zone, Pingdu City, Qingdao City, Shandong Province, China. Ex. 26.

28. Hollyren focuses on sales, manufacturing, and importation of false eyelash products, including a variety of false lashes, accessories for false eyelashes, and private label products. Ex. 27. As described below, Hollyren appears to manufacture some or all of the Accused Products of Respondents Xizi Lashes and Avant Garde.

6) Qingdao Xizi International Trading Co., Ltd. d/b/a Xizi Lashes

29. Qingdao Xizi International Trading Co., Ltd. does business under the name “Xizi Lashes.” Ex. 28. Xizi Lashes is a company organized under the laws of China, having a place of business at No. 3 Qianbali East Road, Pingdu Development Zone, Pingdu City, Qingdao City, Shandong Province, China, the same address as Respondent Hollyren. *Id.*; *see also* Ex. 27.

30. Xizi Lashes is a wholesale eyelash manufacturer that manufactures, sells, and imports false eyelash products, including a variety of false lashes, accessories for false eyelashes, and private label products. Ex. 29. Xizi Lashes is also affiliated with Hollyren and appears to maintain employees in common with Hollyren. *See* Exs. 30-31.

7) Qingdao LashBeauty Cosmetic Co., Ltd. d/b/a Worldbeauty

31. Qingdao LashBeauty Cosmetic Co., Ltd. does business under the name “Worldbeauty.” Ex. 32. Worldbeauty is a company organized and existing under laws of China, having a place of business at Room 219, No. 2 Building Yinhua Plaza, No. 190 Shandong Road, Shibei District Qingdao, China, 266034. *Id.*

32. Worldbeauty focuses on sales, manufacturing, and importation of false eyelash products, including a variety of false lashes, accessories for false eyelashes, and private label products. Ex. 33. As described below, upon information and belief, Worldbeauty is a manufacturer of Accused Products of Respondent Lilac St.

8) Alicia Zeng d/b/a Lilac St., and Artemis Family Beginnings, Inc.

33. Alicia Zeng is an individual residing at 918 Capp St., San Francisco, CA 94110. Ms. Zeng does business under the name “Lilac St.,” including for purposes of making, importing, and selling the Accused Products. Exs. 34-35. Lilac St. is not a registered business entity, and instead is the name used by Ms. Zeng for the purpose of engaging in the infringing activity subject

to this Complaint. Ms. Zeng also owns Artemis Family Beginnings, Inc., a company organized under the laws of Delaware and having a place of business at 918 Capp St., San Francisco, CA 94110. Ms. Zeng has indicated that Artemis Family Beginnings, Inc. is involved in making, importing, or selling the Accused Products. However, according to the registration information available on the California Secretary of State's website, Artemis Family Beginnings is registered to do business in California for the purpose of providing "fertility counseling."

34. Lilac St. sells a line of artificial eyelash extension products, including kits and individually sold lashes, adhesive, and applicators. Exs. 36-37. As described below, upon information and belief, Lilac St.'s Accused Products are manufactured at least by Respondent Worldbeauty, and Lilac St. acts as a distributor that rebrands and resells such products in the United States.

9) Rachael Gleason d/b/a Avant Garde Beauty Co.

35. Rachael Gleason is an individual residing at 990 Singleton Blvd., Apt. 1259, Dallas TX 75212. Ms. Gleason does business under the name "Avant Garde Beauty Co.," including for purposes of making, importing, and selling the Accused Products. Exs. 109, 110 (Facebook profile in which Ms. Gleason refers to the launch of Avant Garde Beauty Co.). Avant Garde Beauty Co. is not a registered business entity, and instead is the name used by Ms. Gleason for the purpose of engaging in the infringing activity subject to this Complaint.

36. Avant Garde sells a line of artificial eyelash extension products, including kits and individually sold lashes, adhesive, and applicators. Exs. 111-113. As described below, upon information and belief, Avant Garde's Accused Products are manufactured at least by Respondent Hollyren, and Avant Garde acts as a distributor that rebrands and resells such products in the United States.

III. THE TECHNOLOGY AND PRODUCTS AT ISSUE

37. Pursuant to 19 C.F.R. § 210.12(a)(12) and § 210.10(b)(1), the Accused Products or categories of Accused Products are artificial eyelash extensions, cartridges for packaging and storage of artificial eyelash extensions, application devices, bonding agents, and removers, as well as artificial eyelash extension systems containing one or more of the same.

38. The Lashify Control Kit™ includes two sets of Gossamer® lashes (12mm and 14mm) set in Lashify’s innovative cartridge, a patented wand for fusing the lashes underneath the natural lash line, a bond, a sealer, and a luxury case. Ex. 38.



39. Gossamer® lashes are made of polybutylene terephthalate (“PBT”) fibers—the best quality silk in the world sourced from Korea—heated to form delicate artificial lash sections, which upon application seamlessly blend with the natural lashes. The Gossamer® lashes are designed to fit underneath the natural lashes, come in a variety of lengths, fluffiness, and curvatures and thus can be applied in virtually unlimited positions and arrangements. Indeed, users



devise “maps” specifying locations of different types of Gossamer® lashes along one’s natural lash line to achieve looks ranging from natural to glamorous to dramatic, and even colored. The revolutionary flat base invented by Ms. Lotti gives users the ability to stack for volume. Ex. 39.

40. The Fuse Control® Wand is used to apply the Gossamer® lashes underneath the natural lashes. It has a pleasing fluid design and comes in a variety of colors. It is used to fuse the Gossamer® lashes to the natural lash line for a stable and proper placement for up to 10 days. Ex. 40.



41. The Whisper Light™ Sided Mix Tip bond is a flexible, hypoallergenic adhesive designed exclusively to hold Gossamer® lashes. Its Biotin and Micro-flex technology creates a flexible and nourishing cushion underneath the lash line, protecting the roots and ensuring damage-free wear. Ex. 41.

42. The Glass is a unique waterproof lash extender. Its application is the last step in Lashify’s unique system. It finishes the Lashify look, sealing and extending the wear of the Gossamer® lashes. Ex. 42.

43. The Accused Products incorporate Lashify’s innovative technology, including Lashify’s patented products and methods of fusing clusters of artificial lashes underneath the natural lash line. Respondents infringe the Asserted Patents through the sale for importation into the

United States, importation into the United States, and/or sale within the United States after importation of the Accused Products. Exemplary identifications of such infringing products are provided in Section V below.

IV. THE ASSERTED PATENTS

44. The Asserted Patents relate to artificial eyelash extension products and methods, including applicators, storage cartridges, and the use of artificial lashes and bond to fuse the artificial lash to a user's natural lashes. The '388 patent claims methods for the manufacture and application of the artificial eyelash extensions. The '984 patent claims an apparatus comprising an artificial eyelash extension. The '416 patent claims the ornamental design of an artificial eyelash storage cartridge. The '664 patent claims the ornamental design of an artificial eyelash applicator.

45. The identification, ownership, non-technical description, any foreign counterparts, and licensees for the Asserted Patents are identified below.

A. The '388 Patent

1) Identification of the '388 Patent and Ownership

46. The '388 patent, titled "Artificial Lash Extensions," issued on May 26, 2020, naming Sahara Lotti as the inventor. Ex. 1 ('388 patent) at 1. The '388 patent issued from U.S. Patent Application No. 15/968,36, filed on May 1, 2018. *Id.* at 1. The '388 patent is a continuation of PCT/US2017/044217, filed on July 27, 2017. The '388 patent claims priority to U.S. Provisional Application No. 62/368,116, filed on July 28, 2016. The expiration date of the '388 patent is July 27, 2037. A certified copy of the '388 patent is attached as Exhibit 1. This Complaint is accompanied by a certified copy of the prosecution history for the '388 patent, and copies of each patent and applicable pages of each technical reference mentioned in the prosecution history for the '388 patent. *See* App'x 1 and 2.

47. Lashify owns by assignment all right, title, and interest in and to the '388 patent. Ex. 1 at 1; App'x 3.

2) Non-technical Description of the Patented Technology

48. The '388 patent relates to methods for making and applying artificial eyelashes to the underside of a user's natural eyelash. Ex. 1, at 1:15-18.

49. Clusters of lashes are comprised of multiple fibers. *Id.* at 2:37-43, 4:16-18. Multiple clusters may be fused adjacent to each other "to form a bundle," otherwise known as a "lash fusion," *id.* at 2:43-45, 2:53-54, 7:21-33, which may form a "straight line of artificial hairs." *Id.* at 2:63-66, *see id.* at 7:44-48. Lash fusions "could include 3-10, 3-7, 5-10, 5-7, or 4-6 clusters." *Id.* at 2:43-45, 2:53-54, 4:53-54, 7:21-33. Accordingly, a lash fusion could include a range of quantities of individual artificial hairs. *Id.* at 3:16-18. In some forms, the clusters may be simultaneously fused to the base and also may have multiple fusions across clusters via crisscrossing artificial hairs. *Id.* at 2:67-3:12, 4:35-41.

50. Figure 3A of the '388 patent shows an example of how multiple clusters of artificial hairs may be connected to form a lash fusion:

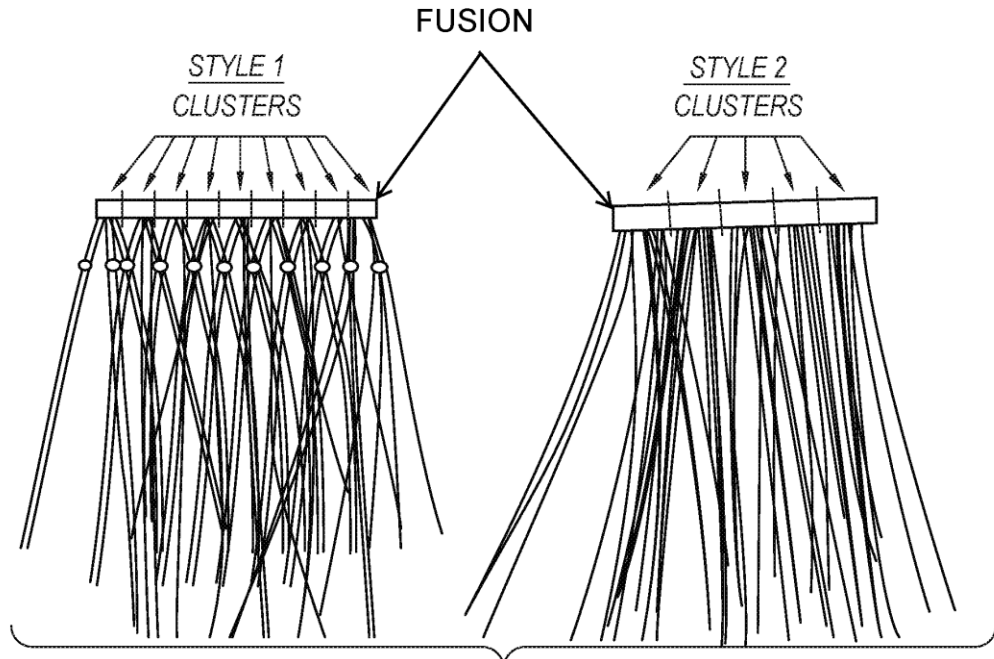


Fig. 3A

Id. at Fig. 3A, 4:29-34.

51. Figure 3B depicts “a side view of two different styles of lash fusion. The multiple clusters of each lash fusion can be fused to one another.” *Id.* at 5:3-5, Fig. 3B:

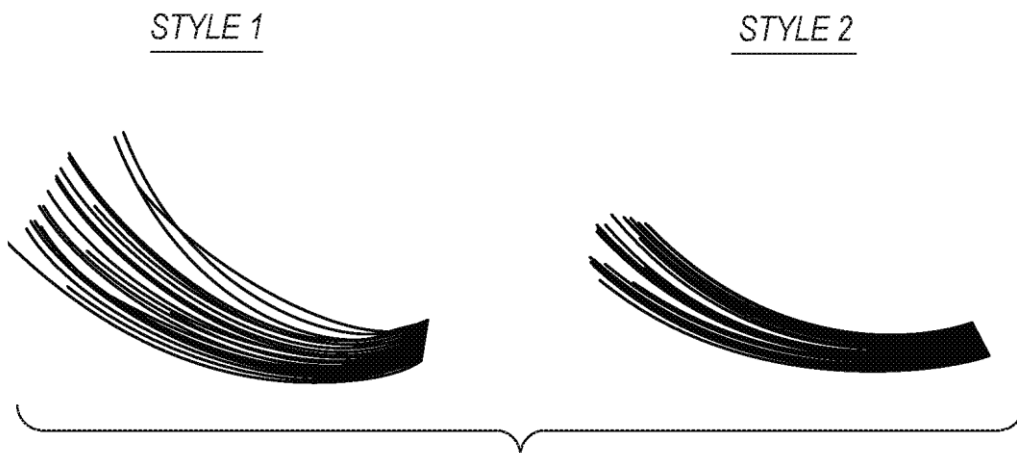


Fig. 3B

52. The lash fusions may then be applied to the user’s natural lash. The user may grasp a lash fusion using a tool known as an applicator to assist applying the fusion to the natural lash.

See id. at 3:47-54, 8:29-31. Before application, adhesive may be applied to the top of each lash fusion and/or the human natural eyelashes. *See id.* at 3:43-54, 8:37-39. The individual may arrange and attach the lash fusions beneath the individual's natural lashes, such as close to the tightline of the user's eye. *See id.* at 5:36-41, 6:60-67, 8:42-47, Figs. 6, 7:

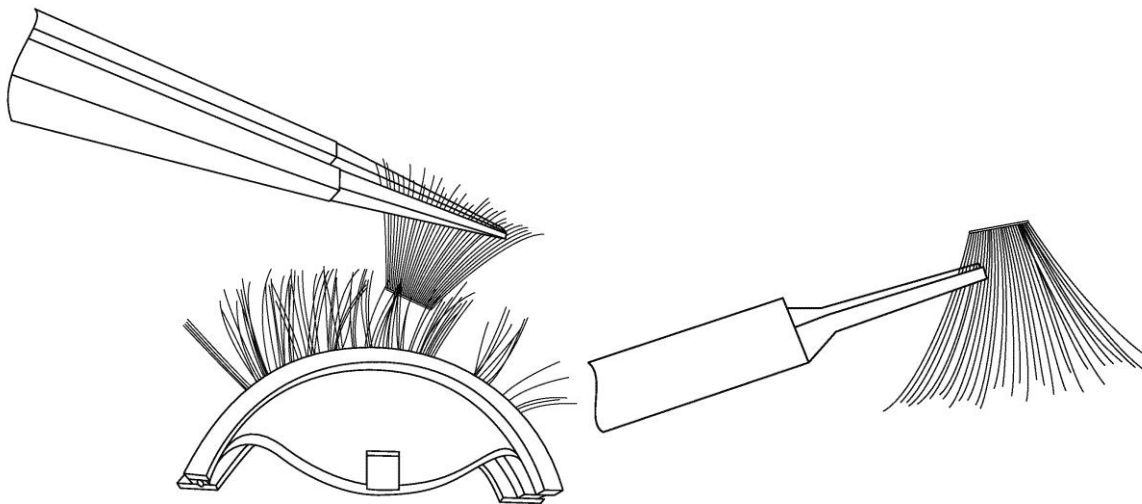


Fig. 6

Fig. 7

Id. at Figs. 6, 7. Figure 6 “depicts how the set of lash fusions can be placed underneath an individual’s natural lashes, where the plastic represents the individual’s eyelid. . . . Consequently, the set of lash extensions can be applied directly to the underside of the individual’s natural lashes proximate to the tightline, rather than to the eyelid above the lash line.” *Id.* at 6:45-52. Figure 7 depicts “how an adhesive can be applied to the top of an entire set of lash extensions or to the lash fusions that make up the set. Additionally or alternatively, an adhesive could be applied to the individual’s natural lashes.” *Id.* at 6:53-56.

3) Foreign Counterparts of the '388 Patent

53. The '388 patent currently has four foreign counterparts derived from its PCT application. The '388 patent is a continuation of PCT/US2017/044217, filed on July 27, 2017. Claiming priority to this PCT application are the following foreign counterparts:

- a. China Patent Application No. 201780004312.1, which was published on March 8, 2018, as CN108366635. As of the filing date of this Complaint, this application remains pending.
- b. European Patent Application No. 17835287, which was published on May 6, 2019, as EP3490398. As of the filing date of this Complaint, this application remains pending.
- c. Japan Patent Application No. 2019504850, which was published on August 8, 2019, as JP2019522125. As of the filing date of this Complaint, this application remains pending.
- d. Republic of Korea Patent Application No. 1020197005515, which was published on March 4, 2019, as KR1020190035787. As of the filing date of this Complaint, this application remains pending.

4) Licenses of the '388 Patent

54. As of the filing date of this Complaint, there are no licensees or license agreements under the '388 patent.

B. The '984 Patent

1) Identification of the '984 Patent and Ownership

55. The '984 patent, titled "Artificial Lash Extensions," issued on July 28, 2020, naming Sahara Lotti as the inventor. Ex. 2 ('984 patent) at 1. The '984 patent issued from U.S. Patent Application No. 16/575,894, filed on September 19, 2019; which is a continuation of U.S. Patent Application No. 15/968,361, filed on May 1, 2019; which is a continuation of PCT application No. PCT/US2017/044217, filed on July 27, 2017. The '984 patent claims priority to U.S. Provisional Application No. 62/368,116, filed on July 28, 2016. The expiration date of the '984 patent is July

27, 2037. A certified copy of the '984 patent is attached as Exhibit 2. This Complaint is accompanied by a certified copy of the prosecution history for the '984 patent, and copies of each patent and applicable pages of each technical reference mentioned in the prosecution history for the '984 patent. *See* App'x 4 and 5.

56. Lashify owns by assignment all right, title, and interest in and to the '984 patent. Ex. 2 at 1; App'x 6.

2) Non-technical Description of the Patented Technology

57. The '984 patent relates to an apparatus comprising an artificial eyelash extension. Ex. 2, at 1:16-19. Clusters of artificial hairs are comprised of multiple artificial hair-like fibers that are secured to one another through a process involving heat. *Id.* at 2:39-45, 4:19-21. The base of these multiple hair clusters is fused to a common base. *See id.* at cl. 1. These artificial hair clusters that are spaced apart from each other along the common base. *See id.* The hair clusters along the common base form an artificial eyelash extension that may be attached to a human user's natural eyelash. *See, e.g., id.* at 3:45-56, 5:38-53, 6:62-7:2, 8:25-55, Figs. 6, 7, cl. 1.

58. Figure 3B depicts "a side view of two different styles" of artificial eyelash extensions. *Id.* at 5:5-7, Fig. 3B:

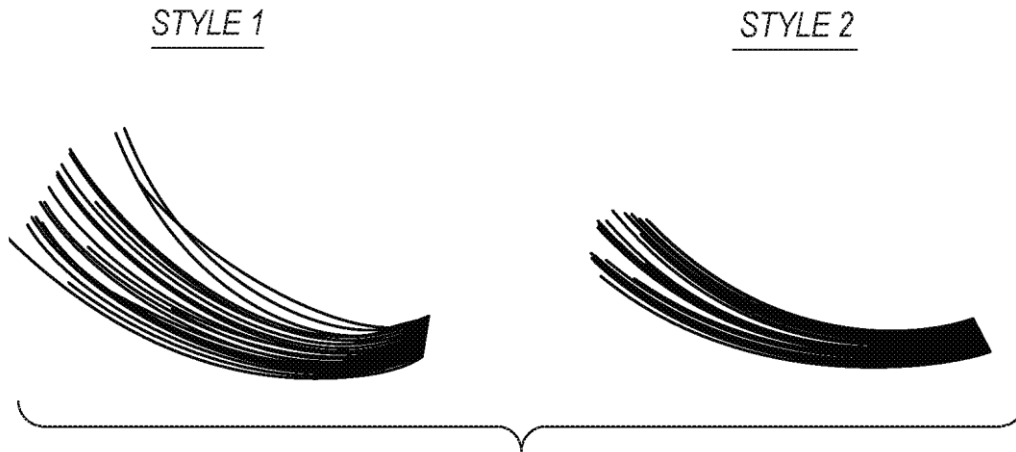


Fig. 3B

3) Foreign Counterparts of the '984 Patent

59. The '984 patent currently has four foreign counterparts derived from its underlying, grandparent PCT application. As noted above, the '984 patent issued from U.S. Patent Application No. 16/575,894, filed on September 19, 2019; which is a continuation of U.S. Patent Application No. 15/968,361, filed on May 1, 2019; which is a continuation of PCT application No. PCT/US2017/044217, filed on July 27, 2017. Claiming priority to this PCT application are the following foreign counterparts:

- a. China Patent Application No. 201780004312.1, which was published on March 8, 2018, as CN108366635. As of the filing date of this Complaint, this application remains pending.
- b. European Patent Application No. 17835287, which was published on May 6, 2019, as EP3490398. As of the filing date of this Complaint, this application remains pending.

- c. Japan Patent Application No. 2019504850, which was published on August 8, 2019, as JP2019522125. As of the filing date of this Complaint, this application remains pending.
- d. Republic of Korea Patent Application No. 1020197005515, which was published on March 4, 2019, as KR1020190035787. As of the filing date of this Complaint, this application remains pending.

4) Licenses of the '984 Patent

60. As of the filing date of this Complaint, there are no licensees or license agreements under the '984 patent.

C. The '416 Patent

1) Identification of the '416 Patent and Ownership

61. The '416 patent, titled "Storage Cartridge for Artificial Eyelash Extensions," issued on March 3, 2020, naming Sahara Lotti as the inventor. Ex. 3 ('416 patent) at 1. The '416 patent issued from U.S. Patent Application No. 15/968,453, filed on May 1, 2018; which is a continuation of PCT application No. PCT/US2017/067513, filed on Dec. 20, 2017; and a continuation-in-part of U.S. Patent Application No. 29/586,561, filed on December 5, 2016. *Id.* at 1. The expiration date of the '416 patent is March 3, 2035. A certified copy of the '416 patent is attached as Exhibit 3. This Complaint is accompanied by a certified copy of the prosecution history for the '416 patent, and copies of each patent and applicable pages of each technical reference mentioned in the prosecution history for the '416 patent. *See* App'x 7 and 8.

62. Lashify owns by assignment all right, title, and interest in and to the '416 patent. Ex. 3 at 1; App'x 9.

2) Non-technical Description of the Patented Technology

63. The '416 patent claims “[t]he ornamental design for a storage cartridge for artificial eyelash extensions, as shown and described.” Ex. 3 at 1.

64. Following are several images depicting the ornamental design of the cartridge of the '416 patent:

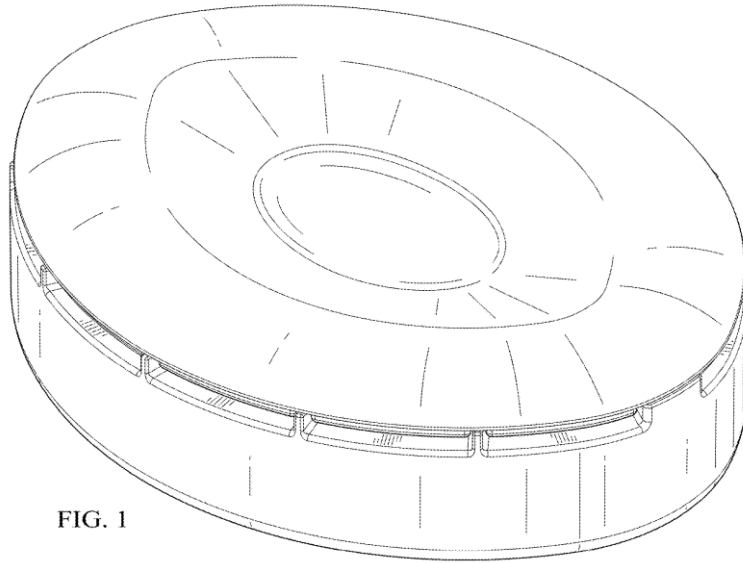


FIG. 1

Id. at Fig. 1.

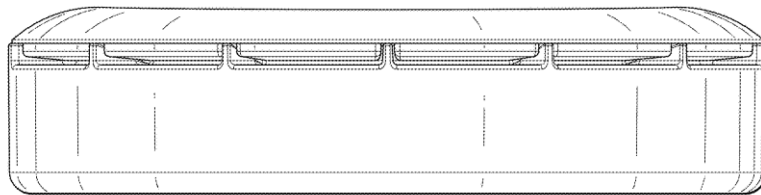


FIG. 2

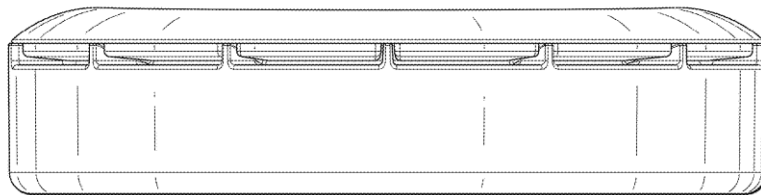


FIG. 3

Id. at Figs. 2 & 3.

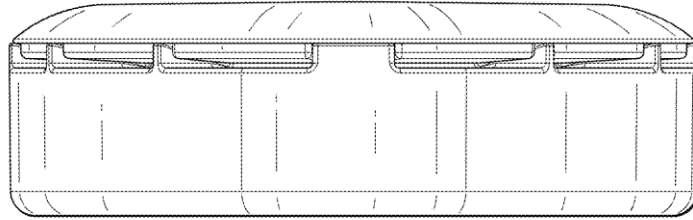


FIG. 4

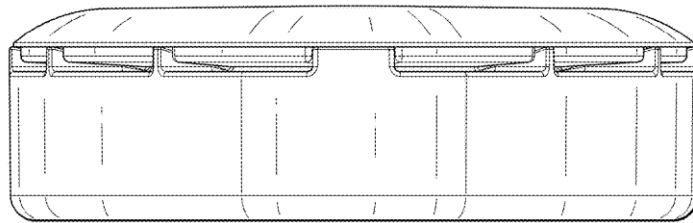


FIG. 5

Id. at Figs. 4 & 5.

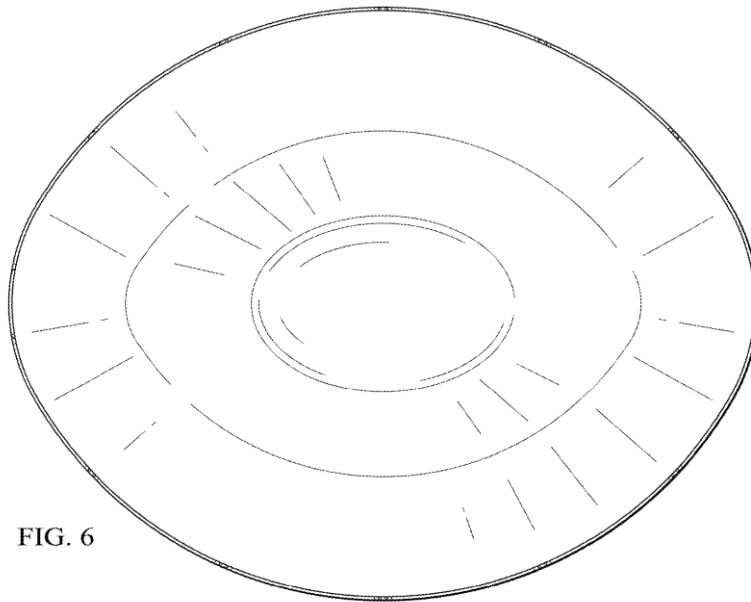


FIG. 6

Id. at Fig. 6.

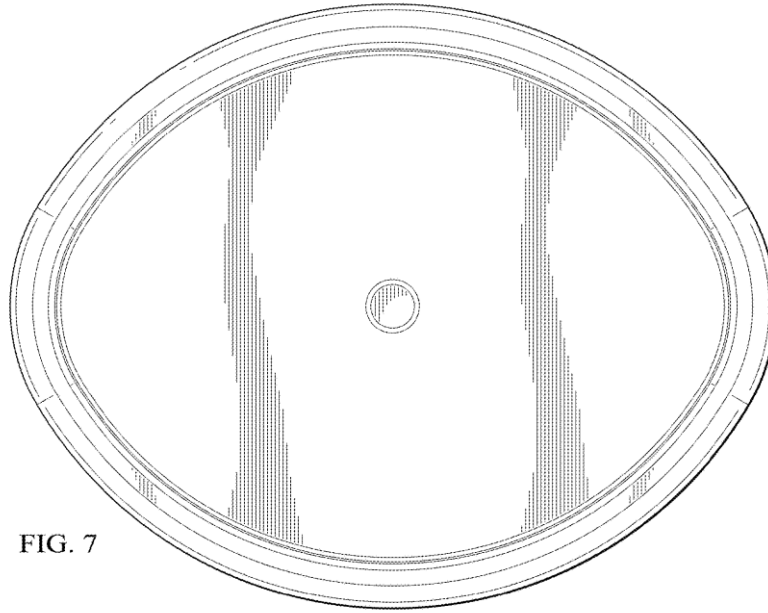


FIG. 7

Id. at Fig. 7.

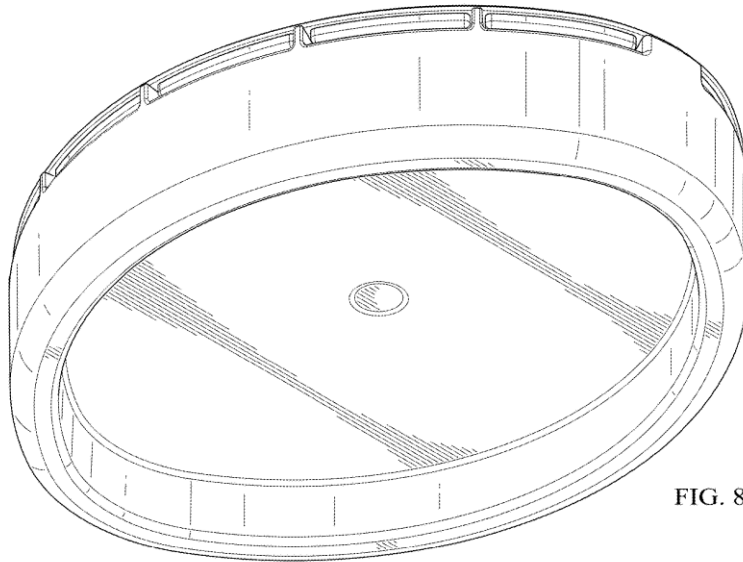


FIG. 8

Id. at Fig. 8.

3) Foreign Counterparts of the '416 Patent

65. The '416 patent currently has seven foreign counterparts derived from its PCT application. The '416 patent is a continuation of PCT/US2017/067513, filed on December 20, 2017.

Claiming priority to this PCT application are the following foreign applications, none of which are true counterparts of the '416 patent:

- a. Australia Patent Application No. 2017379865, which was published on June 28, 2018, as Publication No. 2017379865. As of the filing date of this Complaint, this application remains pending. This application does not claim the ornamental design claimed in the '416 patent.
- b. Canada Patent Application No. 3048018, which was published on June 28, 2018, as Publication No. 3048018. As of the filing date of this Complaint, this application remains pending. This application does not claim the ornamental design claimed in the '416 patent.
- c. European Patent Application No. 17884561, which was published on March 10, 2019, as Publication No. 3558043. As of the filing date of this Complaint, this application remains pending. This application does not claim the ornamental design claimed in the '416 patent.
- d. Republic of Korea Patent Application No. 1020197021304, which was published on August 20, 2019, as Publication No. 1020190097230. As of the filing date of this Complaint, this application remains pending. This application does not claim the ornamental design claimed in the '416 patent.
- e. Russia Patent Application No. RU2019122829.
- f. Singapore Patent Application No. 11201906691Y, which was published on August 27, 2019, as Publication No. 11201906691Y. As of the filing date of this Complaint, this application remains pending. This application does not claim the ornamental design claimed in the '416 patent.

4) Licenses of the '416 Patent

66. As of the filing date of this Complaint, there are no licensees or license agreements under the '416 patent.

D. The '664 Patent

1) Identification of the '664 Patent and Ownership

67. The '664 patent, titled “Application for Artificial Lash Extensions,” issued on November 19, 2019, naming Sahara Lotti as the inventor. Ex. 4 ('664 patent) at 1. The '664 patent issued from U.S. Patent Application No. 29/641,812, filed on March 26, 2018. *Id.* at 1. The expiration date of the '664 patent is November 19, 2034. A certified copy of the '664 patent is attached as Exhibit 4. This Complaint is accompanied by a certified copy of the prosecution history for the '664 patent, and copies of each patent and applicable pages of each technical reference mentioned in the prosecution history for the '664 patent. *See* App’x 10 and 11.

68. Lashify owns by assignment all right, title, and interest in and to the '664 patent. Ex. 4 at 1; App’x 12.

2) Non-technical Description of the Patented Technology

69. The '664 patent claims “[t]he ornamental design for an applicator for artificial lash extensions, as shown and described.” Ex. 4 at 1.

70. Following are several images depicting the ornamental design of the applicator of the '664 patent:

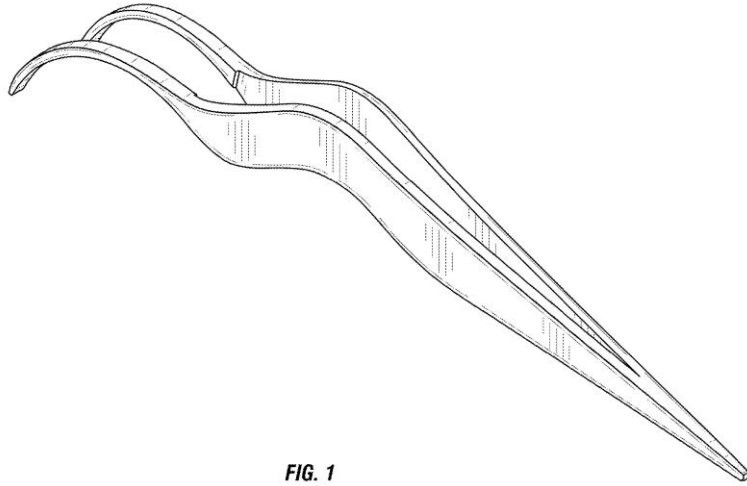


FIG. 1

Id. at Fig. 1.

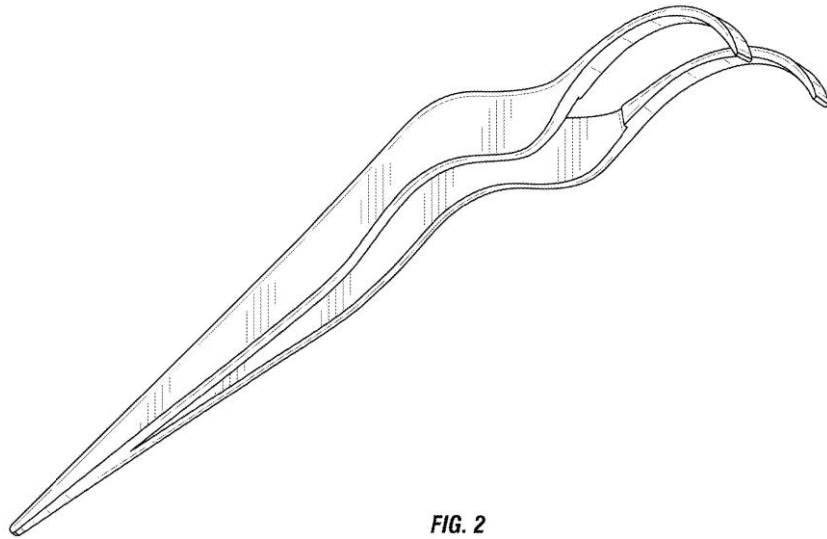


FIG. 2

Id. at Fig. 2.

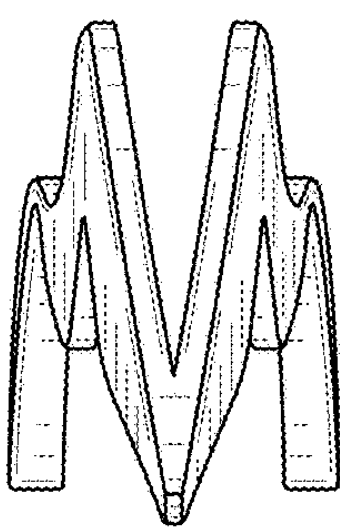


FIG. 3

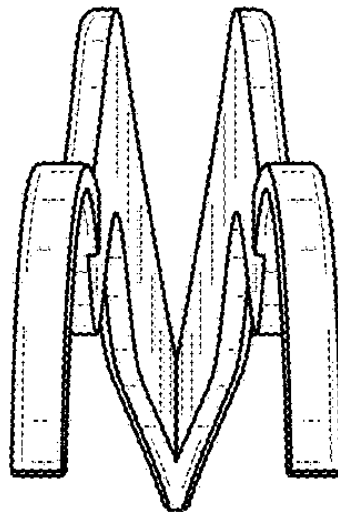


FIG. 4

Id. at Figs. 3 & 4.

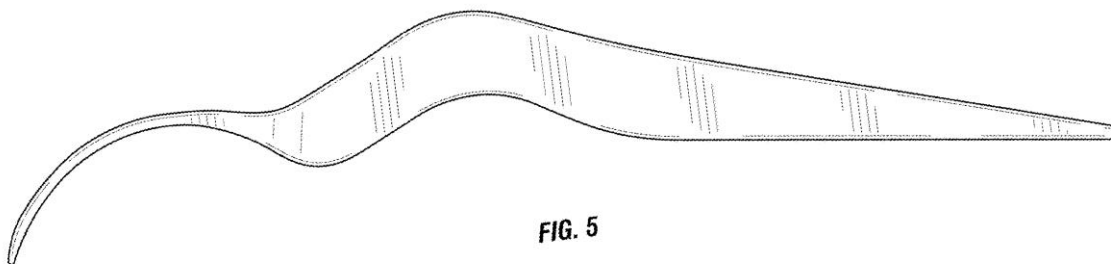


FIG. 5

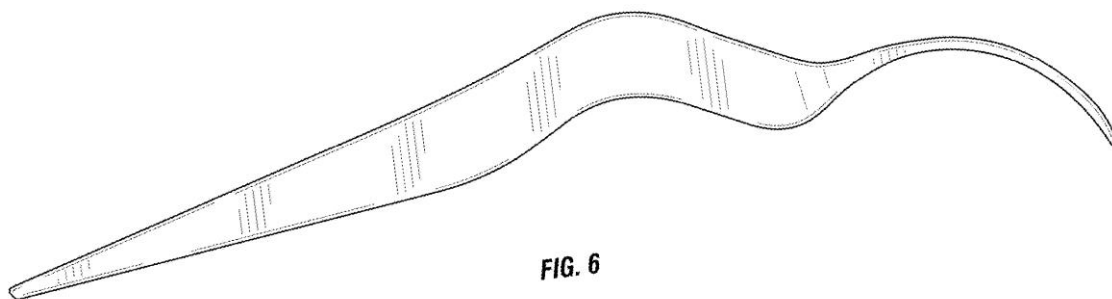


FIG. 6

Id. at Figs. 5 & 6.

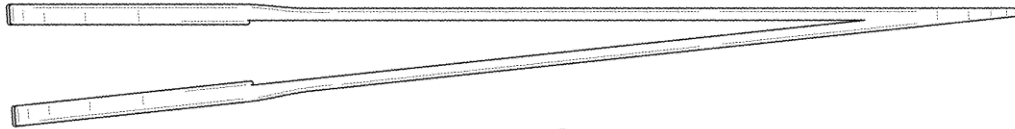


FIG. 7



FIG. 8

Id. at Figs. 7 & 8.

3) Foreign Counterparts of the '664 Patent

71. There are no foreign counterparts of the '664 patent.

4) Licenses of the '664 Patent

72. As of the filing date of this Complaint, there are no licensees or license agreements under the '664 patent.

V. UNLAWFUL AND UNFAIR ACTS OF THE RESPONDENTS

73. Lashify asserts that Respondents import, sell for importation, and/or sell within the United States after importation articles that infringe the Asserted Patents, in violation of Section 337(a)(1)(B).

74. Respondents are accused of infringing the Asserted Patents as follows:

Proposed Respondent	Asserted Patents			
	'388 Patent	'984 Patent	'416 Patent	'664 Patent
KISS	X	X		
Ulta Beauty	X	X		
Walmart	X	X		
CVS	X	X		
Hollyren	X	X	X	X
Xizi Lashes	X	X	X	
Worldbeauty	X	X		
Lilac St.	X	X		
Avant Garde	X	X	X	

A. KISS

75. KISS has committed unlawful and unfair acts by importing, selling for importation, and/or selling within the United States after importation articles that infringe the Asserted Patents (“the KISS Accused Products”). The KISS Accused Products include, without limitation, the following lines of products:

KISS Accused Products	Lashify’s Intellectual Property
KISS Falscara Eyelash – Starter Kit 01 SKU: KFCK01	'388 patent; '984 patent
KISS Falscara Eyelash – Applicator SKU: KFCA01	'388 patent
KISS Falscara Eyelash – Bond & Seal SKU: KFCA01	'388 patent
KISS Falscara Eyelash – Wisps 01 – Lengthening Wisps SKU: KFCL01	'388 patent; '984 patent
KISS Falscara Eyelash – Wisps 02 – Volumizing Wisps SKU: KFCL02	'388 patent; '984 patent
KISS Falscara Eyelash – Wisps 03 – Lifting Wisps SKU: KFCL03	'388 patent; '984 patent
KISS Falscara Eyelash Remover SKU: KFCR01	'388 patent

1) Infringement of the Asserted Patents

a. Infringement of the '388 Patent

76. KISS imports, sells for importation, and/or sells within the United States after importation articles that infringe claims 1-4 and 7-22 of the '388 patent (the “KISS 388 Accused Products”). Following is a non-exhaustive list of the KISS 388 Accused Products:

KISS 388 Accused Products
KISS Falscara Eyelash – Starter Kit 01 SKU: KFCK01
KISS Falscara Eyelash – Applicator SKU: KFCA01
KISS Falscara Eyelash – Bond & Seal SKU: KFCE01
KISS Falscara Eyelash – Wisps 01 – Lengthening Wisps SKU: KFCL01
KISS Falscara Eyelash – Wisps 02 – Volumizing Wisps SKU: KFCL02
KISS Falscara Eyelash – Wisps 03 – Lifting Wisps SKU: KFCL03
KISS Falscara Eyelash Remover SKU: KFCE01

77. An exemplary infringement claim chart comparing the asserted independent claims of the '388 patent to a representative KISS 388 Accused Product, the KISS Falscara Eyelash – Starter Kit 01 obtained from KISS, and including photographs and drawings where applicable, is attached as Exhibit 43.

78. The KISS Falscara Eyelash – Starter Kit 01 is representative of the KISS 388 Accused Products for purposes of infringement of the '388 patent.

79. KISS offers for sale and sells the KISS 388 Accused Products to its customers. Exs. 44-48.

80. The KISS 388 Accused Products infringe the '388 patent because they are used, after importation, in a manner that infringes the '388 patent.

81. KISS and its customers directly infringe, literally and/or under the doctrine of equivalents, claims 1-4 and 7-22 of the '388 patent by using the KISS 388 Accused Products in the United States. Ex. 43; *see also* Exs. 49-52. For example, a user, such as KISS or a customer, first obtains certain of the KISS 388 Accused Products, such as the KISS Falscara Eyelash – Starter Kit 01 which contains a lash fusion (KISS's lash wisps). The user then grasps the lash fusions (KISS's lash wisps) with an applicator. Holding the lash fusion with the applicator, the user applies adhesive to the top side of the lash fusion. The user then affixes the top side of the lash fusion, having the adhesive, to the underside of the user's natural upper eyelash.

82. KISS's and its customers' acts of infringement of the '388 patent were and are undertaken without authority, permission, or license from Lashify.

83. KISS also infringes the '388 patent indirectly by inducing others to infringe and contributing to the infringement of others, such as its customers and end users. For example, KISS knowingly advertises its infringing products to be used in an infringing manner, including on the KISS 388 Accused Products themselves and KISS's website. Exs. 44-48. On information and belief, KISS advertises, sells, and instructs how to use the Accused Products with specific intent to cause infringement or with willful blindness to the resulting infringement.

84. KISS also contributorily infringes the '388 patent by selling or offering to sell infringing products, such as the KISS 388 Accused Products, knowing them to be especially made or especially adapted for practicing the claimed invention of the '388 patent, and not a staple article or commodity of commerce with substantial non-infringing uses. For example, as discussed above, KISS advertises, sells, and instructs how to use the Accused Products, including on the KISS 388 Accused Products themselves and KISS's website, in ways that emphasize the use of such products to perform the claimed methods of the '388 patent. Upon information and belief,

the only way in which to use the Accused Products according to KISS’s advertisements and instructions, and to achieve the benefits stated therein, is to infringe the ’388 patent. Ex. 43. KISS’s advertising and instructions therefore demonstrate that the Accused Products have no substantial non-infringing uses, and that they are specifically intended for practicing the ’388 patent.

85. KISS engaged in such actions with actual knowledge of the ’388 patent and that its actions would cause direct infringement, or alternatively was willfully blind to these facts. Upon information and belief, KISS had knowledge that the KISS 388 Accused Products are especially made or especially adapted for use in infringement of the ’388 patent. Indeed, upon information and belief, KISS copied Lashify’s patented system and methods in developing and offering for sale its own infringing products, including the KISS 388 Accused Products. Lashify also contacted KISS multiple times prior to filing this Complaint, asking that KISS immediately “cease and desist” from using Lashify’s technology and innovations. KISS has refused to do so. KISS has had actual knowledge of the ’388 patent and knowledge that its acts were inducing and contributing to infringement of the ’388 patent since before the filing of this Complaint.

86. KISS’s acts of infringement of the ’388 patent were and are undertaken without authority, permission, or license from Lashify.

b. Infringement of the ’984 Patent

87. KISS imports, sells for importation, and/or sells within the United States after importation articles that infringe claims 1-29 of the ’984 patent (the “KISS 984 Accused Products”).

Following is a non-exhaustive list of the KISS 984 Accused Products:

KISS 984 Accused Products
KISS Falscara Eyelash – Starter Kit 01 SKU: KFCK01
KISS Falscara Eyelash – Wisps 01 – Lengthening Wisps SKU: KFCL01

KISS Falscara Eyelash – Wisps 02 – Volumizing Wisps SKU: KFCL02
KISS Falscara Eyelash – Wisps 03 – Lifting Wisps SKU: KFCL03

88. An exemplary infringement claim chart comparing the asserted independent claims of the '984 patent to a representative KISS 984 Accused Product, the KISS Falscara Eyelash – Starter Kit 01 obtained from KISS, and including photographs and drawings where applicable, is attached as Exhibit 53.

89. The KISS Falscara Eyelash – Starter Kit 01 is representative of the KISS 984 Accused Products for purposes of infringement of the '984 patent.

90. KISS offers for sale and sells the KISS 388 Accused Products to its customers. Exs. 45, 48.

91. The KISS 984 Accused Products infringe, literally and/or under the doctrine of equivalents, claims 1-29 of the '984 patent at the time of importation and sale.

92. After importation, KISS sells the KISS 984 Accused Products to its customers, which include third-party retailers and individual end users.

93. KISS's and its customers' acts of infringement of the '984 patent were and are undertaken without authority, permission, or license from Lashify.

2) Specific Instance of Sale and Importation of the KISS Accused Products

94. The KISS Accused Products are manufactured outside of the United States. For example, the labeling and packaging of the representative KISS Falscara Eyelash - Starter Kit 01 indicates that the products were manufactured outside of the United States. Ex. 54 (photographs of packaging for Falscara Eyelash - Starter Kit 01 showing that products were made in Korea, Indonesia, and China).

95. KISS sells for importation into the United States, imports into the United States, and/or sells within the United States after importation, the KISS Accused Products. For example, Exhibit 55 is a KISS invoice showing the purchase of multiple KISS Accused Products, including the KISS Falscara Eyelash - Starter Kit 01; KISS Falscara Eyelash - Bond & Seal; KISS Falscara Eyelash - Applicator; KISS Falscara Eyelash - Wisps 01 - Lengthening Wisps; and KISS Falscara Eyelash - Wisps 03 - Lifting Wisps, for delivery to an address in the United States. This demonstrates that the KISS Accused Products were and are imported into the United States, sold for importation into the United States, and/or sold after importation into the United States by KISS.

B. Ulta Beauty

96. Ulta Beauty has committed unlawful and unfair acts by importing, selling for importation, and/or selling within the United States after importation articles that infringe the Asserted Patents (“the Ulta Beauty Accused Products”). The Ulta Beauty Accused Products include, without limitation, the following lines of products:

Ulta Beauty Accused Products	Lashify’s Intellectual Property
KISS Falscara Eyelash – Starter Kit 01 SKU: KFCK01 Ulta Beauty Item No.: 2559009	’388 patent; ’984 patent
KISS Falscara Eyelash – Applicator SKU: KFCA01 Ulta Beauty Item No.: 2559008	’388 patent
KISS Falscara Eyelash – Bond & Seal SKU: KFCA01 Ulta Beauty Item No.: 2558997	’388 patent
KISS Falscara Eyelash – Wisps 01 – Lengthening Wisps SKU: KFCL01 Ulta Beauty Item No.: 2558999	’388 patent; ’984 patent
KISS Falscara Eyelash – Wisps 02 – Volumizing Wisps SKU: KFCL02 Ulta Beauty Item No.: 2559001	’388 patent; ’984 patent
KISS Falscara Eyelash – Wisps 03 – Lifting Wisps SKU: KFCL03 Ulta Beauty Item No.: 2559010	’388 patent; ’984 patent

KISS Falscara Eyelash Remover SKU: KFCR01 Ulta Beauty Item No.: 2559006	'388 patent
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1) Infringement of the Asserted Patents

a. Infringement of the '388 Patent

97. Ulta Beauty imports, sells for importation, and/or sells within the United States after importation articles that infringe claims 1-4 and 7-22 of the '388 patent (“the Ulta Beauty 388 Accused Products”). Following is a non-exhaustive list of the Ulta Beauty 388 Accused Products:

Ulta Beauty 388 Accused Products
KISS Falscara Eyelash – Starter Kit 01 SKU: KFCK01 Ulta Beauty Item No.: 2559009
KISS Falscara Eyelash – Applicator SKU: KFCA01 Ulta Beauty Item No.: 2559008
KISS Falscara Eyelash – Bond & Seal SKU: KFCA01 Ulta Beauty Item No.: 2558997
KISS Falscara Eyelash – Wisps 01 – Lengthening Wisps SKU: KFCL01 Ulta Beauty Item No.: 2558999
KISS Falscara Eyelash – Wisps 02 – Volumizing Wisps SKU: KFCL02 Ulta Beauty Item No.: 2559001
KISS Falscara Eyelash – Wisps 03 – Lifting Wisps SKU: KFCL03 Ulta Beauty Item No.: 2559010
KISS Falscara Eyelash Remover SKU: KFCR01 Ulta Beauty Item No.: 2559006

98. An exemplary infringement claim chart comparing the asserted independent claims of the '388 patent to a representative Ulta Beauty 388 Accused Product, the KISS Falscara Eyelash

– Starter Kit 01 obtained from KISS, and including photographs and drawings where applicable, is attached as Exhibit 43.

99. The KISS Falscara Eyelash – Starter Kit 01 is representative of the Ulta Beauty 388 Accused Products for purposes of infringement of the '388 patent.

100. Ulta Beauty offers for sale and sells the Ulta Beauty 388 Accused Products to its customers. Ex. 56-62.

101. On information and belief, Ulta Beauty directly infringes, literally and/or under the doctrine of equivalents, claims 1-4 and 7-22 of the '388 patent because it uses, after importation, the Ulta Beauty 388 Accused Products in a manner that directly infringes the '388 patent. Ulta Beauty's customers also directly infringe the '388 patent by using the Ulta Beauty 388 Accused Products. Ex. 43. For example, a user, such as Ulta Beauty or a customer, first obtains certain of the Ulta Beauty 388 Accused Products, such as the KISS Falscara Eyelash – Starter Kit 01 which contains a lash fusion (KISS's lash wisps). The user then grasps the lash fusions (KISS's lash wisps) with an applicator. Holding the lash fusion with the applicator, the user applies adhesive to the top side of the lash fusion. The user then affixes the top side of the lash fusion, having the adhesive, to the underside of the user's natural upper eyelash.

102. Ulta Beauty's and its customers' acts of infringement of the '388 patent were and are undertaken without authority, permission, or license from Lashify.

103. Ulta Beauty also infringes the '388 patent indirectly by inducing others to infringe and contributing to the infringement of others, such as its customers and end users. For example, Ulta Beauty knowingly advertises its infringing products to be used in an infringing manner, including on the Ulta Beauty 388 Accused Products themselves and Ulta Beauty's website. Exs. 43, 54, 56-63. On information and belief, Ulta Beauty advertises, sells, and instructs how to use the

Ulta Beauty 388 Accused Products with specific intent to cause infringement or with willful blindness to the resulting infringement.

104. Ulta Beauty also contributorily infringes the '388 patent by selling or offering to sell infringing products, such as the Ulta Beauty 388 Accused Products, knowing them to be especially made or especially adapted for practicing the claimed invention of the '388 patent, and not a staple article or commodity of commerce with substantial non-infringing uses. For example, as discussed above, Ulta Beauty advertises, sells, and instructs how to use the Ulta Beauty 388 Accused Products, including on the Ulta Beauty 388 Accused Products themselves and Ulta Beauty's website, in ways that emphasize the use of such products to perform the claimed methods of the '388 patent. Upon information and belief, the only way in which to use the Ulta Beauty 388 Accused Products according to Ulta Beauty's advertisements and instructions, and to achieve the benefits stated therein, is to infringe the '388 patent. Exs. 43, 54, 56-63. Ulta Beauty's advertising and instructions therefore demonstrate that the Ulta Beauty 388 Accused Products have no substantial non-infringing uses, and that they are specifically intended for practicing the '388 patent.

105. Ulta Beauty engaged in such actions with actual knowledge of the '388 patent and that its actions would cause direct infringement, or alternatively was willfully blind to these facts. Lashify contacted Ulta Beauty prior to filing this Complaint, providing a copy of this Complaint and asking that Ulta Beauty immediately cease and desist from using Lashify's technology and innovations. Ulta Beauty has had actual knowledge of the '388 patent and knowledge that its acts were inducing and contributing to infringement of the '388 patent since before the filing of this Complaint.

106. Ulta Beauty's acts of infringement of the '388 patent were and are undertaken without authority, permission, or license from Lashify.

b. Infringement of the '984 Patent

107. Ulta Beauty imports, sells for importation, and/or sells within the United States after importation articles that infringe claims 1-29 of the '984 patent (the "Ulta Beauty 984 Accused Products"). Following is a non-exhaustive list of the Ulta Beauty 984 Accused Products:

Ulta Beauty 984 Accused Products
KISS Falscara Eyelash – Starter Kit 01 SKU: KFCK01 Ulta Beauty Item No.: 2559009
KISS Falscara Eyelash – Wisps 01 – Lengthening Wisps SKU: KFCL01 Ulta Beauty Item No.: 2558999
KISS Falscara Eyelash – Wisps 02 – Volumizing Wisps SKU: KFCL02 Ulta Beauty Item No.: 2559001
KISS Falscara Eyelash – Wisps 03 – Lifting Wisps SKU: KFCL03 Ulta Beauty Item No.: 2559010

108. An exemplary infringement claim chart comparing the asserted independent claims of the '984 patent to a representative Ulta Beauty 984 Accused Product, the KISS Falscara Eyelash – Starter Kit 01 obtained from KISS, and including photographs and drawings where applicable, is attached as Exhibit 53.

109. The KISS Falscara Eyelash – Starter Kit 01 is representative of the Ulta Beauty 984 Accused Products for purposes of infringement of the '984 patent.

110. Ulta Beauty offers for sale and sells the Ulta Beauty 984 Accused Products to its customers. Exs. 56, 59-61.

111. The Ulta Beauty 984 Accused Products infringe, literally and/or under the doctrine of equivalents, claims 1-29 of the '984 patent at the time of importation and sale.

112. After importation, Ulta Beauty sells the Ulta Beauty 984 Accused Products to its customers.

113. Ulta Beauty’s acts of infringement of the ’984 patent were and are undertaken without authority, permission, or license from Lashify.

2) Specific Instance of Sale and Importation of the Accused Products

114. On information and belief, the Ulta Beauty Accused Products are manufactured outside of the United States. For example, the labeling and packaging of the representative KISS Falscara Eyelash - Starter Kit 01 indicates that the products were manufactured outside of the United States. Ex. 54 (photographs of packaging for Falscara Eyelash - Starter Kit 01 showing that products were made in Korea, Indonesia, and China).

115. Ulta Beauty sells for importation into the United States, imports into the United States, and/or sells within the United States after importation, the Ulta Beauty Accused Products. For example, Exhibit 64 is an invoice showing the purchase of the KISS Falscara Eyelash - Starter Kit 01, among other products, from Ulta Beauty for delivery to an address in the United States, as well as the packing slip included with the package as delivered. This demonstrates that the Ulta Beauty Accused Products were and are imported into the United States, sold for importation into the United States, and/or sold after importation into the United States by Ulta Beauty.

C. Walmart

116. Walmart has committed unlawful and unfair acts by importing, selling for importation, and/or selling within the United States after importation articles that infringe the Asserted Patents (“the Walmart Accused Products”). The Walmart Accused Products include, without limitation, the following lines of products:

Walmart Accused Products	Lashify’s Intellectual Property
KISS Falscara Eyelash – Starter Kit 01 SKU: KFCK01 Walmart # 577988994	’388 patent; ’984 patent

KISS Falscara Eyelash – Applicator SKU: KFCA01 Walmart # 578006786	'388 patent
KISS Falscara Eyelash – Bond & Seal SKU: KFCB01 Walmart # 577988996	'388 patent
KISS Falscara Eyelash – Wisps 01 – Lengthening Wisps SKU: KFCL01 Walmart # 578006780	'388 patent; '984 patent
KISS Falscara Eyelash – Wisps 02 – Volumizing Wisps SKU: KFCL02 Walmart # 577988995	'388 patent; '984 patent
KISS Falscara Eyelash – Wisps 03 – Lifting Wisps SKU: KFCL03 Walmart # 578006781	'388 patent; '984 patent
KISS Falscara Eyelash Remover SKU: KFCR01 Walmart # 577988987	'388 patent

1) Infringement of the Asserted Patents

a. Infringement of the '388 Patent

117. Walmart imports, sells for importation, and/or sells within the United States after importation articles that infringe claims 1-4 and 7-22 of the '388 patent (“the Walmart 388 Accused Products”). Following is a non-exhaustive list of the Walmart 388 Accused Products:

Walmart 388 Accused Products
KISS Falscara Eyelash – Starter Kit 01 SKU: KFCK01 Walmart # 577988994
KISS Falscara Eyelash – Applicator SKU: KFCA01 Walmart # 578006786
KISS Falscara Eyelash – Bond & Seal SKU: KFCB01 Walmart # 577988996
KISS Falscara Eyelash – Wisps 01 – Lengthening Wisps SKU: KFCL01 Walmart # 578006780
KISS Falscara Eyelash – Wisps 02 – Volumizing Wisps SKU: KFCL02 Walmart # 577988995

KISS Falscara Eyelash – Wisps 03 – Lifting Wisps SKU: KFCL03 Walmart # 578006781
KISS Falscara Eyelash Remover SKU: KFCR01 Walmart # 577988987

118. An exemplary infringement claim chart comparing the asserted independent claims of the '388 patent to a representative Walmart 388 Accused Product, the KISS Falscara Eyelash – Starter Kit 01 obtained from KISS, and including photographs and drawings where applicable, is attached as Exhibit 43.

119. The KISS Falscara Eyelash – Starter Kit 01 is representative of the Walmart 388 Accused Products for purposes of infringement of the '388 patent.

120. Walmart offers for sale and sells the Walmart 388 Accused Products to its customers. Ex. 65-71.

121. Walmart's customers directly infringe, literally and/or under the doctrine of equivalents, claims 1-4 and 7-22 of the '388 patent by using the Walmart 388 Accused Products. Ex. 43. For example, a user, such as a Walmart customer, first obtains certain of the Walmart 388 Accused Products, such as the KISS Falscara Eyelash – Starter Kit 01 which contains a lash fusion (KISS's lash wisps). The user then grasps the lash fusions (KISS's lash wisps) with an applicator. Holding the lash fusion with the applicator, the user applies adhesive to the top side of the lash fusion. The user then affixes the top side of the lash fusion, having the adhesive, to the underside of the user's natural upper eyelash.

122. Walmart's customers' acts of infringement of the '388 patent were and are undertaken without authority, permission, or license from Lashify.

123. Walmart infringes the '388 patent indirectly by inducing others to infringe and contributing to the infringement of others, such as its customers and end users. For example, Walmart knowingly advertises its infringing products to be used in an infringing manner, including on the Walmart 388 Accused Products themselves and Walmart's website. Exs. 43, 49, 54, 65. On information and belief, Walmart advertises, sells, and instructs how to use the Walmart 388 Accused Products with specific intent to cause infringement or with willful blindness to the resulting infringement.

124. Walmart also contributorily infringes the '388 patent by selling or offering to sell infringing products, such as the Walmart 388 Accused Products, knowing them to be especially made or especially adapted for practicing the claimed invention of the '388 patent, and not a staple article or commodity of commerce with substantial non-infringing uses. For example, as discussed above, Walmart advertises, sells, and instructs how to use the Walmart 388 Accused Products, including on the Walmart 388 Accused Products themselves and Walmart's website, in ways that emphasize the use of such products to perform the claimed methods of the '388 patent. Upon information and belief, the only way in which to use the Walmart 388 Accused Products according to Walmart's advertisements and instructions, and to achieve the benefits stated therein, is to infringe the '388 patent. *Id.* Walmart's advertising and instructions therefore demonstrate that the Walmart 388 Accused Products have no substantial non-infringing uses, and that they are specifically intended for practicing the '388 patent.

125. Walmart engaged in such actions with actual knowledge of the '388 patent and that its actions would cause direct infringement, or alternatively was willfully blind to these facts. Lashify contacted Walmart prior to filing this Complaint, providing a copy of this Complaint and

asking that Walmart immediately cease and desist from using Lashify’s technology and innovations. Walmart has had actual knowledge of the ’388 patent and knowledge that its acts were inducing and contributing to infringement of the ’388 patent since before the filing of this Complaint.

126. Walmart’s acts of infringement of the ’388 patent were and are undertaken without authority, permission, or license from Lashify.

b. Infringement of the ’984 Patent

127. Walmart imports, sells for importation, and/or sells within the United States after importation articles that infringe claims 1-29 of the ’984 patent (the “Walmart 984 Accused Products”). Following is a non-exhaustive list of the Walmart 984 Accused Products:

Walmart 984 Accused Products
KISS Falscara Eyelash – Starter Kit 01 SKU: KFCK01 Walmart # 577988994
KISS Falscara Eyelash – Wisps 01 – Lengthening Wisps SKU: KFCL01 Walmart # 578006780
KISS Falscara Eyelash – Wisps 02 – Volumizing Wisps SKU: KFCL02 Walmart # 577988995
KISS Falscara Eyelash – Wisps 03 – Lifting Wisps SKU: KFCL03 Walmart # 578006781

128. An exemplary infringement claim chart comparing the asserted independent claims of the ’984 patent to a representative Walmart 984 Accused Product, the KISS Falscara Eyelash – Starter Kit 01 obtained from KISS, and including photographs and drawings where applicable, is attached as Exhibit 53.

129. The KISS Falscara Eyelash – Starter Kit 01 is representative of the Walmart 984 Accused Products for purposes of infringement of the ’984 patent.

130. Walmart offers for sale and sells the Walmart 984 Accused Products to its customers. Exs. 65, 68-70.

131. The Walmart 984 Accused Products infringe, literally and/or under the doctrine of equivalents, claims 1-29 of the '984 patent at the time of importation and sale.

132. After importation, Walmart sells the Walmart 984 Accused Products to its customers.

133. Walmart's acts of infringement of the '984 patent were and are undertaken without authority, permission, or license from Lashify.

2) Specific Instance of Sale and Importation of the Accused Products

134. On information and belief, the Walmart Accused Products are manufactured outside of the United States. For example, the labeling and packaging of the representative KISS Falscara Eyelash - Starter Kit 01 indicates that the products were manufactured outside of the United States. Ex. 54 (photographs of packaging for Falscara Eyelash - Starter Kit 01 showing that products were made in Korea, Indonesia, and China).

135. Walmart sells for importation into the United States, imports into the United States, and/or sells within the United States after importation, the Walmart Accused Products. For example, Exhibit 72 is an invoice showing the purchase of the KISS Falscara Eyelash - Starter Kit 01, among other products, from Walmart for delivery to an address in the United States. This demonstrates that the Walmart Accused Products were and are imported into the United States, sold for importation into the United States, and/or sold after importation into the United States by Walmart.

D. CVS

136. CVS has committed unlawful and unfair acts by importing, selling for importation, and/or selling within the United States after importation articles that infringe the Asserted

Patents (“the CVS Accused Products”). The CVS Accused Products include, without limitation, the following lines of products:

CVS Accused Products	Lashify’s Intellectual Property
KISS Falscara Eyelash – Starter Kit 01 SKU: KFCK01 CVS Item # 251737	’388 patent; ’984 patent
KISS Falscara Eyelash – Bond & Seal SKU: KFCE01 CVS Item # 298954	’388 patent
KISS Falscara Eyelash – Wisps 01 – Lengthening Wisps SKU: KFCL01	’388 patent; ’984 patent
KISS Falscara Eyelash – Wisps 02 – Volumizing Wisps SKU: KFCL02 CVS Item # 299232	’388 patent; ’984 patent
KISS Falscara Eyelash – Wisps 03 – Lifting Wisps SKU: KFCL03	’388 patent; ’984 patent

1) Infringement of the Asserted Patents

a. Infringement of the ’388 Patent

137. CVS imports, sells for importation, and/or sells within the United States after importation articles that infringe claims 1-4 and 7-22 of the ’388 patent (“the CVS 388 Accused Products”). Following is a non-exhaustive list of the CVS 388 Accused Products:

CVS 388 Accused Products
KISS Falscara Eyelash – Starter Kit 01 SKU: KFCK01 CVS Item # 251737
KISS Falscara Eyelash – Bond & Seal SKU: KFCE01 CVS Item # 298954
KISS Falscara Eyelash – Wisps 01 – Lengthening Wisps SKU: KFCL01
KISS Falscara Eyelash – Wisps 02 – Volumizing Wisps SKU: KFCL02

CVS Item # 299232
KISS Falscara Eyelash – Wisps 03 – Lifting Wisps SKU: KFCL03

138. An exemplary infringement claim chart comparing the asserted independent claims of the '388 patent to a representative CVS 388 Accused Product, the KISS Falscara Eyelash – Starter Kit 01 obtained from KISS, and including photographs and drawings where applicable, is attached as Exhibit 43.

139. The KISS Falscara Eyelash – Starter Kit 01 is representative of the CVS 388 Accused Products for purposes of infringement of the '388 patent.

140. CVS offers for sale and sells the CVS 388 Accused Products to its customers. Ex. 73.

141. CVS's customers directly infringe, literally and/or under the doctrine of equivalents, claims 1-4 and 7-22 of the '388 patent by using the CVS 388 Accused Products. Ex. 43. For example, a user, such as a CVS customer, first obtains certain of the CVS 388 Accused Products, such as the KISS Falscara Eyelash – Starter Kit 01 which contains a lash fusion (KISS's lash wisps). The user then grasps the lash fusions (KISS's lash wisps) with an applicator. Holding the lash fusion with the applicator, the user applies adhesive to the top side of the lash fusion. The user then affixes the top side of the lash fusion, having the adhesive, to the underside of the user's natural upper eyelash.

142. CVS's customers' acts of infringement of the '388 patent were and are undertaken without authority, permission, or license from Lashify.

143. CVS infringes the '388 patent indirectly by inducing others to infringe and contributing to the infringement of others, such as its customers and end users. For example, CVS knowingly advertises its infringing products to be used in an infringing manner, including on the CVS 388 Accused Products themselves and CVS's website. Exs. 43, 49, 73. On information and belief, CVS advertises, sells, and instructs how to use the CVS 388 Accused Products with specific intent to cause infringement or with willful blindness to the resulting infringement.

144. CVS also contributorily infringes the '388 patent by selling or offering to sell infringing products, such as the CVS 388 Accused Products, knowing them to be especially made or especially adapted for practicing the claimed invention of the '388 patent, and not a staple article or commodity of commerce with substantial non-infringing uses. For example, as discussed above, CVS advertises, sells, and instructs how to use the CVS 388 Accused Products, including on the CVS 388 Accused Products themselves and CVS's website, in ways that emphasize the use of such products to perform the claimed methods of the '388 patent. Upon information and belief, the only way in which to use the CVS 388 Accused Products according to CVS's advertisements and instructions, and to achieve the benefits stated therein, is to infringe the '388 patent. *Id.* CVS's advertising and instructions therefore demonstrate that the CVS 388 Accused Products have no substantial non-infringing uses, and that they are specifically intended for practicing the '388 patent.

145. CVS engaged in such actions with actual knowledge of the '388 patent and that its actions would cause direct infringement, or alternatively was willfully blind to these facts. Lashify contacted CVS prior to filing this Complaint, providing a copy of this Complaint and asking that CVS immediately cease and desist from using Lashify's technology and innovations. CVS has

had actual knowledge of the '388 patent and knowledge that its acts were inducing and contributing to infringement of the '388 patent since before the filing of this Complaint.

146. CVS's acts of infringement of the '388 patent were and are undertaken without authority, permission, or license from Lashify.

b. Infringement of the '984 Patent

147. CVS imports, sells for importation, and/or sells within the United States after importation articles that infringe claims 1-29 of the '984 patent (the "CVS 984 Accused Products").

Following is a non-exhaustive list of the CVS 984 Accused Products:

CVS 984 Accused Products
KISS Falscara Eyelash – Starter Kit 01 SKU: KFCK01 CVS Item # 251737
KISS Falscara Eyelash – Wisps 01 – Lengthening Wisps SKU: KFCL01
KISS Falscara Eyelash – Wisps 02 – Volumizing Wisps SKU: KFCL02 CVS Item # 299232
KISS Falscara Eyelash – Wisps 03 – Lifting Wisps SKU: KFCL03

148. An exemplary infringement claim chart comparing the asserted independent claims of the '984 patent to a representative CVS 984 Accused Product, the KISS Falscara Eyelash – Starter Kit 01 obtained from KISS, and including photographs and drawings where applicable, is attached as Exhibit 53.

149. The KISS Falscara Eyelash – Starter Kit 01 is representative of the CVS 984 Accused Products for purposes of infringement of the '984 patent.

150. CVS offers for sale and sells the CVS 984 Accused Products to its customers. Exs. 73-74.

151. The CVS 984 Accused Products infringe, literally and/or under the doctrine of equivalents, claims 1-29 of the '984 patent at the time of importation and sale.

152. After importation, CVS sells the CVS 984 Accused Products to its customers.

153. CVS's acts of infringement of the '984 patent were and are undertaken without authority, permission, or license from Lashify.

2) Specific Instance of Sale and Importation of the Accused Products

154. On information and belief, the CVS Accused Products are manufactured outside of the United States. For example, the labeling and packaging of the representative KISS Falscara Eyelash - Starter Kit 01 indicates that the products were manufactured outside of the United States. Ex. 54 (photographs of packaging for Falscara Eyelash - Starter Kit 01 showing that products were made in Korea, Indonesia, and China).

155. CVS sells for importation into the United States, imports into the United States, and/or sells within the United States after importation, the CVS Accused Products. For example, Exhibit 74 includes receipts showing the purchase of the KISS Falscara Eyelash - Starter Kit 01, among other products, from CVS at a location in the United States. This demonstrates that the CVS Accused Products sold for importation into the United States, and/or sold after importation into the United States by CVS.

E. Hollyren

156. Hollyren has committed unlawful and unfair acts by importing, selling for importation, and/or selling within the United States after importation articles that infringe certain of the Asserted Patents (the "Hollyren Accused Products"). The Hollyren Accused Products include, without limitation, the following lines of products:

Hollyren Accused Products	Lashify's Intellectual Property
Hollyren Superfine Band Cluster Lashes, including Product Nos. DD702, DD703, DD704, DD705, DD706, and DD707	'388 patent; '984 patent; '416 patent
Hollyren Metal Eyelash Applicator Product No: 06B3	'388 patent; '664 patent
Hollyren Superfine Band Cluster Eyelash Glue	'388 patent

1) Infringement of the Asserted Patents

a. Infringement of the '388 Patent

157. Hollyren imports, sells for importation, and/or sells within the United States after importation certain of the Hollyren Accused Products that infringe claims 1-4 and 7-22 of the '388 patent (the "Hollyren 388 Accused Products"). Following is a non-exhaustive list of the Hollyren 388 Accused Products:

Hollyren 388 Accused Products
Hollyren Superfine Band Cluster Lashes, including Product Nos. DD702, DD703, DD704, DD705, DD706, and DD707
Hollyren Metal Eyelash Applicator Product No: 06B3
Hollyren Superfine Band Cluster Eyelash Glue

158. An exemplary infringement claim chart comparing the asserted independent claims of the '388 patent to a representative Hollyren 388 Accused Product, the Hollyren Superfine Band Cluster Lashes, Product No. DD703, and including photographs and drawings where applicable, is attached as Exhibit 75.

159. The Hollyren Superfine Band Cluster Lashes, Product No. DD703, is representative of the Hollyren 388 Accused Products for purposes of infringement of the '388 patent.

160. Hollyren offers for sale and sells the Hollyren 388 Accused Products to its customers. Exs. 76-81.

161. Hollyren's customers of the Hollyren 388 Accused Products directly infringe, literally and/or under the doctrine of equivalents, claims 1-4 and 7-22 of the '388 patent by using the Hollyren 388 Accused Products. Ex. 75. For example, a customer first obtains certain of the Hollyren 388 Accused Products, such as the Hollyren Superfine Band Cluster Lashes, Product No. DD703. The customer applies adhesive to the underside of the customer's natural eyelash. The customer then grasps the lash fusions (Hollyren's Superfine Band Cluster lashes) with an applicator. Holding the lash fusion with the applicator, if the customer has not previously applied adhesive to the underside of their natural eyelash, the customer applies adhesive to the top side of the lash fusion. The customer then affixes the top side of the lash fusion to the underside of the customer's natural upper eyelash.

162. Hollyren also indirectly infringes the '388 patent by inducing others to infringe and contributing to the infringement of the '388 patent by others, such as its customers and end users. For example, Hollyren knowingly advertises its infringing products to be used in an infringing manner, including on the Hollyren 388 Accused Products themselves and Hollyren's website. Ex. 75; Ex. 81 at 30-31. On information and belief, Hollyren advertises, sells, and instructs how to use the Hollyren 388 Accused Products with specific intent to cause infringement or with willful blindness to the resulting infringement.

163. Hollyren also contributorily infringes the '388 patent by selling or offering to sell infringing products, such as the Hollyren 388 Accused Products, knowing them to be especially made or especially adapted for practicing the claimed invention of the '388 patent, and not a staple article or commodity of commerce with substantial non-infringing uses. For example, as discussed above, Hollyren advertises, sells, and instructs how to use the Hollyren 388 Accused Products, including on the Hollyren 388 Accused Products themselves and Hollyren's website, in ways that

emphasize the use of such products to perform the claimed methods of the '388 patent. Upon information and belief, the only way in which to use the Hollyren 388 Accused Products according to Hollyren's advertisements and instructions, and to achieve the benefits stated therein, is to infringe the '388 patent. *Id.* Hollyren's advertising and instructions therefore demonstrate that the Hollyren 388 Accused Products have no substantial non-infringing uses, and that they are specifically intended for practicing the '388 patent.

164. Hollyren engaged in such actions with actual knowledge of the '388 patent and that its actions would cause direct infringement, or alternatively was willfully blind to these facts. Lashify contacted Hollyren prior to filing this Complaint, providing a copy of this Complaint and asking that Hollyren immediately cease and desist from using Lashify's technology and innovations. Hollyren has had actual knowledge of the '388 patent and knowledge that its acts were inducing and contributing to infringement of the '388 patent since before the filing of this Complaint.

165. Hollyren's and its end user customers' acts of infringement of the '388 patent were and are undertaken without authority, permission, or license from Lashify.

b. Infringement of the '984 Patent

166. Hollyren imports, sells for importation, and/or sells within the United States after importation certain of the Hollyren Accused Products that infringe claims 1-29 of the '984 patent (the "Hollyren 984 Accused Products"). Following is a non-exhaustive list of the Hollyren 984 Accused Products:

Hollyren 984 Accused Products
Hollyren Superfine Band Cluster Lashes, including Product Nos. DD702, DD703, DD704, DD705, DD706, and DD707

167. An exemplary infringement claim chart comparing the asserted independent claims of the '984 patent to a representative Hollyren 984 Accused Product, the Hollyren Superfine Band Cluster Lashes, Product No. DD703, and including photographs and drawings where applicable, is attached as Exhibit 82.

168. The Hollyren Superfine Band Cluster Lashes, Product No. DD703, is representative of the Hollyren 984 Accused Products for purposes of infringement of the '984 patent.

169. Hollyren offers for sale and sells the Hollyren 984 Accused Products to its customers. Exs. 76-81.

170. Hollyren directly infringes, literally and/or under the doctrine of equivalents, claims 1-29 of the '984 patent because it imports the Hollyren 984 Accused Products, which directly infringe the '984 patent at the time of their importation into the United States.

171. Hollyren's acts of infringement of the '984 patent were and are undertaken without authority, permission, or license from Lashify.

c. Infringement of the '416 Patent

172. Hollyren imports, sells for importation, and/or sells within the United States after importation certain Hollyren Accused Products that directly infringe the ornamental design of the '416 patent (the "Hollyren 416 Accused Products"). Following is a non-exhaustive list of the Hollyren 416 Accused Products:

Hollyren 416 Accused Products
Hollyren Superfine Band Cluster Lashes, including Product Nos. DD702, DD703, DD704, DD705, DD706, and DD707

173. An exemplary infringement claim chart comparing the ornamental design of the '416 patent to a representative Hollyren 416 Accused Product, the storage cartridge included with

the Hollyren Superfine Band Cluster Lashes and purchased through Respondent Xizi Lashes, and including photographs and drawings where applicable, is attached as Exhibit 83.

174. The storage cartridge included with the Hollyren Superfine Band Cluster Lashes is representative of the Hollyren 416 Accused Products for purposes of infringement of the '416 patent.

175. Hollyren offers for sale and sells the Hollyren 416 Accused Products to its customers. Exs. 76-81.

176. The Hollyren 416 Accused Products infringe the ornamental design of the '416 patent at the time of importation into the United States. The Hollyren 416 Accused Products infringe the '416 patent because, in the eye of an ordinary observer, giving such attention as a purchaser usually does, the ornamental design of the '416 patent and the ornamental design of the Hollyren 416 Accused Products are substantially the same.

177. Hollyren's acts of infringement of the '416 patent were and are undertaken without authority, permission, or license from Lashify.

d. Infringement of the '664 Patent

178. Hollyren imports, sells for importation, and/or sells within the United States after importation certain Hollyren Accused Products that directly infringe the ornamental design of the '664 patent (the "Hollyren 664 Accused Products"). Following is a non-exhaustive list of the Hollyren 664 Accused Products:

Hollyren 664 Accused Products
Hollyren Metal Eyelash Applicator Product No: 06B3

179. An exemplary infringement claim chart comparing the ornamental design of the '664 patent to a representative Hollyren 664 Accused Product, the Hollyren Metal Eyelash Applicator, Product No. 06B3, is attached as Exhibit 84.

180. The Hollyren Metal Eyelash Applicator, Product No. 06B3, is representative of the Hollyren 664 Accused Products for purposes of infringement of the '664 patent.

181. Hollyren offers for sale and sells the Hollyren 664 Accused Products to its customers. Ex. 81 at 31, 33-35.

182. The Hollyren 664 Accused Products infringe the ornamental design of the '664 patent at the time of importation into the United States. The Hollyren 664 Accused Products infringe the '664 patent because, in the eye of an ordinary observer, giving such attention as a purchaser usually does, the ornamental design of the '664 patent and the ornamental design of the Hollyren 664 Accused Products are substantially the same.

183. Hollyren's acts of infringement of the '664 patent were and are undertaken without authority, permission, or license from Lashify.

2) Specific Instance of Sale and Importation of the Accused Products

184. The Hollyren Accused Products are manufactured outside of the United States. For example, the shipping packaging of the representative Hollyren Superfine Band Cluster Lashes, Product No. DD703 indicates that the products were manufactured outside of the United States. Ex. 85 (photographs of shipping packaging for, *inter alia*, the Hollyren Superfine Band Cluster Lashes, Product No. DD703 showing that the products originated in Qingdao, China). Hollyren's website further indicates that Hollyren manufactures its products in Qingdao, China. Ex. 27.

185. Hollyren sells for importation into the United States, imports into the United States, and/or sells within the United States after importation, the Hollyren Accused Products. For example, Exhibit 86 is a Hollyren invoice showing the purchase of multiple Hollyren Accused Products, including the Hollyren Superfine Band Cluster Lashes, Product Nos. DD703, DD705, and the Hollyren Superfine Band Cluster Eyelash Glue. *See also* Ex. 85 (photographs of shipping packaging showing that products originated in Qingdao, China). With respect to the Hollyren Metal Eyelash Applicator, Product No. 06B3, Exhibit 87 is a copy of an invoice dated December 18, 2019 from Hollyren to Anna Marti Cosmetic, Inc. for “500 Pcs” of “Applicator 2019 Rose Gold.” The invoice lists Qingdao, China—where Hollyren is located—as the “Port of Shipment” and United States as the destination, with terms stating that “Shipping Charges” are “USD255” and payment terms requiring “100%” in advance. *Id.* at 1-2. Anna Marti Cosmetics has represented to Lashify that these applicators were received in the United States. Anna Marti Cosmetics also informed Lashify that the photographs shown in Exhibit 88 depict the applicators that Anna Marti Cosmetics ordered from Hollyren. As shown in Exhibit 84, and on information and belief, this applicator is the same as, or insubstantially different from, the accused Hollyren Metal Eyelash Applicator, Product No. 06B3. This demonstrates that the Hollyren Accused Products were and are imported into the United States, sold for importation into the United States, and/or sold after importation into the United States by Hollyren.

F. Xizi Lashes

186. Xizi Lashes has committed unlawful and unfair acts by importing, selling for importation, and/or selling within the United States after importation articles that infringe certain of the Asserted Patents (the “Xizi Lashes Accused Products”). The Xizi Lashes Accused Products include, without limitation, the following lines of products:

Xizi Lashes Accused Products	Lashify's Intellectual Property
Gossamer Lashes Superfine Band Clusters, including Product Styles 702, 703, 704, 705, 706, and 707	'388 patent; '984 patent; '416 patent

187. As described in this Complaint, on information and belief, the Xizi Lashes Accused Products are manufactured by Hollyren, and are the same as the Hollyren Accused Products (Product Nos. DD702-DD707, described above).

1) Infringement of the Asserted Patents

a. Infringement of the '388 Patent

188. Xizi Lashes imports, sells for importation, and/or sells within the United States after importation certain of the Xizi Lashes Accused Products that infringe claims 1-4 and 7-22 of the '388 patent (the "Xizi Lashes 388 Accused Products"). Following is a non-exhaustive list of the Xizi Lashes 388 Accused Products:

Xizi Lashes 388 Accused Products
Gossamer Lashes Superfine Band Clusters, including Product Styles 702, 703, 704, 705, 706, and 707

189. An exemplary infringement claim chart comparing the asserted independent claims of the '388 patent to a representative Xizi Lashes 388 Accused Product, the Gossamer Lashes Superfine Band Cluster, Xizi Product Style No. 703, which is the same product as the accused Hollyren Superfine Band Cluster Lashes, Product No. DD703, and including photographs and drawings where applicable, is attached as Exhibit 89.

190. The Xizi Lashes Gossamer Lashes Superfine Band Cluster, Xizi Product Style No. 703, is representative of the Xizi Lashes 388 Accused Products for purposes of infringement of the '388 patent.

191. Xizi Lashes offers for sale and sells the Xizi Lashes 388 Accused Products to its customers. Exs. 90-91.

192. Xizi Lashes's customers of the Xizi Lashes 388 Accused Products directly infringe, literally and/or under the doctrine of equivalents, claims 1-4 and 7-22 of the '388 patent by using the Xizi Lashes 388 Accused Products. Ex. 89. For example, a customer first obtains certain of the Xizi Lashes 388 Accused Products, such as the Xizi Lashes Gossamer lashes Superfine Band Cluster, Xizi Product Style No. 703. The customer applies adhesive to the underside of the customer's natural eyelash. The customer then grasps the lash fusions (Xizi Lashes's Gossamer Lashes Superfine Band Cluster lashes) with an applicator. Holding the lash fusion with the applicator, if the customer has not previously applied adhesive to the underside of their natural eyelash, the customer applies adhesive to the top side of the lash fusion. The customer then affixes the top side of the lash fusion to the underside of the customer's natural upper eyelash.

193. Xizi Lashes also indirectly infringes the '388 patent by inducing others to infringe and contributing to the infringement of the '388 patent by others, such as its customers and end users. For example, Xizi Lashes knowingly advertises its infringing products to be used in an infringing manner, including on the Xizi Lashes 388 Accused Products themselves and Xizi Lashes's website. Exs. 89-91. On information and belief, Xizi Lashes advertises, sells, and instructs how to use the Xizi Lashes 388 Accused Products with specific intent to cause infringement or with willful blindness to the resulting infringement.

194. Xizi Lashes also contributorily infringes the '388 patent by selling or offering to sell infringing products, such as the Xizi Lashes 388 Accused Products, knowing them to be especially made or especially adapted for practicing the claimed invention of the '388 patent, and not a staple article or commodity of commerce with substantial non-infringing uses. For example, as

discussed above, Xizi Lashes advertises, sells, and instructs how to use the Xizi Lashes 388 Accused Products, including on the Xizi Lashes 388 Accused Products themselves and Xizi Lashes's website, in ways that emphasize the use of such products to perform the claimed methods of the '388 patent. Upon information and belief, the only way in which to use the Xizi Lashes 388 Accused Products according to Xizi Lashes's advertisements and instructions, and to achieve the benefits stated therein, is to infringe the '388 patent. *Id.* Xizi Lashes's advertising and instructions therefore demonstrate that the Xizi Lashes 388 Accused Products have no substantial non-infringing uses, and that they are specifically intended for practicing the '388 patent.

195. Xizi Lashes engaged in such actions with actual knowledge of the '388 patent and that its actions would cause direct infringement, or alternatively was willfully blind to these facts. Lashify contacted Xizi Lashes prior to filing this Complaint, providing a copy of this Complaint and asking that Xizi Lashes immediately cease and desist from using Lashify's technology and innovations. Xizi Lashes has had actual knowledge of the '388 patent and knowledge that its acts were inducing and contributing to infringement of the '388 patent since before the filing of this Complaint.

196. Xizi Lashes's and its end user customers' acts of infringement of the '388 patent were and are undertaken without authority, permission, or license from Lashify.

b. Infringement of the '984 Patent

197. Xizi Lashes imports, sells for importation, and/or sells within the United States after importation certain of the Xizi Lashes Accused Products that infringe claims 1-29 of the '984 patent (the "Xizi Lashes 984 Accused Products"). Following is a non-exhaustive list of the Xizi Lashes 984 Accused Products:

Xizi Lashes 984 Accused Products

Gossamer Lashes Superfine Band Clusters, including Product Styles 702, 703, 704, 705, 706, and 707
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198. An exemplary infringement claim chart comparing the asserted independent claims of the '984 patent to a representative Xizi Lashes 984 Accused Product, the Xizi Lashes Gossamer Lashes Superfine Band Cluster, Xizi Product Style No. 703, which is the same product as the accused Hollyren Superfine Band Cluster Lashes, Product No. DD703, and including photographs and drawings where applicable, is attached as Exhibit 92.

199. The Xizi Lashes Gossamer Lashes Superfine Band Cluster, Xizi Product Style No. 703 is representative of the Xizi Lashes 984 Accused Products for purposes of infringement of the '984 patent.

200. Xizi Lashes offers for sale and sells the Xizi Lashes 984 Accused Products to its customers. Exs. 90-91.

201. The Xizi Lashes 984 Accused Products infringe, literally and/or under the doctrine of equivalents, claims 1-29 of the '984 patent at the time of importation and sale.

202. After importation, Xizi Lashes sells the Xizi Lashes 984 Accused Products to its customers.

203. Xizi Lashes's acts of infringement of the '984 patent were and are undertaken without authority, permission, or license from Lashify.

c. Infringement of the '416 Patent

204. Xizi Lashes imports, sells for importation, and/or sells within the United States after importation certain Xizi Lashes Accused Products that directly infringe the ornamental design of the '416 patent (the "Xizi Lashes 416 Accused Products"). Following is a non-exhaustive list of the Xizi Lashes 416 Accused Products:

Xizi Lashes 416 Accused Products
Gossamer Lashes Superfine Band Clusters, including Product Styles 702, 703, 704, 705, 706, and 707

205. An exemplary infringement claim chart comparing the ornamental design of the '416 patent to a representative Xizi Lashes 416 Accused Product, the storage cartridge included with the Xizi Lashes Gossamer Lashes Superfine Band Cluster, and including photographs and drawings where applicable, is attached as Exhibit 93.

206. The storage cartridge included with the Xizi Lashes Gossamer Lashes Superfine Band Cluster, is representative of the Xizi Lashes 416 Accused Products for purposes of infringement of the '416 patent.

207. Xizi Lashes offers for sale and sells the Xizi Lashes 416 Accused Products to its customers. Exs. 90-91.

208. The Xizi Lashes 416 Accused Products infringe the ornamental design of the '416 patent at the time of importation and sale into the United States. The Xizi Lashes 416 Accused Products infringe the '416 patent because, in the eye of an ordinary observer, giving such attention as a purchaser usually does, the ornamental design of the '416 patent and the ornamental design of the Xizi Lashes 416 Accused Products are substantially the same.

209. Xizi Lashes's acts of infringement of the '416 patent were and are undertaken without authority, permission, or license from Lashify.

2) Specific Instance of Sale and Importation of the Accused Products

210. The Xizi Lashes Accused Products are manufactured outside of the United States. For example, the shipping packaging of the representative Xizi Lashes Gossamer Lashes Superfine Band Cluster, Xizi Product Style No. 703, indicates that the products were manufactured outside of the United States. Ex. 30 (photograph of shipping packaging for, *inter alia*, the Xizi Lashes

Gossamer Lashes Superfine Band Cluster, Xizi Product Style No. 703 showing that the products originated in Qingdao, China). Xizi Lashes’s website further indicates that Xizi Lashes manufactures its products at eyelash factories located in Qingdao, China. Ex. 29.

211. Xizi Lashes sells for importation into the United States, imports into the United States, and/or sells within the United States after importation, the Xizi Lashes Accused Products. For example, Exhibit 31 is an invoice showing the purchase of multiple Xizi Lashes Accused Products, including the Xizi Lashes Gossamer Lashes Superfine Band Cluster, Xizi Product Style Nos. 702, 703, 704, and 705, as well as Xizi Lashes storage cartridges. *See also* Ex. 30 (photograph of shipping packaging showing that products originated in Qingdao, China). Notably, although Xizi Lashes holds itself out to be its own company, both the shipping packaging and the product invoice indicate that the Xizi Lashes Accused Products were provided by Hollyren, not by Xizi Lashes. Exs. 30-31. This demonstrates that the Xizi Lashes Accused Products were and are imported into the United States, sold for importation into the United States, and/or sold after importation into the United States by Xizi Lashes.

G. Worldbeauty

212. Worldbeauty has committed unlawful and unfair acts by importing, selling for importation, and/or selling within the United States after importation articles that infringe certain of the Asserted Patents (the “Worldbeauty Accused Products”). The Worldbeauty Accused Products include, without limitation, the following lines of products:

Worldbeauty Accused Products	Lashify’s Intellectual Property
Worldbeauty Wholesale Natural Cluster Eye-Lashes Wispies	’388 patent; ’984 patent

1) Infringement of the Asserted Patents

a. Infringement of the '388 Patent

213. Worldbeauty imports, sells for importation, and/or sells within the United States after importation certain of the Worldbeauty Accused Products that infringe claims 1-4 and 7-22 of the '388 patent (the "Worldbeauty 388 Accused Products"). Following is a non-exhaustive list of the Worldbeauty 388 Accused Products:

Worldbeauty 388 Accused Products
Worldbeauty Wholesale Natural Cluster Eye-Lashes Wispies

214. An exemplary infringement claim chart comparing the asserted independent claims of the '388 patent to a representative Worldbeauty 388 Accused Product, the Worldbeauty Wholesale Natural Cluster Eye-Lashes Wispies, and including photographs and drawings where applicable, is attached as Exhibit 94.

215. The Worldbeauty Wholesale Natural Cluster Eye-Lashes Wispies is representative of the Worldbeauty 388 Accused Products for purposes of infringement of the '388 patent.

216. Worldbeauty offers for sale and sells the Worldbeauty 388 Accused Products to its customers. Exs. 95-96.

217. Worldbeauty's customers of the Worldbeauty 388 Accused Products directly infringe, literally and/or under the doctrine of equivalents, claims 1-4 and 7-22 of the '388 patent by using the Worldbeauty 388 Accused Products. Ex. 94. For example, a customer first obtains certain of the Worldbeauty 388 Accused Products, such as the Worldbeauty Wholesale Natural Cluster Eye-Lashes Wispies. The customer applies adhesive to the underside of the customer's natural eyelash. The customer then grasps the lash fusions (the Worldbeauty Wholesale Natural Cluster Eye-Lashes Wispies) with an applicator. Holding the lash fusion with the applicator, if

the customer has not previously applied adhesive to the underside of their natural eyelash, the customer applies adhesive to the top side of the lash fusion. The customer then affixes the top side of the lash fusion to the underside of the customer's natural upper eyelash.

218. Worldbeauty also indirectly infringes the '388 patent by inducing others to infringe and contributing to the infringement of the '388 patent by others, such as its customers and end users. For example, Worldbeauty knowingly advertises its infringing products to be used in an infringing manner, including on the Worldbeauty 388 Accused Products themselves and Worldbeauty's website. Exs. 94-96. On information and belief, Worldbeauty advertises, sells, and instructs how to use the Worldbeauty 388 Accused Products with specific intent to cause infringement or with willful blindness to the resulting infringement.

219. Worldbeauty also contributorily infringes the '388 patent by selling or offering to sell infringing products, such as the Worldbeauty 388 Accused Products, knowing them to be especially made or especially adapted for practicing the claimed invention of the '388 patent, and not a staple article or commodity of commerce with substantial non-infringing uses. For example, as discussed above, Worldbeauty advertises, sells, and instructs how to use the Worldbeauty 388 Accused Products, including on the Worldbeauty 388 Accused Products themselves and Worldbeauty's website, in ways that emphasize the use of such products to perform the claimed methods of the '388 patent. Upon information and belief, the only way in which to use the Worldbeauty 388 Accused Products according to Worldbeauty's advertisements and instructions, and to achieve the benefits stated therein, is to infringe the '388 patent. *Id.* Worldbeauty's advertising and instructions therefore demonstrate that the Worldbeauty 388 Accused Products have no substantial non-infringing uses, and that they are specifically intended for practicing the '388 patent.

220. Worldbeauty engaged in such actions with actual knowledge of the '388 patent and that its actions would cause direct infringement, or alternatively was willfully blind to these facts. Lashify contacted Worldbeauty prior to filing this Complaint, providing a copy of this Complaint and asking that Worldbeauty immediately cease and desist from using Lashify's technology and innovations. Worldbeauty has had actual knowledge of the '388 patent and knowledge that its acts were inducing and contributing to infringement of the '388 patent since before the filing of this Complaint.

221. Worldbeauty's and its end user customers' acts of infringement of the '388 patent were and are undertaken without authority, permission, or license from Lashify.

b. Infringement of the '984 Patent

222. Worldbeauty imports, sells for importation, and/or sells within the United States after importation certain of the Worldbeauty Accused Products that infringe claims 1-29 of the '984 patent (the "Worldbeauty 984 Accused Products"). Following is a non-exhaustive list of the Worldbeauty 984 Accused Products:

Worldbeauty 984 Accused Products
Worldbeauty Wholesale Natural Cluster Eye-Lashes Wispies

223. An exemplary infringement claim chart comparing the asserted independent claims of the '984 patent to a representative Worldbeauty 984 Accused Product, the Worldbeauty Wholesale Natural Cluster Eye-Lashes Wispies, and including photographs and drawings where applicable, is attached as Exhibit 97.

224. The Worldbeauty Wholesale Natural Cluster Eye-Lashes Wispies is representative of the Worldbeauty 984 Accused Products for purposes of infringement of the '984 patent.

225. Worldbeauty offers for sale and sells the Worldbeauty 984 Accused Products to its customers. Exs. 95-96.

226. The Worldbeauty 984 Accused Products infringe, literally and/or under the doctrine of equivalents, claims 1-29 of the '984 patent at the time of importation and sale.

227. After importation, Worldbeauty sells the Worldbeauty 984 Accused Products to its customers.

228. Worldbeauty's acts of infringement of the '984 patent were and are undertaken without authority, permission, or license from Lashify.

2) Specific Instance of Sale and Importation of the Accused Products

229. The Worldbeauty Accused Products are manufactured outside of the United States. For example, the shipping packaging of the representative Worldbeauty Wholesale Natural Cluster Eye-Lashes Wispies indicates that the products were manufactured outside of the United States. Ex. 98 (photographs of shipping packaging for the Worldbeauty Wholesale Natural Cluster Eye-Lashes Wispies showing that the products originated in Qingdao, China). Worldbeauty's website further indicates that Worldbeauty manufactures its products and maintains facilities in Qingdao, China. Ex. 33.

230. Worldbeauty sells for importation into the United States, imports into the United States, and/or sells within the United States after importation, the Worldbeauty Accused Products. For example, Exhibit 99 is an invoice showing the purchase of Worldbeauty Accused Products, including the Worldbeauty Wholesale Natural Cluster Eye-Lashes Wispies, for delivery to the United States. *See also* Ex. 98 (photographs of shipping packaging showing that products originated in Qingdao, China). This demonstrates that the Worldbeauty Accused Products were and

are imported into the United States, sold for importation into the United States, and/or sold after importation into the United States by Worldbeauty.

H. Lilac St.

231. Lilac St. has committed unlawful and unfair acts by importing, selling for importation, and/or selling within the United States after importation articles that infringe certain of the Asserted Patents (the “Lilac St. Accused Products”). The Lilac St. Accused Products include, without limitation, the following lines of products:

Lilac St. Accused Products	Lashify’s Intellectual Property
Starter Kit	’388 patent; ’984 patent
Lilac Lashes, including 10mm, 12mm, 14mm, and 16mm lengths	’388 patent; ’984 patent
Lilac Lash Glue	’388 patent; ’984 patent
Lilac Lash Applicator	’388 patent; ’984 patent

1) Infringement of the Asserted Patents

a. Infringement of the ’388 Patent

232. Lilac St. imports, sells for importation, and/or sells within the United States after importation certain of the Lilac St. Accused Products that infringe claims 1-4 and 7-22 of the ’388 patent (the “Lilac St. 388 Accused Products”). Following is a non-exhaustive list of the Lilac St. 388 Accused Products:

Lilac St. 388 Accused Products
Starter Kit
Lilac Lashes, including 10mm, 12mm, 14mm, and 16mm lengths
Lilac Lash Glue
Lilac Lash Applicator

233. An exemplary infringement claim chart comparing the asserted independent claims of the '388 patent to a representative Lilac St. 388 Accused Product, the Lilac St. Starter Kit, and including photographs and drawings where applicable, is attached as Exhibit 100.

234. The Lilac St. Starter Kit is representative of the Lilac St. 388 Accused Products for purposes of infringement of the '388 patent.

235. Lilac St. offers for sale and sells the Lilac St. 388 Accused Products to its customers. Exs. 37, 101-104.

236. Lilac St.'s customers of the Lilac St. 388 Accused Products directly infringe, literally and/or under the doctrine of equivalents, claims 1-4 and 7-22 of the '388 patent by using the Lilac St. 388 Accused Products. Ex. 100. For example, a customer first obtains certain of the Lilac St. 388 Accused Products, such as the Lilac St. Starter Kit. The customer applies adhesive to the underside of the customer's natural eyelash. The customer then grasps the lash fusions (included in the Lilac St. Starter Kit) with an applicator. Holding the lash fusion with the applicator, if the customer has not previously applied adhesive to the underside of their natural eyelash, the customer applies adhesive to the top side of the lash fusion. The customer then affixes the top side of the lash fusion to the underside of the customer's natural upper eyelash.

237. Lilac St. also indirectly infringes the '388 patent by inducing others to infringe and contributing to the infringement of the '388 patent by others, such as its customers and end users. For example, Lilac St. knowingly advertises its infringing products to be used in an infringing manner, including on the Lilac St. 388 Accused Products themselves and Lilac St.'s website. Exs. 37, 101-104. On information and belief, Lilac St. advertises, sells, and instructs how to use the Lilac St. 388 Accused Products with specific intent to cause infringement or with willful blindness to the resulting infringement.

238. Lilac St. also contributorily infringes the '388 patent by selling or offering to sell infringing products, such as the Lilac St. 388 Accused Products, knowing them to be especially made or especially adapted for practicing the claimed invention of the '388 patent, and not a staple article or commodity of commerce with substantial non-infringing uses. For example, as discussed above, Lilac St. advertises, sells, and instructs how to use the Lilac St. 388 Accused Products, including on the Lilac St. 388 Accused Products themselves and Lilac St.'s website, in ways that emphasize the use of such products to perform the claimed methods of the '388 patent. Upon information and belief, the only way in which to use the Lilac St. 388 Accused Products according to Lilac St.'s advertisements and instructions, and to achieve the benefits stated therein, is to infringe the '388 patent. *Id.* Lilac St.'s advertising and instructions therefore demonstrate that the Lilac St. 388 Accused Products have no substantial non-infringing uses, and that they are specifically intended for practicing the '388 patent.

239. Lilac St. engaged in such actions with actual knowledge of the '388 patent and that its actions would cause direct infringement, or alternatively was willfully blind to these facts. Lashify contacted Lilac St. prior to filing this Complaint, including by letter and by filing a district court complaint, and asking that Lilac St. immediately cease and desist from using Lashify's technology and innovations. Lilac St. has had actual knowledge of the '388 patent and knowledge that its acts were inducing and contributing to infringement of the '388 patent since before the filing of this Complaint.

240. Lilac St.'s and its end user customers' acts of infringement of the '388 patent were and are undertaken without authority, permission, or license from Lashify.

b. Infringement of the '984 Patent

241. Lilac St. imports, sells for importation, and/or sells within the United States after importation certain of the Lilac St. Accused Products that infringe claims 1-29 of the '984 patent

(the “Lilac St. 984 Accused Products”). Following is a non-exhaustive list of the Lilac St. 984 Accused Products:

Lilac St. 984 Accused Products
Starter Kit
Lilac Lashes, including 10mm, 12mm, 14mm, and 16mm lengths

242. An exemplary infringement claim chart comparing the asserted independent claims of the '984 patent to a representative Lilac St. 984 Accused Product, the Lilac St. Starter Kit, and including photographs and drawings where applicable, is attached as Exhibit 105.

243. The Lilac St. Starter Kit is representative of the Lilac St. 984 Accused Products for purposes of infringement of the '984 patent.

244. Lilac St. offers for sale and sells the Lilac St. 984 Accused Products to its customers. Exs. 37, 101-102.

245. The Lilac St. 984 Accused Products infringe, literally and/or under the doctrine of equivalents, claims 1-29 of the '984 patent at the time of importation and sale.

246. After importation, Lilac St. sells the Lilac St. 984 Accused Products to its customers.

247. Lilac St.'s acts of infringement of the '984 patent were and are undertaken without authority, permission, or license from Lashify.

2) Specific Instance of Sale and Importation of the Accused Products

248. The Lilac St. Accused Products are manufactured outside of the United States. For example, Lilac St. has informed Lashify that at least some of its products are manufactured by a foreign factory that uses the WhatsApp number +86 153 7670 9886. Although Lilac St. has refused to identify its manufacturer by name, the WhatsApp number provided by Lilac St. appears

on the Alibaba.com website of Worldbeauty. Ex. 106 (further indicating that Worldbeauty is located in China). Lilac St.’s website further indicates that its Accused Products are comprised of “100% Korean Silk lash fibers.” Ex. 101.

249. Lilac St. sells for importation into the United States, imports into the United States, and/or sells within the United States after importation, the Lilac St. Accused Products. For example, Exhibits 107 and 108 are an invoice and shipping confirmation showing the purchase of Lilac St. Accused Products, including the Lilac St. Starter Kit, for delivery to an address in the United States. This demonstrates that the Lilac St. Accused Products were and are imported into the United States, sold for importation into the United States, and/or sold after importation into the United States by Lilac St.

I. Avant Garde

250. Avant Garde has committed unlawful and unfair acts by importing, selling for importation, and/or selling within the United States after importation articles that infringe certain of the Asserted Patents (the “Avant Garde Accused Products”). The Avant Garde Accused Products include, without limitation, the following lines of products:

Avant Garde Accused Products	Lashify’s Intellectual Property
Starter Kit	’388 patent; ’984 patent; ’416 patent
Au Naturelle Lashes	’388 patent; ’984 patent; ’416 patent
Dreamer Lashes	’388 patent; ’984 patent; ’416 patent
Flutter Lashes	’388 patent; ’984 patent; ’416 patent
Iconic Lashes	’388 patent; ’984 patent; ’416 patent
Luxe Lashes	’388 patent; ’984 patent; ’416 patent
Avant Garde Lash Glue	’388 patent; ’984 patent
Avant Garde Applicator	’388 patent

251. As described in this Complaint, on information and belief, the Avant Garde Accused Products are manufactured by Hollyren, and are the same as the Hollyren Accused Products, described above. On information and belief, Avant Garde acts as a distributor that rebrands and resells the Hollyren Accused Products in the United States.

1) Infringement of the Asserted Patents

a. Infringement of the '388 Patent

252. Avant Garde imports, sells for importation, and/or sells within the United States after importation certain of the Avant Garde Accused Products that infringe claims 1-4 and 7-22 of the '388 patent (the "Avant Garde 388 Accused Products"). Following is a non-exhaustive list of the Avant Garde 388 Accused Products:

Avant Garde 388 Accused Products
Starter Kit
Au Naturelle Lashes
Dreamer Lashes
Flutter Lashes
Iconic Lashes
Luxe Lashes
Avant Garde Lash Glue
Avant Garde Applicator

253. An exemplary infringement claim chart comparing the asserted independent claims of the '388 patent to a representative Avant Garde 388 Accused Product, the Avant Garde Starter Kit—which includes the same artificial eyelashes as the Hollyren Accused Products—and including photographs and drawings where applicable, is attached as Exhibit 114.

254. The Avant Garde Starter Kit is representative of the Avant Garde 388 Accused Products for purposes of infringement of the '388 patent.

255. Avant Garde offers for sale and sells the Avant Garde 388 Accused Products to its customers. Exs. 112-113, 115.

256. Avant Garde's customers of the Avant Garde 388 Accused Products directly infringe, literally and/or under the doctrine of equivalents, claims 1-4 and 7-22 of the '388 patent by using the Avant Garde 388 Accused Products. Ex. 114. For example, a customer first obtains certain of the Avant Garde 388 Accused Products, such as the Avant Garde Starter Kit. The customer applies adhesive to the underside of the customer's natural eyelash. The customer then grasps the lash fusions (included in the Avant Garde Starter Kit) with an applicator. Holding the lash fusion with the applicator, if the customer has not previously applied adhesive to the underside of their natural eyelash, the customer applies adhesive to the top side of the lash fusion. The customer then affixes the top side of the lash fusion to the underside of the customer's natural upper eyelash.

257. Avant Garde also indirectly infringes the '388 patent by inducing others to infringe and contributing to the infringement of the '388 patent by others, such as its customers and end users. For example, Avant Garde knowingly advertises its infringing products to be used in an infringing manner, including on the Avant Garde 388 Accused Products themselves and Avant Garde's website. Exs. 110-113, 115. On information and belief, Avant Garde advertises, sells, and instructs how to use the Avant Garde 388 Accused Products with specific intent to cause infringement or with willful blindness to the resulting infringement.

258. Avant Garde also contributorily infringes the '388 patent by selling or offering to sell infringing products, such as the Avant Garde 388 Accused Products, knowing them to be especially made or especially adapted for practicing the claimed invention of the '388 patent, and not a staple article or commodity of commerce with substantial non-infringing uses. For example,

as discussed above, Avant Garde advertises, sells, and instructs how to use the Avant Garde 388 Accused Products, including on the Avant Garde 388 Accused Products themselves and Avant Garde's website, in ways that emphasize the use of such products to perform the claimed methods of the '388 patent. Upon information and belief, the only way in which to use the Avant Garde 388 Accused Products according to Avant Garde's advertisements and instructions, and to achieve the benefits stated therein, is to infringe the '388 patent. *Id.* Avant Garde's advertising and instructions therefore demonstrate that the Avant Garde 388 Accused Products have no substantial non-infringing uses, and that they are specifically intended for practicing the '388 patent.

259. Avant Garde engaged in such actions with actual knowledge of the '388 patent and that its actions would cause direct infringement, or alternatively was willfully blind to these facts. Lashify contacted Avant Garde prior to filing this Complaint, providing a copy of this Complaint and asking that Avant Garde immediately cease and desist from using Lashify's technology and innovations. Avant Garde has had actual knowledge of the '388 patent and knowledge that its acts were inducing and contributing to infringement of the '388 patent since before the filing of this Complaint.

260. Avant Garde's and its end user customers' acts of infringement of the '388 patent were and are undertaken without authority, permission, or license from Lashify.

b. Infringement of the '984 Patent

261. Avant Garde imports, sells for importation, and/or sells within the United States after importation certain of the Avant Garde Accused Products that infringe claims 1-29 of the '984 patent (the "Avant Garde 984 Accused Products"). Following is a non-exhaustive list of the Avant Garde 984 Accused Products:

Avant Garde 984 Accused Products
Starter Kit
Au Naturelle Lashes
Dreamer Lashes
Flutter Lashes
Iconic Lashes
Luxe Lashes

262. An exemplary infringement claim chart comparing the asserted independent claims of the '984 patent to a representative Avant Garde 984 Accused Product, the Avant Garde Starter Kit—which includes the same artificial eyelashes as the Hollyren Accused Products—and including photographs and drawings where applicable, is attached as Exhibit 116.

263. The Avant Garde Starter Kit is representative of the Avant Garde 984 Accused Products for purposes of infringement of the '984 patent.

264. Avant Garde offers for sale and sells the Avant Garde 984 Accused Products to its customers. Exs. 112-113, 115.

265. The Avant Garde 984 Accused Products infringe, literally and/or under the doctrine of equivalents, claims 1-29 of the '984 patent at the time of importation and sale.

266. After importation, Avant Garde sells the Avant Garde 984 Accused Products to its customers.

267. Avant Garde's acts of infringement of the '984 patent were and are undertaken without authority, permission, or license from Lashify.

c. Infringement of the '416 Patent

268. Avant Garde imports, sells for importation, and/or sells within the United States after importation certain Avant Garde Accused Products that directly infringe the ornamental design of the '416 patent (the "Avant Garde 416 Accused Products"). Following is a non-exhaustive list of the Avant Garde 416 Accused Products:

Avant Garde 416 Accused Products
Starter Kit
Au Naturelle Lashes
Dreamer Lashes
Flutter Lashes
Iconic Lashes
Luxe Lashes

269. An exemplary infringement claim chart comparing the ornamental design of the '416 patent to a representative Avant Garde 416 Accused Product, the storage cartridge included with the Avant Garde Starter Kit, and including photographs and drawings where applicable, is attached as Exhibit 117.

270. The storage cartridge included with the Avant Garde Starter Kit is representative of the Avant Garde 416 Accused Products for purposes of infringement of the '416 patent.

271. Avant Garde offers for sale and sells the Avant Garde 416 Accused Products to its customers. Exs. 112-113, 115.

272. The Avant Garde 416 Accused Products infringe the ornamental design of the '416 patent at the time of importation and sale into the United States. The Avant Garde 416 Accused Products infringe the '416 patent because, in the eye of an ordinary observer, giving such attention

as a purchaser usually does, the ornamental design of the '416 patent and the ornamental design of the Avant Garde 416 Accused Products are substantially the same.

273. Avant Garde's acts of infringement of the '416 patent were and are undertaken without authority, permission, or license from Lashify.

2) Specific Instance of Sale and Importation of the Accused Products

274. The Avant Garde Accused Products are manufactured outside of the United States. For example, the product packaging for the Avant Garde Lash Glue indicates that it is manufactured in Korea. Ex. 118 (photographs showing Avant Garde Accused Products received after order, including the Avant Garde Lash Glue and Starter Kit). Although the shipping and product packaging of the Avant Garde Accused Products do not indicate a country of origin for the lashes and storage cartridges, based upon the similarity of the Avant Garde Accused Products to the Hollyren Accused Products, including the infringing storage cartridge, the Avant Garde Accused Products are resold and/or relabeled versions of products manufactured by Hollyren at its location in Qingdao, China. This is consistent with Avant Garde's website, which further indicates that its Accused Products are "Made from Korean Silk." Ex. 119. This is also consistent with research regarding Rachael Gleason who, on information and belief, decided to begin reselling the Hollyren Accused Products after purchasing samples from Hollyren in the Spring of 2020.

275. Avant Garde sells for importation into the United States, imports into the United States, and/or sells within the United States after importation, the Avant Garde Accused Products. For example, Exhibits 120 and 121 are an invoice and shipping confirmation showing the purchase of Avant Garde Accused Products, including the Avant Garde Starter Kit, for delivery to an address in the United States. This demonstrates that the Avant Garde Accused Products were and are

imported into the United States, sold for importation into the United States, and/or sold after importation into the United States by Avant Garde.

VI. HARMONIZED TARIFF SCHEDULE INFORMATION

276. On information and belief, the articles subject to this complaint are classifiable under at least the following headings and subheadings of the Harmonized Tariff Schedule (“HTS”) of the United States: 6704.19.4000, 3923.10.0000, 3506.10.9000, 3304.99.9000, 3208.90.9020. These HTS numbers are intended to be for illustration only and are not exhaustive of the products accused of infringement in this Complaint. The HTS numbers are not intended to limit the scope of this investigation.

VII. RELATED LITIGATION

277. On August 5, 2020, Lashify brought an action against Respondent KISS Nail Products, Inc. in the United States District Court for the District of New Jersey, alleging infringement of one or more claims of the ’388 and ’984 patents, the same patents that have been asserted against KISS in this Complaint. The case is styled as *Lashify, Inc. v. KISS Nail Products, Inc.*, No. 1:20-CV-10023 (D.N.J.).

278. On August 28, 2020, Lashify brought an action against Respondent Alicia Zeng d/b/a Lilac St., and Artemis Family Beginnings, Inc. in the United States District Court for the Northern District of California, alleging infringement of one or more claims of the ’388 and ’984 patents, the same patents that have been asserted against Lilac St. in this Complaint. The case is styled as *Lashify, Inc. v. Zeng et al.*, No. 3:20-CV-6086 (N.D. Cal.).

279. On May 27, 2020, Lashify brought an action against Respondent Qingdao Hollyren Cosmetics Co., Ltd. d/b/a Hollyren in district court in Qingdao, China, alleging infringement of Chinese Patent Application No. CN2017304289848. The asserted patent relates to the ornamental

design for an applicator for artificial lash extensions similar to the '664 patent asserted in this Complaint. The case is No. (2020)鲁02民初1148号 and is currently stayed.

VIII. DOMESTIC INDUSTRY RELATING TO THE ASSERTED PATENTS

280. A domestic industry exists under 19 U.S.C. § 1337(a)(3)(A), (B), and/or (C) by virtue of Lashify’s significant and continuous investment in facilities, equipment, labor, and capital related to its products that practice or embody the Asserted Patents.

281. Lashify exists as a result of product-related activities undertaken in the United States, including extensive research and development efforts. The culmination of those efforts produced each component of Lashify’s revolutionary lash extension system (the “Domestic Industry Products”)³, which in turn created an entire market for artificial lashes in the United States that did not exist before. Pursuant to Commission Rule 210.12(a)(9)(ix), Lashify submits charts that apply exemplary independent claims of each Asserted Patent to a representative Domestic Industry Product. The following table identifies representative Domestic Industry Products and the corresponding charts:

	Domestic Industry Products	Exhibit
U.S. Patent No. 10,660,388	Lashify Control Kit; Gossamer Lashes; Fuse Control Wand; Whisper Light Bond; Melt Away Gossamer Lash Remover	122
U.S. Patent No. 10,721,984	Gossamer Lashes, sold individually or in connection with the Lashify Control Kit	123
U.S. Patent No. D877,416	Storage Cartridge for Gossamer Lashes, sold individually or in connection with the Lashify Control Kit	124

³ As used herein, the terms “Domestic Industry Products” and “Asserted Patents” refer to the same Domestic Industry Products and Asserted Patents identified in Lashify’s Complaint.

U.S. Patent No. D867,664	Fuse Control Wand, sold individually or in connection with the Lashify Control Kit	125
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A. Lashify’s Facilities in the United States

282. Lashify conducts a variety of product-related activities directed to the Domestic Industry Products in the United States, including research and development, engineering, manufacturing, sales, marketing, and fulfillment. Lashify has incurred and continues to incur significant expenditures related to domestic facilities that enable those activities, including rent, utilities, office equipment, and repairs and maintenance.

283. Further details regarding Lashify’s investment in facilities related to the Domestic Industry Products are provided in the Confidential Declaration of Sahara Lotti, attached as confidential Exhibit 126C.

B. Lashify’s Employees in the United States

284. Lashify employs approximately 40 people in the United States, each of whom performs work related to the Domestic Industry Products. As discussed above, these employees’ activities, all of which are important to Lashify’s business, include ongoing research and development, as well as engineering, manufacturing, sales, marketing, and fulfillment activities. These employees are located in the United States, either in Lashify’s facilities or, for certain activities such as customer service, remotely throughout the United States. Lashify invests a significant amount of money in salaries, incentives, and other compensation for these individuals.

285. Further details regarding Lashify’s investment in labor related to the Domestic Industry Products are provided in the Confidential Declaration of Sahara Lotti, attached as confidential Exhibit 126C.

C. Capital Employed to Exploit the Domestic Industry Products in the United States

286. In addition to the expenditures described above, Lashify also employs significant capital in the United States to exploit the Domestic Industry Products, including expenditures related to shipping and freight, marketing, public relations, and branding.

287. Further details regarding Lashify's capital employed to exploit the Domestic Industry Products are provided in the Confidential Declaration of Sahara Lotti, attached as confidential Exhibit 126C.

IX. REQUEST FOR GENERAL EXCLUSION ORDER

288. To put an end to the continuing, widespread infringement of Lashify's Asserted Patents by numerous copycat products—many of which are sold by entities that conceal their identities through unfair source-hiding tactics—Lashify respectfully requests a general exclusion order as part of its relief.

289. A general exclusion order is warranted: (a) when broad exclusion is necessary to prevent circumvention of an exclusion order limited to products of named entities, or (b) where there is a pattern of violation of Section 337 and it is difficult to identify the source of the infringing products. Both fact patterns exist here.

290. Infringement of the Asserted Patents is widespread. Although Lashify has identified numerous examples of infringement by the named Respondents, other infringers and unlawful actors remain difficult, if not impossible, to identify or locate. For example, many sales of the accused DIY eyelash extension products are made via the Internet, where sellers can hide their identities and the locations from which their infringing products ship.

291. Upon information and belief, other infringers, including named Respondents Hollyren, Xizi Lashes, and Worldbeauty, manufacture and sell for importation white label products

with the intent that they be resold under a variety of brand names. *E.g.*, Exs. 91 (showing Xizi Lashes “Wholesale” product that, on information and belief, is manufactured by Hollyren), 95 (showing Worldbeauty “wholesale” products available with “Customized logo” and “Customized packaging”), 96 (Worldbeauty website advertising its “Private label” products, produced at “400K trays each month,” offered as “ONLY WHOLESAL E ,DO NOT RETAIL”). Indeed, not only are the Accused Products intentionally sold under a variety of different labels in order to avoid detection and enforcement, but at least one of the Respondents, Worldbeauty, even invites new companies to distribute its infringing products. Ex. 127 (Worldbeauty contact webpage entitled “How to start false eyelash business”). On information and belief, this advice has resulted in the creation of companies like Lilac St. and Avant Garde, which import and distribute the infringing products under their own assumed names while refusing to identify the underlying source of their products. These products are also frequently sold through resellers via online marketplaces such as Alibaba.com, where entities can readily change their reseller name or simply sell through another channel to avoid detection.

292. Taking Lilac St. as one example, not only does Lilac St. import and resell products that are manufactured by other foreign companies, but Lilac St. also works in concert with such manufacturers to evade detection. For example, Lilac St., like manufacturer Worldbeauty, has advertised that its accused products use “innovative heat-fuse technology” as claimed in the Asserted Patents. But after Lashify contacted Lilac St. regarding its infringement, Lilac St. removed the language from its website and claimed it to be a mistake, all the while refusing to identify the manufacturer of its products. In another apparent attempt to hide its identity, Lilac St. also asserted that “Lilac St.” is the business name used by Artemis Family Beginnings, Inc. But according to filings with the California Secretary of State, Artemis Family Beginnings is a corporation in the

business of providing fertility counseling, not importation, sale, and distribution of artificial eye-lash extension systems and products. The web of interrelationships between the named Respondents and other entities, each of which is engaged in efforts to distribute and sell infringing articles in the United States, demonstrates a pattern of violation of Section 337, that it is difficult to identify the source of the infringing products, and that broad exclusion is necessary.

293. To combat these continually growing problems, Lashify respectfully requests that the Commission issue a general exclusion order against all infringing artificial eyelash extension products and components thereof, regardless of source.

X. RELIEF

WHEREFORE, by reason of the foregoing, Lashify requests that the Commission:

- 1) Institute an investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, with respect to Respondents' violation of Section 337 based on the importation into the United States, the sale for importation into the United States, and/or the sale within the United States after importation of articles that infringe the Asserted Patents;
- 2) Schedule and conduct a hearing on permanent relief pursuant to 19 U.S.C. § 1337(d) and (f) of the Tariff Act of 1930, as amended;
- 3) Issue a general exclusion order pursuant to 19 U.S.C. § 1337(d) or, if a general exclusion order is not granted, a limited exclusion order directed specifically to each named Respondent, excluding from entry into the United States articles imported in such a manner as to constitute unfair methods of competition and unfair acts and/or articles that infringe the '388 patent, the '984 patent, the '416 patent, and the '664 patent;

- 4) Issue a cease and desist order pursuant to 19 U.S.C. § 1337(f) prohibiting each Respondent from engaging in the unlawful importation and/or the sale within the United States after importation of articles imported in such a manner as to constitute unfair methods of competition and unfair acts and/or articles that infringe the Asserted Patents; and
- 5) Impose a bond upon Respondents who continue to import articles imported in such a manner as to constitute unfair methods of competition and unfair acts and/or infringing articles during the 60-day Presidential review period per 19 U.S.C. § 1337(j); and issue such other and further relief as the Commission deems just and proper under the law, based upon the facts determined by the investigation and the authority of the Commission.

Dated: September 9, 2020

Respectfully submitted,

FENWICK & WEST LLP

By: /s/ Bryan A. Kohm

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Attorneys for Complainant Lashify, Inc.

VERIFICATION OF COMPLAINT

In accordance with 19 C.F.R. § 210.12(a)(1), I, Sahara Lotti, declare as follows:

1. I am the founder and CEO of Lashify, Inc., and am duly authorized to sign this Complaint;
2. I have read the Complaint and I am aware of its contents;
3. The Complaint is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of the investigation or related proceeding;
4. To the best of my knowledge, information and belief founded upon reasonable inquiry, the claims, defenses, and other legal contentions therein are warranted by existing law or the establishment of new law; and
5. The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

I declare under penalty of perjury that the foregoing is true and correct.



Sahara Lotti

September 9, 2020

Date