

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.

Before the Honorable Bryan F. Moore
Administrative Law Judge

In the Matter of

CERTAIN FURNITURE PRODUCTS
FINISHED WITH DECORATIVE WOOD
GRAIN PAPER AND COMPONENTS
THEREOF

Inv. No. 337-TA-1385

RESPONSE OF WHALEN LLC TO COMPLAINT AND NOTICE OF INVESTIGATION

<p><u>RESPONDENT</u> Whale LLC d/b/a Whalen Furniture Manufacturing (address)</p>	<p><u>COUNSEL FOR WHALEN LLC</u> <u>d/b/a WHALEN FURNITURE</u> <u>MANUFACTURING</u> Lynda J. Zadra-Symes KNOBBE, MARTENS, OLSON & BEAR, LLP 2040 Main Street, Fourteenth Floor Irvine, CA 92614 Lynda.zadrasymes@knobbe.com</p>
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LIST OF EXHIBITS

Exhibit	Description
A	Information on Harmonized Tariff Schedule numbers, importation quantity and value of Accused Products, and the locations of Whalen's suppliers

Pursuant to 19 C.F.R. § 210.13, Respondent Whalen LLC d/b/a Whalen Furniture Manufacturing (“Whalen” or “Respondent”) by and through its attorneys, hereby responds to the Complaint under Section 337 of the Tariff Act of 1930, as amended, filed by Toppan Interamerica, Inc. (“Complainant”) on December 7, 2023, and to the Notice of Institution of Investigation issued by the United States International Trade Commission (“Commission”) on January 9, 2024 (“Notice”).

I. INTRODUCTION

1. Whalen admits that Complainant requested the Commission to institute an investigation based on alleged violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. §1337 (“Section 337”). Whalen denies that it has engaged in any of the alleged violations of Section 337. Whalen lacks knowledge and information sufficient to form a belief as to the remaining allegations in Paragraph 1 of the Complaint, and therefore denies those allegations.

2. Whalen admits that Complainant includes in its definition of the Accused Products multiple furniture items, including desks, bookcases, media stands and consoles, cabinets, vanities, and other furniture products finished with a wood grain finish. Whalen denies that any of these products infringe any of the Asserted Copyrights. Whalen lacks knowledge and information sufficient to form a belief as to whether Complainant is the exclusive licensee of the Asserted Copyrights in the United States, and therefore denies those allegations. Whalen denies all remaining allegations in Paragraph 2 of the Complaint.

3. Whalen denies the allegations in Paragraph 3 of the Complaint.

4. Whalen lacks information sufficient to form a belief as to the allegations of Paragraph 4 of the Complaint, and therefore denies those allegations.

5. Whalen admits that Complainant is pursuing the relief identified in Paragraph 5 of the Complaint but denies that Complainant is entitled to the requested relief. Whalen denies all remaining allegations in Paragraph 5 of the Complaint.

6. Whalen admits that Complainant is pursuing the relief identified in Paragraph 6 of the Complaint but denies that Complainant is entitled to the requested relief. Whalen denies all remaining allegations in Paragraph 6 of the Complaint.

7. Whalen admits that Complainant is pursuing the relief identified in Paragraph 7 of the Complaint but denies that Complainant is entitled to the requested relief. Whalen denies all remaining allegations in Paragraph 7 of the Complaint.

II. COMPLAINANT

8. Whalen lacks knowledge and information sufficient to form a belief as to the allegations in Paragraph 8 of the Complaint, and therefore denies those allegations.

9. Whalen lacks knowledge and information sufficient to form a belief as to the allegations in Paragraph 9 of the Complaint, and therefore denies those allegations.

10. Whalen lacks knowledge and information sufficient to form a belief as to the allegations in Paragraph 10 of the Complaint, and therefore denies those allegations.

11. Whalen lacks knowledge and information sufficient to form a belief as to the allegations in Paragraph 11 of the Complaint, and therefore denies those allegations.

12. Whalen lacks knowledge and information sufficient to form a belief as to the allegations in Paragraph 12 of the Complaint, and therefore denies those allegations.

III. THE ASSERTED COPYRIGHTS

13. Whalen admits that wood grain appears in nature. Whalen denies that the wood grain finishes that Complainant uses are not natural wood grains. Whalen lacks knowledge and

information sufficient to form a belief as to the remaining allegations in Paragraph 13 of the Complaint, and therefore denies those allegations.

14. Whalen lacks knowledge and information sufficient to form a belief as to the allegations in Paragraph 14 of the Complaint, and therefore denies those allegations.

15. Whalen admits that the Asserted Copyrights give the appearance of natural wood grain and facilitate printing in rolls for efficient manufacture. Whalen denies all remaining allegations in Paragraph 15 of the Complaint.

16. The allegation that the Asserted Copyrights are original graphic works of authorship is a legal conclusion to which no response is required. Whalen denies all remaining allegations in Paragraph 16 of the Complaint.

17. Whalen lacks knowledge and information sufficient to form a belief as to the allegations in Paragraph 17 of the Complaint, and therefore denies those allegations.

18. Whalen admits that Exhibit 2 appears to show a copy of the Fitzroy Pine Copyright registration certificate. Whalen lacks knowledge and information sufficient to form a belief as to the remaining allegations in Paragraph 18 of the Complaint, and therefore denies those allegations.

19. Whalen admits that Exhibit 3 appears to show a copy of the Roughsawn Oak Copyright registration certificate. Whalen lacks knowledge and information sufficient to form a belief as to the allegations in Paragraph 19 of the Complaint, and therefore denies those allegations.

20. Whalen admits that Exhibit 4 appears to show a copy of the Aspen Oak Copyright registration certificate. Whalen lacks knowledge and information sufficient to form a belief as to the allegations in Paragraph 20 of the Complaint, and therefore denies those allegations.

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