

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

**In the Matter of**

**CERTAIN WIND AND SOLAR-  
POWERED LIGHT POSTS AND  
STREET LAMPS**

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

**COMPLAINT OF DUGGAL DIMENSIONS LLC, DUGGAL ENERGY SOLUTIONS,  
LLC and DUGGAL VISUAL SOLUTIONS, INC.  
UNDER SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED**

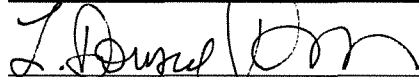
**COMPLAINANTS**

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## **I. INTRODUCTION**

1. This Complaint is filed by Duggal Dimensions LLC (“Duggal Dimensions”), Duggal Energy Solutions, LLC (“Duggal Energy”), and Duggal Visual Solutions, Inc. (“Duggal Visual,” and, together with Duggal Dimensions and Duggal Energy, “Complainants”) under Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”), to request that that the United States International Trade Commission commence an investigation to remedy the unlawful importation into the United States, sale for importation into the United States, and/or sale within the United States after importation by the Proposed Respondents Gus Power Incorporated (“Gus Power”), Efston Science, Inc. (“Efston”), King Luminaire, Inc. (“King Luminaire”), and The StressCrete Group (“StressCrete”) (collectively, “Respondents”) of certain wind and solar-powered light posts (the “Accused Products”) that infringe a valid and enforceable United States Patent No. D610,732 S, owned by Duggal Dimensions.

2. A certified copy of United States Patent No. D610,732 S (the “’732 Patent”) is attached as Exhibit No. 1. Duggal Dimensions owns all right, title, and interest in the ’732 Patent. A certified copy of the recorded assignment for the ’732 Patent is attached as Exhibit No. 2.

3. On information and belief, Respondents have engaged in unfair acts in violation of Section 337 through the unlicensed importation into the United States, sale for importation into the United States, and/or sale within the United States after importation of Accused Products that infringe the claim of the ’732 Patent.

4. As required by 19 U.S.C. § 1337(a)(2) and (3), an industry exists in the United States relating to the technology protected by the ’732 Patent. In particular, Complainants have made substantial investment in labor and capital and in engineering and research and development for exploitation of the ’732 Patent. Complainants designed,

engineered, arranged for manufacture, installed, sold, and actively maintains prototype designs of products exploiting the '732 Patent, and has made a substantial investment in license negotiations for the '732 Patent. See Exhibit No. 3, Declaration of Baldev Duggal (confidential).

5. Complainants seek, as relief, a permanent exclusion order pursuant to 19 U.S.C. § 1337(d) barring from entry into the United States all infringing wind and solar powered light posts and street lamps imported by or on behalf of Gus Power, Efston, King Luminaire, and StressCrete. Complainants also seek, as relief, a cease-and-desist order pursuant to 19 U.S.C. § 1337(f) directing Respondents and their related entities and agents to cease the importation into the United States, sale for importation into the United States, and sale in the United States after importation of the Accused Products. Complainants also request that the cease-and-desist order direct Respondents and their related entities and agents to cease demonstrating, selling, offering for sale, and using the Accused Products and to cease transferring, moving, or shipping their United States inventory of the Accused Products.

6. This request for an exclusion order is for wind and solar light posts that infringe upon United States Patent No. D610,732 S owned by Duggal Dimensions. The Accused Products are imported into the United States and are covered under the 2010 Harmonized Tariff Schedule of the United States, Section XX for miscellaneous manufactured articles, including lamps and lighting fittings.

## **II. THE PARTIES**

### **A. Complainant**

7. Duggal Dimensions is a limited liability company organized and existing under the laws of the State of Delaware and qualified to do business in the State of New York with its

principal place of business at 10 West 24th Street, New York, New York 10010. *See* Exhibit No. 4 (printout from New York Secretary of State's online database).

8. Duggal Energy is a limited liability company organized and existing under the laws of the State of New York with its principal place of business at 9 West 20th Street, New York, New York 10011. *See* Exhibit No. 4.

9. Duggal Visual is a corporation organized and existing under the laws of the State of New York with its principal place of business at 10 West 24th Street, New York, New York 10010. *See* Exhibit No. 4.

10. Complainants are owned by their founder Baldev Duggal. Duggal Visual was founded in 1963, Duggal Energy was founded in 1998, and Duggal Dimensions was founded in 2006. Mr. Duggal is an inventor and pioneer in lighting and photography technology. His affiliated companies, Duggal Dimensions, Duggal Energy and Duggal Visual, are based in New York, New York and maintain a domestic industry in the United States relating to the design, engineering, research and development, marketing and sale of environmentally friendly light posts, lighting installations, and other related products. Printouts of pages from the website maintained by Complainants at [www.lumisolair.com](http://www.lumisolair.com) accompany this Complaint as Exhibit No. 5

11. The named inventors on the '732 Patent are Paul D. Daldone and Lauren Elizabeth Ascani. Duggal Dimensions owns by assignment the entire right, title, and interest in and to this patent. A certified copy of the '732 Patent accompanies this Complaint as Exhibit No. 1. A certified copy of the recorded assignment accompanies this Complaint as Exhibit No. 2. Complainants practice the invention of the '732 Patent by designing, engineering, arranging for manufacturing, and offering for sale wind and solar-powered light posts under the registered trademark LUMI·SOLAIR®.

**B. Proposed Respondents**

12. On information and belief, Respondent Gus Power Incorporated (“Gus Power”) is a corporation organized and existing under the laws of Canada, having a principal place of business at 3350 Dufferin Street, Toronto, Ontario, M6A 3A4 Canada. On information and belief, Gus Power manufactures the Accused Products or parts thereof in Canada, and then imports or causes to be imported into the United States for sale, or sells for importation into the United States the Accused Products or parts thereof. The Accused Products are wind and solar powered light posts virtually identical to Complainants’ LUMI·SOLAIR light posts, and that are covered by the claim of the ’732 Patent.

13. On information and belief, Respondent Efston Science Inc. (“Efston”) is a corporation organized and existing under the laws of Canada, having a principal place of business at 3350 Dufferin Street, Toronto, Ontario, M6A 3A4 Canada. On information and belief, Efston manufactures or acquires the Accused Products or parts thereof in Canada, and then imports or causes to be imported into the United States for sale, or sells for importation into the United States the Accused Products. The Accused Products are wind and solar powered light posts virtually identical to Complainants’ LUMI·SOLAIR light posts, and that are covered by the claim of the ’732 Patent.

14. On information and belief, Respondent King Luminaire, Inc. (“King Luminaire”) is a corporation organized and existing under the laws of the United States, having a principal place of business at 1153 State Road 46 North, Jefferson, Ohio 44047. On information and belief, King Luminaire imports or causes to be imported the Accused Products into the United States for sale, or sells the Accused Products for importation into the United States. The Accused Products are wind and solar powered light posts virtually identical to Complainants’ LUMI·SOLAIR light posts, and that are covered by the claim of the ’732 Patent.

15. On information and belief, Respondent The StressCrete Group (“StressCrete”) is a privately held company organized and existing under the laws of Canada, having a principal place of business at 840 Walkers Lane, Burlington, Ontario, L7R 3X9 Canada. On information and belief, StressCrete manufactures the Accused Products or parts thereof in Canada, and then imports or causes to be imported into the United States for sale, or sells for importation into the United States the Accused Products. The Accused Products are wind and solar powered light posts virtually identical to Complainants’ LUMI·SOLAIR light posts, and that are covered by the claim of the ’732 Patent.

16. Specific instances of importation and sale of each Respondent are outlined below.

### **III. THE TECHNOLOGY AND PRODUCTS AT ISSUE**

17. The asserted patent is directed to the design of a wind and solar-powered light post. The use of alternative energies, such as wind and solar power, have become increasingly popular as individuals, businesses, governmental bodies, and other organizations seek to reduce their use of carbon-based fuels and reduce their amount of energy consumption. Wind and solar-powered light posts are desirable because they reduce demand for conventional energy and, correspondingly, pollution associated with generating conventional energy. The design and engineering of wind and solar-powered light posts are critical to maximizing the benefits of wind and solar power, as proper design ensures maximum efficiency of use of the available wind and solar energy. Because light posts are used in full sight of the public, attractive ornamental design of wind and solar-powered light posts is desirable.

18. The technology covered by Duggal Dimensions’ ’732 Patent relates to an ornamental design of a wind and solar-powered light post.

19. The product accused of infringement is a wind and solar powered light post substantially similar to Complainants’ LUMI·SOLAIR light post.



#### **IV. THE PATENT AT ISSUE**

##### **A. U.S. Patent No. D610,732 S**

20. The '732 Patent is entitled "Wind and Solar-Powered Light Post" and issued on February 23, 2010. The '732 Patent issued from U.S. Patent Application Serial No. 29/332,955, filed on February 27, 2009. The '732 Patent identifies Paul D. Daidone and Lauren Elizabeth Ascani as the inventors. *See* Exhibit No. 1.

21. Duggal Dimensions is the owner, by valid assignment, of the entire right, title and interest in and to the '732 Patent. The '732 Patent is valid, enforceable, and currently in full force and effect. *See* Exhibit No. 1, No. 2.

22. Pursuant to Rule 210.12(c) of the Commission's Rules of Practice and Procedure, this Complaint is accompanied by Appendices A and B containing: (A) a certified copy and three additional copies of the prosecution history of the "'732 Patent; and (B) four copies of each reference document mentioned in that prosecution history.

##### **B. Foreign Counterpart Patents**

23. Duggal Dimensions owns two Canadian industrial design registrations, a Brazilian industrial design application, and a European Community design registration, which correspond to, or are related to U.S. Patent No. D610,732. The design registrations/applications are listed below, including the current status for each design registration/application.

- (a) Brazil Industrial Design Application No. D16903337-4, currently pending;
- (b) Canada Industrial Design Registration No. 131532, registered on June 23, 2010;
- (c) Canada Industrial Design Registration No. 133855, registered on June 23, 2010; and

- (d) European Community Design Registration No. 001163026, registered on August 26, 2010.

**C. Licensees**

24. Duggal Dimensions has licensed its affiliate Duggal Energy to practice the '732 Patent to produce wind and solar-powered light posts or components thereof. Duggal Dimensions is actively engaged in discussing licensing with other potential licensees and, as described below, has made a substantial investment in attempting to license the '732 Patent.

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

25. The '732 Patent relates to the ornamental design of a wind and solar-powered light post. Said design is illustrated in Figures 1-7 of the '732 Patent.

**V. UNLAWFUL AND UNFAIR ACTS OF RESPONDENTS**

26. On information and belief, Gus Power manufactures components of wind and solar-powered light posts that are intended to be sold in the United States by, *inter alia*, other Proposed Respondents with which Gus Power acts in concert, as a product competing against Complainants' patented LUMI·SOLAIR wind and solar-powered light posts. Gus Power has previously marketed the wind and solar-powered light posts under the name GUS Lumisolair Hybrid Wind and Solar Off-Grid Street Light.

27. Currently, the marketing materials for the Accused Products offered by Efston indicate that the vertical access wind turbines incorporated therein are manufactured by Gus. Upon information and belief, Gus is affiliated with Efston and is acting in concert with Efston in connection with the sale and offering for sale of the Accused Products in the United States.

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<sup>1</sup> The text in this section (i.e. "Non-Technical Description of the Patented Invention") does not, and is not intended to, construe the claim of the patent.

28. On information and belief, Efston markets for sale, sells, and installs a wind-solar powered light post with a design substantially similar to the design protected by the '732 Patent in the United States as a product competing against Complainants' patented LUMI-SOLAIR wind and solar-powered light posts. A representative printout of the Accused Product offered for sale on Efston's website is attached as Exhibit No. 6.

29. On information and belief, StressCrete markets for sale, and sells, and installs, a wind-solar powered light post with a design substantially similar to the design protected by the '732 Patent in the United States as a product competing against Complainants' patented LUMI-SOLAIR wind and solar-powered light posts. A representative printout of the Accused Product offered for sale on StressCrete's website is attached as Exhibit No. 7, and a representative printout of the Accused Product offered for sale by StressCrete in a brochure is attached as Exhibit No. 8. StressCrete has previously marketed the wind and solar-powered light posts under the name Gemini Grid-Free.

30. On information and belief, King Luminaire is a subsidiary of, or is otherwise affiliated with, StressCrete. Upon information and belief, King Luminaire has acted in concert with StressCrete to market for sale, sell, and install a wind and solar-powered light post with a design substantially similar to the design protected by the '732 Patent in the United States as a product competing against Complainants' patented LUMI-SOLAIR wind and solar-powered light posts. Press releases describing the installation of the Accused Products by King Luminaire in Downers Grove, Illinois, is attached as Exhibit No. 9.

31. Respondents will receive notice of the asserted infringement by service of this Complaint. In addition, Respondents Gus Power and Efston have previously been notified, via correspondence from Complainants' counsel, of the existence of a wind-solar powered light post

with a design substantially similar to the design protected by the '732 Patent in the United States '732 Patent and they are fully aware of the fact that the LUMI·SOLAIR lamp post is patented. *See* Exhibit No. 10 (March 19, 2010, correspondence) and Exhibit No. 5 (printouts of the Complainants' website, on which the LUMI·SOLAIR lamp post is offered for sale).

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

32. On or about March 22, 2010, the Village of Downers Grove, Illinois ("Downers Grove"), announced it had completed the installation of wind and solar-powered light posts in its Prentiss Creek subdivision. Information available on the Downers Grove website states that the wind and solar-powered light posts installed were manufactured by King Luminaire and installed by Efston and Groundhog Utility Construction. *See* Exhibit No. 9.

33. According to the proposal for the installation of the wind and solar-powered light posts in Downers Grove, recently obtained by Complainants, the light posts to be installed were "Stresscrete GUS Hybrid Street Light Pole[s]". A copy of the proposal is attached as Exhibit No. 11.

34. According to marketing materials sent to Downers Grove by King Luminaire, recently obtained by Complainants, the turbine on the wind and solar-powered light posts in Downers Grove is a GUS Power turbine. A copy of the marketing materials is attached as Exhibit No. 12.

35. The ornamental design of the Accused Products is substantially similar to the ornamental design claimed in the '732 Patent and therefore infringes the '732 Patent.

36. Further discovery will likely reveal additional specific acts of Respondents' sale and importation of the Accused Products.

37. From the foregoing facts, it is clear that Respondents infringe, induce the infringement of and/or contribute to the infringement of Duggal Designs' '732 Patent by using,

selling, offering for sale, selling after importation and/or importing into the United States Accused Products covered by the claim of the '732 Patent, and, upon information and belief, engaging others to manufacture and export into the United States Accused Products covered by the claim of the '732 Patent. Respondents will continue to do so unless the Commission issues a general exclusion order, or in the alternative a limited exclusion order and orders Proposed Respondents to cease and desist from continuing their infringing conduct.

38. Respondents' infringement of the '732 Patent has irreparably damaged Complainants in an amount that is unknown and cannot at the present time be ascertained, and will cause added injury and loss unless the Commission issues a general exclusion order, or in the alternative a limited exclusion order, and orders Respondents to cease and desist from continuing their infringement.

39. Complainants have neither licensed nor consented to the practice of the '732 Patent by any of the Proposed Respondents.

## **VI. RELATED LITIGATION**

40. There is no related litigation pending, filed, abandoned, withdrawn or rejected related to the '732 Patent.

## **VII. THE DOMESTIC INDUSTRY**

41. As required by 19 U.S.C. § 1337(a)(2) and defined by 19 U.S.C. § 1337(a)(3), an industry in the United States exists in connection with the '732 Patent. Complainants' practice the invention covered by the '732 Patent. Complainants conduct substantially all of their activities in the United States including research, development, design, engineering, arranging for manufacturing, testing, packaging, sales, support, and quality control related to wind and solar-powered light posts that practice the invention of the '732 Patent. These activities satisfy the requirements of 19 U.S.C. § 1337(a)(2).

**A. Technical Prong**

42. Certain wind and solar-powered light posts, i.e., the LUMI·SOLAIR wind and solar-powered light post, sold by Complainants were designed by Complainants in New York City specifically for the purpose of enabling the practice of Duggal Dimensions' '732 Patent.

43. Complainants have sold the LUMI·SOLAIR wind and solar-powered light posts to the Brooklyn Navy Yard and at Pratt University in Brooklyn, New York, and Duggal Energy actively maintains the installed LUMI·SOLAIR wind and solar-powered light posts.

44. A photograph of a LUMI·SOLAIR wind and solar-powered light post, which is the product that is covered by the claim of the '732 Patent, is attached as Exhibit No. 13. Its ornamental design is that claimed in the '732 Patent

45. Components of the LUMI·SOLAIR wind and solar-powered light posts installed in the Brooklyn Navy Yard and Pratt University were manufactured by StressCrete and Gus Power, but upon learning that StressCrete and Gus Power were marketing for sale and selling the LUMI·SOLAIR wind and solar-powered light post without Complainants' consent, Complainants ceased purchasing components of the LUMI·SOLAIR wind and solar-powered light post from StressCrete and Gus Power.

46. Components of a LUMI·SOLAIR wind and solar-powered light post include a pole, a solar panel bed, and an arm. Complainants have engaged Mercury Aircraft in Hammondsport, New York, to manufacture arms and solar panel beds, and have also engaged RAM Welding in Farmingdale, New York, to manufacture additional solar panel beds. Complainants are currently entertaining bids from several manufacturers to manufacture the poles for the LUMI·SOLAIR wind and solar-powered light post.

**B. Economic Prong**

***1. Significant Investment in Plant and Equipment***

47. A domestic industry exists in the United States by virtue of Complainants' significant investment of over \$800,000 in production materials and supplies, research and development, and manufacturing devoted to exploitation of the '732 patent. Exhibit No. 3 (confidential) sets forth the details of Complainant's investment in production materials and supplies, research and development, and manufacturing since the invention of the wind and solar-powered light posts design covered by the '732 Patent.

48. Complainants have made and continue to make significant investment in production materials and supplies, research and development, and manufacturing in the United States dedicated to the research, development, engineering, design, and production of wind and solar-powered light posts covered by the '732 Patent. All of Complainants' design activity takes place at Complainants' facilities in New York, New York. Manufacturing takes place at Complainants' contractors' facilities in Hammondsport, New York, and Farmingdale, New York. Complainants' sales activity is conducted by independent contractors at their offices in various locations in the United States, including New York and California. *See* Exhibit No. 3 (confidential).

***2. Significant Employment of Labor and Capital***

49. Complainants have employed and continue to employ significant labor and capital. Complainants have engaged independent contractors in several locations around the United States who devote substantial person-hours toward the engineering, design, sales and marketing, advertising, production, assembling and shipping as well as general administrative support associated with the domestic production and sale of wind and solar-powered light posts that exploit the '732 Patent. Exhibit No. 3 (confidential) sets forth Complainants' significant investment associated with this labor and capital investment.

**3. *Substantial Investment in Exploiting the Patent at Issue***

50. Complainants have made and continue to make substantial investments in the United States in the exploitation of the '732 Patent. Mr. Duggal is a recognized leader in the research and development of lighting and photography technology. Complainants made, and continue to make, substantial investments in the United States in engineering and research and development related to wind and solar-powered light posts that exploit the '732 patent. Exhibit No. 3 (confidential) sets forth Complainants' significant investment associated with this exploitation of its rights in the '732 Patent.

51. Complainants have made and continue to make substantial investments in the United States in licensing the '732 Patent for continued exploitation. Exhibit No. 3 (confidential) sets forth Complainants' significant investment associated with this exploitation of its rights in the '732 Patent.

52. Complainants have made a substantial investment in registering a trademark in the United States under which to market wind-solar powered light posts of the ornamental design shown in the '732 Patent and have secured United States Trademark Registration No. 3,764,321 for the trademark LUMI·SOLAIR, which it has used in commerce in the United States since at least September 22, 2008.

53. If Respondents are permitted to continue importing into and selling within the United States wind and solar-powered light posts which infringe the '732 Patent, the domestic industry established by Complainants' substantial investment and activities will be irreparably damaged.



**IX. RELIEF REQUESTED**

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

(a) Institute an immediate investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, into the violations of that Section based on the proposed Respondents' unlawful importation into the United States, sale for importation into the United States, and/or the sale within the United States after importation of wind and solar-powered lamp posts that infringe the claim of United States Patent No. D610,732 S;

(b) Schedule and conduct a hearing on said unlawful acts and following said hearing;

(c) Determine that there have been one or more violations of Section 337;

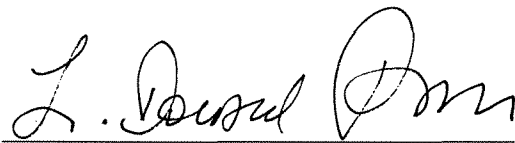
(d) Issue an exclusion order pursuant to Section 337(d) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(d)(1), excluding from entry into and sale within the United States of wind and solar-powered lamp posts that infringe the claim of United States Patent No. D610,732 S;

(e) Issue a permanent cease-and-desist order pursuant to Section 337(f) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(f) prohibiting each Respondent, its affiliates, subsidiaries, successors, or assigns, from marketing, demonstrating, distributing, offering for sale, selling, or otherwise transferring, including the movement or shipment of inventory, in the United States, or transferring outside the United States for sale in the United States of any wind and solar-powered lamp posts or component thereof that infringes the claim of United States Patent No. D610,732 S; and

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

Dated: 7/1, 2010.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "L. Donald Prutzman", written over a horizontal line.

L. Donald Prutzman

Amy S. Beard

TANNENBAUM HELPERN

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*Attorneys for Complainants*

### VERIFICATION OF COMPLAINT

I, Baldev Duggal, declare, in accordance with 19 C.F.R. §§ 210.4 and 201.2(a), under penalty of perjury, that the following statements are true:

1. I am the President of Duggal Dimensions LLC, Duggal Energy Solutions, LLC and Duggal Visual Solutions, Inc., and am duly authorized to sign this Complaint on behalf of each entity.
2. I have read the foregoing Complaint;
3. To the best of my knowledge, information, and belief, based on reasonable inquiry, the foregoing Complaint is well-founded in fact and is warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
4. The allegations and other factual contentions have evidentiary support or are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
5. The foregoing Complaint is not being filed for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

Executed on Aug 3, 2010.



Baldev Duggal  
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