

Nextt In Line

On October 1, 2015, AAVN, Inc., filed a 337 complaint to the US International Trade Commission, naming AQ Textiles, LLC and Creative Textile Mills Pvt. Ltd as respondents, requesting a general exclusion order prohibiting the import of several marketed products including the Prescott 600 brand of bed sheets sold by Macy's and the Sterling Manor brand by Belk's. Within the complaint, AAVN alleges that the imported goods are infringing on US Patent [9131790B1](#), which is also referred to as the "790" patent. The 337 complaint is in addition to a series of patent infringement law suits that were filed in September 2015 against the respondents as well as Indo Count Global, Inc., GHCL Ltd., and Globe Cotyarn Private, Ltd. The 790 patent was granted in September 15, 2015. According to the filed complaint, no patents corresponding to the 790 patent have been filed in other jurisdictions.

This patent got a good bit of news coverage (for a patent at least) for protecting "[Alpha Cotton](#)TM" which is a \$500 million dollar product line that is marketed by Nextt Inc. and that is expected to grow into a \$2 billion dollar market. Nextt is a wholly owned subsidiary of AAVN, Inc. Alok Industries, Ltd manufactures under license the Alpha CottonTM sheets and bedding products sold by Nextt within the US.

I have covered 337 procedures in previous [posts](#), so I will defer a discussion of the 337 process in this case to a later post. In this post, I will focus on the details of the 790 patent in question. In my next post, I will discuss the specific allegations of the case and my (somewhat ambivalent) feelings about the case.

The 790 patent itself directly addresses high thread count sheets and bed linens. In the US, thread counts are defined as individual yarns per square inch of fabric. The higher the thread counts the more comfortable the sheets and bed linens will be to sleep in. Companies will tend to use finer yarns in order to increase the yarn count of the fabric. The disadvantage of this approach is that the use of finer sizes of popular sheet and bedding yarns tends to highlight disadvantages of the yarns being used. For example, fine cottons are less durable and fine polyesters tend to break easily. In the past, some manufacturers would get around this by plying yarns together and counting each ply as a thread in the thread count. This practice is considered by the Federal Trade Commission to be a level of deception that lies in the grey area between very naughty and illegal.

The innovation of the 790 patent is to prepare and wind two fine denier polyester yarns on a single cone and to then feed the two fine denier polyester yarns as a single weft yarn that leaves the two fine denier polyester yarns lying side by side within the fabric. In order to accomplish this, the 790 patent discloses a process wherein two fine denier polyester yarns are simultaneously drawn and processed and then wound on the same cone. In order to draw the two fine denier polyester yarns properly off the cone and through the weft insertion process, the two fine denier polyester yarns have to be wound on a cone with an angle of degree on the cone between 15 and 20 degrees and the cone has to be wound within a fairly tight shore hardness tolerance.

Jim Carson is a principal of [RB Consulting, Inc](#) and a registered patent agent. He has over 30 years of experience across multiple industries including the biotechnology, textile, computer, telecommunications, and energy sectors. [RB Consulting, Inc](#) specializes in providing management, prototyping, and IP services to small and start-up businesses. He can be reached via email at jim@rbconsulting.us or by phone at (803) 792-2183.

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