

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Inv. No. 337-TA-829

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING COMPLAINANT'S MOTION FOR SUMMARY
DETERMINATION OF VIOLATION BY THE DEFAULTING RESPONDENTS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an ID (Order No. 25) of the administrative law judge ("ALJ") granting summary determination of violation by the defaulting respondents.

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3065. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: This investigation was instituted on February 27, 2012, based upon a complaint filed on behalf of Canon, Inc. of Tokyo, Japan; Canon U.S.A., Inc. of Lake Success, New York; and Canon Virginia, Inc. of Newport News, Virginia (collectively, "Canon") on January 23, 2012. *77 Fed. Reg.* 11586 (Feb. 27, 2012). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the sale for importation, importation, or sale in the United States after importation of certain toner cartridges and components thereof that infringe one or more of claims 128-130, 132, 133 and 139-143 of U.S. Patent Nos. 5,903,803 ("the '803 patent") and claims 24-30 of U.S. Patent No. 6,128,454 ("the '454 patent"). The notice of investigation named numerous respondents.

The following respondents have previously been terminated from the investigation on the basis of a consent order or withdrawal of the complaint: Clover Holdings, Inc.; Clover

Technologies Group LLC; Clover Vietnam Co., Ltd.; Dataproducts USA, LLC; Dataproducts Imaging Solutions S.A. de C.V.; CAU Acquisition Co., LLC d/b/a Cartridges Are Us; Nukote Internacional de Mexico, S.A. de C.V.; Atman, Inc. d/b/a pcRUSH.com; Dexxon Digital Storage, Inc.; Discount Office Items, Inc. and Deal Express LLC d/b/a Discount Office Items; Green Project, Inc.; GreenLine Paper Co., Inc.; Myriad Greeyn LLC; Office World Inc. and OfficeWorld.com, Inc.; OnlineTechStores.com, Inc. d/b/a SuppliesOutlet.com; and Virtual Imaging Products, Inc.

The following respondents have previously been found in default: Shanghai Orink Infotech International Co., Ltd.; Orink Infotech International Co., Ltd.; Zuhai Rich Imaging Technology Co., Ltd.; Standard Image Co., Ltd. a/k/a Shanghai Orink Co., Ltd.; Zuhai National Resources & Jingjie Imaging Products Co., Ltd. d/b/a Huebon Co., Ltd. d/b/a Ink-Tank; Standard Image USA, Inc. d/b/a Imaging Standard Inc.; Printronic Corporation d/b/a Printronic.com d/b/a InkSmile.com; Nukote, Inc.; Acecome, Inc. – San Antonio d/b/a InkSell.com; Do It Wiser LLC d/b/a Image Toner; E-Max Group, Inc. d/b/a Databazaar.com; IJSS Inc. d/b/a TonerZone.com d/b/a InkJetSuperstore.com; Imaging Resources LLC; Ink Technologies Printer Supplies, LLC; SupplyBuy.com, Inc.; and Zinyaw LLC d/b/a TonerPirate.com. *See* Order No. 14, *nonreviewed* by Commission Notice (October 2, 2012). Accordingly, the only parties remaining active in this investigation are Canon and the Commission investigative attorney.

On September 21, 2012, Canon filed a motion for summary determination that it satisfies the economic prong of the domestic industry requirement. On February 26, 2013, the ALJ issued an ID (Order No. 24), granting the motion. On March 25, 2013, the Commission determined not to review the ID.

On November 16, 2012, Canon filed a motion for summary determination of violation with respect to the defaulting respondents. On February 28, 2013, the presiding ALJ issued the subject ID (Order No. 25) granting the motion. He also recommended issuance of a general exclusion order, issuance of cease and desist orders to the eleven domestic defaulting respondents, and the imposition of a bond of 100 percent of entered value during the period of Presidential review. No petitions for review were filed.

Having considered the subject ID and the relevant portions of the record, the Commission has determined not to review the ID based on the substantial, reliable, and probative evidence establishing a violation by the defaulting respondents.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting*

Computers via Telephone Lines, Inv. No. 337-TA-360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. See Presidential Memorandum of July 21, 2005. 70 *Fed. Reg.* 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

WRITTEN SUBMISSIONS: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Complainants and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. Complainants are also requested to state the HTSUS numbers under which the accused products are imported.

Written submissions must be filed no later than close of business on May 1, 2013. Reply submissions must be filed no later than the close of business on May 8, 2013. Such submissions should address the ALJ's recommended determinations on remedy and bonding which were made in Order No. 25. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit eight true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 C.F.R. 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-829") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 C.F.R. § 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document

must also be filed simultaneously with the any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 C.F.R. Part 210).

By order of the Commission.

/s/
Lisa R. Barton
Acting Secretary to the Commission

Issued: April 17, 2013