

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN DIGITAL CAMERAS,
SOFTWARE, AND COMPONENTS
THEREOF**

Inv. No. 337-TA-1059

**NOTICE: ISSUANCE OF INITIAL DETERMINATION ON VIOLATION OF
SECTION 337 AND RECOMMENDATION ON REMEDY**

(August 17, 2018)

I have issued today in this Investigation the Final Initial Determination (“ID”) on Violation of Section 337 of the Tariff Act, as amended, 19 U.S.C. § 1337.

I have found that Complainants Carl Zeiss AG and ASML Netherlands B.V.’s (collectively, “Complainants” or “Zeiss”) have proven by a preponderance of evidence that Respondents Nikon Corporation, Sendai Nikon Corporation, Nikon Inc., Nikon (Thailand) Co., Ltd., and Nikon Imaging (China) Co., Ltd. (collectively, “Nikon,” and with Zeiss, “the Parties”) have violated subsection (b) of Section 337 of the Tariff Act of 1930, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain digital cameras, software and components thereof.

I have found that Nikon has violated 19 U.S.C. § 1337 with respect to U.S. Patent Nos. 7,297,916 (“the ’916 patent”), 6,301,440 (“the ’440 patent”) and 7,933,454 (“the ’454 patent”).

I have found that certain of Nikon’s accused cameras satisfy asserted claims 1 and 8 of the ’916 patent. I have found that Nikon has not proven by clear and convincing evidence that claims 1 and 8 of the ’916 patent are invalid under 35 U.S.C. § 103 as obvious.

I have found that certain of Nikon's accused cameras satisfy asserted claims 6, 35, 37, 39, 46 and 50 of the '440 patent. I have found that Nikon has proven by clear and convincing evidence that claim 37 of the '440 is invalid as anticipated under 35 U.S.C. § 102. I have found that Nikon has not proven by clear and convincing evidence that claims 6, 35, 39, 46 and 50 of the '440 patent are invalid under 35 U.S.C. § 102 as anticipated and/or under 35 U.S.C. § 103 as obvious.

I have found that certain of Nikon's accused cameras satisfy asserted claim 22 of the '454 patent. I have found that Nikon has not proven by clear and convincing evidence that claim 22 of the '454 patent is invalid under 35 U.S.C. § 102 as anticipated, and/or under 35 U.S.C. § 103 as obvious.

I have found that certain of Nikon's accused cameras do not satisfy asserted claims 1, 12 and 16 of U.S. Patent No. 6,834,128 ("the '128 patent"). I have found that Nikon has proven by clear and convincing evidence that claims 1, 12 and 16 of the '128 patent are invalid under 35 U.S.C. § 103 as obvious, or under 35 U.S.C. § 112 as indefinite.

I have found that certain of Nikon's accused cameras satisfy asserted claim 10 of U.S. Patent No. 6,714,241 ("the '241 patent"). I have found that Nikon has not proven by clear and convincing evidence that claim 10 of the '241 patent is invalid under 35 U.S.C. § 103 as obvious.

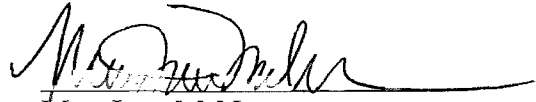
I have found that Zeiss' domestic industry product, the Zeiss Camera, has satisfied the technical industry prong of the domestic industry requirement for the '916, '440, and '454 patents. I have found that the Zeiss Camera has not satisfied the technical prong of the domestic industry requirement for the '128 (by operation of law) and '241 patents.

I have found that Zeiss has satisfied the economic prong of the domestic industry requirement under Section 337(a)(3)(B) (employment of labor or capital) and/or (C) (investment

in exploitation of asserted patents), and/or Section 337(a)(2) (for a domestic industry in the process of being established).

I have recommended the issuance of a Limited Exclusion Order and a Cease and Desist Order.

SO ORDERED.



MaryJoan McNamara
Administrative Law Judge