

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

**In the Matter of**

**CERTAIN LASER BAR CODE  
SCANNERS AND SCAN ENGINES,  
COMPONENTS THEREOF AND  
PRODUCTS CONTAINING SAME**

**Investigation No. 337-TA-551**

**NOTICE OF COMMISSION DECISION NOT TO REVIEW AN INITIAL  
DETERMINATION GRANTING COMPLAINANT'S MOTION TO  
AMEND THE COMPLAINT AND NOTICE OF INVESTIGATION**

**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 initial determination ("ID") (Order No. 9) issued by the presiding administrative law judge ("ALJ") granting complainant's motion to amend the complaint and notice of investigation.

**FOR FURTHER INFORMATION CONTACT:** Michelle Walters, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5468. 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 at <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 October 26, 2005, based on a complaint filed by Symbol Technologies Inc. ("Symbol") of Holtsville, New York. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain laser bar code scanners or scan engines, components thereof, or products containing the same by reason of infringement of various claims of United States Patent Nos.

5,457,308 (“the ‘308 patent”), 5,545,889 (“the ‘889 patent”), 6,220,514 (“the ‘514 patent”), 5,262,627, and 5,917,173. 70 *Fed. Reg.* 61841 (Oct. 26, 2006). The complaint named two respondents: Metro Technologies Co., Ltd. of Suzhou, China, and Metrologic Instruments, Inc. of Blackwood, New Jersey (collectively, “Metrologic”).

On March 9, 2006, Symbol filed a motion for leave to amend the complaint and notice of investigation to add claims 10 and 11 of the ‘308 patent, claims 8 and 11 of the ‘889 patent, and claims 3, 7, 9, and 10 of the ‘514 patent. Metrologic filed an opposition to Symbol’s motion, asserting that Symbol failed to show good cause for its amendment and that Metrologic would be unduly prejudiced by an amendment to the complaint just one month before the close of discovery. The Commission investigative attorney supported Symbol’s motion.

On March 22, 2006, the ALJ issued an ID (Order No. 9) granting Symbol’s motion to amend the complaint and notice of investigation. The ALJ found that, pursuant to Commission Rule 210.14(b)(1) (19 C.F.R. § 210.14(b)(1)), there was good cause to add claims 10 and 11 of the ‘308 patent, claims 8 and 11 of the ‘889 patent, and claims 3, 7, 9, and 10 of the ‘514 patent to the complaint and notice of investigation. The ALJ found that Symbol had obtained new information, justifying the addition of the newly-asserted claims of the ‘308 patent. The ALJ also found that adding the newly-asserted claims of the ‘889 patent and the ‘514 patent to the complaint did not prejudice the parties, because they had been notified that these claims were at issue early on in the investigation. Moreover, the ALJ noted that he had extended the target date by one month in order to alleviate any concerns regarding the amount of time remaining for discovery. No petitions for review of the ID were filed.

Having examined the record of this investigation, the Commission has determined not to review the ALJ’s ID.

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 section 210.42 of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 210.42).

By order of the Commission.

Marilyn R. Abbott  
Secretary to the Commission

Issued: April 14, 2006