

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN MAGNETIC DATA
STORAGE TAPES AND CARTRIDGES
CONTAINING SAME (II)**

Investigation No. 337-TA-1076

**NOTICE OF COMMISSION DETERMINATION TO RESCIND THE REMEDIAL
ORDERS ISSUED IN THE ABOVE-CAPTIONED INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined to rescind the limited exclusion order and cease and desist orders issued in the above-captioned investigation due to a settlement agreement and patent cross-license, pursuant to 19 U.S.C. 337(k) and 19 CFR 210.76(a).

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2382. 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 SW, Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission’s Electronic Docket Information System (“EDIS”) (<https://edis.usitc.gov>). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on October 25, 2017, based on a complaint filed by FUJIFILM Corporation of Tokyo, Japan and FUJIFILM Recording Media U.S.A., Inc. of Bedford, Massachusetts (collectively, “Fujifilm”). 82 FR 49421 (Oct. 25, 2017). The complaint alleged violations of 19 U.S.C. 1337 (“Section 337”) through the importation into the United States, sale for importation, or sale in the United States after importation of certain magnetic data storage tapes and cartridges that infringe one or more of the asserted claims of U.S. Patent Nos. 6,630,256 (“the ’256 patent”), 6,835,451 (“the ’451 patent”), 7,011,899 (“the ’899 patent”), 6,462,905 (“the ’905 patent”), and 6,783,094 (“the ’094 patent”). *Id.* The ’094 patent was later withdrawn and terminated from the investigation. *See* Order No. 11 (Mar. 19, 2018), *not rev’d*, Comm’n Notice (Apr. 17, 2018).

The notice of investigation named Sony Corporation of Tokyo, Japan; Sony Storage Media Solutions Corporation of Tokyo, Japan; Sony Storage Media Manufacturing Corporation of Miyagi, Japan; Sony DADC US Inc. of Terre Haute, Indiana; and Sony Latin America Inc. of Miami, Florida (collectively, “Sony”) as respondents. 82 FR at 49421-22. The Office of Unfair Import Investigations (“OUII”) was also named a party to the investigation. *Id.*

The presiding administrative law judge (“ALJ”) held an evidentiary hearing on June 25-29, 2018, and issued his final initial determination (“ID”) and recommended determination (“RD”) on October 25, 2018. The ID finds that Sony violated Section 337 with respect to the ’256 and ’899 patents but not the ’905 or ’451 patents. The RD recommends that the Commission issue a limited exclusion order and cease and desist orders accordingly.

The Commission determined to review the subject ID in part. 84 FR 10532 (Mar. 21, 2019). On June 6, 2019, the Commission issued its final determination, in which it concluded that Sony violated Section 337 by infringing the ’256 and ’899 patents and issued a limited exclusion order and cease and desist orders accordingly. Comm’n Op. (June 6, 2019); 84 FR 27358 (June 12, 2019).

On July 25, 2019, Fujifilm and Sony filed a Joint Petition of Complainants and Respondents to Rescind Limited Exclusion Order and Cease and Desist Orders in the above-referenced investigation. The parties assert that rescission is warranted due to a settlement agreement and patent cross-license, pursuant to 19 U.S.C. 1337(k) and 19 CFR 210.76(a). On August 5, 2019, OUII filed a response in support of the joint petition and rescission of the remedial orders in the above-captioned investigation.

Upon review of the parties’ submissions, the Commission has determined to grant the subject joint petition and rescind the limited exclusion order and cease and desist orders issued in this investigation. The Commission finds that the settlement fully resolves the dispute between the parties concerning the subject matter of the investigation. The Commission also finds that the joint petition complies with the requirements of Commission Rule 210.76, 19 CFR 210.76.

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 CFR Part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: August 14, 2019