

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

**In the Matter of**

**CERTAIN TONER CARTRIDGES AND  
COMPONENTS THEREOF**

**Investigation No. 337-TA-740**

**NOTICE OF COMMISSION FINAL DETERMINATION OF VIOLATION  
OF SECTION 337; TERMINATION OF INVESTIGATION;  
ISSUANCE OF GENERAL EXCLUSION ORDER AND CEASE AND DESIST ORDERS**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has found a violation of Section 337 in the above-captioned investigation. The Commission has determined to issue a general exclusion order and cease and desist orders. The investigation is terminated.

**FOR FURTHER INFORMATION CONTACT:** Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2301. 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:** The Commission instituted this investigation on October 12, 2010, based on a complaint filed by Lexmark International, Inc. of Lexington, Kentucky ("Lexmark"). 75 *Fed. Reg.* 62564-65 (Oct. 12, 2010). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("Section 337"), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain toner cartridges and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 5,337,032 ("the '032 patent"); 5,634,169 ("the '169 patent"); 5,758,233 ("the '233 patent"); 5,768,661 ("the '661 patent"); 5,802,432 ("the '432 patent"); 5,875,378 ("the '378 patent"); 6,009,291 ("the '291 patent"); 6,078,771 ("the '771 patent"); 6,397,015 ("the '015 patent"); 6,459,876 ("the '876 patent"); 6,816,692 ("the '692 patent"); 6,871,031 ("the '031 patent"); 7,139,510 ("the '510 patent"); 7,233,760 ("the '760 patent"); and 7,305,204 ("the '204 patent"). The complaint further alleges the existence of a domestic industry.

The Commission's notice of investigation named as respondents Ninestar Image Co. Ltd., (a/k/a Ninestar Technology Co., Ltd.) of Guangdong, China ("Ninestar"); Ninestar Image Int'l, Ltd. of Guangdong, China ("Ninestar Image Int'l"); Seine Image International Co. Ltd. of New Territories, Hong Kong ("Seine Image"); Ninestar Technology Company, Ltd. of Piscataway, New Jersey ("Ninestar Tech"); Ziprint Image Corporation of Walnut, California ("Ziprint"); Nano Pacific Corporation of South San Francisco, California ("Nano Pacific"); IJSS Inc. (d/b/a TonerZone.com Inc. and Inkjet Superstore) of Los Angeles, California ("IJSS"); Chung Pal Shin (d/b/a Ink Master) of Cerritos, California ("Ink Master"); Nectron International, Inc. of Sugarland, Texas ("Nectron"); Quality Cartridges Inc. of Brooklyn, New York ("QCI"); Direct Billing International Incorporated (d/b/a Office Supply Outfitter and d/b/a The Ribbon Connection) of Carlsbad, California ("Direct Billing"); E-Toner Mart, Inc. of South El Monte, California ("E-Toner"); Alpha Image Tech of South El Monte, California ("Alpha Image"); ACM Technologies, Inc. of Corona, California ("ACM"); Virtual Imaging Products Inc. of North York, Ontario; Acecom Inc. – San Antonio (d/b/a Inksell.com) of San Antonio, Texas ("Acom"); Ink Technologies Printer Supplies, LLC (d/b/a Ink Technologies LLC) of Dayton, Ohio ("Ink Tech"); Jahwa Electronics Co., Ltd of Chungchongbuk-do, South Korea; Huizhou Jahwa Electronics Co., Ltd. of Guangdong Province, China; Copy Technologies, Inc. of Atlanta, Georgia ("Copy Tech"); Laser Toner Technology, Inc. of Atlanta, Georgia ("LTT"); C&R Service, Incorporated of Corinth, Texas ("C&R"); Print-Rite Holdings Ltd., of Chai Wan, Hong Kong ("Print-Rite"); and Union Technology Int'l (M.C.O.) Co., Ltd. of Rodrigo Rodrigues, Macao.

The Commission determined not to review an initial determination terminating the investigation as to Print-Rite based on a settlement agreement. Commission Notice (Jan. 10, 2011) (Order No. 11). The Commission determined to review and affirm several initial determinations finding several respondents in default under Commission Rules 210.16(a)(2) and (b)(2) based on those respondents' elections to default. Commission Notice (Mar. 3, 2011) (Order Nos. 15-16); Commission Notice (Mar. 11, 2011) (Order Nos. 17-18); Commission Notice (Mar. 11, 2011) (Order No. 19). The Commission determined not to review two other initial determinations finding the remaining respondents in default. Commission Notice (Mar. 23, 2011) (Order No. 23); Commission Notice (April 6, 2011) (Order No. 24).

On April 25, 2011, Lexmark filed a motion pursuant to Commission Rule 210.18 (19 C.F.R. § 210.18) for summary determination of violation of Section 337 and requesting issuance of a general exclusion order and cease and desist orders against defaulting respondents. On May 5, 2011, the Commission investigative attorney ("IA") filed a response supporting the motion, on the condition that Lexmark submit the following: (1) a declaration from its expert, Charles Reinholtz, averring that the statements in his expert report are true and correct, and (2) a declaration from Andrew Gardner that the accused products do not have any substantial non-infringing uses. Lexmark filed the submissions per the IA's request.

On June 1, 2011, the ALJ issued an initial determination (Order No. 26) ("ID") granting Lexmark's motion for summary determination of violation of Section 337. The ID also contained the ALJ's recommended determination on remedy and bonding. Specifically, the ALJ recommended issuance of a general exclusion order ("GEO") and cease and desist orders

("CDOs") against the defaulting respondents. The ALJ further recommended that the Commission set a bond of 100 percent during the period of Presidential review.

On July 12, 2011, the Commission determined not to review the ID and called for briefing on remedy, the public interest, and bonding. 76 *Fed. Reg.* 41822-24 (July 15, 2011). On August 1, 2011, Lexmark submitted an initial brief on remedy, the public interest, and bonding, requesting that the Commission issue a GEO and CDOs and set a bond of 100 percent during the period of Presidential review. The brief included a proposed GEO and a proposed CDO. Also on August 1, 2011, the IA submitted an initial brief on remedy, the public interest, and bonding, supporting Lexmark's request for a GEO and CDOs, as well as a bond of 100 percent. The IA's brief also included a proposed GEO and a proposed CDO.

The Commission has determined that the appropriate form of relief is the following: (1) a GEO under 19 U.S.C. § 1337(d)(2), prohibiting the unlicensed entry of toner cartridges and components thereof that infringe one or more of claim 1 of the '032 patent; claims 1-3, 32, 33, 36, and 42 of the '169 patent; claims 1 and 2 of the '233 patent; claims 1 and 2 of the '661 patent; claims 1-3 of the '432 patent; claims 1, 2, and 14 of the '378 patent; claims 1 and 2 of the '291 patent; claims 1, 2, 5, 6, 10, and 15 of the '771 patent; claims 1, 2, 7, 10, 11, 14, 15, 17, 22, and 24 of the '015 patent; claims 1-3 and 28 of the '876 patent; claim 1 of the '692 patent; claims 1, 3, 5, 8, and 10 of the '031 patent; claims 1 and 6 of the '510 patent; claims 11, 12, and 14 of the '760 patent; and claims 1, 7, 14, and 15 of the '204 patent; and (2) CDOs directed to defaulting domestic respondents E-Toner, Alpha Image, Copy Tech, LTT, C&R, ACM, Ink Master, Direct Billing, Ink Tech, QCI, IJSS, Acecom, Ninestar Tech, Ziprint, Nano Pacific, and Nectron and defaulting foreign respondents Ninestar, Ninestar Image Int'l, and Seine Image.

The Commission has further determined that the public interest factors enumerated in Section 337(d) and (f) (19 U.S.C. § 1337(d), (f)) do not preclude issuance of the GEO and the CDOs. The Commission has determined that the bond for temporary importation during the period of Presidential review (19 U.S.C. § 1337(j)) shall be in the amount of 100 percent of the value of the imported articles that are subject to the order. The Commission's orders were delivered to the President and the United States Trade Representative on the day of their issuance.

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 sections 210.42-50 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42-50).

By order of the Commission.

/s/  
James R. Holbein  
Secretary to the Commission

Issued: September 27, 2011