

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-918

**ISSUANCE OF A GENERAL EXCLUSION ORDER AND CEASE AND DESIST
ORDERS; TERMINATION OF INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to issue: (1) a general exclusion order barring entry of certain toner cartridges and components thereof that infringe certain patents asserted in this investigation; and (2) cease and desist orders directed against certain domestic defaulting respondents. The Commission has terminated this investigation.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3115. 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 under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("Section 337"), on June 12, 2014, based on a complaint filed by Canon Inc. of Japan; Canon U.S.A., Inc. of Melville, New York; and Canon Virginia, Inc. of Newport News, Virginia (collectively, "Canon"). 79 *Fed. Reg.* 33777-78 (Jun. 12, 2014). The complaint alleges a violation of section 337 by reason of infringement of certain claims of U.S. Patent Nos. 8,280,278 ("the '278 patent"); 8,630,564 ("the '564 patent"); 8,682,215 ("the '215 patent"); 8,676,090 ("the '090 patent"); 8,369,744 ("the '744 patent"); 8,565,640 ("the '640 patent"); 8,676,085 ("the '085 patent"); 8,135,304 ("the '304 patent"); and 8,688,008 ("the '008 patent"). *Id.* The notice of investigation named thirty-three companies as respondents. *Id.* The Commission's Office of Unfair Import Investigations was

also named as a party. Subsequently, the investigation was partially terminated based on withdrawal of the complaint as to all asserted claims of the following patents: (1) the '744 patent; (2) the '640 patent; (3) the '085 patent; and (4) the '304 patent.

During the investigation, the ALJ issued initial determinations (“IDs”) terminating the investigation based on consent orders as to fifteen respondents: Print-Rite Holdings Ltd.; Print-Rite N.A., Inc.; Union Technology Int’l (M.C.O.) Co. Ltd.; Print-Rite Unicorn Image Products Co. Ltd.; Innotex Precision Ltd.; Ninestar Image Tech Limited; Zhuhai Seine Technology Co., Ltd.; Ninestar Technology Company, Ltd.; Seine Tech (USA) Co., Ltd.; Nano Pacific Corporation; International Laser Group, Inc.; Ink Technologies Printer Supplies, LLC; LD Products, Inc.; Linkyo Corporation; and Katun Corporation. *See* ALJ Order Nos. 13 (*not reviewed* Nov. 4, 2014), 16 (*not reviewed* Nov. 24, 2014), 28 (*not reviewed* Apr. 3, 2015), 29 (*not reviewed* Apr. 3, 2015), 30 (*not reviewed* Apr. 3, 2015), 31 (*not reviewed* Apr. 3, 2015), and 32 (*not reviewed* Apr. 3, 2015). The ALJ also issued an ID terminating the investigation based on Canon’s withdrawal of allegations as to two respondents, Seine Image Int’l Co., Ltd. and Ninestar Image Tech, Ltd. *See* ALJ Order No. 4 (*not reviewed* Aug. 1, 2014). Likewise, the ALJ issued another ID terminating the investigation as to respondent Seine Image (USA) Co., Ltd. due to the corporate dissolution of the respondent. *See* ALJ Order No. 27 (*not reviewed* Apr. 1, 2015).

The ALJ also issued IDs finding the following ten respondents in default: Acecom, Inc. -San Antonio of San Antonio, Texas; ACM Technologies, Inc. of Corona, California; Shenzhen ASTA Official Consumable Co., Ltd. of Longgang District, Shenzhen, China; Do It Wiser LLC of Alpharetta, Georgia; Grand Image Inc. of City of Industry, California; Green Project, Inc. of Hacienda Heights, California; Nectron International, Inc. of Sugar Land, Texas; Online Tech Stores, LLC of Reno, Nevada; Printronic Corporation of Santa Ana, California; and Zinyaw LLC of Houston, Texas. *See* Order Nos. 6 (*not reviewed* Aug. 25, 2014), 12 (*not reviewed* Oct. 1, 2014), 15 (*not reviewed* Nov. 17, 2014).

The remaining five named respondents are Aster Graphics, Inc. of Placentia, California; Jiangxi Yibo E-Tech Co., Ltd. of Xinyu City, Jiangxi, China; Aster Graphics Co., Ltd. of Zhongshan, Guangdong, China; The Supplies Guys, LLC of Midland Park, New Jersey; and American Internet Holdings, LLC of Midland Park, New Jersey. Each of them has acknowledged and stipulated that it has failed to act within the meaning of Commission Rule 210.17, at least because it failed to file a prehearing statement and brief in accordance with the Procedural Schedule (Order No. 9), and that it therefore has no standing to contest Canon’s evidence and arguments that it has violated section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337. *See* Stipulation Regarding the Status of the Aster and Supplies Guys Respondents (Feb. 26, 2015).

On May 12, 2015, the ALJ issued an ID (Order No. 34) granting Canon's motion for summary determination of violation and recommending the issuance of a general exclusion order and several cease and desist orders. No party petitioned for review of the ID.

The Commission determined to affirm the ALJ's finding of a violation of section 337. The Commission also determined to review, and on review, to strike or modify certain portions of the ID. Furthermore, the Commission requested briefing on the issues of remedy, the public interest and bonding. *See 80 Fed. Reg. 37299-301* (Jun. 30, 2015). Canon and the Commission investigative attorney filed timely submissions pursuant to the Commission's Notice. No other parties filed any submissions in response to the Commission's Notice.

Having reviewed the submissions filed in response to the Commission's Notice and the evidentiary record, the Commission has determined that the appropriate form of relief in this investigation is a general exclusion order barring entry of certain toner cartridges and components thereof covered by one or more of claims 160, 165, and 166 of the '278 patent; claims 171, 176, 179, 181, 189, 192, and 200 of the '564 patent; claims 23, 26, 27, and 29 of the '215 patent; claims 1-4 of the '090 patent; and claims 1, 7-9, 11, 12, and 34 of the '008 patent. The Commission has also determined to issue cease and desist orders directed against Acecom, Inc.-San Antonio; Do It Wiser LLC; Grand Image Inc.; Green Project, Inc.; Nectron International, Inc.; Online Tech Stores, LLC; Printronic Corporation; and Zinyaw LLC. The Commission has further determined that the public interest factors enumerated in subsections (d)(1), (f)(1), and (g)(1) (19 U.S.C. §§ 1337(d)(1), (f)(1), (g)(1)) do not preclude issuance of the general exclusion order and cease and desist orders. Additionally, the Commission has determined that a bond in the amount of one hundred (100) percent of the entered value is required to permit temporary importation of the articles in question during the period of Presidential review (19 U.S.C. § 1337(j)). The Commission has also issued an opinion explaining the basis for the remedy. The investigation is terminated.

The Commission's orders and the record upon which it based its determination were delivered to the President and to the United States Trade Representative on the day of their issuance. The Commission has also notified the Secretary of the Treasury of the orders.

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.



Lisa R. Barton
Secretary to the Commission

Issued: August 31, 2015