

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

**In the Matters of**

**CERTAIN INK CARTRIDGES AND  
COMPONENTS THEREOF**

**Investigation Nos. 337-TA-565/946  
(Advisory Opinion Proceeding)**

**INSTITUTION OF AN ADVISORY OPINION PROCEEDING**

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to institute an advisory opinion proceeding in the above-captioned investigations.

**FOR FURTHER INFORMATION CONTACT:** Cathy Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2392. 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, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://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 Inv. No. 337-TA-565 on March 23, 2006, based on a complaint filed by Epson Portland, Inc. of Hillsboro, Oregon, Epson America, Inc. of Long Beach, California, and Seiko Epson Corporation of Nagano-Ken, Japan (collectively, "Epson"). 71 FR 14720 (Mar. 23, 2006). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, by reason of infringement of certain claims of U.S. Patent Nos. 5,615,957; 5,622,439; 5,158,377; 5,221,148; 5,156,472; 5,488,401; 6,502,917; 6,550,902; 6,955,422; 7,008,053; and 7,011,397. The Commission's notice of investigation named 24 respondents including Ninestar Technology Company Ltd. of Montclair, California ("Ninestar"). The Office of Unfair Import Investigations participated in the investigation. Several respondents were terminated from the investigation on the basis of settlement agreements or consent orders or were found in default. On October 19, 2007, the Commission issued a general exclusion order ("GEO") and a limited exclusion order. The Commission also issued cease and desist orders ("CDO") directed to several domestic respondents.

The Commission instituted Inv. No. 337-TA-946 on January 27, 2015, based on a complaint filed by Epson. 80 FR 4314-16 (Jan. 27, 2015). That complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, by reason of infringement of certain claims of U.S. Patent Nos. 8,366,233; 8,454,116; 8,794,749; 8,801,163; and 8,882,513. The Commission's notice of investigation named numerous respondents. The Office of Unfair Import Investigations participated in the investigation. All the participating respondents were terminated from the investigation as a result of settlement agreements and/or consent motion stipulations. A number of the named respondents defaulted. On October 28, 2015, the presiding administrative law judge (ALJ) issued an initial determination granting Epson's motion for summary determination of violation of section 337 by the defaulting respondents. Based on evidence of a pattern of violation and difficulty ascertaining the source of the infringing products, the Commission issued a GEO and CDOs directed to two defaulted domestic respondents on May 26, 2016.

On April 26, 2017, Ninestar, Ninestar Image Tech. Ltd., and Apex Microtech Ltd. (collectively, "Requesters") filed a request for a consolidated advisory opinion proceeding in both investigations pursuant to Commission Rule 210.79 (19 C.F.R. § 210.79). Specifically, Requesters seek an advisory opinion that will declare that their refurbished Epson ink cartridges remanufactured using empty Epson ink cartridges collected from the United States are outside the scope of the GEOs and CDOs issued in both investigations. Requesters also ask that the advisory opinion proceeding be conducted in an expedited manner pursuant to Commission Rule 210.2 (19 C.F.R. § 210.2), without a formal hearing or discovery. Epson filed a timely response opposing the request. Thereafter, Requesters filed a motion for leave to file a reply to Epson's response.

The Commission has determined that the request complies with the requirements for institution of an advisory opinion proceeding under Commission Rule 210.79. Accordingly, the Commission has determined to institute a consolidated advisory opinion proceeding in both investigations and referred the request to the Chief ALJ to designate a presiding ALJ. Epson, the Requesters, and the Office of Unfair Import Investigations are named as parties to the proceeding. The Commission has also determined to deny Requesters' motion for leave to file a reply.

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: June 12, 2017