

*In the Matter of*

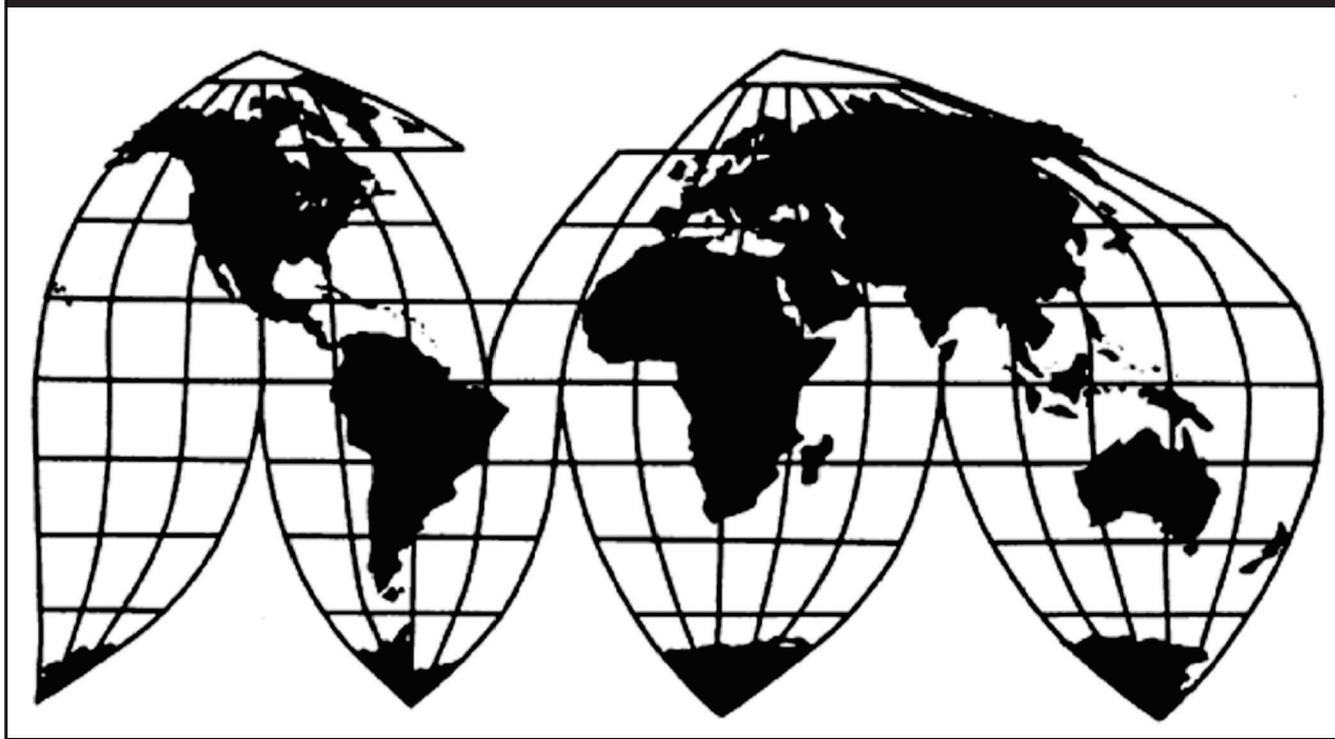
**CERTAIN INK CARTRIDGES AND  
COMPONENTS THEREOF**

337-TA-946

Publication 4911

June 2019

**U.S. International Trade Commission**



Washington, DC 20436

# **U.S. International Trade Commission**

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Washington, DC 20436**

# U.S. International Trade Commission

Washington, DC 20436  
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*In the Matter of*

## CERTAIN INK CARTRIDGES AND COMPONENTS THEREOF

337-TA-946



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

**In the Matter of**

**CERTAIN INK CARTRIDGES AND  
COMPONENTS THEREOF**

**Investigation No. 337-TA-946**

**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 (“GEO”) barring entry of certain ink cartridges and components thereof that infringe the patents asserted in this investigation; and (2) cease and desist orders (“CDOs”) directed against two 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 January 27, 2015, based on a complaint filed by Epson Portland Inc., Epson America, Inc. and Seiko Epson Corporation (collectively, “Epson,” or Complainants). 80 *Fed. Reg.* 4314-16 (Jan. 27, 2015). The complaint alleges a violation of section 337 by reason of infringement of certain claims of U.S. Patent No. 8,366,233 (“the ‘233 patent”); U.S. Patent No. 8,454,116 (“the ‘116 patent”); U.S. Patent No. 8,794,749 (“the ‘749 patent”); U.S. Patent No. 8,801,163 (“the ‘163 patent”); and U.S. Patent No. 8,882,513 (“the ‘513 patent”) (collectively, the “Asserted Patents”) by numerous respondents. *Id.* In particular, the notice of investigation named the following nineteen entities as respondents: Zhuhai Nano Digital Technology Co., Ltd. of Zhuhai, China;

Nano Business & Technology, Inc. of Lake Oswego, Oregon; Zhuhai National Resources & Jingjie Imaging Products Co., Ltd. of Zhuhai, China; Huebon Co. Ltd. of Hong Kong; Chancenc Co., Ltd. of Hong Kong; Zhuhai Rich Imaging Technology Co., Ltd. of Zhuhai, China; Shanghai Orink Infotech International Co., Ltd. of Shanghai, China; Orink Infotech International Co., Ltd. of Hong Kong; Zinyaw LLC of Houston, Texas; Yotat Group Co., Ltd. of Hong Kong; Yotat (Zhuhai) Technology Co., Ltd. of Zhuhai, China; Ourway Image Co., Ltd. of Zhuhai, China; Kingway Image Co., Ltd. of Zhuhai, China; Zhuhai Chinamate Technology Co., Ltd. of Zhuhai, China; InkPro2day, LLC of Los Angeles, California; Dongguan OcBestjet Printer Consumables Co., Ltd. of Dongguan, China; OcBestjet Printer Consumables (HK) Co., Ltd. of Hong Kong; Aomya Printer Consumables (Zhuhai) Co., Ltd. of Guangdong, China; and Zhuhai Richeng Development Co., Ltd. of Zhuhai, China. The Commission's Office of Unfair Import Investigations ("OUII") was also named as a party.

On June 18, 2015, the ALJ issued an initial determination ("ID") (Order No. 9) finding in default respondents Huebon Co.; Ltd., Chancenc Co., Ltd.; Yotat Group Co., Ltd.; Ourway Image Co., Ltd.; Shanghai Orink Infotech International Co., Ltd.; Orink Infotech International Co., Ltd.; Kingway Image Co., Ltd.; Zhuhai Chinamate Technology Co., Ltd.; Yotat (Zhuhai) Technology Co., Ltd.; Zhuhai Richeng Development Co., Ltd.; Dongguan OcBestjet Printer Consumables Co., Ltd.; OcBestjet Printer Consumables (HK) Co., Ltd.; Zinyaw LLC; InkPro2day; LLC, Aomya Printer Consumables (Zhuhai) Co., Ltd.; Zhuhai National Resources & Jingjie Imaging Products Co., Ltd.; and Zhuhai Rich Imaging Technology Co., Ltd. (collectively, "the Defaulting Respondents") (*not reviewed* Jul. 10, 2015). On July 8, 2015, the ALJ issued an ID (Order No. 10) terminating the investigation as to remaining named respondents Zhuhai Nano Digital Technology, Co., Ltd. (China) and Nano Business and Technology, Inc. (USA) based on a settlement agreement and consent order (*not reviewed* Aug. 5, 2015).

All of the respondents in this investigation have either defaulted or entered into consent orders that have been approved by the Commission. On September 16, 2015, the ALJ issued an ID (Order No. 11) partially terminating the investigation based on Epson's withdrawal of certain claims (*not reviewed* Oct. 15, 2015). Claims 1 and 10 of the '233 patent; claims 9, 14, 18, and 21 of the '116 patent; claims 1, 18, 49, and 60 of the '749 patent; claims 1 and 6 of the '163 patent; and claims 14, 15, and 19 of the '513 patent remain pending in this investigation. ID at 3.

On August 31, 2015, Epson filed a motion for summary determination of violation by the Defaulting Respondents. The IA filed a response in support of the motion on September 11, 2015. No respondent filed a response to the motion.

On October 28, 2015, the ALJ issued an ID (order No. 12) granting Complainants' motion for summary determination. No party petitioned for review of the ID. The Commission determined to review-in-part the subject ID and, on review, to affirm the ID with certain modifications to the ALJ's findings regarding the importation requirement. Notice of Commission Determination To Review an ID in Part and, on Review, to Affirm a Finding of a Violation of Section 337 dated December 14, 2015 ("Commission Notice") at 2. *See 80 Fed.*

Reg. 79097-99 (Dec. 18, 2015). The Commission's determination resulted in a finding of a violation of section 337.

The Commission requested written submissions on remedy, public interest, and bonding. *Id.* Complainants and OUII timely filed their submissions pursuant to the Commission Notice. No other parties filed submissions in response to the Commission Notice. No submissions were filed by the public.

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) a GEO prohibiting the unlicensed importation of certain ink cartridges and components thereof covered by one or more of claims 1 and 10 of the '233 patent; claims 9, 14, 18, and 21 of the '116 patent; claims 1, 18, 49, and 60 of the '749 patent; claims 1 and 6 of the '163 patent; and claims 14, 15, and 19 of the '513 patent; and (b) CDOs directed against respondents Zinyaw and InkPro2day.

The Commission has further determined that the public interest factors enumerated in subsections (d)(1) and (f)(1) (19 U.S.C. §§ 1337(d)(1), (f)(1)) do not preclude issuance of the above-referenced remedial 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: May 26, 2016

**PUBLIC CERTIFICATE OF SERVICE**

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served by hand upon the Commission Investigative Attorney, **Brian Koo, Esq.**, and the following parties as indicated, on 5/26/2016



Lisa R. Barton, Secretary  
U.S. International Trade Commission  
500 E Street, SW, Room 112  
Washington, DC 20436

**On Behalf of Complainants Epson Portland Inc., Epson  
America, Inc., and Seiko Epson Corporation:**

Paul F. Brinkman  
**QUINN EMANUEL URQUHART & SULLIVAN, LLP**  
777 6<sup>th</sup> Street NW, 11<sup>th</sup> Floor  
Washington, DC 20001-3706

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

**Respondents:**

Zhuhai Nano Digital Technology Co., Ltd.  
No. 3 Factory Building, 2/F, 3 Pingxi 5<sup>th</sup> Road  
Nanping State Hi-Tech Park  
Zhuhai, Guangdong, China 519060

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Nano Business & Technology, Inc. d/b/a Nano Digital  
d/b/a Nano Ink Spot d/b/a Dinsink,  
650 North State Street  
Lake Oswego, OR 97034

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Zhuhai National Resources & Jingjie Imaging Products Co., Ltd.  
d/b/a Ink-Tank, Workshop 2, 1-3/F,  
No. 3 Qingwan 3<sup>rd</sup> Rd, Qingwan Industrial Zone,  
Zhuhai, Guangdong, China

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

**CERTAIN INK CARTRIDGES AND COMPONENTS  
THEREOF**

**Inv. No. 337-TA-946**

Certificate of Service – Page 2

Huebon Co., Ltd.  
Room 1207, Wing Tuck Commercial Centre,  
177-183 Wing Lok Street,  
Sheung Wan, Hong Kong

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Chancen Co., Ltd.  
Room 1207, Wing Tuck Commercial Centre,  
177-183 Wing Lok Street,  
Sheung Wan, Hong Kong

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Zhuhai Rich Imaging Technology Co., Ltd.  
Block 1, 3-5/F  
3 Qingwan 3<sup>rd</sup> Rd, Qingwan Industrial Zone,  
Zhuhai, Guangdong, China 519040

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Shanghai Orink Infotech International Co., Ltd.,  
Room 307  
No. 275-8 East Guoding Road  
Shanghai, China 200433

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Orink Infotech International Co., Lt.  
Unit 1205, 12F/L.,  
Sino Plaza, 255 Gloucester Road,  
Causeway Bay, Hong Kong

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Zinyaw LLC d/b/a TonerPirate.com  
1321 Upland Dr. # 1359  
Houston, TX 77043

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Yotat Group Co., Ltd.  
Flat/Room 704, Bright Way Tower  
33 Mong Kok Road  
Kowloon, Hong Kong

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Yotat (Zhuhai) Technology Co., Ltd.  
No 127 People's East Road  
Xiangzhou, Zhuhai, China

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

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**Inv. No. 337-TA-946**

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Ourway Image Co., Ltd., Room 403, 4/F  
Rirong Edifice, Building 5  
No. 291 Remin West Road  
Xiangzhou, Zhuhai, China

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Kingway Image Co., Ltd., Room 403, 4/F, Building 1  
No. 1 Ping Dong Road  
2 Nanping Industry Park  
Zhuhai, China

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Zhuhai Chinamate Technology, Co., Ltd.  
Room 1504/1508/1511,  
No# 125 Renmin East Road  
Xiangzhou, Zhuhai, China

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

InkPro2day, LLC  
1200 Santee Street, Suite 1006  
Los Angeles, CA 90015

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Dongguan OcBestjet Printer Consumables Co., Ltd.  
Block F01, 4/F, Jingyefang Industrial Park,  
No. 351, Jian'an Road, Wusha Village,  
Chang'an Town, Dongguan, China

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

OcBestjet Printer Consumables (HK) Co., Ltd.  
RM 2301, 23 F/L, Worldwide House,  
19 Des Voeux Road Central,  
Hong Kong

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Amoya Printer Consumables (Zhuhai) Co., Ltd.  
Rm# 412, Henghe Business Building  
No. 313 East Renmin Road  
Xiangzhou, Zhuhai, Guangdong, China

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Zhuhai Richeng Development Co., Ltd. d/b/a Richeng  
Technology  
Building No. 5, Nanshan Industrial Zone,  
10 Shihua 3<sup>rd</sup> Street, Jida, Zhuhai, China 519015

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

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

**In the Matter of**

**CERTAIN INK CARTRIDGES AND  
COMPONENTS THEREOF**

**Inv. No. 337-TA-946**

**GENERAL EXCLUSION ORDER**

The Commission has determined that there is a violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), in the unlawful importation and sale of certain ink cartridges and components thereof covered by one or more of claims 1 and 10 of U.S. Patent No. 8,366,233 (“the ’233 patent”); claims 9, 14, 18, and 21 of U.S. Patent No. 8,454,116 (“the ’116 patent”); claims 1, 18, 49, and 60 of U.S. Patent No. 8,794,749 (“the ’749 patent”); claims 1 and 6 of U.S. Patent No. 8,801,163 (“the ’163 patent”); and claims 14, 15, and 19 of U.S. Patent No. 8,882,513 (“the ’513 patent”).

Having reviewed the record of this investigation, including the written submissions of the parties, the Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that a general exclusion from entry for consumption is necessary to prevent circumvention of an exclusion order limited to products of named persons and because there is a pattern of violation of Section 337 and it is difficult to identify the source of infringing products. Accordingly, the Commission has determined to issue a general exclusion order prohibiting the unlicensed importation of infringing ink cartridges and components thereof (“covered products”).

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. § 1337(d) do not preclude the issuance of the general exclusion order, and that the bond during the Presidential review period shall be in the amount of one hundred (100) percent of the entered value for all covered products in question.

Accordingly, the Commission hereby ORDERS that:

1. Ink cartridges and components thereof that are covered by one or more of claims 1 and 10 of the '233 patent; claims 9, 14, 18, and 21 of the '116 patent; claims 1, 18, 49, and 60 of the '749 patent; claims 1 and 6 of the '163 patent; and claims 14, 15, and 19 of the '513 patent are excluded from entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, for the remaining terms of the patents, except under license of the patent owner or as provided by law.

2. Notwithstanding paragraph 1 of this Order, the aforesaid ink cartridges and components thereof are entitled to entry into the United States for consumption, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption under bond in the amount of one hundred (100) percent of the entered value of the products, pursuant to subsection (j) of Section 337 (19 U.S.C. § 1337(j)) and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (70 Fed. Reg. 43251), from the day after this Order is received by the United States Trade Representative until such time as the United States Trade Representative notifies the Commission that this Order is approved or disapproved but, in any event, not later than sixty days after the date of receipt of this Order.

3. At the discretion of U.S. Customs and Border Protection ("CBP") and pursuant to procedures that it establishes, persons seeking to import ink cartridges and components thereof that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of

their knowledge and belief, the products being imported are not excluded from entry under paragraph 1 of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.

4. In accordance with 19 U.S.C. § 1337(1), the provisions of this Order shall not apply to ink cartridges and components thereof imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.

5. The Commission may modify this Order in accordance with the procedures described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

6. The Secretary shall serve copies of this Order upon each party of record in this investigation and upon CBP.

7. Notice of this Order shall be published in the *Federal Register*.

By order of the Commission.



Lisa R. Barton  
Secretary to the Commission

Issued: May 26, 2016

**PUBLIC CERTIFICATE OF SERVICE**

I, Lisa R. Barton, hereby certify that the attached **ORDER** has been served by hand upon the Commission Investigative Attorney, **Brian Koo, Esq.**, and the following parties as indicated, on 5/26/2016



Lisa R. Barton, Secretary  
U.S. International Trade Commission  
500 E Street, SW, Room 112  
Washington, DC 20436

**On Behalf of Complainants Epson Portland Inc., Epson  
America, Inc., and Seiko Epson Corporation:**

Paul F. Brinkman  
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1200 Santee Street, Suite 1006  
Los Angeles, CA 90015

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Dongguan OcBestjet Printer Consumables Co., Ltd.  
Block F01, 4/F, Jingyefang Industrial Park,  
No. 351, Jian'an Road, Wusha Village,  
Chang'an Town, Dongguan, China

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 Other: \_\_\_\_\_

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

**In the Matter of**

**CERTAIN INK CARTRIDGES AND  
COMPONENTS THEREOF**

**Inv. No. 337-TA-946**

**CEASE AND DESIST ORDER**

**IT IS HEREBY ORDERED THAT** Zinyaw, LLC, of Houston, Texas, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, transferring (except for exportation), and soliciting U.S. agents or distributors for ink cartridges and components thereof that infringe one or more of claims 1 and 10 of U.S. Patent No. 8,366,233 (“the ’233 patent”); claims 9, 14, 18, and 21 of U.S. Patent No. 8,454,116 (“the ’116 patent”); claims 1, 18, 49, and 60 of U.S. Patent No. 8,794,749 (“the ’749 patent”); claims 1 and 6 of U.S. Patent No. 8,801,163 (“the ’163 patent”); and claims 14, 15, and 19 of U.S. Patent No. 8,882,513 (“the ’513 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

**I.  
Definitions**

As used in this Order:

- (A) “Commission” shall mean the United States International Trade Commission.
- (B) “Complainants” shall mean Seiko Epson Corporation of Japan; Epson Portland Inc. of Hillsboro, Oregon; and Epson America, Inc. of Long Beach, California.
- (C) “Respondent” shall mean Zinyaw, LLC, of Houston, Texas.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority-owned or controlled subsidiaries, successors, or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the customs laws of the United States.

(G) The term “covered products” shall mean ink cartridges and components thereof that infringe one or more of claims 1 and 10 of the ’233 patent; claims 9, 14, 18, and 21 of the ’116 patent; claims 1, 18, 49, and 60 of the ’749 patent; claims 1 and 6 of the ’163 patent; and claims 14, 15, and 19 of the ’513 patent.

## **II. Applicability**

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

## **III. Conduct Prohibited**

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the relevant one or more of the ’233, ’116, ’749, ’163, and ’513 patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products
- (D) solicit U.S. agents or distributors for imported covered products; or
- (E) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

#### **IV. Conduct Permitted**

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this order shall be permitted if, in a written instrument, the owner of the relevant one or more of the '233, '116, '749, '163, and '513 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States as described in Section 337(l) of the Tariff Act of 1930 (19 U.S.C. § 1337(l)).

#### **V. Reporting**

For purposes of this requirement, the reporting periods shall commence on January 1 of each year and shall end on the subsequent December 31. The first report required under this section shall cover the period from the date of issuance of this order through December 31, 2016. This reporting requirement shall continue in force until such time as Respondent has truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to

the Commission: (a) the quantity in units and the value in dollars of covered products that it has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period.

When filing written submissions, Respondent must file the original document electronically on or before the deadlines stated above and submit eight (8) true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-946") in a prominent place on the cover pages and/or the first page. (See Handbook for Electronic Filing Procedures, [http://www.usitc.gov/secretary/fed\\_reg\\_notices/rules/handbook\\_on\\_electronic\\_filing.pdf](http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf)). Persons with questions regarding filing should contact the Secretary (202-205-2000). If Respondent desires to submit a document to the Commission in confidence, it must file the original and a public version of the original with the Office of the Secretary and must serve a copy of the confidential version on Complainants' counsel.<sup>1</sup>

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

## **VI. Record-Keeping and Inspection**

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, offer for sale, marketing, or distribution in the United

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<sup>1</sup> Complainants must file a letter with the Secretary identifying the attorney to receive reports and bond information associated with this order. The designated attorney must be on the protective order entered in the investigation.

States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purposes of determining or securing compliance with this Order and for no other purpose, subject to any privilege recognized by the federal courts of the United States, and upon reasonable written notice by the Commission or its staff, authorized representatives of the Commission shall be permitted access and the right to inspect and copy, in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, in detail and in summary form, that must be retained under subparagraph VI(A) of this Order.

## **VII. Service of Cease and Desist order**

Respondent is ordered and directed to:

(A) Serve, within fifteen days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen days after the succession of any persons referred to in subparagraph VII(A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII( A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the expiration dates of the '233, '116, '749, '163, and '513 patents.

**VIII.**  
**Confidentiality**

Any request for confidential treatment of information obtained by the Commission pursuant to Section VI of this Order should be made in accordance with section 201.6 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 201.6). For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

**IX.**  
**Enforcement**

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.75), including an action for civil penalties under Section 337(f) of the Tariff Act of 1930 (19 U.S.C. § 1337(f)), as well as any other action that the Commission deems appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if it fails to provide adequate or timely information.

**X.**  
**Modification**

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

## **XI. Bonding**

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative, as delegated by the President (70 Fed. Reg. 43,251 (Jul. 21, 2005)), subject to Respondent posting of a bond in the amount of 100 percent of the entered value of the covered products. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this Order are subject to the entry bond as set forth in the exclusion order issued by the Commission, and are not subject to this bond provision.

The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. (*See* 19 C.F.R. § 210.68). The bond and any accompanying documentation are to be provided to and approved by the Commission prior to the commencement of conduct that is otherwise prohibited by Section III of this Order. Upon the Secretary's acceptance of the bond, (a) the Secretary will serve an acceptance letter on all parties, and (b) Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.<sup>2</sup>

The bond is to be forfeited in the event that the United States Trade Representative approves this Order (or does not disapprove it within the review period), unless (i) the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or (ii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the

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<sup>2</sup> *See* note 1 above.

Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved (or not disapproved) by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By the order of the Commission.

A handwritten signature in black ink, appearing to read "Lisa R. Barton". The signature is stylized and cursive.

Lisa R. Barton  
Secretary to the Commission

Issued: May 26, 2016

**PUBLIC CERTIFICATE OF SERVICE**

I, Lisa R. Barton, hereby certify that the attached **ORDER** has been served by hand upon the Commission Investigative Attorney, **Brian Koo, Esq.**, and the following parties as indicated, on 5/26/2016



Lisa R. Barton, Secretary  
U.S. International Trade Commission  
500 E Street, SW, Room 112  
Washington, DC 20436

**On Behalf of Complainants Epson Portland Inc., Epson  
America, Inc., and Seiko Epson Corporation:**

Paul F. Brinkman  
**QUINN EMANUEL URQUHART & SULLIVAN, LLP**  
777 6<sup>th</sup> Street NW, 11<sup>th</sup> Floor  
Washington, DC 20001-3706

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

**Respondents:**

Zhuhai Nano Digital Technology Co., Ltd.  
No. 3 Factory Building, 2/F, 3 Pingxi 5<sup>th</sup> Road  
Nanping State Hi-Tech Park  
Zhuhai, Guangdong, China 519060

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Nano Business & Technology, Inc. d/b/a Nano Digital  
d/b/a Nano Ink Spot d/b/a Dinsink,  
650 North State Street  
Lake Oswego, OR 97034

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Zhuhai National Resources & Jingjie Imaging Products Co., Ltd.  
d/b/a Ink-Tank, Workshop 2, 1-3/F,  
No. 3 Qingwan 3<sup>rd</sup> Rd, Qingwan Industrial Zone,  
Zhuhai, Guangdong, China

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

**CERTAIN INK CARTRIDGES AND COMPONENTS  
THEREOF**

**Inv. No. 337-TA-946**

Certificate of Service – Page 2

Huebon Co., Ltd.  
Room 1207, Wing Tuck Commercial Centre,  
177-183 Wing Lok Street,  
Sheung Wan, Hong Kong

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Chancen Co., Ltd.  
Room 1207, Wing Tuck Commercial Centre,  
177-183 Wing Lok Street,  
Sheung Wan, Hong Kong

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Zhuhai Rich Imaging Technology Co., Ltd.  
Block 1, 3-5/F  
3 Qingwan 3<sup>rd</sup> Rd, Qingwan Industrial Zone,  
Zhuhai, Guangdong, China 519040

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Shanghai Orink Infotech International Co., Ltd.,  
Room 307  
No. 275-8 East Guoding Road  
Shanghai, China 200433

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Orink Infotech International Co., Lt.  
Unit 1205, 12F/L.,  
Sino Plaza, 255 Gloucester Road,  
Causeway Bay, Hong Kong

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Zinyaw LLC d/b/a TonerPirate.com  
1321 Upland Dr. # 1359  
Houston, TX 77043

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Yotat Group Co., Ltd.  
Flat/Room 704, Bright Way Tower  
33 Mong Kok Road  
Kowloon, Hong Kong

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Yotat (Zhuhai) Technology Co., Ltd.  
No 127 People's East Road  
Xiangzhou, Zhuhai, China

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

**CERTAIN INK CARTRIDGES AND COMPONENTS  
THEREOF**

**Inv. No. 337-TA-946**

Certificate of Service – Page 3

Ourway Image Co., Ltd., Room 403, 4/F  
Rirong Edifice, Building 5  
No. 291 Remin West Road  
Xiangzhou, Zhuhai, China

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Kingway Image Co., Ltd., Room 403, 4/F, Building 1  
No. 1 Ping Dong Road  
2 Nanping Industry Park  
Zhuhai, China

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Zhuhai Chinamate Technology, Co., Ltd.  
Room 1504/1508/1511,  
No# 125 Renmin East Road  
Xiangzhou, Zhuhai, China

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

InkPro2day, LLC  
1200 Santee Street, Suite 1006  
Los Angeles, CA 90015

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Dongguan OcBestjet Printer Consumables Co., Ltd.  
Block F01, 4/F, Jingyefang Industrial Park,  
No. 351, Jian'an Road, Wusha Village,  
Chang'an Town, Dongguan, China

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

OcBestjet Printer Consumables (HK) Co., Ltd.  
RM 2301, 23 F/L, Worldwide House,  
19 Des Voeux Road Central,  
Hong Kong

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Amoya Printer Consumables (Zhuhai) Co., Ltd.  
Rm# 412, Henghe Business Building  
No. 313 East Renmin Road  
Xiangzhou, Zhuhai, Guangdong, China

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Zhuhai Richeng Development Co., Ltd. d/b/a Richeng  
Technology  
Building No. 5, Nanshan Industrial Zone,  
10 Shihua 3<sup>rd</sup> Street, Jida, Zhuhai, China 519015

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

**PUBLIC VERSION**

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

**In the Matter of**

**CERTAIN INK CARTRIDGES AND  
COMPONENTS THEREOF**

**Investigation No. 337-TA-946**

**COMMISSION OPINION**

**I. BACKGROUND**

The Commission instituted this investigation on January 27, 2015, based on a complaint filed by complainants Epson Portland Inc., Epson America, Inc. and Seiko Epson Corporation (collectively, “Epson,” or Complainants), alleging a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain ink cartridges and components thereof (the “Accused Ink Cartridge Products”) by reason of infringement of one or more of claims 1, 4, and 10 of U.S. Patent No. 8,366,233 (“the ‘233 patent”); claims 1, 5, 9, 14, 16, 18, 21, 24, 25, and 28 of U.S. Patent No. 8,454,116 (“the ‘116 patent”); claims 1, 3, 14, 15, 17, 18, 20, 30, 36, 49, 60, and 61 of U.S. Patent No. 8,794,749 (“the ‘749 patent”); claims 1, 6, and 13 of U.S. Patent No. 8,801,163 (“the ‘163 patent”); and claims 1, 3, 7, 14, 15, and 19 of U.S. Patent No. 8,882,513 (“the ‘513 patent”). *See* 80 *Fed. Reg.* 4314-16 (Jan. 27, 2015).<sup>1</sup>

The Commission’s notice of investigation named the following entities as respondents:

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<sup>1</sup>On September 2, 2015, Epson filed an unopposed motion to withdraw claim 4 of the ‘233 patent; claims 1, 5, 16, 24, 25, and 28 of the ‘116 patent; claims 3, 14, 15, 17, 20, 30, 36, and 61 of the ‘749 patent; claim 13 of the ‘163 patent; and claims 1, 3, and 7 the ‘513 patent. This motion was granted on September 16, 2015. Order No. 11 (*not reviewed* Oct. 15, 2015). As a result, claims 1 and 10 of the ‘233 patent; claims 9, 14, 18, and 21 of the ‘116 patent; claims 1, 18, 49, and 60 of the ‘749 patent; claims 1 and 6 of the ‘163 patent; and claims 14, 15, and 19 of the ‘513 patent remain at issue in this investigation.

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Zhuhai Nano Digital Technology Co., Ltd. of Zhuhai, China; Nano Business & Technology, Inc. of Lake Oswego, Oregon; Zhuhai National Resources & Jingjie Imaging Products Co., Ltd. of Zhuhai, China; Huebon Co. Ltd. of Hong Kong; Chancen Co., Ltd., of Hong Kong; Zhuhai Rich Imaging Technology Co., Ltd. of Zhuhai, China; Shanghai Orink Infotech International Co., Ltd. of Shanghai, China; Orink Infotech International Co., Ltd. of Hong Kong; Zinyaw LLC of Houston, Texas; Yotat Group Co., Ltd. of Hong Kong; Yotat (Zhuhai) Technology Co., Ltd. of Zhuhai, China; Ourway Image Co., Ltd. of Zhuhai, China; Kingway Image Co., Ltd. of Zhuhai, China; Zhuhai Chinamate Technology Co., Ltd. of Zhuhai, China; InkPro2day, LLC of Los Angeles, California; Dongguan OcBestjet Printer Consumables Co., Ltd. of Dongguan, China; OcBestjet Printer Consumables (HK) Co., Ltd. of Hong Kong; Aomya Printer Consumables (Zhuhai) Co., Ltd. of Guangdong, China; and Zhuhai Richeng Development Co., Ltd. of Zhuhai, China. *Id.* A Commission investigative attorney (“IA,” or “Staff”) is participating in this investigation. *Id.*

On June 18, 2015, the Administrative Law Judge (“ALJ”) issued an initial determination (“ID”) (Order No. 9) finding in default respondents Huebon Co., Ltd.; Chancen Co., Ltd.; Yotat Group Co., Ltd.; Ourway Image Co., Ltd.; Shanghai Orink Infotech International Co., Ltd.; Orink Infotech International Co., Ltd.; Kingway Image Co., Ltd.; Zhuhai Chinamate Technology Co., Ltd.; Yotat (Zhuhai) Technology Co., Ltd.; Zhuhai Richeng Development Co., Ltd.; Dongguan OcBestjet Printer Consumables Co., Ltd.; OcBestjet Printer Consumables (HK) Co., Ltd.; Zinyaw LLC; InkPro2day; LLC, Aomya Printer Consumables (Zhuhai) Co., Ltd.; Zhuhai National Resources & Jingjie Imaging Products Co., Ltd.; and Zhuhai Rich Imaging Technology Co., Ltd. (collectively, “the Defaulting Respondents”) (*not reviewed* Jul. 10, 2015).

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On July 8, 2015, the ALJ issued an ID (Order No. 10) terminating the investigation as to remaining named respondents Zhuhai Nano Digital Technology, Co., Ltd. (China) and Nano Business and Technology, Inc. (USA) (collectively, “Nano Digital”) based on a settlement agreement and consent order (*not reviewed* Aug. 5, 2015). All of the respondents in this investigation have either defaulted or entered into consent orders that have been approved by the Commission.

On August 31, 2015, Epson filed a motion for summary determination of violation of Section 337 by the Defaulting Respondents. Epson attached a memorandum (“Mem.”) in support of the motion and a statement of undisputed facts (“SUF”). Epson also attached declarations from, *inter alia*, Dr. Gerald M. Murch (“Murch 2015 Decl.”) and Mr. Herbert W. Seitz (“Seitz 2015 Decl.”). Epson’s motion sought summary determination of importation and infringement by the defaulting Respondents and summary determination that a domestic industry exists. Mot. at 1-2; Mem. at 1; ID at 3. In addition, Epson sought entry of a general exclusion order (“GEO”) and a bond set at 100 percent of the entered value of imported infringing goods pending Presidential review. *Id.* Epson also requested cease and desist orders (“CDOs”) against respondents InkPro2day, LLC (“InkPro2day”) and Zinyaw LLC (“Zinyaw”). *Id.* The IA filed a response in support of the motion on September 11, 2015 (“SResp.”). No respondent filed any response to the motion.

On October 28, 2015, the ALJ issued an ID (Order No. 12) granting Complainants’ motion for summary determination. The Commission determined to review-in-part the subject ID and, on review, to affirm the ID with certain modifications to the ALJ’s findings regarding the importation requirement. Notice of Commission Determination To Review an ID in Part and, on

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Review, to Affirm a Finding of a Violation of Section 337 dated December 14, 2015

(“Commission Notice”) at 2. *See* 80 *Fed. Reg.* 79097-99 (Dec. 18, 2015). The Commission’s determination resulted in a determination of a violation of section 337. The Commission also requested written submissions on remedy, public interest, and bonding. *Id.* Complainants and the IA timely filed their submissions pursuant to the Commission Notice. No other submissions were filed in response to the Commission Notice.

### II. Remedy

In a Section 337 proceeding, the Commission has “broad discretion in selecting the form, scope, and extent of the remedy.” *Viscofan, S.A. v. United States Int’l Trade Comm’n*, 787 F.2d 544, 548 (Fed. Cir. 1986). Based on the record in this investigation, and for the reasons detailed below, the Commission has determined to issue the following remedies: (a) a GEO prohibiting the unlicensed importation of certain ink cartridges and components thereof covered by one or more of claims 1 and 10 of the ‘233 patent; claims 9, 14, 18, and 21 of the ‘116 patent; claims 1, 18, 49, and 60 of the ‘749 patent; claims 1 and 6 of the ‘163 patent; and claims 14, 15, and 19 of the ‘513 patent; and (b) CDOs directed against defaulted domestic respondents Zinyaw and InkPro2day. We also find that these remedial orders are not contrary to the public interest.

#### A. GEO

For the reasons that follow, we have determined to issue a GEO pursuant to 19 U.S.C. § 1337(d)(2), forbidding entry into the United States of all ink cartridges and components thereof covered by one or more of claims 1 and 10 of the ‘233 patent; claims 9, 14, 18, and 21 of the ‘116 patent; claims 1, 18, 49, and 60 of the ‘749 patent; claims 1 and 6 of the ‘163 patent; and claims 14, 15, and 19 of the ‘513 patent.

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Under section 337, the Commission is authorized to issue a GEO excluding all infringing goods regardless of the source when the conditions of section 337(d)(2) or (g)(2) are met. *See* 19 U.S.C. § 1337 (d)(2), (g)(2). Section 337(g)(2)(A) requires that no person appears to contest the investigation. In the present investigation, respondents Zhuhai Nano Digital Technology Co., Ltd. (China) and Nano Business and Technology, Inc. (USA) appeared in the investigation. *See* EDIS Doc. No. 557542 (communication regarding *Markman* brief). These two respondents were subsequently terminated from the investigation based on a settlement agreement and consent order. ALJ Order No. 10 dated July 8, 2015 (*not reviewed* Aug. 5, 2015). Under these circumstances, issuance of a GEO under section 337(d)(2) is appropriate. *See Certain Sildenafil or Any Pharmaceutically Acceptable Salt Thereof, such as Sildenafil Citrate, and Products Containing Same*, Inv. No. 337-TA-489, Comm'n Op. at 4 (Jul. 23, 2004) (finding that the issuance of a GEO under section 337(d)(2) was appropriate when some respondents appeared to contest the investigation); *Certain Toner Cartridges and Components Thereof*, Inv. No. 337-TA-740, USITC Pub. No. 4376, Comm'n Op. at 24 (Feb. 2013).

Accordingly, under section 337(d)(2):

The authority of the Commission to issue an exclusion from entry of articles shall be limited to persons determined by the Commission to be violating this section unless the Commission determines that --

- (A) a general exclusion from entry of articles is necessary to prevent circumvention of an exclusion order limited to products of named persons; or
- (B) there is a pattern of violation of this section and it is difficult to identify the source of infringing products.

19 U.S.C. § 1337(d)(2). In determining whether either criterion is satisfied, the Commission may look not only to the activities of active respondents, but also to those of non-respondents as well

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as respondents who have defaulted or been terminated from an investigation. *Certain Electronic Paper Towel Dispensing Devices and Components Thereof*, Inv. No. 337-TA-718 (“*Paper Towel Dispensing Devices*”), Recommended Determination at 7-8 & n.9-10 (Jul. 12, 2011); *Paper Towel Dispensing Devices*, Inv. No. 337-TA-718, Comm’n Op. at 16 (Dec. 1, 2011); *Certain Coaxial Cable Connectors and Components Thereof and Products Containing Same*, Inv. No. 337-TA-650, Comm’n Op. at 59 (Apr. 14, 2010).

As detailed below, the record in the present investigation warrants the issuance of the GEO under both subparagraph (A) and subparagraph (B) of subsection 337(d)(2). See 19 U.S.C. § 1337(d)(2).

### (1) Subparagraph (A) – Circumvention Of An LEO

The facts of the record in this investigation demonstrate the need for a GEO to prevent circumvention of an LEO by the named respondents if such an order is issued by the Commission.

#### (a) Likelihood of Circumvention

The evidence shows that named respondents have expressed the intent to evade Commission exclusion orders. As part of an [[

]] Seitz 2015 Decl. ¶¶ 47, 175, 277, Seitz Ex. 1.41. As the ALJ found, this statement is indicative of an intent to circumvent the existing GEO issued in *Certain Ink Cartridges & Components Thereof*, Inv. No. 337-TA-565 (“Inv. 337-TA-565”), and

**PUBLIC VERSION**

presumably of the intent to evade a limited exclusion order that might issue in this investigation.  
RD at 78.

Furthermore, the record shows that at the ReChina Expo in Shanghai, China, in April  
2014, [[

]] *Id.* ¶¶ 55, Seitz Ex. 1.47. [[

]] *Id.* RD at 78.

The ALJ also found that after Epson obtained a GEO in Inv. No. 337-TA-565, the  
respondents named in that investigation and other parties engaged in extensive efforts to  
circumvent that GEO, also suggesting that circumvention of an LEO would be likely in the  
present investigation. Seitz 2015 Decl. ¶¶ 172-174, Seitz Exs. 1.284-1.285, 1.292-1.293. RD at  
78.

Because of such repeated and continuing efforts to circumvent the GEO, LEOs, and  
CDOs issued in Inv. No. 337-TA-565, Epson commenced an enforcement action that resulted in  
enforcement penalties totaling over \$20 million. *Id.* (citing Seitz 2015 Decl. ¶¶ 172-174, Ex.  
1.284-1.285; *Ninestar Tech. Co. v. Int'l Trade Comm'n*, 667 F.3d 1373, 1380 (Fed. Cir. 2012);  
*Certain Ink Cartridges & Components Thereof*, Inv. No. 337-TA-565, Notice of Commission  
Determinations on Civil Penalties; Termination of Enforcement Proceedings, 2010 WL 5642166,  
\*3 (Dec. 2010)).

The ALJ also found that, in addition, manufacturers have continued to violate the GEO  
issued in the Inv. No. 337-TA-565, and as a result, U.S. Customs and Border Protection “has  
issued at least three recent Seizure Notices advising of violations of that GEO.” RD at 79 (citing

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Seitz 2015 Decl. ¶¶ 173, 179, Seitz Exs. 1.283, 1.292-1.295).

### (b) Market Conditions Create a High Likelihood of Circumvention

The record shows that there is a large demand in the United States for ink cartridges for use with Epson printers. Seitz 2015 Decl. ¶¶ 215-227, 241-242, Seitz Exs. 1.95, 1.101, 1.235, 1.238, 1.248, 1.260, 1.267, 1.268, 1.270. RD at 79. There are also numerous foreign manufacturers of ink cartridges for use with Epson printers. The record shows that there are at least 338 Chinese companies willing to provide price quotations for Epson-compatible ink cartridges. Seitz 2015 Decl. ¶ 263, Seitz Ex. 1.242. RD at 79. Based on the record, “it appears likely, that those companies are offering products that probably infringe the claims asserted in this Investigation.” RD at 79-80 (citing Seitz 2015 Decl. ¶¶ 262-269, Seitz Exs. 1.242-1.244, 1.302-1.305). The record further shows that there are well-established distribution networks for selling accused products in the U.S, including using popular websites such as amazon.com and ebay.com. Seitz 2015 Decl. ¶¶ 215-227, Seitz Exs. 1.235-1.238; RD at 80.

### (c) Difficulty Of Detecting the Source of Infringing Goods

The record indicates that most of the foreign respondents are members of complex groups of associated entities that use multiple names and entities to carry out their infringing sales. Seitz 2015 Decl. ¶¶ 191-198, Seitz Exs. 1.21-1.22, 1.24-1.26, 1.42, 1.80, 1.84, 1.110, 1.254. For example, the Kingway Group is a group of at least eight separate Chinese companies, all of which are directly or indirectly owned by Zhao Zhixiang (aka Frank Zhao), and have complex corporate structures and sell and import infringing Epson-compatible ink cartridge products into the United States under various brand names. RD at 80 (citing Seitz 2015 Decl. ¶¶ 93-100, 193, Seitz Exs. 1.80-1.86, 1.100, 1.254, 1.275-1.276). Furthermore, non-respondent Zhuhai Aowei

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Electronics Co., Ltd. (“Aowei Electronics”) and Ourway Image are two members of the Kingway Group that share the same business registration number and address, with Aowei Electronics shipping Ourway Image’s infringing Epson-compatible ink cartridges into the United States. Seitz 2015 Decl. ¶¶ 97, 111, 193, Seitz Exs. 1.80, 1.84, 1.259. *See also* Seitz 2015 Decl. ¶¶ 98, 99, 193, Seitz Exs. 1.85, 1.86, 1.275, 1.276. RD at 81.

The record evidence also shows that Orink Group is another collection of Chinese companies with complex corporate structures that sell and import infringing Epson-compatible ink cartridge products into the United States using a variety of names. Seitz 2015 Decl. ¶¶ 23-28, 48-49, 194, Seitz Exs. 1.20-1.26, 1.42. Furthermore, Orink Infotech and Shanghai Orink, two Orink Group respondents that sell and import Epson-compatible ink cartridges into the United States, appear to share the same business registration number but hold themselves out as separate companies on [www.orink.com](http://www.orink.com). Seitz 2015 Decl. ¶¶ 27-28, 48-49, 194, Seitz Exs. 1.24-1.26, 1.42. The record shows that Orink Group Respondents Huebon and Chancen share the same Hong Kong registration address, and both ship Zhuhai National’s Epson-compatible ink cartridges into the United States. Seitz 2015 Decl. ¶¶ 24-25, 35-36, 38-39, 194, Seitz Exs. 1.21-1.22, 1.28, 1.30, 1.32, 1.33. In addition, Rich Imaging, an Orink Group Respondent, appears to sell Epson-compatible ink cartridges manufactured by Zhuhai National, another Orink Group Respondent. RD at 81 (citing Seitz 2015 Decl. ¶¶ 43-45, 196, Seitz Exs. 1.246, 1.279, 1.286).

Furthermore, the record shows that the named respondents sell infringing products in unmarked or generic packaging that often bears no indication of the true source of the goods. Seitz 2015 Decl. ¶¶ 41, 48, 63, 103, 130, 180-190, Seitz Exs. 1.28, 1.35, 1.42, 1.89, 1.107, 1.112.

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For example, respondent Ourway Image offers purchasers the option of having their cartridges packaged in “bulk packing with plastic bag only,” “neutral white box,” “neutral color box,” “STARINK color box,” or “Customer’s brand OEM packing.” Seitz 2015 Decl. ¶¶ 103, 182, Seitz Exs. 1.89, 1.93. Upon receiving Epson-compatible ink cartridges ordered from Ourway Image, Mr. Seitz observed that the cartridge packaging did not state the name of the manufacturer. Seitz 2015 Decl. ¶¶ 106, 109-111, 182, Seitz Exs. 1.223, 1.228.

The record shows that respondents Aomya, Rich Imaging, Zhuhai National, Yotat Group, Shanghai Orink, Chinamate Technology, and Richeng Development use similar packaging for Epson-compatible ink cartridges shipped into the United States. Seitz 2015 Decl. ¶¶ 180-190, Seitz Exs. 1.28, 1.35, 1.42, 1.89, 1.107, 1.117. Mr. Seitz observed that the packaging on cartridges he ordered from Chinamate Technology, Zhuhai National, Rich Imaging, and Aomya did not state the name of the manufacturer. Seitz 2015 Decl. ¶¶ 35-39, 45, 126-127, 137-138, Seitz Exs. 1.224-1.227, 1.278-1.280. He also observed that the packaging on the cartridges ordered from Yotat Group, Shanghai Orink, and Richeng Development consisted of small, clear plastic bags that bore no markings. Seitz 2015 Decl. ¶¶ 52-54, 56, 62, 69, 144, 146-147.

Furthermore, the record indicates that some respondents ship their products with either an affiliate or a logistics company listed as the importer, which also masks the source of the infringing goods. Seitz 2015 Decl. ¶¶ 199-204, 276. *See also* Seitz 2015 Decl. ¶¶ 111-112, Seitz Exs. 1.96, 1.259-1.260; Seitz 2015 Decl. ¶ 111, Seitz Exs. 1.96, 1.259-1.260.

The evidence shows that respondent Shanghai Orink uses at least three shipping companies to import Epson-compatible ink cartridges into the United States: J&J International Co. Ltd., CE&H Technology (HK) Co. Ltd, and YFHEX LOGISTICS (HK) Co. Ltd. Seitz 2015

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Decl. ¶¶ 52-54, 56, 201, Seitz Exs. 1.41, 1.45. When Mr. Seitz received the Epson-compatible ink cartridges he ordered from Shanghai Orink, he observed that the shipping documents accompanying these orders did not indicate that Shanghai Orink sold or manufactured such cartridges, but instead only listed the shipping company. Seitz 2015 Decl. ¶¶ 52-54, 56, 201, Seitz Exs. 1.41, 1.45. Similarly, Zhuhai National uses Huebon and Chancen to ship Epson-compatible ink cartridges into the United States, as shown by the shipping documents accompanying the Epson-compatible cartridges Mr. Seitz ordered from Zhuhai National and subsequently received in the United States. Seitz 2015 Decl. ¶¶ 35-36, 38-39, 203, Seitz Exs. 1.28, 1.32, 1.33.

In sum, the evidence establishes that the named respondents engage in business practices that would make it difficult to detect violation of the orders if only LEOs were issued, justifying the issuance of a GEO. RD at 83. Based on the record, we find that the requirement of subsection 19 U.S.C. §1337(d)(2)(A) is satisfied in the present investigation.

### (2) Subparagraph (B) – A Pattern Of Violation Of Section 337 Where It Is Difficult To Identify The Source Of Infringing Products

Undisputed record evidence shows a pattern of infringement by both respondents and non-respondents. Thus, the record shows that the respondents all import, sell for importation or sell after importation ink cartridges and/or components thereof that infringe the asserted claims. RD at 83. As the ALJ found, a large number of other companies in China offer ink cartridges that also appear likely to infringe the Asserted Patents. *Id.* (citing Seitz 2015 Decl. ¶¶ 219-227, 261-270; Murch 2015 Decl. ¶¶ 577-578). Mr. Seitz identified a number of non-respondent companies in China that offer ink cartridges that are either specified to be used with Epson

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printers identified in the Murch declaration as using infringing cartridges, or advertised as substitutes for the Epson cartridges listed in the Murch declaration that practice the asserted claims. Seitz 2015 Decl. ¶¶ 262-267, Seitz Exs. 1.242, 1.302, 1.305; Murch 2015 Decl. ¶¶ 34-37. The record shows that each of these products sold by these non-respondents also likely infringes the patents in suit. Murch 2015 Decl. ¶¶ 577-578. RD at 84.

The record also shows that it is difficult to identify the source of such infringing goods. Seitz 2015 Decl. ¶¶ 41, 48, 63, 103, 130, 180-190, Seitz Exs. 1.28, 1.35, 1.42, 1.89, 1.107, 1.117. *See also* Seitz 2015 Decl. ¶¶ 180, 273. The evidence shows that many of the foreign respondents belong to complex groups of associated entities that use numerous names and entities to effectuate their infringing sales. Seitz 2015 Decl. ¶¶ 191-198, Seitz Exs. 1.21-1.22, 1.24-1.26, 1.42, 1.80, 1.84, 1.110, 1.254. As the record indicates, accused products can be sold in the U.S. through well-developed distribution networks that employ popular websites including amazon.com and ebay.com. Seitz 2015 Decl. ¶¶ 215-227, Seitz Exs. 1.235-1.238.

Moreover, undisputed evidence shows that the named respondents sell infringing products in unmarked or generic packaging that often bears no indication of the true source of the goods. Seitz 2015 Decl. ¶¶ 41, 48, 63, 103, 130, 180-190, Seitz Exs. 1.28, 1.35, 1.42, 1.89, 1.107, 1.112. Some of the respondents ship their products with either an affiliate or a logistics company listed as the importer, which further masks the source of the infringing goods. Seitz 2015 Decl. ¶¶ 199-204, 276. *See also* Seitz 2015 Decl. ¶¶ 111-112, Seitz Exs. 1.96, 1.259-1.260; Seitz 2015 Decl. ¶ 111, Seitz Exs. 1.96, 1.259-1.260.

In sum, the record shows that there is a pattern of infringement by respondents and non-respondents, and that it is difficult to identify the source of infringing goods, thus satisfying

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the requirements of 19 U.S.C. § 1337(d)(2)(B) and further justifying the issuance of a GEO. *See* RD at 84.

### B. CDOs

Complainants seek CDOs prohibiting defaulted domestic respondents InkPro2day and Zinyaw from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for Epson-compatible ink cartridges, and components thereof, that infringe the Asserted Claims. The ALJ recommended that the Commission should issue CDOs directed to InkPro2day and Zinyaw. RD at 86. Complainants and the IA support the ALJ's recommendation on this issue. *See* ComplRemedyOpen at 15-17; IARemedyOpen at 13-14.

Section 337(f)(1) provides that in addition to, or in lieu of, the issuance of an exclusion order, the Commission may issue a cease and desist order as a remedy for a violation of section 337. 19 U.S.C. § 1337(f)(1). Cease and desist orders are generally issued when, with respect to the imported infringing products, respondents maintain commercially significant inventories in the United States or have significant domestic operations that could undercut the remedy provided by an exclusion order. *See, e.g., Certain Protective Cases and Components Thereof*, Inv. No. 337-TA-780, USITC Pub. No. 4405 (July 2013), Comm'n Op. at 28 (Nov. 19, 2012) (citing *Certain Laser Bar Code Scanners and Scan Engines, Components Thereof, and Products Containing Same*, Inv. No. 337-TA-551, Comm'n Op. at 22 (June 14, 2007)); *Certain Agricultural Tractors, Lawn Tractors, Riding Lawnmowers, And Components Thereof* ("Agricultural Tractors"), Inv. No. 337-TA-486, USITC Pub. No. 3625, Comm'n Op. at 17 (July

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14, 2003)). A complainant seeking a cease and desist order must demonstrate, based on the record, that this remedy is necessary to address the violation found in the investigation so as to not undercut the relief provided by the exclusion order. *Certain Integrated Repeaters, Switches, Transceivers, and Products Containing Same*, Inv. No. 337-TA-435, USITC Pub. No. 3547 (Oct. 2002), Comm'n Op. at 27 (Aug. 16, 2002) (“[C]omplainants bear the burden of proving that respondent has such an inventory. Because complainants failed to sustain their burden, we have determined not to issue a cease and desist order.”); *see also* H.R. Rep. No. 100-40, at 160 (1987) (“When the Commission determines that both remedies [*i.e.*, an exclusion order and cease and desist order] are necessary, it should be without legal question that the Commission has authority to order such relief.”). In investigations in which a domestic respondent is found in default, the Commission presumes the presence of commercially significant inventories in the United States of the imported infringing products, and will issue CDOs accordingly. *See Agricultural Tractors*, 337-TA-486, Comm'n Op. at 18.

In this investigation, both InkPro2day and Zinyaw are domestic respondents that have been found in default. ALJ Order No. 9 (June 18, 2015) (*not reviewed* July 10, 2015).

Therefore, we presume the presence of commercially significant inventory in the United States of imported infringing products and find that the record in this investigation supports the issuance of a CDO against domestic respondents InkPro2day and Zinyaw.<sup>2, 3</sup>

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<sup>2</sup>Commissioner Schmidlein supports issuance of the cease and desist orders in this investigation. Given that both InkPro2day and Zinyaw are domestic respondents that have been found to be in default, she agrees with the Commission that it is appropriate to presume a basis exists to issue the remedy against those parties, such as the presence of infringing domestic inventory. She, however, finds it unnecessary to presume the existence of a “commercially significant” inventory because a commercially significant domestic inventory is not a statutory

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### III. Public Interest

Before issuing a remedy for a violation of Section 337, the Commission must consider the effect of the remedy on certain public interest considerations: (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles that are like or directly competitive with those which are the subject of the investigation, and (4) U.S.

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requirement. *See* 19 U.S.C. § 1337(f)(1). Indeed, the statutory language leaves it to the discretion of the Commission and does not establish any particular test or standard for issuing a cease and desist order aside from consideration of the public interest factors. *See Gamut Trading Co. v. Int'l Trade Comm'n*, 200 F.3d 775, 784 (Fed. Cir. 1999) (explaining that the Commission has broad discretion in selecting a remedy). From a practical standpoint, in cases where the level but not the existence of domestic inventory is disputed, Commissioner Schmidlein fails to see the value gained by requiring parties and the Commission to expend time and resources addressing the extent of domestic inventory levels as a predicate to issuing a cease and desist order. In her view, such a requirement unnecessarily carries risk for the complainant since even the presence of one infringing product in domestic inventory can undercut the exclusion order and prevent complete relief to the complainant. Thus, Commissioner Schmidlein finds that the presumption of some inventory, regardless of the commercial significance, provides a basis to issue the cease and desist orders.

Commissioner Schmidlein does not join the Commission's statement that a complainant seeking a cease and desist order must demonstrate that the remedy is "necessary" to address the violation found in the investigation. It is unclear what the Commission intends to convey by the statement, but on its face it appears to limit the broad discretion granted to the Commission under section 337(f)(1). In Commissioner Schmidlein's view, the House committee report cited by the Commission as support does not address the standard for determining whether a cease and desist order should issue. *See* H.R. Rep. No. 100-40, at 160 (1987). Instead, the committee report simply explains that the amendments to section 337(f)(1) under the Omnibus Trade and Competitiveness Act of 1988 authorize the Commission to issue both a cease and desist order and an exclusion order to remedy the same unfair act. *See id.* at 22, 159.

<sup>3</sup>Commissioner Kieff agrees that certain findings (including a domestic inventory of infringing imported products) may be presumed in the context of default, and joins the Commission's determination to issue a Cease and Desist Order ("CDO") as to domestic respondents InkPro2day and Zinyaw found in default in this case; but does not join the reasoning offered by the Commission regarding other presumptions, practice, burdens and the like, for similar reasons Commissioner Kieff recently offered in more detail in the 934 investigation. *See Certain Dental Implants*, Inv. No. 337-TA-934, (Commission Op.) (Pub. Ver. May 11, 2016) (Additional Views of Commissioner Kieff).

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consumers. 19 U.S.C. §§ 1337(d), (f), (g); *Certain Ink Jet Print Cartridges and Components Thereof*, Inv. No. 337-TA-446, Comm'n Op. at 14 (October 2002). Both the IA and Complainants submit that the public interest factors do not weigh against the proposed remedy in this investigation.

We find that the evidentiary record in this investigation does not indicate that any of the section 337 public interest factors raises concerns that would preclude issuance of the remedial orders in this investigation. First, there is no evidence in the record that the remedial orders would have an adverse effect on health and welfare. *See e.g. Certain Toner Cartridges and Components Thereof*, Inv. No. 337-TA-918, Comm'n Op. at 13-14 (Aug. 31, 2015) ("*Toner Cartridges*") ("There is no evidence in the record that would indicate that exclusion of the replaceable toner cartridges at issue in this investigation would have an effect on the public health or welfare."). Second, the orders would not adversely impact competitive conditions in the U.S. economy inasmuch as there are numerous competitors in the U.S. market that will not be affected by the remedial orders. ComplRemedyOpen at 19; IARemedyOpen at 15-16; IARemedyReply at 1. *See Certain Cellular Radiotelephones and Subassemblies and Component Parts Thereof*, 337-TA-297, Comm'n Op. on Remedy, Public Interest and Bonding at 8 (Aug. 29, 1989); *see also Toner Cartridges*, Inv. No. 337-TA-918, Comm'n Op. at 14.

Third, there is no evidence that the orders would adversely affect production of ink cartridges in the United States and, in all likelihood, the orders will cause Epson's domestic production (and therefore, overall domestic production) to increase. *See Toner Cartridges*, Inv. No. 337-TA-918, Comm'n Op. at 15.

Fourth, U.S. customers will not be adversely affected because Epson has adequate

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capacity to meet the demand for ink cartridges for use with Epson printers, and there is already vigorous legitimate competition in the printer consumables market. ComplRemedyOpen at 19; IARemedyOpen at 15-16; IARemedyReply at 1. *See Certain Integrated Telecommunication Chips and Products Containing Same*, 337-TA-337, Comm'n Op. at 40 (Jun. 30, 1993) at 40 ("It is clear that ST and its licensees have adequate capacity to supply tone dialer chips sufficient to supply low end telephones to the U.S. market. Moreover, there are alternative products, *i.e.*, other telephones, available which do not incorporate the tone dialer chips found to be infringing in this case, and are not subject to the orders."); *Toner Cartridges*, Inv. No. 337-TA-918, Comm'n Op. at 15 ("Furthermore, under Commission precedent, there is no indication in the record that a remedy relating to replaceable toner cartridges would adversely affect U.S. consumers.").

Based on the foregoing, we find that entry of the remedial orders sought by Complainants would not be contrary to the public interest.

### IV. Bonding

Pursuant to section 337(j)(3), the ALJ and the Commission must determine the amount of bond to be required of a respondent during the 60-day Presidential review period following the issuance of permanent relief, in the event that the Commission determines to issue a remedy. The purpose of the bond is to protect the complainant from injury. 19 U.S.C. § 1337(j)(3); 19 C.F.R. §§ 210.42(a)(1)(h), 210.50(a)(3). The complainant bears the burden of establishing its request for an appropriate bond amount to be imposed on respondents' continued activities during the Presidential review period based on the record. *Certain Rubber Antidegradants, Components Thereof, and Products Containing Same*, Inv. 337-TA-533, Comm'n Op. at 39-40

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(July 21, 2004) (“In our view, the complainant has the burden of supporting any proposition it advances, including the amount of the bond.”). Both the IA and Complainants argue that, given the state of the evidentiary record, the bond amount should be set at 100 percent of the entered value of the accused products as no reliable price differential can be determined. *See* ComplRemedyOpen at 17-18, IARemedyOpen at 16-17.

The Commission ordinarily sets the Presidential review period bond based on the price differential between the domestic and the infringing products, or based on a reasonable royalty. *See, e.g., Certain Microsphere Adhesives, Processes for Making Same, and Products Containing Same, Including Self-Stick Repositionable Notes*, Inv. No. 337-TA-366, Comm’n Op. at 24, USITC Pub. 2949 (Jan. 1996) (setting bond based on price differentials); *Certain Digital Televisions and Certain Products Containing Same and Methods of Using Same*, Inv. No. 337-TA-617, Comm’n Op. at 17-19 (Apr. 23, 2009) (setting bond based on a reasonable royalty).

In this investigation, there is no reliable pricing information because the respondents defaulted and failed to participate in discovery. The Commission has set bond rates at 100 percent of the entered value of the infringing product where the available pricing or royalty information is insufficient. *See, e.g., Certain Neodymium-Iron-Boron Magnets, Magnet Alloys, and Articles Containing Same*, Inv. No. 337-TA-372, Comm’n Op. on Remedy, the Public Interest, and Bonding at 15, USITC Pub. 2964 (May 1996). In the present investigation, the record lacks sufficient evidence of pricing or reasonable royalty rates. *See* RD at 86-87.

Accordingly, we set the bond amount at 100 percent of the entered value of the accused products during the Presidential review period. *See also* RD at 87.

## V. Conclusion

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Having considered the ALJ's Recommended Determination, the parties' submissions filed in response to the Commission's Notice, and the evidentiary record, the Commission has determined to issue:

(a) a GEO prohibiting the unlicensed importation of certain ink cartridges and components thereof covered by one or more of claims 1 and 10 of the '233 patent; claims 9, 14, 18, and 21 of the '116 patent; claims 1, 18, 49, and 60 of the '749 patent; claims 1 and 6 of the '163 patent; and claims 14, 15, and 19 of the '513 patent; and

(c) two CDOs directed against domestic defaulted respondents Zinyaw and InkPro2day, respectively.

The Commission has further determined that the public interest factors enumerated in subsections (d)(1) and (f)(1) (19 U.S.C. §§ 1337(d)(1) and (f)(1)) do not preclude the issuance of these remedial orders. Finally, the Commission has determined that a bond in the amount of 100 percent of the entered value of the infringing products is required to permit temporary importation of the articles in question during the period of Presidential review (19 U.S.C. § 1337(j)).

By order of the Commission.



Lisa R. Barton  
Secretary to the Commission

Issued: June 29, 2016

**PUBLIC CERTIFICATE OF SERVICE**

I, Lisa R. Barton, hereby certify that the attached **COMMISSION OPINION** has been served by hand upon the Commission Investigative Attorney, **Brian Koo, Esq.**, and the following parties as indicated, on 6/29/2016



Lisa R. Barton, Secretary  
U.S. International Trade Commission  
500 E Street, SW, Room 112  
Washington, DC 20436

**On Behalf of Complainants Epson Portland Inc., Epson  
America, Inc., and Seiko Epson Corporation:**

Paul F. Brinkman  
**QUINN EMANUEL URQUHART & SULLIVAN, LLP**  
777 6<sup>th</sup> Street NW, 11<sup>th</sup> Floor  
Washington, DC 20001-3706

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

**Respondents:**

Zhuhai Nano Digital Technology Co., Ltd.  
No. 3 Factory Building, 2/F, 3 Pingxi 5<sup>th</sup> Road  
Nanping State Hi-Tech Park  
Zhuhai, Guangdong, China 519060

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Nano Business & Technology, Inc. d/b/a Nano Digital  
d/b/a Nano Ink Spot d/b/a Dinsink,  
650 North State Street  
Lake Oswego, OR 97034

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Zhuhai National Resources & Jingjie Imaging Products Co., Ltd.  
d/b/a Ink-Tank, Workshop 2, 1-3/F,  
No. 3 Qingwan 3<sup>rd</sup> Rd, Qingwan Industrial Zone,  
Zhuhai, Guangdong, China

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

**CERTAIN INK CARTRIDGES AND COMPONENTS  
THEREOF**

**Inv. No. 337-TA-946**

Certificate of Service – Page 2

Huebon Co., Ltd.  
Room 1207, Wing Tuck Commercial Centre,  
177-183 Wing Lok Street,  
Sheung Wan, Hong Kong

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Chancen Co., Ltd.  
Room 1207, Wing Tuck Commercial Centre,  
177-183 Wing Lok Street,  
Sheung Wan, Hong Kong

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Zhuhai Rich Imaging Technology Co., Ltd.  
Block 1, 3-5/F  
3 Qingwan 3<sup>rd</sup> Rd, Qingwan Industrial Zone,  
Zhuhai, Guangdong, China 519040

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Shanghai Orink Infotech International Co., Ltd.,  
Room 307  
No. 275-8 East Guoding Road  
Shanghai, China 200433

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Orink Infotech International Co., Lt.  
Unit 1205, 12F/L.,  
Sino Plaza, 255 Gloucester Road,  
Causeway Bay, Hong Kong

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Zinyaw LLC d/b/a TonerPirate.com  
1321 Upland Dr. # 1359  
Houston, TX 77043

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Yotat Group Co., Ltd.  
Flat/Room 704, Bright Way Tower  
33 Mong Kok Road  
Kowloon, Hong Kong

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

Yotat (Zhuhai) Technology Co., Ltd.  
No 127 People's East Road  
Xiangzhou, Zhuhai, China

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

**CERTAIN INK CARTRIDGES AND COMPONENTS  
THEREOF**

**Inv. No. 337-TA-946**

Certificate of Service – Page 3

Ourway Image Co., Ltd., Room 403, 4/F  
Rirong Edifice, Building 5  
No. 291 Remin West Road  
Xiangzhou, Zhuhai, China

- Via Hand Delivery  
 Via Express Delivery  
 Via First Class Mail  
 Other: \_\_\_\_\_

Kingway Image Co., Ltd., Room 403, 4/F, Building 1  
No. 1 Ping Dong Road  
2 Nanping Industry Park  
Zhuhai, China

- Via Hand Delivery  
 Via Express Delivery  
 Via First Class Mail  
 Other: \_\_\_\_\_

Zhuhai Chinamate Technology, Co., Ltd.  
Room 1504/1508/1511,  
No# 125 Renmin East Road  
Xiangzhou, Zhuhai, China

- Via Hand Delivery  
 Via Express Delivery  
 Via First Class Mail  
 Other: \_\_\_\_\_

InkPro2day, LLC  
1200 Santee Street, Suite 1006  
Los Angeles, CA 90015

- Via Hand Delivery  
 Via Express Delivery  
 Via First Class Mail  
 Other: \_\_\_\_\_

Dongguan OcBestjet Printer Consumables Co., Ltd.  
Block F01, 4/F, Jingyefang Industrial Park,  
No. 351, Jian'an Road, Wusha Village,  
Chang'an Town, Dongguan, China

- Via Hand Delivery  
 Via Express Delivery  
 Via First Class Mail  
 Other: \_\_\_\_\_

OcBestjet Printer Consumables (HK) Co., Ltd.  
RM 2301, 23 F/L, Worldwide House,  
19 Des Voeux Road Central,  
Hong Kong

- Via Hand Delivery  
 Via Express Delivery  
 Via First Class Mail  
 Other: \_\_\_\_\_

Amoya Printer Consumables (Zhuhai) Co., Ltd.  
Rm# 412, Henghe Business Building  
No. 313 East Renmin Road  
Xiangzhou, Zhuhai, Guangdong, China

- Via Hand Delivery  
 Via Express Delivery  
 Via First Class Mail  
 Other: \_\_\_\_\_

Zhuhai Richeng Development Co., Ltd. d/b/a Richeng  
Technology  
Building No. 5, Nanshan Industrial Zone,  
10 Shihua 3<sup>rd</sup> Street, Jida, Zhuhai, China 519015

- Via Hand Delivery  
 Via Express Delivery  
 Via First Class Mail  
 Other: \_\_\_\_\_

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

**In the Matter of**

**CERTAIN INK CARTRIDGES AND  
COMPONENTS THEREOF**

**Investigation No. 337-TA-946**

**NOTICE OF THE COMMISSION'S DETERMINATION TO REVIEW AN INITIAL  
DETERMINATION IN PART AND, ON REVIEW, TO AFFIRM A FINDING OF A  
VIOLATION OF SECTION 337; REQUEST FOR WRITTEN SUBMISSIONS ON  
REMEDY, THE PUBLIC INTEREST, AND BONDING**

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review-in-part the initial determination ("ID") issued by the presiding administrative law judge ("ALJ") on October 28, 2015, granting summary determination that 17 defaulting respondents have violated section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337. On review, the Commission affirms with modifications the ALJ's findings regarding the importation requirement. The Commission's determination results in a determination of a violation of section 337. Accordingly, the Commission requests written submissions, under the schedule set forth below, on remedy, the public interest, and bonding.

**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 on January 27, 2015, based on a complaint filed by Epson Portland Inc. of Hillsboro, Oregon; Epson America, Inc. of Long Beach, California; and Seiko Epson Corporation of Japan (collectively, "Epson"). 80 *Fed. Reg.* 4314-16 (Jan. 27, 2015). The complaint alleged violations of section 337 by reason of the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ink cartridges and components thereof that

infringe certain claims of U.S. Patent Nos. 8,366,233 (“the ’233 patent”); 8,454,116 (“the ’116 patent”); 8,794,749 (“the ’749 patent”); 8,801,163 (“the ’163 patent”); and 8,882,513 (“the ’513 patent”). *Id.* The notice of investigation named 19 respondents. *See id.* The Office of Unfair Import Investigations is a party in this investigation.

Respondents Zhuhai Nano Digital Technology, Co., Ltd. of Guangdong, China and Nano Business and Technology, Inc. of Lake Oswego, Oregon were terminated from the investigation based upon a settlement agreement and consent order. *See* Notice of Commission Determination Not to Review an Initial Determination Terminating the Investigation as to Certain Respondents Based on a Settlement Agreement and Consent Order; Issuance of a Consent Order (Aug. 5, 2015).

The remaining 17 respondents were found in default. *See* Notice of a Commission Determination Not to Review an Initial Determination Finding Certain Respondents in Default (July 10, 2015).

On August 31, 2015, Epson moved for a summary determination of a violation of section 337 by the defaulting respondents and for issuance of a general exclusion order and cease and desist orders. On September 11, 2015, the Commission Investigative Attorney (“IA”) filed a response in support of the motion. No other responses to the motion were received.

On September 16, 2015, the ALJ issued an ID partially terminating the investigation based on Epson’s withdrawal of certain claims. *See* Notice of a Commission Determination Not to Review an Initial Determination Terminating the Investigation in Part as to Certain Claims (Oct. 15, 2015). Claims 1 and 10 of the ’233 patent; claims 9, 14, 18, and 21 of the ’116 patent; claims 1, 18, 49, and 60 of the ’749 patent; claims 1 and 6 of the ’163 patent; and claims 14, 15, and 19 of the ’513 patent remain pending in this investigation. *See* Order No. 12 at 8-19.

On October 28, 2015, the ALJ issued the subject ID granting Epson’s motion for summary determination of violation and recommending the issuance of a general exclusion order and cease and desist orders. *See* Order No. 12. No party petitioned for review of the ID.

The Commission has determined to review only the importation analysis in the ID. Upon review, the Commission affirms a finding that Epson has met the importation requirement. In addition to the specific instances of importation by each defaulting respondent identified in the ID, the record evidence supports a finding that respondent Zhuhai National, through its intermediary respondent Huebon, sold and imported accused ink cartridge control no. 7579 (Group 4 cartridge) in 2014. *Seitz* 2015 Decl. ¶ 39; *Seitz* Ex. 1.170. In addition, the record evidence supports a finding that respondent Zinyaw sold accused ink cartridge control no. 7556 (Group 5 cartridge) after they were imported into the United States in 2014. *Seitz* 2015 Decl. ¶ 156; *Seitz* Ex. 1.215.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent(s) being required to cease and desist from engaging in unfair acts in the importation and sale of

such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. See Presidential Memorandum of July 21, 2005, 70 *Fed. Reg.* 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

**WRITTEN SUBMISSIONS:** Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Complainant and the IA are also requested to submit proposed remedial orders for the Commission's consideration. Complainant is further requested to state the date that the patents expire and the HTSUS subheadings under which the accused products are imported, and provide identification information for all known importers of the subject articles.

Written submissions and proposed remedial orders must be filed no later than close of business on Wednesday, December 30, 2015. Reply submissions must be filed no later than the close of business on Wednesday, January 6, 2015. Such submissions should address the ALJ's recommended determinations on remedy and bonding which were made in Order No. 12. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit eight (8) true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 C.F.R. 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-946") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, [http://www.usitc.gov/secretary/fed\\_reg\\_notices/rules/handbook\\_on\\_electronic\\_filing.pdf](http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf)). Persons with questions regarding

filing should contact the Secretary (202-205-2000). Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 C.F.R. § 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determinations 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.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', with a stylized flourish at the end.

Lisa R. Barton  
Secretary to the Commission

Issued: December 14, 2015

**PUBLIC CERTIFICATE OF SERVICE**

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served by hand upon the Commission Investigative Attorney, Brian Koo, Esq., and the following parties as indicated, on **December 14, 2015**.



\_\_\_\_\_  
Lisa R. Barton, Secretary  
U.S. International Trade Commission  
500 E Street, SW, Room 112  
Washington, DC 20436

**On Behalf of Complainants Epson Portland Inc., Epson  
America, Inc., and Seiko Epson Corporation:**

Paul F. Brinkman, Esq.  
**QUINN EMANUEL URQUHART & SULLIVAN, LLP**  
777 6th Street NW, 11<sup>th</sup> Floor  
Washington, DC 20001-3706

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: \_\_\_\_\_

**PUBLIC VERSION**

**UNITED STATES INTERNATIONAL TRADE COMMISSION**

**Washington, D.C.**

**In the Matter of**

**CERTAIN INK CARTRIDGES AND  
COMPONENTS THEREOF**

**Inv. No. 337-TA-946**

**ORDER NO. 12: INITIAL DETERMINATION GRANTING SUMMARY  
DETERMINATION ON VIOLATION OF SECTION 337 AND  
RECOMMENDED DETERMINATION ON REMEDY AND  
BONDING**

(October 28, 2015)

On August 31, 2015, Complainants Epson Portland Inc., Epson America, Inc. and Seiko Epson Corporation (collectively, "Epson") filed a motion for summary determination of violation by Respondents Huebon Co., Ltd., Chanchen Co., Ltd., Yotat Group Co., Ltd., Ourway Image Co., Ltd., Shanghai Orink Infotech International Co., Ltd., Orink Infotech International Co., Ltd., Kingway Image Co., Ltd., Zhuhai Chinamate Technology Co., Ltd., Yotat (Zhuhai) Technology Co., Ltd., Zhuhai Richeng Development Co., Ltd., Dongguan OcBestjet Printer Consumables Co., Ltd., OcBestjet Printer Consumables (HK) Co., Ltd., Zinyaw LLC, InkPro2day, LLC, Aomya Printer Consumables (Zhuhai) Co., Ltd., Zhuhai National Resources & Jingjie Imaging Products Co., Ltd., and Zhuhai Rich Imaging Technology Co., Ltd. (Motion Docket No. 946-004). The motion requests an initial determination on violation and domestic industry, and a recommended determination on remedy and bonding. On September 11, 2015, the Commission Investigative Staff ("Staff") filed a response in support of the motion. No other responses were received.

For the reasons discussed below, I find that that there is a violation of section 337 of the

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Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain ink cartridges and components thereof. I also find that a domestic industry exists, as required by 19 U.S.C. § 1337(a)(2). I further recommend that a general exclusion order and cease and desist orders issue to remedy the violation of section 337. Because this determination addresses violation and remedy for all of the remaining respondents, it terminates the Investigation in its entirety. Accordingly, the hearing scheduled for November 16-20, 2015, is hereby canceled.

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The following abbreviations may be used in this Initial Determination:

<b>Mot.</b>	Complainants' motion for summary determination
<b>Mem.</b>	Complainants' memorandum in support of their motion for summary determination
<b>SUF</b>	Complainants' statement of undisputed facts as to which there is no genuine issue
<b>Ex.</b>	Exhibit
<b>Decl.</b>	Declaration
<b>SResp.</b>	Staff's response to Complainants' summary determination motion

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### I. BACKGROUND

#### A. Procedural History

On December 23, 2014, Epson filed a complaint alleging violations of section 337 of the Tariff Act of 1930, as amended, by reason of infringement of U.S. Patent No. 8,366,233 (the “233 patent”); U.S. Patent No. 8,454,116 (the “116 patent”); U.S. Patent No. 8,794,749 (the “749 patent”); U.S. Patent No. 8,801,163 (the “163 patent”); and U.S. Patent No. 8,882,513 (the “513 patent”) (collectively, the “Asserted Patents”) by certain ink cartridges and components thereof (the “Accused Ink Cartridge Products”). Attached to the Complaint were declarations from Dr. Gerald M. Murch (“Murch 2014 Decl.”), Mr. Randal A. McEvers (“McEvers 2014 Decl.”), and Mr. Herbert W. Seitz (“Seitz 2014 Decl.”). On January 21, 2015, the Commission ordered that an investigation be instituted to determine:

whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain ink cartridges and components thereof by reason of infringement of one or more of claims 1, 4, and 10 of the ‘233 patent; claims 1, 5, 9, 14, 16, 18, 21, 24, 25, and 28 of the ‘116 patent; claims 1, 3, 14, 15, 17, 18, 20, 30, 36, 49, 60, and 61 of the ‘749 patent; claims 1, 6, and 13 of the ‘163 patent; and claims 1, 3, 7, 14, 15, and 19 of the ‘513 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

Notice of Investigation at 2. The Investigation was instituted upon publication of the Notice of Investigation in the *Federal Register* on January 27, 2015. See 80 Fed. Reg. 4314-16 (2015); 19 C.F.R. § 210.10(b). The named Respondents are Zhuhai Nano Digital Technology Co., Ltd. of China; Nano Business & Technology, Inc. of Lake Oswego, Oregon; Zhuhai National Resources & Jingjie Imaging Products Co., Ltd. of Zhuhai, China; Huebon Co. Ltd. of Hong Kong; Zhuhai Rich Imaging Technology Co., Ltd. of Zhuhai, China; Shanghai Orink Infotech International Co., Ltd. of Shanghai, China; Orink Infotech International Co., Ltd. of Hong Kong; Zinyaw LLC of Houston, Texas; Yotat Group Co., Ltd. of Hong Kong; Yotat (Zhuhai) Technology Co., Ltd.

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of Zhuhai, China; Ourway Image Co., Ltd. of Zhuhai, China; Kingway Imago Co., Ltd. of Zhuhai, China, Zhuhai Chinamate Technology Co., Ltd. of Zhuhai, China; InkPro2day, LLC of Los Angeles, California; Dongguan OcBestjet Printer Consumables Co., Ltd. of Dongguan, China; OcBestjet Printer Consumables (HK) Co., Ltd. of Hong Kong; Aomya Printer Consumables (Zhuhai) Co., Ltd. of Guangdong, China; and Zhuhai Richeng Development Co., Ltd. of Zhuhai, China. Notice of Investigation at 2-5.

On June 18, 2015, I issued an Initial Determination (Order No. 9) finding all the Respondents other than Respondents Zhuhai Nano Digital Technology, Co., Ltd. (China) and Nano Business and Technology, Inc. (USA) (collectively, “Nano Digital”) in default. On July 10, 2015, the Commission issued a Notice determining not to review Order No. 9, defaulting Respondents Huebon Co., Ltd., Chanchen Co., Ltd., Yotat Group Co., Ltd., Ourway Image Co., Ltd., Shanghai Orink Infotech International Co., Ltd., Orink Infotech International Co., Ltd., Kingway Image Co., Ltd., Zhuhai Chinamate Technology Co., Ltd., Yotat (Zhuhai) Technology Co., Ltd., Zhuhai Richeng Development Co., Ltd., Dongguan OcBestjet Printer Consumables Co., Ltd., OcBestjet Printer Consumables (HK) Co., Ltd., Zinyaw LLC, InkPro2day, LLC, Aomya Printer Consumables (Zhuhai) Co., Ltd., Zhuhai National Resources & Jingjie Imaging Products Co., Ltd., and Zhuhai Rich Imaging Technology Co., Ltd. (collectively, the “defaulting Respondents”). On July 8, 2015, I issued an Initial Determination (Order No. 10) terminating the Investigation as to Nano Digital based upon a settlement agreement and consent order. On August 5, 2015, the Commission issued a Notice determining not to review Order No. 10. On September 16, 2015, I issued an Initial Determination (Order No. 11) partially terminating the Investigation based on Epson’s withdrawal of certain claims. On October 15, 2015, the Commission issued a Notice determining not to review Order No. 11. Claims 1 and 10 of the

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'233 patent; claims 9, 14, 18, and 21 of the '116 patent; claims 1, 18, 49, and 60 of the '749 patent; claims 1 and 6 of the '163 patent; and claims 14, 15, and 19 of the '513 patent remain pending in this Investigation.

### **B. Motion for Summary Determination**

On August 31, 2015, Epson filed a motion for summary determination of violation by the defaulting Respondents (Motion Docket No. 946-004) ("Mot."). Pursuant to Ground Rules 3.1 and 3.3, Epson attached a memorandum ("Mem.") in support of the motion and a statement of undisputed facts ("SUF"). Epson further attached declarations from Dr. Gerald M. Murch ("Murch 2015 Decl."), Mr. Randal A. McEvers ("McEvers 2015 Decl."), and Mr. Herbert W. Seitz ("Seitz 2015 Decl."). On September 8 and 9, 2015, Epson submitted supplemental exhibits summarizing information set forth in the motion, memorandum, declarations, and attached exhibits. Staff filed a response in support of the motion on September 11, 2015 ("SResp."). No Respondent filed any response to the motion.

Epson's motion seeks summary determination of importation and infringement by the defaulting Respondents and summary determination that there is a domestic industry. Mot. at 1-2; Mem. at 1. In addition, Epson seeks entry of a general exclusion order ("GEO") and a bond set at 100% of the value of imported infringing goods pending Presidential review. *Id.* Epson also seeks cease and desist orders against certain named Respondents. *Id.*

### **C. The Private Parties**

#### **1. Complainants**

Complainant Seiko Epson Corporation ("SEC") is a corporation organized under the laws of Japan with its principal place of business at 3-3-5 Owa, Suwa-Shi, Nagano-Ken, 392-8502, Japan. Complaint ¶ 3. SEC is the assignee and owner of each of the Asserted Patents. *Id.* Complainant Epson Portland Inc. ("Epson Portland") is an Oregon corporation with its principal

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place of business located at 3950 NW Aloclek Place, Hillsboro, Oregon 97124. *Id.* ¶ 4. Epson Portland manufactures Epson ink cartridges that are distributed throughout the United States by Complainant Epson America, Inc. (“Epson America”). *Id.* Epson America is a California corporation with its principal place of business at 3840 Kilroy Airport Way, Long Beach, California 90806. *Id.* ¶ 5.

### 2. Terminated Respondents

Respondents Zhuhai Nano Digital Technology, Co., Ltd. (China) and Nano Business and Technology, Inc. (USA) (collectively, “Nano Digital”) were terminated by consent order. Order No. 10 (July 8, 2015); Comm’n Notice (July 10, 2015).

### 3. Defaulting Respondents

There are 17 defaulting Respondents in this Investigation. *See* Order No. 9 (June 18, 2015); Comm’n Notice (Aug. 5, 2015).

#### a. Orink Group

Respondents Zhuhai National Resources & Jingjie Imaging Products Co., Ltd. (“Zhuhai National”), Chancan Co., Ltd. (“Chancan”), Huebon Co., Ltd. (“Huebon”), Zhuhai Rich Imaging Technology Co., Ltd. (“Rich Imaging”), Shanghai Orink Infotech International Co., Ltd. (“Shanghai Orink”), and Orink Infotech International Co., Ltd. (“Orink Infotech”) are related companies under common ownership and control and members of a common enterprise known as the “Orink Group.” Complaint ¶ 12.

Zhuhai National is a Chinese corporation with its principal place of business located in Zhuhai, China, which does business under the assumed name “Ink-Tank.” *Id.* ¶ 13. Zhuhai National operates a website, [www.ink-tank.com.cn](http://www.ink-tank.com.cn), from which it markets and sells Accused Ink Cartridge Products, sometimes under the Ink-Tank brand. *Id.* ¶ 14. When a United States purchaser orders Accused Ink Cartridge Products from Zhuhai National, Chancan and Huebon

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invoice the sales, collect payment via *www.paypal.com*, and ship the Accused Ink Cartridge Products to the United States. *Id.* ¶ 17. Chancen and Huebon are both Hong Kong corporations and their principal places of business share the same physical address in Hong Kong. *Id.* ¶¶ 16-18.

Rich Imaging is a Chinese corporation with its principal place of business in Zhuhai, China. *Id.* ¶ 20. Rich Imaging operates at least two websites, *www.richimaging.cn* and *www.zhfuteng.cn*, from which it markets and sells Accused Ink Cartridge Products. *Id.* ¶ 21. On the *www.richimaging.cn* website, a hyperlink in Rich Imaging's "Product Catalog" of Accused Ink Cartridge Products directs the user to *www.ink-tank.com.cn*, the Zhuhai National website. *Id.*

Shanghai Orink is a Chinese company with its principal place of business in Shanghai, China. *Id.* ¶ 23. It operates a website, *www.orink.com*, wherein it markets and sells Accused Ink Cartridge Products. *Id.* ¶ 24. Orink Infotech is a British Virgin Islands company with its principal place of business in Hong Kong. *Id.* ¶ 27.

### **b. Zinyaw**

Respondent Zinyaw LLC ("Zinyaw"), which does business under the assumed name "TonerPirate," is a Texas limited liability company with its principal place of business in Houston, Texas. Complaint ¶ 30. It operates a website, *www.tonerpirate.com*, on which it markets and sells Accused Ink Cartridge Products manufactured in China. *Id.* ¶ 31.

### **c. Yotat Group and Yotat Zhuhai**

Respondent Yotat Group Co., Ltd. ("Yotat Group") is a Hong Kong company with its principal place of business in Hong Kong. Complaint ¶ 34. Respondent Yotat (Zhuhai) Technology Co., Ltd. ("Yotat Zhuhai") is a Chinese company with its principal place of business in Zhuhai, China. *Id.* ¶ 38. Yotat Group and Yotat Zhuhai are affiliated and under common ownership and control. *Id.* ¶¶ 36, 39. Yotat Group operates a website, *www.yotat.com*, on which

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it markets and sells Accused Ink Cartridges. *Id.* ¶ 35. Yotat Zhuhai manufactures the Accused Ink Cartridge Products sold by Yotat Group. *Id.* ¶ 39.

### **d. Kingway Group**

Respondents Ourway Image Co., Ltd. (“Ourway Image”), Kingway Image Co., Ltd. (“Kingway Image”), and Zhuhai Chinamate Technology Co., Ltd. (“Chinamate Technology”) are related companies, under common ownership and control and part of a common enterprise known as the “Kingway Group.” Complaint ¶ 41. Respondent Ourway Image is a Chinese company with its principal place of business in Zhuhai, China. *Id.* ¶ 42. Ourway Image operates a website, [www.ourwayink.com](http://www.ourwayink.com), on which it markets and sells Accused Ink Cartridge Products. *Id.* ¶ 43. Respondent Kingway Image is a Chinese corporation with its principal place of business in Zhuhai, China. *Id.* ¶ 47. It operates a website, [www.kingwayimage.com](http://www.kingwayimage.com), on which it markets its “Star Ink” and “Kingway” brands. *Id.* ¶ 48. Ourway Image is a wholly-owned subsidiary of Kingway Image. *Id.* ¶ 44. Respondent Chinamate Technology is a Chinese company with its principal place of business in Zhuhai, China. *Id.* ¶ 50. Chinamate Technology operates a website, <http://www.cmchinmate.com>, on which it markets and sells Accused Ink Cartridge Products. *Id.* ¶ 51.

### **e. Dongguan OcBestjet, OcBestjet (HK), and InkPro2day**

Respondent Dongguan OcBestjet Printer Consumables Co., Ltd. (“Dongguan OcBestjet”) is a Chinese corporation with its principal place of business in Dongguan, China. Complaint ¶ 53. It operates a website, [www.ocbestjet.com](http://www.ocbestjet.com), on which it markets and sells Accused Ink Cartridge Products. *Id.* ¶ 54. Respondent OcBestjet Printer Consumables (HK) Co., Ltd. (“OcBestjet (HK)”) is a Hong Kong corporation with its principal place of business in Hong Kong. *Id.* ¶ 55. It operates a website, [www.ocbestjet.net](http://www.ocbestjet.net), on which it markets and sells Accused Ink Cartridge Products. *Id.* ¶ 56. Respondent InkPro2day, LLC (“InkPro2day”) is a California

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limited liability company with its principal place of business in Los Angeles, California. *Id.*

¶ 57. InkPro2day is the U.S. distributor of Accused Ink Cartridge Products manufactured by Dongguan OcBestjet, operating at least three websites from which it markets and sells Accused Ink Cartridge Products: *www.inkpro2day.com*, *www.posters2day.com*, and *www.2daystores.com*. *Id.* ¶ 58.

### f. Aomya

Respondent Aomya Printer Consumables (Zhuhai) Co., Ltd. (“Aomya”) is a Chinese corporation with its principal place of business in Guangdong, China. Complaint ¶ 59. It operates a website, *www.aomya.com.cn*, on which it markets and sells Accused Ink Cartridge Products. *Id.* ¶ 60.

### g. Richeng Development

Respondent Zhuhai Richeng Development Co., Ltd. (“Richeng Development”) is a Chinese corporation with its principal place of business in Zhuhai, China. Complaint ¶ 62. Richeng Development does business under the assumed name of “Ecoi,” which is a name Richeng Development also uses to brand its products. *Id.* It operates a website, *www.ecoi.com.cn*, on which it markets and sells Accused Ink Cartridge Products. *Id.* ¶ 63.

## D. The Asserted Patents

Epson asserts five patents in this Investigation: U.S. Patent No. 8,366,233 (the “233 patent”); U.S. Patent No. 8,454,116 (the “116 patent”); U.S. Patent No. 8,794,749 (the “749 patent”); U.S. Patent No. 8,801,163 (the “163 patent”); and U.S. Patent No. 8,882,513 (the “513 patent”). Complaint ¶ 1.

### 1. '513 Patent

The '513 patent is entitled “Printing Material Container, And Board Mounted On Printing Material Container.” Complaint ¶ 137, Ex. 9. Epson asserts claims 14, 15, and 19 of the '513

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patent. *See* Mem. at 98; SResp. at 8. Claim 14 is an independent claim, which reads:

14. A printing material supply system for supplying printing material to a liquid jetting apparatus, the liquid jetting apparatus having a print head and a plurality of apparatus-side terminals, the printing material supply system comprising:

a memory device adapted to be driven by a memory driving voltage;

an electronic device adapted to receive a voltage higher than the memory driving voltage; and

a plurality of supply system terminals having contact portions arranged to contact corresponding apparatus-side terminals so that electrical communication is enabled between the printing material supply system and the liquid jetting apparatus, the contact portions including:

a plurality of memory device contact portions electrically coupled to the memory device;

a first and a second high voltage contact portion electrically coupled to the electronic device;

a first short detection contact portion arranged to electrically contact an apparatus-side terminal that itself is electrically coupled to a short detection circuit of the liquid jetting apparatus, the supply system terminal having the first short detection contact portion arranged for detecting a short between the supply system terminal having the first short detection contact portion and at least the supply system terminal having the first high voltage contact portion, wherein:

the contact portions are arranged in a first row of contact portions and a second row of contact portions, the first row of contact portions and the second row of contact portions both extending in a row direction,

the first and second high voltage contact portions are located at the ends of the first row of contact portions, and

the electronic device is adapted such that, in response to the voltage received by the electronic device, a signal is output from at least one of the supply system terminal having the first high voltage contact portion and the supply system terminal having the second high voltage contact portion.

'513 patent at 31:20-58. Claim 15 depends from claim 14, reads:

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15. The printing material supply system according to claim 14, wherein:

a subset of the memory device contact portions are arranged in the first row of contact portions between the first and second high voltage contact portions;

and the first short detection contact portion and the remainder of the memory device contact portions are arranged in the second row of contact portions and the first short detection contact portion is arranged at one end of the second row of contact portions, positioned such that the first short detection contact portion is adjacent to the first high voltage contact portion, and to a memory device contact portion that itself is the closest memory device contact portion to the first high voltage contact portion.

*Id.* at 31:59-32:5. Claim 19 depends from claim 18, which depends from claim 17, which depends from claim 15. Claims 17-19 read:

17. The printing material supply system according to claim 15, comprising a second short detection terminal arranged to detect shorting between the second short detection terminal and at least the supply system terminal having the second high voltage contact portion, the second short detection terminal having a second short detection contact portion arranged at the other end of the second row of contact portions so that the memory device contact portions in the second row of contact portions are located between the first short detection contact portion and the second short detection contact portion.

18. The printing material supply system according to claim 17, wherein:

the first short detection contact portion and the second short detection contact portion are located between the first and second high voltage contact portions, with respect to the row direction, and

the first short detection contact portion and the first high voltage contact portion are located on one side of the plurality of memory device contact portions with respect to the row direction, and the second short detection contact portion and the second high voltage contact portion are located on the other side of the plurality of memory device contact portions with respect to the row direction.

19. The printing material supply system according to claim 18, comprising an ink supply opening having an exit adapted to supply ink from the printing material container to the printing apparatus, and the first row of contact portions is located below the second row of contact

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portions when the terminal arrangement is viewed with the exit of the ink supply opening facing downwards.

*Id.* at 32:10-41.

### 2. '163 Patent

The '163 patent is entitled "Printing Material Container, And Board Mounted On Printing Material Container." Complaint ¶ 133, Ex. 8. Epson asserts claims 1 and 6 of the '163 patent.

*See Mem.* at 98; *SResp.* at 8. Claim 1 is an independent claim, which reads:

1. A printing material container for mounting on an ink jet printing apparatus, the ink jet printing apparatus having a print head and a plurality of apparatus-side contact forming members, the printing material container comprising:

a body;

an ink supply opening having an exit on an exterior portion of the body, adapted to supply ink from the printing material container to the printing apparatus;

a memory device adapted to be driven by a memory driving voltage; and

a plurality of terminals having contact portions arranged to contact corresponding apparatus-side contact forming members so that electrical communication is enabled with the ink jet printing apparatus, the contact portions including a plurality of memory contact portions electrically coupled to the memory device, a left contact portion arranged to have applied thereto a voltage higher than the memory driving voltage, a right contact portion arranged to have applied thereto a voltage higher than the memory driving voltage, and a short detection contact portion arranged to electrically contact a contact forming member that itself is electrically coupled to a short detection circuit of the printing apparatus, the short detection contact portion is arranged for detecting a short between the short detection contact portion and at least the right contact portion, wherein:

the contact portions are arranged so that, when the terminal arrangement is viewed from the vantage of the contact forming members, with the terminals oriented as if in contact with the contact forming members so that electrical communication is enabled with the ink jet printing apparatus, and with the printing material container oriented with the exit of the ink supply opening facing downwards:

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the contact portion that is farthest to the left is the left contact portion, the contact portion that is farthest to the right is the right contact portion, the contact portion that is second farthest to the right is the short detection contact portion, and the left contact portion, the right contact portion, and two or more of the plurality of memory contact portions are arranged in a row of contact portions that extends in a substantially left–right direction, to define a row direction.

'163 patent at 29:17-61. Claim 6 depends from claim 5, which depends from claim 4, which depends from claim 1. Claims 4-6 read:

4. The printing material container of claim 1, and comprising a second short detection contact portion arranged to detect shorting between the second short detection contact portion and at least the left contact portion.
5. The printing material container according to claim 4, wherein the contact portion that is the second farthest to the left is the second short detection contact portion, and all of the plurality of memory contact portions are disposed between the short detection contact portion and the second short detection contact portion, with respect to the row direction.
6. The printing material container according to claim 5, wherein the short detection contact portion and the second short detection contact portion are disposed between the left and right contact portions, with respect to the row direction.

*Id.* at 30:4-17.

### 3. '749 Patent

The '749 patent is entitled “Printing Material Container, And Board Mounted On Printing Material Container.” Complaint ¶ 129, Ex. 7. Epson asserts claims 1, 18, 49, and 60 of the '749 patent. *See Mem.* at 98; *SResp.* at 8. Claim 1 is an independent claim, which reads:

1. A printing material container adapted to be attached to a printing apparatus by being inserted into the printing apparatus in an insertion direction, the printing apparatus having a print head and a plurality of apparatus–side electrical contact members, the printing material container comprising:

an ink supply opening, having an exit, adapted to supply ink from the ink cartridge to the printing apparatus;

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a low voltage electronic device adapted to receive and function with a low voltage, the low voltage electronic device comprising a memory device;

a high voltage electronic device adapted to receive and function with a high voltage, which is a higher voltage than the low voltage of the low voltage electronic device; and

a plurality of container-side terminals having contact portions adapted and positioned to contact corresponding apparatus-side contact forming members so that electrical communication is enabled between the container and the printing apparatus, the contact portions of the terminals including a plurality of low voltage electronic device contact portions electrically coupled to the low voltage electronic device, and a first high voltage electronic device contact portion and a second high voltage electronic device contact portion, each electrically coupled to the high voltage electronic device, wherein:

the contact portions are arranged in a first row of contact portions and in a second row of contact portions, the first row of contact portions and the second row of contact portions extending in a row direction which is generally orthogonal to the insertion direction,

the first row of contact portions is disposed at a location that is further in the insertion direction than the second row of contact portions, and,

the first row of contact portions has a first end position and a second end position at opposite ends thereof, the first high voltage electronic device contact portion is disposed at the first end position of the first row of contact portions and the second high voltage electronic device contact portion is disposed at the second end position of the first row of contact portions.

'749 patent at 28:46-19:18. Claim 18 is another independent claim, which reads:

18. A printing material container for mounting in a printing apparatus having a print head and a plurality of apparatus-side contact forming members, the printing material container comprising:

an ink supply opening, having an exit, adapted to supply ink from the ink cartridge to the printing apparatus;

a low voltage electronic device constructed to receive and function with a low voltage;

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a high voltage electronic device constructed to receive and function with a high voltage, which is a higher voltage than the low voltage; and

a plurality of terminals having contact portions adapted to contact corresponding apparatus-side contact forming members so that electrical communication is enabled with the printing apparatus when the printing material container is mounted on the printing apparatus, the contact portions of the terminals including a plurality of low voltage electronic device contact portions electrically coupled to the low voltage electronic device, a first high voltage electronic device contact portion electrically coupled to the high voltage electronic device, and a second high voltage electronic device contact portion electrically coupled to the high voltage electronic device and arranged to have applied thereto a higher voltage than the low voltage electronic device contact portions, wherein:

the contact portions are arranged in a first row of contact portions and in a second row of contact portions, such that when the plurality of terminals is viewed from the vantage of the apparatus-side contact forming members, with the plurality of terminals oriented as if in contact with the apparatus-side contact forming members so that electrical communication is enabled with the ink jet printing apparatus, and with the exit of the ink supply opening facing downward, the first row of contact portions and the second row of contact portions extend in a row direction which is generally horizontal and the first row of contact portions is disposed at a location below the second row of contact portions, and the first high voltage electronic device contact portion is disposed at one end of the first row of contact portions and the second high voltage electronic device contact portion is disposed at the opposite end of the first row of contact portions.

*Id.* at 30:37–31:15. Claim 49 depends from claim 47, which depends from claim 18. Claims 47

and 49 read:

47. The printing material container according to claim 18, wherein the first row of contact portions includes at least one of the plurality of low voltage electronic device contact portions.
49. The printing material container according to claim 47, wherein the contact portions in the first row of contact portions are the lowest row of contact portions when the plurality of terminals is viewed from the vantage of the apparatus-side contact forming members, with the plurality of terminals oriented as if in contact with the apparatus-side contact forming members so that electrical communication is enabled with the ink jet printing apparatus, and with the exit of the ink supply

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opening facing downward.

*Id.* at 33:21-24, 30-38. Claim 60 depends from claim 42, which depends from claim 41, which depends from claim 40, which depends from claim 7, which depends from claim 1. These claims read:

7. The printing material container according to claim 1, wherein the plurality of terminals includes a first short detection terminal provided at a location and adapted to detect shorting between at least the terminal in which the first high voltage electronic device contact portion is located and the first short detection terminal.
40. The printing material container according to claim 7, wherein the contact portion of the first short detection terminal and a portion of the low voltage electronic device contact portions are located in the second row of contact portions.
41. The printing material container according to claim 40, wherein the plurality of terminals include a second short detection terminal, which is provided at a location and adapted to detect shorting between at least the terminal in which the second high voltage electronic device contact portion is located and the second short detection terminal, the contact portion of the second short detection terminal being located in the second row of contact portions, the portion of the low voltage electronic device contact portions being located in between the contact portions of the first and second short detection terminal in the second row of contact portions.
42. The printing material container according to claim 41, wherein the remainder of the low voltage electronic device contact portions are located in the first row of contact portions, the remainder of the low voltage electronic device contact portions being located in between the contact portions of the first and second short detection terminals, with respect to the row direction.
60. The printing material container according to claim 42, wherein the first row of contact portions is the furthest row of contact portions in the insertion direction.

*Id.* at 29:37-42, 32:51-33:5, 34:39-41.

#### 4. '116 Patent

The '116 patent is entitled "Printing Material Container, And Board Mounted On Printing

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Material Container.” Complaint ¶ 125, Ex. 6. Epson asserts claims 9, 14, 18, and 21 of the ’116 patent. *See* Mem. at 98; SResp. at 8. Claim 9 is an independent claim, which states:

9. An ink cartridge for mounting on an ink jet printing apparatus, the ink jet printing apparatus having a print head and a plurality of apparatus-side contact forming members, the ink cartridge comprising:

a body;

an ink supply opening having an exit on an exterior portion of the body, adapted to supply ink from the ink cartridge to the printing apparatus;

a low voltage electronic device;

a high voltage electronic device; and

a plurality of terminals having contact portions adapted and positioned to contact corresponding apparatus-side contact forming members so that electrical communication is enabled with the ink jet printing apparatus, the contact portions of the terminals including a plurality of low voltage electronic device contact portions electrically coupled to the low voltage electronic device, a first high voltage electronic device contact portion electrically coupled to the high voltage electronic device, a second high voltage electronic device contact portion electrically coupled to the high voltage electronic device and arranged to have applied thereto a higher voltage than the low voltage electronic device contact portions, and a short detection contact portion positioned and arranged to electrically contact a contact forming member that itself is electrically coupled to a short detection circuit of the printing apparatus, wherein:

the contact portions are arranged so that, when the terminal arrangement is viewed from the vantage of the contact forming members, with the terminals oriented as if in contact with the contact forming members so that electrical communication is enabled with the ink jet printing apparatus, and from the perspective with the ink cartridge oriented with the exit of the ink supply opening facing downwards, the contact portion farthest to the left is the first high voltage electronic device contact portion, the contact portion that is farthest to the right is the second high voltage electronic device contact portion, the contact portion that is second farthest to the right is the short detection contact portion, and the low voltage electronic device contact portions are located to the left of the short detection contact portion and to the right of the first high voltage electronic device contact portion.

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'116 patent at 29:66-30:43. Claim 14 depends from claim 13, which depends from claim 9.

Claims 13 and 14 read:

13. The ink cartridge of claim 9, and including a second short detection contact portion arranged so that the second short detection contact portion is the second farthest of the contact portions to the left.
14. The ink cartridge of claim 13, wherein the low voltage electronic device contact portions are to the left of the short detection contact portion and the second high voltage electronic device contact portion and to the right of the second short detection contact portion and the first high voltage electronic device contact portion.

*Id.* at 30:56-65. Claim 18 is another independent claim, which reads:

18. A circuit board mountable on a printing material container that is used in an ink jet printing apparatus, the ink jet printing apparatus having a print head and a plurality of apparatus-side contact forming members, the printing material container having a body and an ink supply opening, the ink supply opening having an exit on an exterior portion of the body and being adapted to supply ink from the printing material container to the printing apparatus, the circuit board comprising:
  - a memory device adapted to be driven by a memory driving voltage;
  - an electronic device adapted to receive a voltage higher than the memory driving voltage; and
  - a plurality of terminals having contact portions adapted and positioned to contact corresponding apparatus-side contact forming members so that electrical communication is enabled with the ink jet printing apparatus, the contact portions of the terminals including a plurality of memory contact portions electrically coupled to the memory device, a first electronic device contact portion electrically coupled to the electronic device, a second electronic device contact portion electrically coupled to the electronic device, and a short detection contact portion positioned and arranged to electrically contact a contact forming member that itself is electrically coupled to a short detection circuit of the printing apparatus, wherein:
    - the contact portions are arranged so that, when the terminal arrangement is viewed from the vantage of the contact forming members, with the terminals oriented as if in contact with the contact forming members so that electrical communication is enabled with the ink jet printing apparatus, and with the ink cartridge oriented with the exit of the ink

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supply opening facing downwards, the contact portion farthest to the left is the first electronic device contact portion, the contact portion that is farthest to the right is the second electronic device contact portion, the contact portion that is second farthest to the right is the short detection contact portion, and the memory contact portions are located to the left of the short detection contact portion and to the right of the first electronic device contact portion.

*Id.* at 31:28-32:2. Claim 21 depends from claim 20, which depends from claim 18. Claims 20 and 21 read:

20. The circuit board of claim 18, and including a second short detection contact portion arranged so that when the circuit board is mounted on the printing material the second short detection contact portion is the second farthest of the contact portions to the left.
21. The circuit board of claim 20, wherein the memory contact portions are to the left of the short detection contact portion and the second electronic device contact portion and to the right of the second short detection contact portion and the first electronic device contact portion.

*Id.* at 32:6-15.

### 5. '233 Patent

The '233 patent is entitled "Printing Material Container, And Board Mounted On Printing Material Container." Complaint ¶ 121, Ex. 4. Epson asserts claims 1 and 10 of the '233 patent.

*See Mem.* at 98; *SResp.* at 8. Claim 1 reads:

1. An ink cartridge for mounting on an ink jet printing apparatus, the ink jet printing apparatus having a print head and a plurality of apparatus-side contact forming members, the ink cartridge comprising:
  - a body having a length, a width, and a height;
  - an ink supply opening having an exit on an exterior portion of the body, adapted to supply ink from the ink cartridge to the printing apparatus;
  - a memory device adapted to be driven by a memory driving voltage; an electronic device adapted to receive a voltage higher than the memory driving voltage; and
  - a plurality of terminals adapted and positioned to contact corresponding

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apparatus—side contact forming members so that electrical communication is enabled with the ink jet printing apparatus, the terminals including a plurality of memory terminals electrically coupled to the memory device, a first high voltage terminal electrically coupled to the electronic device, a second high voltage terminal electrically coupled to the electronic device, and at least one short detection terminal positioned and arranged to electrically contact a contact forming member that itself is electrically coupled to a short detection circuit of the printing apparatus, wherein:

the terminals are arranged so that, when the terminal arrangement is viewed with the ink cartridge oriented with the exit of the ink supply opening at the bottom, the terminal farthest to the left is the first high voltage terminal, the terminal that is farthest to the right is the second high voltage terminal, the terminal that is second farthest to the right is the short detection terminal, and the memory terminals are located to the left of the short detection terminal and to the right of the first high voltage terminal.

'233 patent at 28:45-29:10. Claim 10 depends from claim 9, which depends from claim

1. Claims 9 and 10 read:

9. The ink cartridge of claim 1, and including a second short detection terminal arranged so that, when the terminal arrangement is viewed with the ink cartridge oriented with the exit of the ink supply opening at the bottom, the second short detection terminal is the second farthest of the terminals to the left.
10. The ink cartridge of claim 9, wherein the memory terminals are to the left of the short detection terminal and the second high voltage terminal and to the right of the second short detection terminal and the first high voltage terminal.

*Id.* at 29:29-38.

### **E. Products At Issue**

The ink cartridges at issue in this Investigation are designed for use with certain Epson ink jet printers. Complaint ¶ 67. Epson and the Respondents market their ink cartridges by reference to their compatibility with these Epson printers. *Id.* n.1. For the purpose of the technical analysis in this Investigation, Epson has categorized the ink cartridges into five groups

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with similar architecture, circuitry, and programming, in terms of how they function. *Id.* ¶ 68. These groups can be identified based on the arrangement of each cartridge’s “contact portions” (which contact conductive elements on the printer) and the Epson printer model(s) for which the cartridge is compatible. *Id.* ¶ 70. In its memorandum, Epson emphasizes that it is the arrangement of contact portions that is relevant to infringement and not the arrangement of terminals, which may obscure the contact portions. Mem. at 23-27.

**1. Group 1 Ink Cartridges**

Group 1 ink cartridges are those compatible with the following Epson printers:

<b>Group 1 Printers</b>		
Expression Home XP-200	Expression XP-820	WorkForce WF-2520
Expression Home XP-300	Sure Lab D3000	WorkForce WF-2530
Expression Home XP-310	SureColor F2000	WorkForce WF-2540
Expression Home XP-400	SureColor S30670	WorkForce WF-3620
Expression Home XP-410	SureColor S50670	WorkForce WF-3640
Expression Photo XP-850	SureColor S70670	WorkForce WF-7110
Expression Photo XP-860	SureColor T3000	WorkForce WF-7610
Expression Premium XP-520	SureColor T3270	WorkForce WF-7620
Expression Premium XP-600	SureColor T5000	WorkForce WF-M1030
Expression Premium XP-610	SureColor T5270	WorkForce WF-M1560
Expression Premium XP-620	SureColor T5270D	
Expression Premium XP-800	SureColor T7000	
Expression Premium XP-810	SureColor T7270	
Expression Premium XP-950	SureColor T7270D	

Murch 2015 Decl. ¶ 38; Complaint ¶ 77 (citing Ex. 2 (Murch 2014 Decl.) ¶ 10). The Epson ink cartridges compatible with these printers come in four basic form factors, internally designated as [REDACTED] Murch 2015 Decl. ¶ 51; Complaint ¶ 78.

The model numbers for these ink cartridges are listed below:

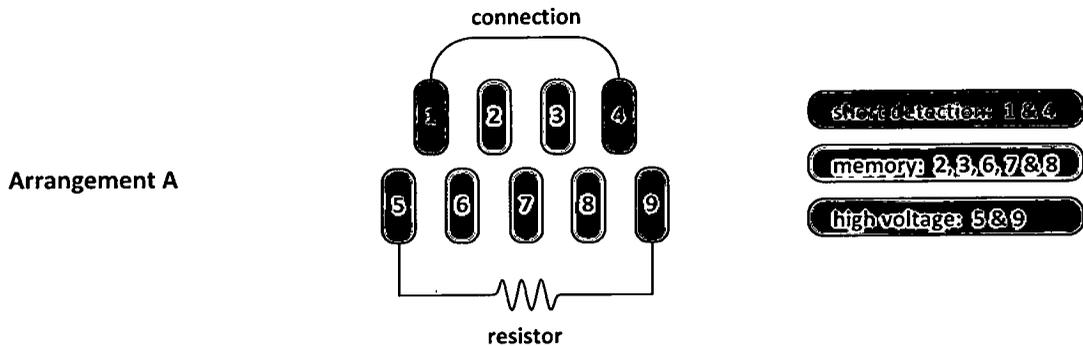
<b>The Group 1 Cartridges</b>			
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
T200120	T252120	T689100	T710100

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<b>The Group 1 Cartridges</b>			
██████	██████	██████	██████
T200220	T252220	T689200	T710200
T200320	T252320	T689300	T710300
T200420	T252420	T689400	T710400
T200XL120	T252XL120	T692100	T710500
T200XL220	T252XL220	T692200	T710600
T200XL320	T252XL320	T692300	
T200XL420	T252XL420	T692400	
T223120	T254XL120	T692500	
T223XL120	T273020	T693100	
	T273120	T693200	
	T273220	T693300	
	T273320	T693400	
	T273420	T693500	
	T273XL020	T694100	
	T273XL120	T694200	
	T273XL220	T694300	
	T273XL320	T694400	
	T273XL420	T694500	
	T277120	T715100	
	T277220	T715200	
	T277320	T715300	
	T277420	T715400	
	T277520	T715500	
	T277620	T715600	
	T277XL120	T715700	
	T277XL220	T715800	
	T277XL320	T715A00	
	T277XL420	T715A00	
	T277XL520	T715B00	
	T277XL620	T715B00	
		T725100	
		T725200	
		T725300	
		T725400	
		T725A00	
		T730100	
		T730200	
		T730300	
		T730400	
		T730A00	

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Murch 2015 Decl. ¶ 52; Complaint ¶ 77 (citing Ex. 2 (Murch 2014 Decl.) ¶¶ 24-25). The Group 1 ink cartridges have an arrangement of contact portions that Epson refers to as “Arrangement A,” where there are four contact portions in the top row and five contact portions in the bottom row.



Murch 2015 Decl. ¶¶ 46-49; Complaint ¶ 77 (citing Ex. 2 (Murch 2014 Decl.) ¶¶ 18-21). In Arrangement A, contact portions 1 and 4 are short detection contact portions that are electrically coupled to short detection circuit(s) in the printers. *Id.* In addition, contact portions 1 and 4 are connected to each other by a wire. *Id.* Contact portions 5 and 9 are high-voltage contact portions that are connected to each other by a resistor. *Id.* Contact portions 2, 3, 6, 7, and 8 are low-voltage contact portions that are connected to an integrated circuit (“IC”) chip on the ink cartridge that contains a memory device. *Id.*

Epson has identified specific Group 1 ink cartridges from each of the Respondents, labeling each with a cartridge control number and selecting certain ink cartridges as representative:

Respondent or Former Respondent	Cartridge Type	Group	Repr. Cartridge No.	Cartridge Control No.	Cartridge Model No.
InkPro2day & Dongguan Ocbestjet & Ocbestjet (HK)	██████	1	1	7392	T02001XL

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Respondent or Former Respondent	Cartridge Type	Group	Repr. Cartridge No.	Cartridge Control No.	Cartridge Model No.
Zhuhai National, Chancen & Huebon	██████	1	1A	7340	E-2001
Shanghai Orink & Orink Infotech	██████	1	1B	7328	E-2001
Nano Business & Zhuhai Nano	██████	1		7476	T200XL1
Rich Imaging	██████	1		7515	E-2001XL
Zinyaw	██████	1		7404	E-2001XL
Yotat Group & Yotat Technology	██████	1		7533	T200XL1
Ourway Image & Kingway Image	██████	1		7541	2001XL
Chinamate Technology	██████	1		7363	T200XL1
InkPro2day & Dongguan Ocbestjet & Ocbestjet (HK)	██████	1	1H	7494	200XL1
Aomya	██████	1		7430	T2001XL
Richeng Development	██████	1		7217	2001XL
Aomya	██████	1	1C	7438	E-2730
Richeng Development	██████	1	1D	7468	E-2731
Nano Business & Zhuhai Nano	██████	1		7484	None
Nano Business & Zhuhai Nano	██████	1		7485	None
Zhuhai National, Chancen & Huebon	██████	1		7414	E-2731
Rich Imaging	██████	1		7518	E-2731
Shanghai Orink & Orink Infotech	██████	1		7294	E-2731
Yotat Group & Yotat Technology	██████	1		6961	2731XL
Ourway Image & Kingway Image	██████	1		7544	2731 XL
Chinamate Technology	██████	1		7527	273 XL
InkPro2day & Dongguan Ocbestjet & Ocbestjet (HK)	██████	1		7496	2731XL

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<b>Respondent or Former Respondent</b>	<b>Cartridge Type</b>	<b>Group</b>	<b>Repr. Cartridge No.</b>	<b>Cartridge Control No.</b>	<b>Cartridge Model No.</b>
Aomya	██████	1		7439	E-2731
Yotat Group & Yotat Technology	██████	1	1E	7537	T6941
InkPro2day & Dongguan Ocbestjet & Ocbestjet (HK)	██████	1	1F	7461	T693100
Aomya	██████	1	1G	7376	T694100
Aomya	██████	1		7371	T6941

SUF ¶ 502; Murch 2015 Decl. ¶¶ 7, 14, 129, 159; Murch Ex. 3. Group 1 ink cartridges with control nos. 7476, 7340 (representative cartridge 1A), 7515, 7328 (representative cartridge 1B), 7404, 7533, 7541, 7363, 7392 (representative cartridge 1), 7430, 7217, and 7494 (representative cartridge 1H), 7414, 7496, 7484, 7485, 7438 (representative cartridge 1C), 7294, 7468 (representative cartridge 1D), 7518, 7527, 7544, 6961, 7461 (representative cartridge 1F), 7371, 7376 (representative cartridge 1G), 7537 (representative cartridge 1E) were identified in the Complaint. Complaint Exs. 1.134-1.144, 1.162, 1.184, 1.187, 1.189, 1.190, 1.192, 1.195, 1.198, 1.200, 1.204, 1.206, 1.208, 1.210, 1.212-1.214.

**2. Group 2 Ink Cartridges**

Group 2 ink cartridges are those compatible with the following Epson printers:

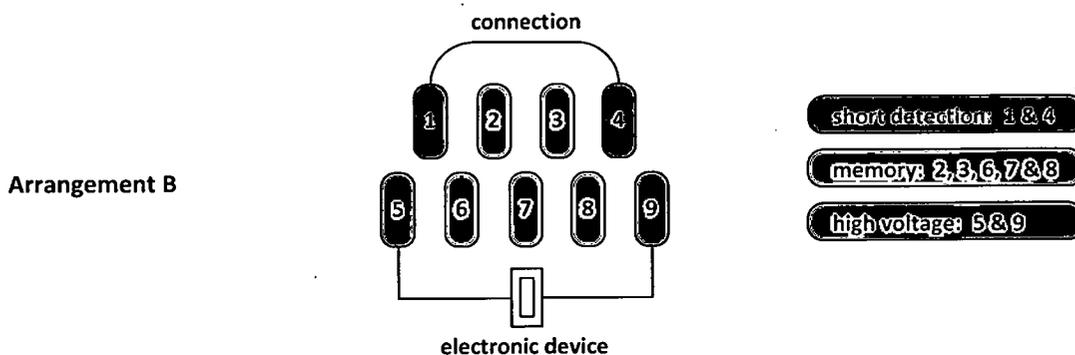
<b>Group 2 Printers</b>	
WorkForce Pro WP-4010	WorkForce Pro WF-4630
WorkForce Pro WP-4020	WorkForce Pro WF-4640
WorkForce Pro WP-4023	WorkForce Pro WF-5110
WorkForce Pro WP-4520	WorkForce Pro WF-5190
WorkForce Pro WP-4533	WorkForce Pro WF-5620
WorkForce Pro WP-4590	WorkForce Pro WF-5690
WorkForce Pro WP-4090	
WorkForce Pro WP-4530	
WorkForce Pro WP-4540	

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Murch 2015 Decl. ¶ 55; Complaint ¶ 83 (citing Ex. 2 (Murch 2014 Decl.) ¶ 26). The Epson ink cartridges compatible with these printers are internally designated as [REDACTED] Murch 2015 Decl. ¶ 68; Complaint ¶ 84. The model numbers for these ink cartridges are listed below:

<b>The Group 2 Cartridges</b>	
[REDACTED]	
T676120	T786120
T676220	T786220
T676320	T786320
T676420	T786420
T711XXL120	T786XL120
T711XXL200	T786XL220
T711XXL320	T786XL320
T711XXL420	T786XL420

Murch 2015 Decl. ¶ 69; Complaint ¶ 83 (citing Ex. 2 (Murch 2014 Decl.) ¶¶ 41-42). The Group 2 ink cartridges have an arrangement of contact portions that Epson refers to as “Arrangement B,” which looks the same as Arrangement A but has differences in architecture, circuitry, and programming.



Murch 2015 Decl. ¶¶ 62-65; Complaint ¶ 82 (citing Ex. 2 (Murch 2014 Decl.) ¶¶ 33-38). In Arrangement B, contact portions 1 and 4 are short detection contact portions that are connected to each other by a wire. *Id.* Contact portions 5 and 9 are high-voltage contact portions that carry voltages of up to approximately [REDACTED] volts applied by the printer. They are connected to each other

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by a [REDACTED], as shown schematically above (*i.e.*, “electronic device” in the schematic). *Id.*

Epson has identified specific Group 2 ink cartridges from each of the Respondents, labeling each with a cartridge control number and selecting specific ink cartridges as representative:

<b>Respondent or Former Respondent</b>	<b>Cartridge Type</b>	<b>Group</b>	<b>Repr. Cartridge No.</b>	<b>Cartridge Control No.</b>	<b>Cartridge Model No.</b>
Nano Business & Zhuhai Nano	[REDACTED]	2		7490	T676XL1
Zhuhai National, Chancen & Huebon	[REDACTED]	2		7355	E-6761XL
Zinyaw	[REDACTED]	2	2	7408	E-6761XL
Rich Imaging	[REDACTED]	2	2A	7520	E-6761XL
Ourway Image & Kingway Image	[REDACTED]	2	2B	7546	E6761
Chinamate Technology	[REDACTED]	2	2C	7529	T6761XL
InkPro2day & Dongguan Ocbestjet & Ocbestjet (HK)	[REDACTED]	2	2D	6705	T676XL 120
Shanghai Orink & Orink Infotech	[REDACTED]	2		7336	E-6761XL
Yotat Group & Yotat Technology	[REDACTED]	2		6956	E6761
Aomya	[REDACTED]	2		6900	E-671
Richeng Development	[REDACTED]	2		7472	E-6761XL

SUF ¶ 502; Murch 2015 Decl. ¶¶ 7, 14, 129, 159; Murch Ex. 3. The group 2 ink cartridges with control nos. 6705 (representative cartridge 2D), 7490, 7408 (representative cartridge 2), 6900, 7336, 7472, 7520 (representative cartridge 2A), 7529 (representative cartridge 2C), 7546

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(representative cartridge 2B), and 6956 were identified in the Complaint. Complaint Exs. 1.145, 1.172-1.174, 1.176-1.181.<sup>1</sup>

**3. Group 3 Ink Cartridges**

Group 3 ink cartridges are those compatible with the following Epson printers:

<b>Group 3 Printers</b>		
Artisan 50	Stylus N10	Stylus Photo RX580
Artisan 700	Stylus N11	Stylus Photo RX595
Artisan 710	Stylus NX 110	Stylus Photo RX680
Artisan 725	Stylus NX 115	Stylus Pro 7700
Artisan 730	Stylus NX100	Stylus Pro 7890
Artisan 800	Stylus NX105	Stylus Pro 7900
Artisan 810	Stylus NX200	Stylus Pro 9700
Artisan 835	Stylus NX215	Stylus Pro 9890
Artisan 837	Stylus NX300	Stylus Pro 9900
Artisan 1430	Stylus NX305	Stylus Pro WT7900
Stylus C120	Stylus NX400	Stylus Pro 11880
Stylus CX4400	Stylus NX415	WorkForce 30
Stylus CX4450	Stylus NX510	WorkForce 40
Stylus CX5000	Stylus NX515	WorkForce 310
Stylus CX6000	Stylus Photo 1400	WorkForce 315
Stylus CX7000F	Stylus Photo R260	WorkForce 500
Stylus CX7450	Stylus Photo R280	WorkForce 600
Stylus CX8400	Stylus Photo R380	WorkForce 610
Stylus CX9400Fax	Stylus Photo R1900	WorkForce 615
Stylus CX9475Fax	Stylus Photo R2880	WorkForce 1100

Murch 2015 Decl. ¶ 72; Complaint ¶ 90 (Ex. 2 (Murch 2014 Decl.) ¶ 43). The Epson ink cartridges compatible with these printers are internally designated as [REDACTED]

[REDACTED] Murch 2015 Decl. ¶ 85; Complaint ¶ 90 (Ex. 2 (Murch 2014 Decl.) ¶¶ 56-57).

The model numbers for these ink cartridges are listed below:

<b>The Group 3 Cartridges</b>
-------------------------------

<sup>1</sup> Certain of these ink cartridges were incorrectly identified in the Complaint as Group 5 ink cartridges.

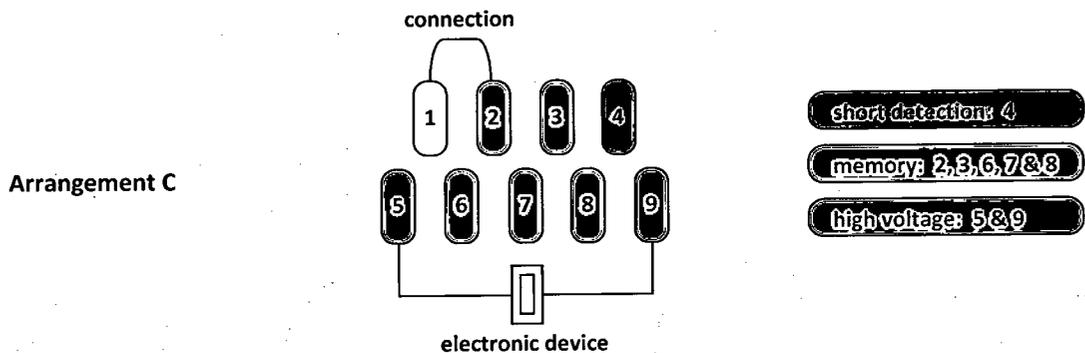
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T068120	T596100	T591100
T068220	T596200	T591200
T068320	T596300	T591300
T068420	T596400	T591400
T069120	T596500	T591500
T069220	T596600	T591600
T069320	T596700	T591700
T069420	T596800	T591800
T077120	T596900	T591900
T077220	T596A00	
T077320	T596B00	
T077420	T596C00	
T077520	T636100	
T077620	T636200	
T078120	T636300	
T078220	T636400	
T078320	T636500	
T078420	T636600	
T078520	T636700	
T078620	T636800	
T079120	T636900	
T079220	T636A00	
T079320	T636B00	
T079420	T642100	
T079520	T642200	
T079620	T642300	
T087020	T642400	
T087120	T642500	
T087220	T642600	
T087320	T642700	
T087420	T642800	
T087720	T642900	
T087820	T642A00	
T087920	T642B00	
T088120	T642C00	
T088220		
T088320		
T088420		
T096120		
T096220		

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T096320		
T096420		
T096520		
T096620		
T096720		
T096820		
T096920		
T097120		
T098120		
T098220		
T098320		
T098420		
T098520		
T098620		
T099220		
T099320		
T099420		
T099520		
T099620		

Murch 2015 Decl. ¶ 86; Complaint ¶ 90 (citing Ex. 2 (Murch 2014 Decl.) ¶¶ 56-57). Like ink cartridges of the previous groups, Group 3 ink cartridges also have an arrangement of four contact-forming members in a top row and five contact-forming members in a lower row.



Murch 2015 Decl. ¶¶ 73-82; Complaint ¶ 89 (citing Ex. 2 (Murch 2014 Decl.) ¶¶ 50-54). In this arrangement, which Epson refers to as Arrangement C, contact portions 1 and 2 are connected to each other by a wire and contact portion 4 is a short-detection contact portion that is electrically

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coupled to a short-detection circuit in the printers. *Id.* Contact portions 5 and 9 are high-voltage contact portions that are connected to each other by a [REDACTED], as shown schematically above (*i.e.*, “electronic device” in the schematic). *Id.*

Epson has identified specific Group 3 ink cartridges from certain Respondents, labeling each with a cartridge control number and selecting one ink cartridge as representative:

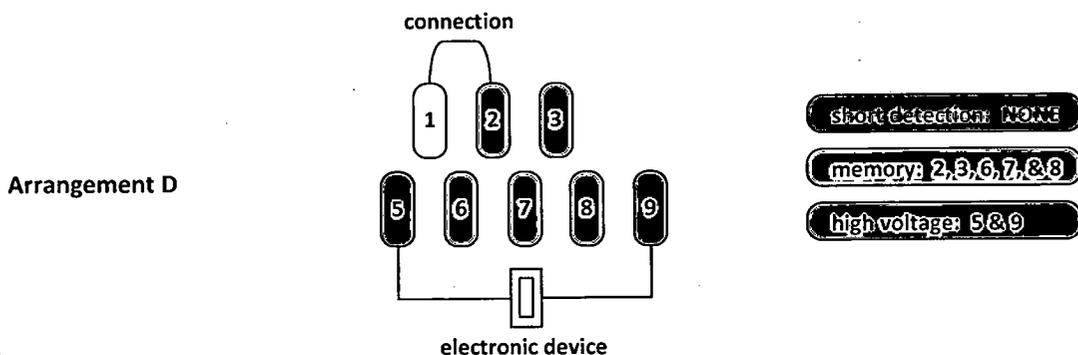
Respondent or Former Respondent	Cartridge Type	Group	Repr. Cartridge No.	Cartridge Control No.	Cartridge Model No.
Yotat Group & Yotat Technology	[REDACTED]	3	3	7535	T5961
Nano Business & Zhuhai Nano	[REDACTED]	3		7478	T0981

SUF ¶ 502; Murch 2015 Decl. ¶¶ 7, 14, 129, 159; Murch Ex. 3. Both of these group 3 ink cartridges were identified in the Complaint. Complaint Ex. 1.146, 1.167.

**4. Group 4 Ink Cartridges**

Group 4 ink cartridges have a different arrangement of contact portions and terminals and function slightly differently than Group 3 ink cartridges, but they operate only with Group 3 Printers and are sold as substitutes for only genuine Epson Group 3 ink cartridges. Murch 2015 Decl. ¶ 89; Complaint ¶¶ 94-96. The Group 4 ink cartridges do not include terminal 4 of the terminal arrangement of genuine Epson Group 3 Cartridges, and they also do not include a contact portion 4 that would have been located on a terminal 4. Murch 2015 Decl. ¶ 90; Complaint ¶¶ 94-96. Epson refers to the arrangement of contact portions for the Group 4 Ink Cartridges as Arrangement D:

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Murch 2015 Decl. ¶¶ 95-96; Complaint ¶¶ 94-96 (citing Ex. 2 (Murch 2014 Decl.) ¶¶ 58-67).

Aside from the aforementioned absence of contact portion 4, in this arrangement, the relevant architecture, circuitry, and programming of Group 4 Accused Ink Cartridge Products is essentially the same as Arrangement C for the Group 3 ink cartridges. *Id.*

Epson has identified specific Group 4 ink cartridges from each of the Respondents, labeling each with a cartridge control number and selecting specific ink cartridges as representative:

Respondent or Former Respondent	Cartridge Type	Group	Repr. Cartridge No.	Cartridge Control No.	Cartridge Model No.
Aomya	[REDACTED]	4	4	7522	E0981
Richeng Development	[REDACTED]	4	4A	7565	E-981
Ourway Image & Kingway Image	[REDACTED]	4	4B	7688	981
Richeng Development	[REDACTED]	4	4C	7558	E-981
Zhuhai National, Chancen & Huebon	[REDACTED]	4	4D	7579	E-5961
Nano Business & Zhuhai Nano	[REDACTED]	4		7480	T0981
Zhuhai National, Chancen & Huebon	[REDACTED]	4		7503	E-981
Rich Imaging	[REDACTED]	4		7513	E-981
Shanghai Orink & Orink Infotech	[REDACTED]	4		7509	E-981

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<b>Respondent or Former Respondent</b>	<b>Cartridge Type</b>	<b>Group</b>	<b>Repr. Cartridge No.</b>	<b>Cartridge Control No.</b>	<b>Cartridge Model No.</b>
Zinyaw	[REDACTED]	4		7457	E-981
Yotat Group & Yotat Technology	[REDACTED]	4		7531	T0981
Ourway Image & Kingway Image	[REDACTED]	4		7539	E0981
Chinamate Technology	[REDACTED]	4		7524	T0981
InkPro2day & Dongguan Ocbestjet & Ocbestjet (HK)	[REDACTED]	4		7492	T981
Shanghai Orink & Orink Infotech	[REDACTED]	4		7511	T5961
InkPro2day & Dongguan Ocbestjet & Ocbestjet (HK)	[REDACTED]	4		7459	T596100
Richeng Development	[REDACTED]	4		7567	None

SUF ¶ 502; Murch 2015 Decl. ¶¶ 7, 14, 129, 159; Murch Ex. 3. Group 4 ink cartridges with control nos. 7492, 7503, 7480, 7457, 7509, 7513, 7522 (representative cartridge 4), 7524, 7539, 7531, 7558 (representative cartridge 4C), 7565 (representative cartridge 4A), 7459, 7511, 7567, 7579 (representative cartridge 4D) were identified in the Complaint. Complaint Exs. 1.147, 1.149, 1.152-1.161, 1.165-1.166, 1.168, 1.170.

**5. Group 5 Ink Cartridges**

Group 5 ink cartridges are those compatible with the following Epson printers:

<b>Group 5 Printers</b>	
Stylus NX125	WorkForce 435
Stylus NX127	WorkForce 520
Stylus NX130	WorkForce 545
Stylus NX230	WorkForce 630
Stylus NX330	WorkForce 633
Stylus NX420	WorkForce 635
Stylus NX430	WorkForce 645

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Stylus NX530	WorkForce 840
Stylus NX625	WorkForce 845
Stylus Photo R2000	WorkForce WF-3520
Stylus Photo R3000	WorkForce WF-3530
Stylus Pro 4900	WorkForce WF-3540
WorkForce 60	WorkForce WF-7010
WorkForce 320	WorkForce WF-7510
WorkForce 323	WorkForce WF-7520
WorkForce 325	

Murch 2015 Decl. ¶ 102; Complaint ¶ 102 (citing Ex. 2 (Murch 2014 Decl.) ¶ 70). The Epson ink cartridges compatible with these printers are not limited to a single form factor but include many different shapes and sizes, including those designated by Epson as [REDACTED]

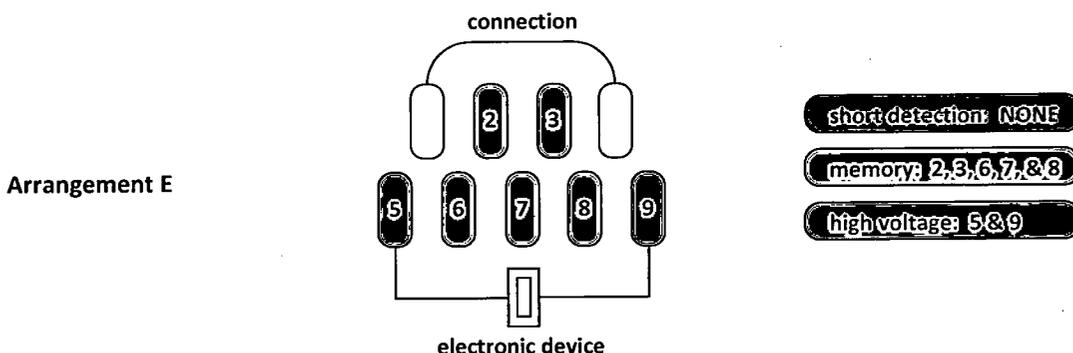
[REDACTED] Murch 2015 Decl. ¶ 114; Complaint ¶ 103. The model numbers for these ink cartridges are listed below:

<b>The Group 5 Cartridges</b>	
T124120	T653100
T124220	T653200
T124320	T653300
T124420	T653400
T125120	T653500
T125220	T653600
T125320	T653700
T125420	T653800
T126120	T653900
T126220	T653A00
T126320	T653B00
T126420	
T127120	
T127220	
T127320	
T127420	
T157120	
T157220	
T157320	
T157420	
T157520	
T157620	

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T157720	
T157820	
T157920	
T159020	
T159120	
T159220	
T159320	
T159420	
T159720	
T159820	
T159920	

Murch 2015 Decl. ¶ 115; Complaint ¶ 102 (citing Ex. 2 (Murch 2014 Decl.) ¶¶ 83-84). Group 5 ink cartridges have an arrangement of two contact-forming members in a top row and five contact-forming members in a lower row.



Murch 2015 Decl. ¶¶ 103-111; Complaint ¶¶ 99-101 (citing Ex. 2 (Murch 2014 Decl.) ¶¶ 72-78). In this arrangement, which Epson refers to as Arrangement E, there are no contact portions 1 and 4. *Id.* Contact portions 5 and 9 are high-voltage contact portions that are connected to each other by a [REDACTED] as shown schematically above (*i.e.*, “electronic device” in the schematic). *Id.* Contact portions 2, 3, 6, 7, and 8 are low-voltage contact portions that are connected to an IC chip that contains a memory device on the ink cartridge. *Id.*

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Epson has identified specific Group 5 ink cartridges from certain Respondents, labeling each with a cartridge control number and selecting specific ink cartridges as representative:

Respondent or Former Respondent	Cartridge Type	Group	Repr. Cartridge No.	Cartridge Control No.	Cartridge Model No.
Yotat Group & Yotat Technology	[REDACTED]	5	5	7573	E-1261
Zinyaw	[REDACTED]	5	5A	7556	E-1261
Ourway Image & Kingway Image	[REDACTED]	5	5B	7694	1261
InkPro2day & Dongguan Ocbestjet & Ocbestjet (HK)	[REDACTED]	5	5C	7552	1261
Ourway Image & Kingway Image	[REDACTED]	5		7577	E1261

SUF ¶ 502; Murch 2015 Decl. ¶¶ 7, 14, 129, 159; Murch Ex. 3. Group 5 ink cartridges with control nos. 7552 (representative cartridge 5C), 7556 (representative cartridge 5A), 7577, and 7573 (representative cartridge 5) were identified in the Complaint. Complaint Exs. 1.148, 1.215-1.217.

### 6. Ink Cartridge Components

Epson has further identified ink cartridge components that certain Respondents import and/or sell intending that a user assemble the components into an ink cartridge belonging to the categories described above. Murch 2015 Decl. ¶ 118; Complaint ¶ 106. Specifically, Epson identifies a refillable ink cartridge body that is manufactured, imported, and/or sold by Respondents Dongguan OcBestjet, OcBestjet (HK) and InkPro2day (the “OcBestjet component”). Murch 2015 Decl. ¶ 119; Seitz 2015 Decl. ¶ 280, Ex. 1.220; Complaint ¶ 107 (citing Ex. 1 (Seitz 2014 Decl.) ¶ 140; Ex. 1.220). The OcBestjet component is designed to be combined by a user with a printed circuit board from a used Epson ink cartridge to assemble an

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operational Group 3 product. Murch 2015 Decl. ¶ 121; Complaint ¶ 109 (citing Ex. 1 (Seitz 2014 Decl.) ¶ 141; Ex. 1.221). Epson further identifies a refillable ink cartridge body manufactured, imported, and/or sold by Respondent Richeng Development (the “Richeng component”) that is essentially identical from an infringement perspective to the OcBestjet component. Murch 2015 Decl. ¶ 124; Seitz 2015 Decl. ¶ 282, Ex. 1.123; Complaint ¶¶ 111-113 (citing Ex. 1 (Seitz 2014 Decl.) ¶ 142). In addition, Epson identifies genuine Epson ink cartridges originally sold overseas with their printed circuit boards removed, which can be combined with a printed circuit board to assemble infringing ink cartridges. Murch 2015 Decl. ¶ 124; Complaint ¶¶ 114-115 (citing Ex. 1 (Seitz 2014 Decl.) ¶ 139, Exs. 1.218, 1.219).

## II. LEGAL STANDARDS

### A. Summary Determination

Commission Rule 210.18 governing summary determination states, in part:

The determination sought by the moving party shall be rendered if pleadings and any depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a summary determination as a matter of law.

19 C.F.R. § 210.18(b).

The evidence “must be viewed in the light most favorable to the party opposing the motion ...with doubts resolved in favor of the nonmovant.” *Crown Operations Int’l, Ltd. v. Solutia, Inc.*, 289 F.3d 1367, 1375 (Fed. Cir. 2002) (citations omitted); *see also Xerox Corp. v. 3Com Corp.*, 267 F.3d 1361, 1364 (Fed. Cir. 2001) (“When ruling on a motion for summary judgment, all of the nonmovant’s evidence is to be credited, and all justifiable inferences are to be drawn in the nonmovant’s favor.”). “Issues of fact are genuine only ‘if the evidence is such that a reasonable [fact finder] could return a verdict for the nonmoving party.’” *Crown*

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*Operations Int'l*, 289 F.3d at 1375 (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)). The trier of fact should “assure itself that there is no reasonable version of the facts, on the summary judgment record, whereby the nonmovant could prevail, recognizing that the purpose of summary judgment is not to deprive a litigant of a fair hearing, but to avoid an unnecessary trial.” *EMI Group N. Am., Inc. v. Intel Corp.*, 157 F.3d 887, 891 (Fed. Cir. 1998) (citations omitted). “In other words, ‘[s]ummary judgment is authorized when it is quite clear what the truth is,’ [citations omitted], and the law requires judgment in favor of the movant based upon facts not in genuine dispute.” *Paragon Podiatry Lab., Inc. v. KLM Labs., Inc.*, 984 F.2d 1182, 1185 (Fed. Cir. 1993).

### **B. Default**

Commission Rule 210.16(b)(4) states: “A party found in default shall be deemed to have waived its right to appear, to be served with documents, and to contest the allegations at issue in the investigation.” 19 C.F.R. § 210.16(b)(4). Commission Rule 210.16(c) further provides that “[t]he facts alleged in the complaint will be presumed to be true with respect to the defaulting respondent.” 19 C.F.R. § 210.16(c). See *Certain Opaque Polymers*, Inv. No. 337-TA-883, Comm’n Op. at 18-19 (Apr. 30, 2015) (presuming allegations in a complaint to be true after default).

### **III. JURISDICTION**

In order to have the power to decide a case, a court or agency must have both subject matter jurisdiction and jurisdiction over either the parties or the property involved. 19 U.S.C. § 1337; *Certain Steel Rod Treating Apparatus and Components Thereof*, Inv. No. 337-TA-97, Commission Memorandum Opinion, 215 U.S.P.Q. 229, 231 (1981).

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### A. Subject Matter Jurisdiction

Section 337 confers subject matter jurisdiction on the International Trade Commission to investigate, and if appropriate, to provide a remedy for, unfair acts and unfair methods of competition in the importation, the sale for importation, or the sale after importation of articles into the United States. *See* 19 U.S.C. §§ 1337(a)(1)(B) and (a)(2). The Complaint alleges that the defaulting Respondents have violated subsection 337(a)(1)(B) by the importation and sale of Accused Ink Cartridge Products. As indicated below, I find that the importation requirement has been satisfied with respect to these products for each defaulting Respondent. No party has contested the Commission’s jurisdiction in this Investigation. Thus, I find that the Commission has subject matter jurisdiction over this Investigation under section 337 of the Tariff Act of 1930. *See Amgen, Inc. v. U.S. Int’l Trade Comm’n*, 902 F.2d 1532, 1536 (Fed. Cir. 1990).

### B. Personal Jurisdiction

Respondents Zinyaw and InkPro2day are both located in the United States, and are thus subject to the personal jurisdiction of the Commission. Complaint ¶¶ 30, 57.

### C. In Rem Jurisdiction

The Commission has *in rem* jurisdiction over the Accused Ink Cartridge Products by virtue of the below finding that the products have been imported into the United States. *See Sealed Air Corp. v. U.S. Int’l Trade Comm’n*, 645 F.2d 976, 985 (C.C.P.A. 1981).

## IV. IMPORTATION

Section 337 prohibits “[t]he importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that (i) infringe a valid and enforceable United States patent . . . .” 19 U.S.C. § 1337(a)(1)(B). A complainant “need only prove importation of a single accused product to

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satisfy the importation element.” *Certain Purple Protective Gloves*, Inv. No. 337-TA-500, Order No. 17 at 5 (Sep. 23, 2004). I find that Epson has met the importation requirement by identifying specific instances of importation by each of the defaulting Respondents, as discussed below:

*Zhuhai National, Chancen, and Huebon*: Respondent Zhuhai National, through its intermediaries Respondents Chancen and Huebon, sold Accused Ink Cartridge Products for importation into the United States in at least [REDACTED] 2013 and [REDACTED], [REDACTED], [REDACTED], and [REDACTED] 2014. Seitz 2015 Decl. ¶¶ 35-39; Seitz Exs. 1.28, 1.30-1.33; Complaint ¶¶ 273-274 (citing Ex. 1 (Seitz 2014 Decl.) ¶¶ 34-37; Exs. 1.30-1.33). These Accused Ink Cartridge Products included cartridge control nos. 7340 and 7414 (Group 1 Cartridges); cartridge control no. 7355 (a Group 2 Cartridge); and cartridge control no. 7503 (a Group 4 Cartridge). Seitz 2015 Decl. ¶¶ 36-38; Seitz Exs. 1.30-1.32, 1.135, 1.149, 1.171, 1.184; Complaint ¶¶ 273-274 (citing Ex. 1 (Seitz 2014 Decl.) ¶¶ 34-37; Exs. 1.30-1.32, 1.135, 1.149, 1.171, 1.184).

*Rich Imaging*: Respondent Rich Imaging sold Accused Ink Cartridge Products for importation into the United States in at least [REDACTED] 2014. Seitz 2015 Decl. ¶ 45; Seitz Ex. 1.40; Complaint ¶¶ 275-276 (citing Ex. 1 (Seitz 2014 Decl.) ¶¶ 39-42; Exs. 1.35-1.40). These Accused Ink Cartridge Products included cartridge control nos. 7515 and 7518 (Group 1 Cartridges); cartridge control no. 7520 (a Group 2 Cartridge); and cartridge control no. 7513 (a Group 4 Cartridge). Seitz 2015 Decl. ¶ 45; Seitz Exs. 1.40, 1.136, 1.155, 1.178, 1.200; Complaint ¶¶ 275-276 (citing Ex. 1 (Seitz 2014 Decl.) ¶¶ 39-42; Exs. 1.40, 1.136, 1.155, 1.178, 1.200).

*Shanghai Orink and Orink Infotech*: Respondents Shanghai Orink and Orink Infotech sold Accused Ink Cartridge Products for importation into the United States in at least [REDACTED], March, and July 2014. Seitz 2015 Decl. ¶¶ 52-54, 56; Seitz Exs. 1.41, 1.45, 1.46, 1.48;

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Complaint ¶¶ 269-270 (citing Ex. 1 (Seitz 2014 Decl.) ¶¶ 44-50; Exs. 1.41, 1.45, 1.46, 1.48). These Accused Ink Cartridge Products included cartridge control nos. 7328 and 7294 (Group 1 Cartridges); cartridge control no. 7336 (a Group 2 Cartridge); and cartridge control nos. 7509 and 7511 (Group 4 Cartridges). Seitz 2015 Decl. ¶¶ 52, 53, 56; Seitz Exs. 1.41, 1.45, 1.48, 1.137, 1.154, 1.166, 1.176, 1.195; Complaint ¶¶ 269-270 (citing Ex. 1 (Seitz 2014 Decl.) ¶¶ 44-50; Exs. 1.41, 1.45, 1.48, 1.137, 1.154, 1.166, 1.176, 1.195).

*Zinyaw*: Respondent Zinyaw sold Accused Ink Cartridge Products after they were imported into the United States in at least [REDACTED] 2013 and [REDACTED] 2014. Seitz 2015 Decl. ¶¶ 154, 15; Seitz Exs. 1.131, 1.132; Complaint ¶ 306 (citing Ex. 1 (Seitz 2014 Decl.) ¶¶ 135-138; Exs. 1.131, 1.132). These Accused Ink Cartridge Products included cartridge control no. 7404 (a Group 1 Cartridge); cartridge control no. 7408 (a Group 2 Cartridge); and cartridge control no. 7457 (a Group 4 Cartridge). Seitz 2015 Decl. ¶¶ 154, 155; Seitz Exs. 1.131, 1.132, 1.138, 1.153, 1.173; Complaint ¶ 306 (citing Ex. 1 (Seitz 2014 Decl.) ¶¶ 135-138; Exs. 1.131, 1.132, 1.138, 1.153, 1.173).

*Yotat Group and Yotat Zhuhai*: Respondents Yotat Group and Yotat Zhuhai sold Accused Ink Cartridge Products for importation into the United States in at least [REDACTED] 2013 and [REDACTED], [REDACTED] and [REDACTED] 2014. Seitz 2015 Decl. ¶¶ 62, 67-69; Seitz Exs. 1.52, 1.56-1.58; Complaint ¶¶ 280-282 (citing Ex. 1 (Seitz 2014 Decl.) ¶¶ 56-63; Exs. 1.52, 1.56-1.58). These Accused Ink Cartridge Products included cartridge control nos. 7533, 6961, and 7537 (Group 1 Cartridges); cartridge control no. 6956 (a Group 2 Cartridge); cartridge control no. 7535 (a Group 3 Cartridge); cartridge control no. 7531 (a Group 4 Cartridge); and cartridge control no. 7573 (a Group 5 Cartridge). Seitz 2015 Decl. ¶¶ 62, 67, 69; Seitz Exs. 1.52, 1.56, 1.58-1.159,

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1.139, 1.167, 1.181, 1.208, 1.214, 1.217; Complaint ¶¶ 280-282 (citing Ex. 1 (Seitz 2014 Decl.) ¶¶ 56-63; Exs. 1.52, 1.56, 1.58-1.159, 1.139, 1.167, 1.181, 1.208, 1.214, 1.217).

*Ourway Image and Kingway Image:* Respondents Ourway Image and Kingway Image sold Accused Ink Cartridge Products for importation into the United States in at least [REDACTED] 2013, [REDACTED] and [REDACTED] 2014, and [REDACTED] 2015. Seitz 2015 Decl. ¶¶ 106, 109-111; Seitz Exs. 1.91, 1.93, 1.94, 1.216, 1.259; Complaint ¶ 290 (citing Ex. 1 (Seitz 2014 Decl.) ¶¶ 99-104; Exs. 1.93, 1.94, 1.216). These Accused Ink Cartridge Products included cartridge control nos. 7541 and 7544 (Group 1 Cartridges); cartridge control no. 7546 (a Group 2 Cartridge); cartridge control nos. 7688 and 7539 (Group 4 Cartridges); and cartridge control nos. 7694 and 7577 (Group 5 Cartridges). Seitz Decl. ¶¶ 109-111 & Exs. 1.93, 1.94, 1.140, 1.158, 1.180, 1.206, 1.216; Complaint ¶ 290 (citing Ex. 1 (Seitz 2014 Decl.) ¶¶ 99-104; Exs. 1.93, 1.94, 1.180, 1.205, 1.206, 1.216).

*Chinamate Technology:* Respondent Chinamate Technology sold Accused Ink Cartridge Products for importation into the United States in at least [REDACTED] and [REDACTED] 2014. Seitz Decl. ¶¶ 126-127; Seitz Exs. 1.104-1.105; Complaint ¶¶ 293-294 (citing Ex. 1 (Seitz 2014 Decl.) ¶¶ 106-109; Exs. 1.101, 1.102, 1.104). These Accused Ink Cartridge Products included cartridge control nos. 7363 and 7527 (Group 1 Cartridges); cartridge control no. 7529 (a Group 2 Cartridge); and cartridge control no. 7524 (a Group 4 Cartridge). Seitz 2015 Decl. ¶¶ 126-127; Seitz Exs. 1.104, 1.105, 1.141, 1.157, 1.179, 1.204; Complaint ¶¶ 293-294 (citing Ex. 1 (Seitz 2014 Decl.) ¶¶ 106-109; Exs. 1.104, 1.105, 1.141, 1.157, 1.179, 1.204).

*InkPro2day:* Respondent InkPro2day sold Accused Ink Cartridge Products in the United States, after the Accused Ink Cartridge Products were imported into the United States by Respondents Dongguan OcBestjet and OcBestjet (HK), in at least [REDACTED] and [REDACTED] 2013 and

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██████, ██████, ██████, and ██████ 2014. Seitz 2015 Decl. ¶¶ 79-86; Seitz Exs. 1.67-1.74; Complaint ¶¶ 285-286 (citing Ex. 1 (Seitz 2014 Decl.) ¶¶ 73-80; Exs. 1.67-1.74). These Accused Ink Cartridge Products included cartridge control nos. 7392, 7494, 7496, and 7461 (Group 1 Cartridges); cartridge control no. 6705 (a Group 2 Cartridge); cartridge control nos. 7492 and 7459 (Group 4 Cartridges); and cartridge control no. 7552 (a Group 5 Cartridge). Seitz 2015 Decl. ¶¶ 79, 83-86; Seitz Exs. 1.67, 1.71-1.74, 1.142, 1.145, 1.147, 1.148, 1.162, 1.165, 1.187, 1.210; Complaint ¶¶ 285-286 (citing Ex. 1 (Seitz 2014 Decl.) ¶¶ 73-80; Exs. 1.67, 1.71-1.74, 1.142, 1.145, 1.147, 1.148, 1.162, 1.165, 1.187, 1.210).

*Aomya:* Respondent Aomya sold Accused Ink Cartridge Products for importation into the United States in at least ██████ and ██████ 2013 and ██████, ██████, and ██████ 2014. Seitz 2015 Decl. ¶¶ 133, 135-138; Seitz Exs. 1.109-1.110, 1.112-1.114; Complaint ¶¶ 297-299 (citing Ex. 1 (Seitz 2014 Decl.) ¶¶ 114-119; Exs. 1.109-1.110, 1.112-1.114). These Accused Ink Cartridge Products included cartridge control nos. 7430, 7438, 7439, 7376, and 7371 (Group 1 Cartridges); and cartridge control nos. 6900 and 7522 (Group 2 Cartridges). Seitz 2015 Decl. ¶¶ 133, 136-138; Seitz Exs. 1.109, 1.112-1.114, 1.143, 1.156, 1.174, 1.192-1.193, 1.212-1.213; Complaint ¶¶ 297-299 (citing Ex. 1 (Seitz 2014 Decl.) ¶¶ 114-119; Exs. 1.109, 1.112-1.114, 1.143, 1.156, 1.174, 1.192-1.193, 1.212-1.213).

*Richeng Development:* Respondent Richeng Development sold Accused Ink Cartridge Products for importation into the United States in at least ██████ 2013 and ██████ and ██████ 2014. Seitz 2015 Decl. ¶¶ 144, 146-147; Seitz Exs. 1.120, 1.122-1.123; Complaint ¶¶ 302-303 (citing Ex. 1 (Seitz 2014 Decl.) ¶¶ 125-128; Exs. 1.144, 1.117-1.120; 1.122-1.123). These Accused Ink Cartridge Products included cartridge control nos. 7217 and 7468 (Group 1 Cartridges); cartridge control no. 7472 (a Group 2 Cartridge); and cartridge control nos. 7565,

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7558, and 7567 (Group 4 Cartridges). Seitz 2015 Decl. ¶¶ 144, 146-147; Seitz Exs. 1.120, 1.122-1.123, 1.144, 1.160-1.161, 1.168, 1.177, 1.198; Complaint ¶¶ 302-303 (citing Ex. 1 (Seitz 2014 Decl.) ¶¶ 125-128; Exs. 1.120, 1.122-1.123, 1.144, 1.160-1.161, 1.168, 1.177, 1.198).

### V. INFRINGEMENT

#### A. Applicable Law

Section 337(a)(1)(B)(i) prohibits “the importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that – (i) infringe a valid and enforceable United States patent or a valid and enforceable United States copyright registered under title 17.” 19 U.S.C. §1337(a)(1)(B)(i). The Commission has held that the word “infringe” in Section 337(a)(1)(B)(i) “derives its legal meaning from 35 U.S.C. § 271, the section of the Patent Act that defines patent infringement.” *Certain Electronic Devices with Image Processing Systems, Components Thereof, and Associated Software*, Inv. No. 337-TA-724, Comm’n Op. at 13-14 (December 21, 2011). Under 35 U.S.C. § 271(a), direct infringement of a patent consists of making, using, offering to sell, or selling the patented invention without consent of the patent owner.

“An infringement analysis entails two steps. The first step is determining the meaning and scope of the patent claims asserted to be infringed. The second step is comparing the properly construed claims to the device accused of infringing.” *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 976 (Fed. Cir. 1995) (*en banc*), *aff’d*, 517 U.S. 370 (1996) (citation omitted). Infringement must be proven by a preponderance of the evidence. *SmithKline Diagnostics, Inc. v. Helena Labs. Corp.*, 859 F.2d 878, 889 (Fed. Cir. 1988). A preponderance of the evidence standard “requires proving that infringement was more likely than not to have

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occurred.” *Warner-Lambert Co. v. Teva Pharm. USA, Inc.*, 418 F.3d 1326, 1341 n.15 (Fed. Cir. 2005).

A complainant must prove either literal infringement or infringement under the doctrine of equivalents. Literal infringement requires the patentee to prove that the accused device contains each and every limitation of the asserted claim(s). *Frank’s Casing Crew & Rental Tools, Inc. v. Weatherford Int’l, Inc.*, 389 F.3d 1370, 1378 (Fed. Cir. 2004). “If even one limitation is missing or not met as claimed, there is no literal infringement.” *Elkay Mfg. Co. v. EBCO Mfg. Co.*, 192 F.3d 973, 980 (Fed. Cir. 1999). Literal infringement is a question of fact. *Finisar Corp. v. DirecTV Group, Inc.*, 523 F.3d 1323, 1332 (Fed. Cir. 2008). A patent may also be infringed under the doctrine of equivalents by manufacture, use, or sale of subject matter equivalent to that literally claimed. Infringement under the doctrine of equivalents “requires proof of insubstantial differences between the claimed and accused products or processes.” *Fonar Corp. v. Gen. Elec. Co.*, 107 F.3d 1543, 1555 (Fed. Cir. 1997) citing *Hilton Davis Chem. Co. v. Warner-Jenkinson Co.*, 62 F.3d 1512, 1521-22 (Fed. Cir. 1995).

### **B. Claim Construction**

Epson does not seek a construction for any limitation of any asserted claim, and Staff agrees that the asserted claim language can be given its plain and ordinary meaning. Mem. at 71; SResp. at 18-19.

### **C. Infringement Analysis**

Epson alleges that the Group 1 and Group 2 Accused Ink Cartridge Products infringe every asserted claim and that the Group 3, 4, and 5 Accused Ink Cartridge Products infringe claims 1, 18, and 49 of the ’749 patent. See Mem. at 98; SResp. at 8. The asserted claims are summarized below:

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Accused Ink Cartridge Groups	Asserted Claims
Group 1 Accused Ink Cartridges	'513 patent: claims 14, 15, 19 '163 patent: claims 1, 6 '749 patent: claims 1, 18, 49, 60 '116 patent: claims 9, 14, 18, 21 '233 patent: claims 1, 10
Group 2 Accused Ink Cartridges	'513 patent: claims 14, 15, 19 '163 patent: claims 1, 6 '749 patent: claims 1, 18, 49, 60 '116 patent: claims 9, 14, 18, 21 '233 patent: claims 1, 10
Group 3 Accused Ink Cartridges	'749 patent: claims 1, 18, 49
Group 4 Accused Ink Cartridges	'749 patent: claims 1, 18, 49
Group 5 Accused Ink Cartridges	'749 patent: claims 1, 18, 49

*Id.* Epson submitted infringement analysis by Dr. Murch for each asserted claim. *See* Mem. at 71-111; Murch 2015 Decl. ¶¶ 155-578. *See also* Complaint ¶¶ 161-262, Exs. 12-125. Dr. Murch performed his infringement analysis on a group-by-group basis, and he explains that in many cases, multiple different ink cartridges from different Respondents have essentially identical printed circuit boards. Murch 2015 Decl. ¶¶ 157-158. In those cases, Dr. Murch provided analysis of one ink cartridge to serve as a representative cartridge. *Id.* ¶ 159; Murch Ex. 3. Staff reviewed the evidence submitted by Epson and agrees that it shows infringement of all the Asserted Patents. SResp. at 19-50. There is no dispute from any party regarding infringement of any claim by any Accused Ink Cartridge Product. As discussed below, I find that Epson has carried its burden on infringement for each of the Asserted Patents.

**1. Infringement of the '513 Patent**

Epson is asserting claims 14, 15, and 19 of the '513 patent against Group 1 and Group 2 ink cartridges. Mem. at 98-99; SUF ¶¶ 195-255, 410-566.

Claim 14 incorporates features such as arranging the contact portions in two rows, placing the high-voltage contact portions at the outermost ends of one of the rows of the

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arrangement of contact portions, and including a short detection contact portion. '513 patent at 31:20-58. Dr. Murch analyzed representative ink cartridges from each respondent group and summarized his analysis in claim charts explaining how each cartridge infringes each limitation of claim 14. Murch 2015 Decl. ¶¶ 161-183. The Group 1 and 2 ink cartridges analyzed by Dr. Murch were identified by Epson as representative cartridges 1, 1F, 1H, and 2D from Respondents Dongguan OcBestjet, OcBestjet (HK), and InkPro2day (Murch Exs. 29, 119, 149, 224; Complaint Ex. 121); representative cartridge 1A from Respondents Zhuhai National, Chancen and Huebon (Murch Ex. 44; Complaint Ex. 107); representative cartridge 1B from Respondents Shanghai Orink and Orink Infotech (Murch Ex. 59; Complaint Ex. 111); representative cartridges 1C and 1G from Respondent Aomya (Murch Exs. 74, 134; Complaint Ex. 123); representative cartridge 1D from Respondent Richeng Development (Murch Ex. 89; Complaint Ex. 125); and representative cartridge 1E from Respondents Yotat Group and Yotat Zhuhai (Murch Ex. 104; Complaint Ex. 115); representative cartridge 2 from Respondent Zinyaw (Murch Ex. 164; Complaint Ex. 113); representative cartridge 2A from Respondent Rich Imaging (Murch Ex. 179; Complaint Ex. 109); representative cartridge 2B from Respondents Ourway Image and Kingway Image (Murch Ex. 194; Complaint Ex. 117); and representative cartridge 2C from Respondent Chinamate Technology (Murch Ex. 209; Complaint Ex. 119). Dr. Murch further identified additional ink cartridges that have circuit boards essentially identical to the representative cartridges. Murch 2015 Decl. ¶¶ 162, 164, 167, 169, 177, 182.

Claim 15 depends from claim 14, and contains additional limitations regarding the arrangement of contact portions. '513 patent at 31:59–32:5. Dr. Murch analyzed representative ink cartridges from each respondent group and summarized his analysis in claim charts explaining how each cartridge infringes each limitation of claim 15. Murch 2015 Decl. ¶¶ 185-

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207. The Group 1 and Group 2 ink cartridges analyzed by Dr. Murch were identified by Epson as representative cartridges 1, 1F, 1H, and 2D from Respondents Dongguan OcBestjet, OcBestjet (HK), and InkPro2day (Murch Exs. 30, 120, 150, 225); representative cartridge 1A from Respondents Zhuhai National, Chancen and Huebon (Murch Ex. 45); representative cartridge 1B from Respondents Shanghai Orink and Orink Infotech (Murch Ex. 60); representative cartridges 1C and 1G from Respondent Aomya (Murch Exs. 75, 135); representative cartridge 1D from Respondent Richeng Development (Murch Ex. 90); representative cartridge 1E from Respondents Yotat Group and Yotat Zhuhai (Murch Ex. 105); representative cartridge 2 from Respondent Zinyaw (Murch Ex. 165); representative cartridge 2A from Respondent Rich Imaging (Murch Ex. 180); representative cartridge 2B from Respondents Ourway Image and Kingway Image (Murch Ex. 195); and representative cartridge 2C from Respondent Chinamate Technology (Murch Ex. 210). Dr. Murch further identified additional ink cartridges that have circuit boards essentially identical to the representative cartridges. Murch 2015 Decl. ¶¶ 186, 188, 191, 193, 196, 201.

Claim 19 depends from claim 18, which depends from claim 17, which depends from claim 15. Claim 19 incorporates further limitations such as including a second short detection contact portion, placing the first and/or second short detection contact portion between a first and/or second high-voltage contact portion and all other contact portions with respect to a row direction, placing the high-voltage contact portions in the lower (deeper) row of contact portions, placing the short detection contact portions in the upper (more shallow) row of contact portions, and placing the high-voltage contact portions at the outermost ends of the overall contact portion arrangement. '513 patent at 32:10-41. Dr. Murch analyzed representative ink cartridges from each respondent group and summarized his analysis in claim charts explaining how each

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cartridge infringes each limitation of claim 19. Murch 2015 Decl. ¶¶ 209-231. The Group 1 and Group 2 ink cartridges analyzed by Dr. Murch were identified by Epson as representative cartridges 1, 1F, 1H, and 2D from Respondents Dongguan OcBestjet, OcBestjet (HK), and InkPro2day (Murch Exs. 31, 121, 151, 226); representative cartridge 1A from Respondents Zhuhai National, Chancen and Huebon (Murch Ex. 46); representative cartridge 1B from Respondents Shanghai Orink and Orink Infotech (Murch Ex. 61); representative cartridges 1C and 1G from Respondent Aomya (Murch Exs. 76, 136); representative cartridge 1D from Respondent Richeng Development (Murch Ex. 91); representative cartridge 1E from Respondents Yotat Group and Yotat Zhuhai (Murch Ex. 106); representative cartridge 2 from Respondent Zinyaw (Murch Ex. 166); representative cartridge 2A from Respondent Rich Imaging (Murch Ex. 181); representative cartridge 2B from Respondents Ourway Image and Kingway Image (Murch Ex. 196); and representative cartridge 2C from Respondent Chinamate Technology (Murch Ex. 211). Dr. Murch further identified additional ink cartridges that have circuit boards essentially identical to the representative cartridges. Murch 2015 Decl. ¶¶ 210, 212, 215, 217, 220, 225, 230.

There is no evidence in the record to contradict Epson's evidence of infringement, and Staff supports a finding of infringement against all Respondents. SResp. at 19-26.<sup>2</sup> I therefore find that the accused Group 1 and Group 2 ink cartridges infringe claims 14, 15, and 19 of the '513 patent.

### **2. Infringement of the '163 Patent**

Epson is asserting claim 1 and 6 of the '163 patent against Group 1 and Group 2 ink cartridges. Mem. at 100; SUF ¶¶ 195-255, 502, 567-623.

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<sup>2</sup> Staff takes no position on the "essentially identical" ink cartridges, but there is no evidence to contradict Dr. Murch's opinion that his infringement analysis applies equally to these products.

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Claim 1 is an independent claim, which incorporates features such as placing the high-voltage contact portions at the outermost ends of a row of contact portions and of the overall contact portion arrangement, and including a short detection contact portion placed between one of the high-voltage contact portions and all other contact portions. ‘163 patent at 29:17-61. Dr. Murch analyzed representative ink cartridges from each respondent group and summarized his analysis in claim charts explaining how each cartridge infringes each limitation of claim 1. Murch 2015 Decl. ¶¶ 233-255. The Group 1 and Group 2 ink cartridges analyzed by Dr. Murch were identified by Epson as representative cartridges 1, 1F, 1H, and 2D from Respondents Dongguan OcBestjet, OcBestjet (HK), and InkPro2day (Murch Exs. 27, 117, 147, 222; Complaint Ex. 101); representative cartridge 1A from Respondents Zhuhai National, Chancen and Huebon (Murch Ex. 42; Complaint Ex. 94); representative cartridge 1B from Respondents Shanghai Orink and Orink Infotech (Murch Ex. 57; Complaint Ex. 96); representative cartridges 1C and 1G from Respondent Aomya (Murch Exs. 72, 132; Complaint Ex. 102); representative cartridge 1D from Respondent Richeng Development (Murch Ex. 87; Complaint Ex. 103); representative cartridge 1E from Respondents Yotat Group and Yotat Zhuhai (Murch Ex. 102; Complaint Ex. 98); representative cartridge 2 from Respondent Zinyaw (Murch Ex. 162; Complaint Ex. 97); representative cartridge 2A from Respondent Rich Imaging (Murch Ex. 177; Complaint Ex. 95); representative cartridge 2B from Respondents Ourway Image and Kingway Image (Murch Ex. 192; Complaint Ex. 99); and representative cartridge 2C from Respondent Chinamate Technology (Murch Ex. 207; Complaint Ex. 100). Dr. Murch further identified additional ink cartridges that have circuit boards essentially identical to the representative cartridges. Murch 2015 Decl. ¶¶ 234, 236, 239, 241, 244, 249.

Claim 6 depends from claim 5, which depends from claim 4, which depends from claim

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1. Claim 6 further incorporates features such as including a second short detection contact portion placed between the other high-voltage contact portion and all other contact portions. '163 patent at 30:4-17. Dr. Murch analyzed representative ink cartridges from each respondent group and summarized his analysis in claim charts explaining how each cartridge infringes each limitation of claim 6. Murch 2015 Decl. ¶¶ 233-255. The Group 1 and Group 2 ink cartridges analyzed by Dr. Murch were identified by Epson as representative cartridges 1, 1F, 1H, and 2D from Respondents Dongguan OcBestjet, OcBestjet (HK), and InkPro2day (Murch Exs. 28, 118, 148, 223); representative cartridge 1A from Respondents Zhuhai National, Chancen and Huebon (Murch Ex. 43); representative cartridge 1B from Respondents Shanghai Orink and Orink Infotech (Murch Ex. 58); representative cartridges 1C and 1G from Respondent Aomya (Murch Exs. 73, 133); representative cartridge 1D from Respondent Richeng Development (Murch Ex. 88); representative cartridge 1E from Respondents Yotat Group and Yotat Zhuhai (Murch Ex. 103); representative cartridge 2 from Respondent Zinyaw (Murch Ex. 163); representative cartridge 2A from Respondent Rich Imaging (Murch Ex. 178); representative cartridge 2B from Respondents Ourway Image and Kingway Image (Murch Ex. 193); and representative cartridge 2C from Respondent Chinamate Technology (Murch Ex. 208). Dr. Murch further identified additional ink cartridges that have circuit boards essentially identical to the representative cartridges. Murch 2015 Decl. ¶¶ 258, 260, 263, 265, 268, 273.

There is no evidence in the record to contradict Epson's evidence of infringement, and Staff supports a finding of infringement against all Respondents. SResp. at 26-29.<sup>3</sup> I therefore find that the accused Group 1 and Group 2 ink cartridges infringe claims 1 and 6 of the '163 patent.

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<sup>3</sup> Staff takes no position on the "essentially identical" ink cartridges, but there is no evidence to contradict Dr. Murch's opinion that his infringement analysis applies equally to these products.

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### 3. Infringement of the '749 Patent

Epson is asserting claims 1, 18, and 49 of the '749 patent against all of the accused ink cartridges, and claim 60 of the '749 patent against Group 1 and Group 2 ink cartridges. Mem. at 100-103; SUF ¶¶ 195-347, 502, 611-781.

Claim 1 is an independent claim, which incorporates features such as arranging the contact portions in two rows, and placing the high-voltage contact portions at the outermost ends of the lower (deeper) row of the arrangement of contact portions. '749 patent at 28:46-19:18.

Dr. Murch analyzed representative ink cartridges from each respondent group and summarized his analysis in claim charts explaining how each cartridge infringes each limitation of claim 1. Murch 2015 Decl. ¶¶ 281-320. The Group 1-5 ink cartridges analyzed by Dr. Murch were identified by Epson as representative cartridges 1, 1F, 1H, 2D, and 5C from Respondents Dongguan OcBestjet, OcBestjet (HK), and InkPro2day (Murch Exs. 23, 113, 143, 218, 254; Complaint Exs. 85, 87, 88); representative cartridges 1A and 4D from Respondents Zhuhai National, Chancen and Huebon (Murch Exs. 38, 242; Complaint Ex. 71); representative cartridge 1B from Respondents Shanghai Orink and Orink Infotech (Murch Ex. 53; Complaint Ex. 75); representative cartridges 1C, 1G, and 4 from Respondent Aomya (Murch Exs. 68, 128, 230; Complaint Ex. 89); representative cartridges 1D, 4A, and 4C from Respondent Richeng Development (Murch Exs. 83, 233, 239; Complaint Ex. 91); representative cartridges 1E, 3, and 5 from Respondents Yotat Group and Yotat Zhuhai (Murch Exs. 98, 227, 245; Complaint Ex. 79); representative cartridges 2 and 5A from Respondent Zinyaw (Murch Exs. 158, 248; Complaint Ex. 77); representative cartridge 2A from Respondent Rich Imaging (Murch Ex. 173; Complaint Ex. 73); representative cartridges 2B, 4B, and 5B from Respondents

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Ourway Image and Kingway Image (Murch Exs. 188, 236, 251; Complaint Ex. 81); and representative cartridge 2C from Respondent Chinamate Technology (Murch Ex. 203; Complaint Ex. 83). Dr. Murch further identified additional ink cartridges that have circuit boards essentially identical to the representative cartridges. Murch 2015 Decl. ¶¶ 282, 284, 287, 289, 292, 297, 302, 307, 311, 313.

Claim 18 has similar limitations as claim 1 regarding the arrangement of contact portions. ‘749 patent at 30:37-31:15. Dr. Murch analyzed representative ink cartridges from each respondent group and summarized his analysis in claim charts explaining how each cartridge infringes each limitation of claim 18. Murch 2015 Decl. ¶¶ 346-385. The Group 1-5 ink cartridges analyzed by Dr. Murch were identified by Epson as representative cartridges 1, 1F, 1H, 2D, and 5C from Respondents Dongguan OcBestjet, OcBestjet (HK), and InkPro2day (Murch Exs. 25, 115, 145, 220, 255; Complaint Ex. 86); representative cartridges 1A and 4D from Respondents Zhuhai National, Chancen and Huebon (Murch Exs. 40, 243; Complaint Ex. 72); representative cartridge 1B from Respondents Shanghai Orink and Orink Infotech (Murch Ex. 55; Complaint Ex. 76); representative cartridges 1C, 1G, and 4 from Respondent Aomya (Murch Exs. 70, 130, 231; Complaint Ex. 90); representative cartridges 1D, 4A, and 4C from Respondent Richeng Development (Murch Exs. 85, 234, 240; Complaint Ex. 91); representative cartridges 1E, 3, and 5 from Respondents Yotat Group and Yotat Zhuhai (Murch Exs. 100, 228, 246; Complaint Ex. 80); representative cartridges 2 and 5A from Respondent Zinyaw (Murch Exs. 160, 249; Complaint Ex. 78); representative cartridge 2A from Respondent Rich Imaging (Murch Ex. 175; Complaint Ex. 74); representative cartridges 2B, 4B, and 5B from Respondents Ourway Image and Kingway Image (Murch Exs. 190, 237, 252; Complaint Ex. 82); and representative cartridge 2C from Respondent Chinamate Technology (Murch Ex. 205; Complaint

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Ex. 84). Dr. Murch further identified additional ink cartridges that have circuit boards essentially identical to the representative cartridges. Murch 2015 Decl. ¶¶ 347, 349, 352, 354, 357, 362, 367, 372, 376, 378, 383.

Claim 49 depends from claim 47, which depends from claim 18. Claims 47 and 49 incorporate additional limitations regarding the first row of contact portions. '749 patent at 33:21-24, 30-38. Dr. Murch analyzed representative ink cartridges from each respondent group and summarized his analysis in claim charts explaining how each cartridge infringes each limitation of claim 49. Murch 2015 Decl. ¶¶ 387-426. The Group 1-5 ink cartridges analyzed by Dr. Murch were identified by Epson as representative cartridges 1, 1F, 1H, 2D, and 5C from Respondents Dongguan OcBestjet, OcBestjet (HK), and InkPro2day (Murch Exs. 26, 116, 146, 221, 256); representative cartridges 1A and 4D from Respondents Zhuhai National, Chancen and Huebon (Murch Exs. 41, 244); representative cartridge 1B from Respondents Shanghai Orink and Orink Infotech (Murch Ex. 56); representative cartridges 1C, 1G, and 4 from Respondent Aomya (Murch Exs. 71, 131, 232); representative cartridges 1D, 4A, and 4C from Respondent Richeng Development (Murch Exs. 86, 235, 241); representative cartridges 1E, 3, and 5 from Respondents Yotat Group and Yotat Zhuhai (Murch Exs. 101, 229, 247); representative cartridges 2 and 5A from Respondent Zinyaw (Murch Exs. 161, 250); representative cartridge 2A from Respondent Rich Imaging (Murch Ex. 176); representative cartridges 2B, 4B, and 5B from Respondents Ourway Image and Kingway Image (Murch Exs. 191, 238, 253); and representative cartridge 2C from Respondent Chinamate Technology (Murch Ex. 206).

Dr. Murch further identified additional ink cartridges that have circuit boards essentially identical to the representative cartridges. Murch 2015 Decl. ¶¶ 388, 390, 393, 395, 398, 403, 408, 413, 417, 424.

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Claim 60 is another dependent claim, which depends on claims 42, 41, 40, and 7, which depend on claim 1. Claim 60 of the '749 patent further incorporates features such as including a short detection terminal with a contact portion placed between one of the high-voltage contact portions and all other contact portions, including a second short detection terminal with a contact portion placed between the other high-voltage contact portion and all other contact portions, and placing the short detection contact portions in the upper (more shallow) row. '749 patent at 29:37-42, 32:51-33:5, 34:39-41. Dr. Murch analyzed representative ink cartridges from each respondent group and summarized his analysis in claim charts explaining how each cartridge infringes each limitation of claim 60. Murch 2015 Decl. ¶¶ 322–344. The Group 1 and Group 2 ink cartridges analyzed by Dr. Murch were identified by Epson as representative cartridges 1, 1F, 1H, and 2D from Respondents Dongguan OcBestjet, OcBestjet (HK), and InkPro2day (Murch Exs. 24, 114, 144, 219); representative cartridge 1A from Respondents Zhuhai National, Chancen and Huebon (Murch Ex. 39); representative cartridge 1B from Respondents Shanghai Orink and Orink Infotech (Murch Ex. 54); representative cartridges 1C and 1G from Respondent Aomya (Murch Exs. 69, 129); representative cartridge 1D from Respondent Richeng Development (Murch Ex. 84); representative cartridge 1E from Respondents Yotat Group and Yotat Zhuhai (Murch Ex. 99); representative cartridge 2 from Respondent Zinyaw (Murch Ex. 159); representative cartridge 2A from Respondent Rich Imaging (Murch Ex. 174); representative cartridge 2B from Respondents Ourway Image and Kingway Image (Murch Ex. 189); and representative cartridge 2C from Respondent Chinamate Technology (Murch Ex. 204). Dr. Murch further identified additional ink cartridges that have circuit boards essentially identical to the representative cartridges. Murch 2015 Decl. ¶¶ 323, 325, 328, 330, 333, 338, 343.

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There is no evidence in the record to contradict Epson's evidence of infringement, and Staff supports a finding of infringement against all Respondents. SResp. at 30-39.<sup>4</sup> I therefore find that all of the accused ink cartridges infringe claims 1, 18, and 49 of the '749 patent, and the accused Group 1 and Group 2 ink cartridges infringe claim 60 of the '749 patent.

### 4. Infringement of the '116 Patent

Epson is asserting claims 9, 14, 18, and 21 of the '116 patent against Group 1 and Group 2 ink cartridges. Mem. at 103-104; SUF ¶¶ 195-255, 502, 776-853.

Claim 9 is an independent claim that provides for placing the high-voltage contact portions at the outermost ends of the overall contact portion arrangement, and including a short detection contact portion that is placed between one of the high-voltage contact portions and all other contact portions with respect to the row direction. '116 patent at 29:66-30:43. Dr. Murch analyzed representative ink cartridges from each respondent group and summarized his analysis in claim charts explaining how each cartridge infringes each limitation of claim 9. Murch 2015 Decl. ¶¶ 428-450. The Group 1 and Group 2 ink cartridges analyzed by Dr. Murch were identified by Epson as representative cartridges 1, 1F, 1H, and 2D from Respondents Dongguan OcBestjet, OcBestjet (HK), and InkPro2day (Murch Exs. 19, 109, 139, 214; Complaint Ex. 56); representative cartridge 1A from Respondents Zhuhai National, Chancen and Huebon (Murch Ex. 34; Complaint Ex. 28); representative cartridge 1B from Respondents Shanghai Orink and Orink Infotech (Murch Ex. 49; Complaint Ex. 36); representative cartridges 1C and 1G from Respondent Aomya (Murch Exs. 64, 124; Complaint Ex. 61); representative cartridge 1D from Respondent Richeng Development (Murch Ex. 79; Complaint Ex. 65); representative cartridge 1E from Respondents Yotat Group and Yotat Zhuhai (Murch Ex. 94; Complaint Ex. 44);

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<sup>4</sup> Staff takes no position on the "essentially identical" ink cartridges, but there is no evidence to contradict Dr. Murch's opinion that his infringement analysis applies equally to these products.

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representative cartridge 2 from Respondent Zinyaw (Murch Ex. 154; Complaint Ex. 40); representative cartridge 2A from Respondent Rich Imaging (Murch Ex. 169; Complaint Ex. 32); representative cartridge 2B from Respondents Ourway Image and Kingway Image (Murch Ex. 184; Complaint Ex. 48); and representative cartridge 2C from Respondent Chinamate Technology (Murch Ex. 199; Complaint Ex. 52). Dr. Murch further identified additional ink cartridges that have circuit boards essentially identical to the representative cartridges. Murch 2015 Decl. ¶¶ 429, 431, 434, 436, 439, 444, 449.

Claim 14 depends from claim 13, which depends from claim 9. Claims 13 and 14 provide for including a second short detection contact portion that is placed between the other high-voltage contact portion and all other contact portions. '116 patent at 30:56-65. Dr. Murch analyzed representative ink cartridges from each respondent group and summarized his analysis in claim charts explaining how each cartridge infringes each limitation of claim 14. Murch 2015 Decl. ¶¶ 452–474. The Group 1 and Group 2 ink cartridges analyzed by Dr. Murch were identified by Epson as representative cartridges 1, 1F, 1H, and 2D from Respondents Dongguan OcBestjet, OcBestjet (HK), and InkPro2day (Murch Exs. 20, 110, 140, 215); representative cartridge 1A from Respondents Zhuhai National, Chancen and Huebon (Murch Ex. 35); representative cartridge 1B from Respondents Shanghai Orink and Orink Infotech (Murch Ex. 50); representative cartridges 1C and 1G from Respondent Aomya (Murch Exs. 65, 125); representative cartridge 1D from Respondent Richeng Development (Murch Ex. 80); representative cartridge 1E from Respondents Yotat Group and Yotat Zhuhai (Murch Ex. 95); representative cartridge 2 from Respondent Zinyaw (Murch Ex. 155); representative cartridge 2A from Respondent Rich Imaging (Murch Ex. 170); representative cartridge 2B from Respondents Ourway Image and Kingway Image (Murch Ex. 185); and representative cartridge 2C from

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Respondent Chinamate Technology (Murch Ex. 200). Dr. Murch further identified additional ink cartridges that have circuit boards essentially identical to the representative cartridges.

Murch 2015 Decl. ¶¶ 453, 455, 458, 460, 463, 468, 473.

Claim 18 is another independent claim with limitations similar to claim 1. ‘116 patent at 31:28-32:2. Dr. Murch analyzed representative ink cartridges from each respondent group and summarized his analysis in claim charts explaining how each cartridge infringes each limitation of claim 18. Murch 2015 Decl. ¶¶ 476-498. The Group 1 and Group 2 ink cartridges analyzed by Dr. Murch were identified by Epson as representative cartridges 1, 1F, 1H, and 2D from Respondents Dongguan OcBestjet, OcBestjet (HK), and InkPro2day (Murch Exs. 21, 111, 141, 216; Complaint Ex. 57); representative cartridge 1A from Respondents Zhuhai National, Chancen and Huebon (Murch Ex. 36; Complaint Ex. 29); representative cartridge 1B from Respondents Shanghai Orink and Orink Infotech (Murch Ex. 51; Complaint Ex. 37); representative cartridges 1C and 1G from Respondent Aomya (Murch Exs. 66, 126; Complaint Ex. 62); representative cartridge 1D from Respondent Richeng Development (Murch Ex. 81; Complaint Ex. 66); representative cartridge 1E from Respondents Yotat Group and Yotat Zhuhai (Murch Ex. 96; Complaint Ex. 45); representative cartridge 2 from Respondent Zinyaw (Murch Ex. 156; Complaint Ex. 41); representative cartridge 2A from Respondent Rich Imaging (Murch Ex. 171; Complaint Ex. 33); representative cartridge 2B from Respondents Ourway Image and Kingway Image (Murch Ex. 186; Complaint Ex. 49); and representative cartridge 2C from Respondent Chinamate Technology (Murch Ex. 201; Complaint Ex. 53). Dr. Murch further identified additional ink cartridges that have circuit boards essentially identical to the representative cartridges. Murch 2015 Decl. ¶¶ 477, 479, 482, 484, 487, 492, 497.

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Claim 21 depends from claim 20, which depends from claim 18. Claims 20 and 21 include limitations regarding the location of a second short detection contact portion. ‘116 patent at 32:6–15. Dr. Murch analyzed representative ink cartridges from each respondent group and summarized his analysis in claim charts explaining how each cartridge infringes each limitation of claim 21. Murch 2015 Decl. ¶¶ 500-522. The Group 1 and Group 2 ink cartridges analyzed by Dr. Murch were identified by Epson as representative cartridges 1, 1F, 1H, and 2D from Respondents Dongguan OcBestjet, OcBestjet (HK), and InkPro2day (Murch Exs. 22, 112, 142, 217); representative cartridge 1A from Respondents Zhuhai National, Chancen and Huebon (Murch Ex. 37); representative cartridge 1B from Respondents Shanghai Orink and Orink Infotech (Murch Ex. 52); representative cartridges 1C and 1G from Respondent Aomya (Murch Exs. 67, 127); representative cartridge 1D from Respondent Richeng Development (Murch Ex. 82); representative cartridge 1E from Respondents Yotat Group and Yotat Zhuhai (Murch Ex. 97); representative cartridge 2 from Respondent Zinyaw (Murch Ex. 157); representative cartridge 2A from Respondent Rich Imaging (Murch Ex. 172); representative cartridge 2B from Respondents Ourway Image and Kingway Image (Murch Ex. 187); and representative cartridge 2C from Respondent Chinamate Technology (Murch Ex. 202). Dr. Murch further identified additional ink cartridges that have circuit boards essentially identical to the representative cartridges. Murch 2015 Decl. ¶¶ 501, 503, 506, 508, 511, 516, 521.

There is no evidence in the record to contradict Epson’s evidence of infringement, and Staff supports a finding of infringement against all Respondents. SResp. at 39-47.<sup>5</sup> I therefore find that the accused Group 1 and Group 2 ink cartridges infringe claims 9, 14, 18, and 21 of the ‘116 patent.

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<sup>5</sup> Staff takes no position on the “essentially identical” ink cartridges, but there is no evidence to contradict Dr. Murch’s opinion that his infringement analysis applies equally to these products.

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### 5. Infringement of the '233 Patent

Epson is asserting claims 1 and 10 of the '233 patent against Group 1 and Group 2 ink cartridges. Mem. at 104-105; SUF ¶¶ 195-255, 502, 854-891.

Claim 1 is an independent claim requiring a plurality of terminals adapted and positioned to contact printer-side contact forming members so that electrical communication is enabled with the printer and incorporating features such as placing the high-voltage terminals at the outermost ends of the overall terminal arrangement and including a short-detection terminal placed between one of the high-voltage terminals and all other terminals. '233 patent at 28:45-29:10. Dr. Murch analyzed representative ink cartridges from each respondent group and summarized his analysis in claim charts explaining how each cartridge infringes each limitation of claim 1. Murch 2015 Decl. ¶¶ 524-546. The Group 1 and Group 2 ink cartridges analyzed by Dr. Murch were identified by Epson as representative cartridges 1, 1F, 1H, and 2D from Respondents Dongguan OcBestjet, OcBestjet (HK), and InkPro2day (Murch Exs. 17, 107, 137, 212; Complaint Ex. 20); representative cartridge 1A from Respondents Zhuhai National, Chancen and Huebon (Murch Ex. 32; Complaint Ex. 13); representative cartridge 1B from Respondents Shanghai Orink and Orink Infotech (Murch Ex. 47; Complaint Ex. 15); representative cartridges 1C and 1G from Respondent Aomya (Murch Exs. 62, 122; Complaint Ex. 21); representative cartridge 1D from Respondent Richeng Development (Murch Ex. 77; Complaint Ex. 22); representative cartridge 1E from Respondents Yotat Group and Yotat Zhuhai (Murch Ex. 92; Complaint Ex. 17); representative cartridge 2 from Respondent Zinyaw (Murch Ex. 152; Complaint Ex. 16); representative cartridge 2A from Respondent Rich Imaging (Murch Ex. 167; Complaint Ex. 14); representative cartridge 2B from Respondents Ourway Image and Kingway Image (Murch Ex. 182; Complaint Ex. 18); and representative cartridge 2C from Respondent Chinamate

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Technology (Murch Ex. 197; Complaint Ex. 19). Dr. Murch further identified additional ink cartridges that have circuit boards essentially identical to the representative cartridges. Murch 2015 Decl. ¶¶ 525, 527, 530, 532, 535, 540, 545.

Claim 10 depends from claim 9, which depends from claim 1. Claim 10 of the '233 patent further incorporates features such as including a second short-detection terminal placed between the other high-voltage terminal and all other terminals. '233 patent at 29:29-38. Dr. Murch analyzed representative ink cartridges from each respondent group and summarized his analysis in claim charts explaining how each cartridge infringes each limitation of claim 10. Murch 2015 Decl. ¶¶ 548-570. The Group 1 and Group 2 ink cartridges analyzed by Dr. Murch were identified by Epson as representative cartridges 1, 1F, 1H, and 2D from Respondents Dongguan OcBestjet, OcBestjet (HK), and InkPro2day (Murch Exs. 18, 108, 138, 213); representative cartridge 1A from Respondents Zhuhai National, Chancen and Huebon (Murch Ex. 33); representative cartridge 1B from Respondents Shanghai Orink and Orink Infotech (Murch Ex. 48); representative cartridges 1C and 1G from Respondent Aomya (Murch Exs. 63, 123); representative cartridge 1D from Respondent Richeng Development (Murch Ex. 78); representative cartridge 1E from Respondents Yotat Group and Yotat Zhuhai (Murch Ex. 93); representative cartridge 2 from Respondent Zinyaw (Murch Ex. 153); representative cartridge 2A from Respondent Rich Imaging (Murch Ex. 168); representative cartridge 2B from Respondents Ourway Image and Kingway Image (Murch Ex. 183); and representative cartridge 2C from Respondent Chinamate Technology (Murch Ex. 198). Dr. Murch further identified additional ink cartridges that have circuit boards essentially identical to the representative cartridges. Murch 2015 Decl. ¶¶ 549, 551, 554, 556, 559, 564, 569.

There is no evidence in the record to contradict Epson's evidence of infringement, and

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Staff supports a finding of infringement against all Respondents. SResp. at 47-50.<sup>6</sup> I therefore find that the accused Group 1 and Group 2 ink cartridges infringe claims 1 and 10 of the '233 patent.

### 6. Indirect Infringement

Epson further contends that certain ink cartridge components indirectly infringe the Asserted Patents under a contributory infringement theory. Mem. at 60 n. 34. Specifically, Epson identifies three ink cartridge components: the OcBestjet component, the Richeng component, and genuine Epson ink cartridges originally sold overseas with their printed circuit boards removed. Mem. at 59-63.

Epson submitted infringement analysis by Dr. Murch for the OcBestjet component and the Richeng component. Murch 2015 Decl. ¶¶ 119-125; *see also* Complaint ¶¶ 107, 111-113; Seitz 2015 Decl. ¶ 280, 282, Seitz Exs. 1.220, 1.123. Dr. Murch examined the OcBestjet component and found that it includes a high-voltage electronic device, and conductive terminals with contact portions positioned to contact the contact-forming members of the Group 3 Printers with which the OcBestjet component is meant to be compatible. *Id.* ¶ 120. However, the OcBestjet component does not have a memory device or other low-voltage electronic devices and is designed to be combined by a user with a printed circuit board (containing a memory device) taken from a used genuine Epson ink cartridge. *Id.* ¶¶ 120-121. Dr. Murch reviewed instruction sheets provided by Respondent Dongguan OcBestjet describing how to remove a printed circuit board (containing a memory device) from a used genuine Epson ink cartridge, and install that printed circuit board in a recess located on the body of the OcBestjet component. *Id.* ¶ 122, Murch Exs. 15, 16; Seitz 2015 Decl. ¶ 280, Seitz Ex. 1.220. Dr. Murch thus concluded

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<sup>6</sup> Staff takes no position on the “essentially identical” ink cartridges, but there is no evidence to contradict Dr. Murch’s opinion that his infringement analysis applies equally to these products.

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that the OcBestjet component would function identically to a Group 3 ink cartridge when assembled according to the provided instructions, and there is no other practical use for the component. *Id.* ¶ 123. Dr. Murch examined the Richeng component and found it to be essentially identical to the OcBestjet component, concluding that the Richeng component would also function identically to a Group 3 ink cartridge when assembled with an Epson circuit board. *Id.* ¶¶ 124-125.

In its Complaint, Epson identified genuine Epson ink cartridges originally sold overseas with their printed circuit boards removed. Complaint ¶¶ 114-115 (citing Ex. 1 (Seitz 2014 Decl.) ¶ 142, Exs. 1.218, 1.219). Based on photographs, Mr. Seitz was able to identify these cartridges as HAV3 cartridges, which are either Group 1 or Group 3 ink cartridges. Complaint Ex. 1 (Seitz 2014 Decl.) ¶ 142. Although Dr. Murch did not personally examine these modified Epson ink cartridges, he concluded that they would infringe the asserted claims when reassembled with Epson circuit boards for the same reasons as other ink cartridges he analyzed. Murch 2015 Decl. ¶ 126.

“To prevail on contributory infringement in a Section 337 case, the complainant must show *inter alia*: (1) there is an act of direct infringement in violation of Section 337; (2) the accused device has no substantial non-infringing uses; and (3) the accused infringer imported, sold for importation, or sold after importation within the United States, the accused components that contributed to another’s direct infringement.” *Spansion, Inc. v. Int’l Trade Comm’n*, 629 F.3d 1331, 1353 (Fed. Cir. 2010). In addition to the foregoing factors, the Federal Circuit has explained that the patentee must also demonstrate that the alleged infringer “knew that the combination for which its components were especially made was both patented and infringing.” *Golden Blount, Inc. v. Robert H. Peterson Co.*, 365 F.3d 1054, 1061 (Fed. Cir. 2004) (quoting

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*Preemption Devices, Inc. v. Minn. Mining & Mfg., Co.*, 803 F.2d 1170, 1174 (Fed. Cir. 1986)).

Dr. Murch has explained how the OcBestjet component, the Richeng component, and the modified Epson ink cartridges would directly infringe when assembled with a circuit board, and the Complaint states that “consumers do buy these components and use them to make infringing Accused Ink Cartridge Products.” Murch 2015 Decl. ¶¶ 119-126; Complaint ¶ 117. Dr. Murch further offered his opinion that these components, which are simply accused ink cartridges with circuit boards removed, have no practical use other than to be assembled into ink cartridges for Epson printers. *Id.* Mr. Seitz explained how each of these components was imported. *See* Seitz 2015 Decl. ¶¶ 280-282, Ex. 1.220; Seitz 2014 Decl.) ¶¶ 139-142. The Complaint states that Epson marks its patents on its products, and the defaulting Respondents have had notice of accused infringement at least since being served with the Complaint, meeting the knowledge requirement for contributory infringement. Complaint ¶ 116; *see Certain Television Sets, Television Receivers, Television Tuners, and Components Thereof*, Inv. No. 337-TA-910, Comm’n Op. at 41-42 (Oct. 14, 2015) (affirming that service of the Complaint is sufficient to meet the knowledge requirement for contributory infringement). There is no evidence in the record to contradict this evidence of contributory infringement. I therefore find that the OcBestjet component, the Richeng component, and the modified Epson ink cartridges contributorily infringe at least claims 1, 18, and 49 of the ’749 patent, as discussed above for Group 3 ink cartridges.

## VI. INVALIDITY

The Asserted Patents are presumed valid as a matter of law. 35 U.S.C. § 282. This presumption of validity may be overcome only by “clear and convincing evidence.” *Pfizer, Inc. v. Apotex, Inc.*, 480 F.3d 1348, 1359 (Fed. Cir. 2007). *See also Microsoft Corp. v. i4i Ltd.*

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*P'ship*, 131 S. Ct. 2238, 2242-2253 (2011) (upholding the “clear and convincing” standard for invalidity). The burden of proof never shifts to the patentee to prove validity. *Scanner Techs. Corp. v. ICOS Vision Sys. Corp. N.V.*, 528 F.3d 1365, 1380 (Fed. Cir. 2008).

No party has challenged the validity of the Asserted Patents.<sup>7</sup> See SResp. at 51. The Commission is prohibited from making a determination on validity when no defense of invalidity has been raised. *Lannom Mfg. Co., Inc. v. International Trade Comm'n*, 799 F.2d 1572, 1580 (Fed. Cir. 1986). Accordingly, there is no genuine dispute as to invalidity.

### VII. DOMESTIC INDUSTRY

In patent-based proceedings under Section 337, a complainant must establish that an industry “relating to the articles protected by the patent ... exists or is in the process of being established” in the United States. 19 U.S.C. § 1337(a)(2). Under Commission precedent, the domestic industry requirement of Section 337 consists of an “economic prong” and a “technical prong.” *Certain Stringed Musical Instruments and Components Thereof*, Inv. No. 337-TA-586, Comm'n Op. at 12-14, 2009 WL 5134139, at \*10 (April 24, 2008) (“*Stringed Musical Instruments*”).

#### A. Technical Prong

##### 1. Legal Standards

To meet the technical prong, the complainant must establish that it practices at least one claim of each asserted patent. *Certain Point of Sale Terminals and Components Thereof*, Inv. No. 337-TA-524, Order No. 40 (April 11, 2005). “The test for satisfying the ‘technical prong’ of the industry requirement is essentially [the] same as that for infringement, *i.e.*, a comparison of

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<sup>7</sup> In a letter submitted on May 21, 2015, terminated Respondent Nano Digital identified U.S. Patent No. 8,342,664 as potential prior art but did not make a *prima facie* showing of invalidity for any asserted claim. Letter to ALJ from Jie Wang (May 6, 2015) (EDIS Doc. ID 557542).

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domestic products to the asserted claims.” *Alloc v. U.S. Int’l Trade Comm’n*, 342 F.3d 1361, 1375 (Fed. Cir. 2003). The technical prong of the domestic industry requirement can be satisfied either literally or under the doctrine of equivalents. *Certain Excimer Laser Systems for Vision Correction Surgery and Components Thereof and Methods for Performing Such Surgery*, Inv. No. 337-TA-419, Order No. 43 (July 30, 1999).

**2. Domestic Industry Products**

Epson alleges that the Epson Group 1 ink cartridges practice certain claims of each of the Asserted Patents. Mem. at 112-114; SResp. at 51-53. Epson further alleges that the Epson Group 3 and Group 5 ink cartridges practice claim 49 of the ’749 patent. *Id.* Epson’s domestic industry products are identified below by model number:

<b>Claim of Asserted Patent</b>	<b>Epson Cartridges</b>
<p>Claim 10 of ‘233 Patent;                      Claim 21 of the ‘116 Patent;                      Claim 60 of the ‘749 Patent;                      Claim 6 of the ‘163 Patent;                      Claim 19 of the ‘513 Patent</p>	<p>Epson Group 1 ink Cartridges: T194120, T194220, T194320, T194420, T195120, T195220, T195320, T195420, T196120, T196220, T196320, T196420, T197120, T200120, T200220, T200320, T200420, T200XL120, T200XL220, T200XL320 and T200XL420.</p>
<p>Claim 49 of the ‘749 Patent</p>	<p>Epson Group 3 ink cartridges: T068120, T068220, T068320, T068420, T069120, T069220, T069320, T069420, T073120, T073120H, T073220, T073320, T073420, T077120, T077220, T077320, T077420, T077520, T077620, T078120, T078220, T078320, T078420, T078520, T078620, T079120, T079220, T079320, T079420, T079520, T079620, T081120, T081220, T081320, T081420, T081520, T081620, T082120, T082220, T082320, T082420, T082520, T082620, T088120, T088220, T088320, T088420, T090120, T098120, T098220, T098320, T098420, T098520, T098620, T099220, T099320, T099420, T099520, T099620, T103220, T103320, T103420, T115126 and T117120</p> <p>Epson Group 5 ink cartridges: T124120, T124220, T124320, T124420, T125120, T125220, T125320, T125420, T126120, T126220, T126320, T126420, T132120, T133120, T133220, T133320, T133420, T135120, T138120, T140220, T140320 and T140420.</p>

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*Id.*; Murch 2015 Decl. ¶ 579.

### 3. Practice of the Asserted Patents

Epson submitted domestic industry analysis by Dr. Murch for each of the Asserted Patents. *See* Mem. at 112-114; Murch 2015 Decl. ¶¶ 582-603. Dr. Murch analyzed one representative Epson Group 1 ink cartridge, model number T200XL120, providing limitation-by-limitation analysis for each Asserted Patent: Claim 19 of the '513 Patent (Murch 2015 Decl. ¶ 583; Murch Ex. 301; Complaint ¶ 323, Ex. 133); claim 6 of the '163 patent (Murch 2015 Decl. ¶ 586; Murch Ex. 300; Complaint ¶ 322, Ex. 132); claim 60 of the '749 patent (Murch 2015 Decl. ¶ 589; Murch Ex. 298; Complaint ¶ 319, Ex. 129); claim 49 of the '749 patent (Murch 2015 Decl. ¶ 592; Murch Ex. 299); claim 21 of the '116 patent (Murch 2015 Decl. ¶ 599; Murch Ex. 297; Complaint ¶ 318, Ex. 128); and claim 10 of the '233 patent (Murch 2015 Decl. ¶ 602; Murch Ex. 296; Complaint ¶ 317, Ex. 127). He further explained that all Epson Group 1 ink cartridges practice these claims in the same way. *Id.* ¶¶ 584, 587, 590, 593, 600, 603.

Dr. Murch also analyzed an exemplary Epson Group 3 ink cartridge, model number T098120, providing limitation-by-limitation analysis for claim 49 of the '749 patent. Murch 2015 Decl. ¶ 594; Murch Ex. 302; Complaint ¶ 320, Ex. 130. He further explained that all Epson Group 3 ink cartridges practice this claim in the same way. *Id.* ¶ 595. Dr. Murch further analyzed an exemplary Epson Group 5 ink cartridge, model number T126120, providing limitation-by-limitation analysis for claim 49 of the '749 patent, and he explained that all Epson Group 5 ink cartridges practice this claim in the same way. Murch 2015 Decl. ¶¶ 596-597; Murch Ex. 303; Complaint ¶ 321, Ex. 131.

There is no evidence in the record to contradict Epson's evidence that its ink cartridges

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practice the identified claims of the Asserted Patents, and Staff supports a finding that the technical prong of the domestic industry requirement is satisfied. SResp. at 51-53. I therefore find that the Epson Group 1 ink cartridges practice claim 10 of '233 Patent, claim 21 of the '116 patent, claim 60 of the '749 patent, claim 6 of the '163 patent, and claim 19 of the '513 Patent; and the Epson Group 3 and Group 5 ink cartridges practice claim 49 of the '749 patent.

### **B. Economic Prong**

Complainants assert that the economic prong of the domestic industry requirement is satisfied through significant investment in plant and equipment and significant employment of labor or capital. Mem. at 114-121.

#### **1. Legal Standards**

To satisfy the economic prong, a complainant must show that a domestic industry exists by demonstrating the existence of:

- (A) significant investment in plant and equipment; or
- (B) significant employment of labor or capital; or
- (C) substantial investment in exploitation of the patent, including engineering, research and development, or licensing.

*See* 19 U.S.C. 1337(a)(3); *Certain Variable Speed Wind Turbines and Components Thereof*, Inv. No. 337-TA-376, Comm'n Op., 1996 WL 1056330, at \*13-14 (November 1996). *see Certain CD-ROM Controllers and Products Containing the Same – II*, Inv. No. 337-TA-409, Comm'n Op. at 37 (October 1999); (“The ‘economic prong’ of the domestic industry requirement is satisfied when it is determined that the economic activities or investments set forth in subsections (A), (B), or (C) of section 337(a)(3) have taken place or are taking place.”).

“There is no minimum monetary expenditure that a complainant must demonstrate to qualify as a domestic industry.” *Certain Stringed Musical Instruments and Components Thereof*,

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Inv. No. 337-TA-586, Comm'n Op. at 25 (May 16, 2008) (“*Stringed Instruments*”). Further, “there is no need to define or quantify the industry itself in absolute mathematical terms.” *Id.* at 26. Similarly, “a precise accounting is not necessary, as most people do not document their daily affairs in contemplation of possible litigation.” *Id.* Reasonable and appropriate allocation methodologies, such as sales based allocations, have been employed and accepted by the Commission for purposes of satisfying the domestic industry economic prong. *See, e.g., Certain Toner Cartridges and Components Thereof*, Inv. No. 337-TA-918, Order No. 22 at 3-5 (Jan. 16, 2015); *Certain Protective Cases and Components Thereof*, Inv. No. 337-TA-780, Initial Determination on Violation of Section 337 and Recommended Determination on Remedy and Bond at 105-108 (June 29, 2012). The economic prong requires a quantitative analysis, and “qualitative factors alone are insufficient to show significant investment in plant and equipment and significant employment of labor or capital.” *Lelo Inc. v. Int’l Trade Comm’n*, 786 F.3d 879, 885 (Fed. Cir. 2015).

### **2. Investments in Plant and Equipment**

Through the declaration of Randal A. McEvers, executive director of general affairs and administration and assistant corporate secretary, McEvers 2015 Decl. ¶ 1, Epson asserts that a domestic industry exists in the United States by virtue of Epson’s significant investment in plant and equipment devoted to manufacturing, packaging and inspecting ink cartridges that employ and exploit the technology covered by one or more of the claims of the Asserted Patents.

Epson Portland manufactures ink cartridges for use with Epson printers. *Id.* ¶ 18; Complaint ¶ 316. Epson Portland uses raw plastic to manufacture the cartridge bodies and other components of the cartridges, programs and applies integrated circuits to these cartridge shells,

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fills the cartridges with ink that it produces, packs the cartridges in pillow packs, and sends them to its U.S. affiliate, Epson El Paso, where the cartridges are sealed into final retail packaging. *Id.*

Epson Portland's initial manufacturing facility in Hillsboro, Oregon was built from 1985 to 1986 at a cost of approximately [REDACTED]. *Id.* ¶ 19. This facility was expanded beginning in 1988 by the addition of approximately [REDACTED] square feet, at a cost of approximately [REDACTED]. *Id.* A renovation in 1999 cost approximately [REDACTED]. *Id.* Epson Portland's current facility consists of [REDACTED] square feet of improved space, of which approximately [REDACTED] is "clean room," or manufacturing space. *Id.*

Of a total investment of approximately [REDACTED] made in the Epson Portland facility, approximately [REDACTED] to build the space and [REDACTED] to convert it to clean room space) is attributable to the cost of the clean room space, and approximately [REDACTED] is attributable to the cost of the non-clean room space. *Id.* ¶ 29.

In 2008, Epson Portland began making ink cartridges practicing the '749 patent (Group 3 and Group 5 cartridges) in its Hillsboro facility. *Id.* ¶ 26; Complaint ¶ 326. Epson Portland has been manufacturing ink cartridges practicing the '233, '116, '163, and '513 patents (Group 1 cartridges) there since 2013. *Id.* ¶¶ 23, 36; Complaint ¶ 326.

For the fiscal year ending March 31, 2015 (Fiscal Year 2014), Epson Portland produced [REDACTED] units of genuine Epson Group 1 ink cartridges, *id.* ¶ 22, which, as demonstrated above, practice at least one claim of each of the Asserted Patents. These cartridges accounted for approximately [REDACTED] of all cartridges manufactured by Epson Portland during that period on a unit basis. *Id.* ¶ 25.

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Also in Fiscal Year 2014, Epson Portland made approximately [REDACTED] Group 3 and Group 5 cartridges which, also as demonstrated above, practice at least one claim of the asserted '749 patent. *Id.* ¶¶ 25, 28. These cartridges accounted for approximately [REDACTED] of all cartridges manufactured by Epson Portland during that period on a unit basis. *Id.* ¶ 28.<sup>8</sup>

A significant portion of the Epson Portland facility in Hillsboro, Oregon is devoted to manufacturing ink cartridges that exploit the Asserted Patents. Complaint ¶ 327. Of the approximately [REDACTED] square feet of clean room space in the facility, [REDACTED] square feet (approximately [REDACTED]) is dedicated entirely to the production of the Group 3/Group 5 cartridges, and [REDACTED] square feet (approximately [REDACTED]) is dedicated entirely to the production of the Group 1 cartridges. McEvers 2015 Decl. ¶ 30. Using these percentages, approximately [REDACTED] of Epson's investment in this manufacturing area is allocable to the practice of each of the patents-in-suit, and approximately an additional [REDACTED] is allocable to the practice of just the '749 patent. *Id.*

In addition, another [REDACTED] square feet (approximately [REDACTED]) of the clean room space is used to perform mold work for all ink cartridges. *Id.* ¶ 31. The cost attributable to this common space, [REDACTED], can be allocated in proportion to the percentage of all units made by Epson Portland that are Group 1, Group 3, or Group 5 cartridges. Using this approach, approximately [REDACTED] is allocable to each of the patents-in-suit, and approximately an additional [REDACTED] is allocable to just the '749 patent. *Id.*

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<sup>8</sup> Combining the Group 1, Group 3, and Group 5 cartridges, approximately [REDACTED] of the cartridges manufactured by Epson Portland in Fiscal Year 2014 practice at least one claim of the '749 patent. *See* McEvers Decl. ¶¶ 22, 25, 28.

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Moreover, [REDACTED] square feet (approximately [REDACTED]) of the common area is common ink clean room space, and the cost attributable to this common space, [REDACTED] [REDACTED], can be allocated in the same unit-percentage proportions, such that approximately [REDACTED] is allocable to each of the patents-in-suit. *Id.* ¶ 32. Approximately an additional [REDACTED] is allocable to just the '749 patent. *Id.*

Further, the Portland facility has another approximately [REDACTED] square feet of non-clean room space used for the production of all of the cartridges made there, and consisting of space for packaging, warehousing, corporate offices, hallways, lobby space, conference rooms, a cafeteria, and changing rooms. *Id.* ¶ 33. The [REDACTED] approximate cost of the investment in this common non-clean room space also can be allocated, based on the same unit percentages. *Id.* Using this type of allocation, approximately [REDACTED] is allocable to each of the patents-in-suit, and approximately an additional [REDACTED] is allocable to just the '749 patent. *Id.*

The specific investments in the Epson Portland facility that are allocable to the patents-in-suit are summarized below:

<b>Facility Investment</b>	<b>Investment Allocable to Practice of Each of the Patents-in-Suit</b>	<b>Additional Investment Allocable to Practice of the '749 Patent</b>	<b>Total Investment Allocable to Practice of the '749 Patent</b>
Clean Room – Dedicated	[REDACTED]	[REDACTED]	[REDACTED]
Clean Room – Molding	[REDACTED]	[REDACTED]	[REDACTED]
Clean Room – Ink	[REDACTED]	[REDACTED]	[REDACTED]
Non-Clean Room	[REDACTED]	[REDACTED]	[REDACTED]
<b>Total</b>	[REDACTED]	[REDACTED]	[REDACTED]

*Id.* ¶ 34.

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3. Employment of Labor or Capital

Epson Portland manufactures a total of approximately [REDACTED] Group 3 and Group 5 cartridges per day on [REDACTED] manufacturing lines. McEvers 2015 Decl. ¶ 35. It forecasts that it will produce [REDACTED] Group 3 and Group 5 cartridges in FY15 (April 1, 2015-March 31, 2016). Id. The cost of Epson Portland’s equipment and machinery currently used specifically to manufacture genuine Epson Group 3 and Group 5 ink cartridges totals [REDACTED]. Id. ¶ 37.

In late 2013 Epson Portland added [REDACTED] manufacturing lines specifically for the production of Group 1 cartridges and in FY13, manufactured approximately [REDACTED] genuine Group 1 cartridges. Id. ¶ 36. Currently, Epson Portland is manufacturing a total of approximately [REDACTED] Group 1 cartridges per day on [REDACTED] manufacturing lines. Id. The cost of Epson Portland’s equipment and machinery currently used specifically to manufacture genuine Epson Group 1 ink cartridges totals [REDACTED]. Id. ¶ 37. Epson Portland is in the process of adding [REDACTED] additional manufacturing lines for genuine Epson Group 1 cartridges at a planned investment of an additional [REDACTED] for the necessary equipment. Id. Epson projects manufacturing a total of approximately [REDACTED] genuine Epson Group 1 ink cartridges in FY15 with the addition of these [REDACTED] lines. Id. ¶ 36.

The specific costs of existing capital equipment that are allocable to the patents-in-suit (excluding the planned investment of an additional [REDACTED]) are summarized below:

Capital Equipment Cost	Costs Allocable to Practice of Each of the Patents-in-Suit	Additional Costs Allocable to Practice of the '749 Patent	Total Costs Allocable to Practice of the '749 Patent
Capital Equipment Costs	[REDACTED]	[REDACTED]	[REDACTED]

Id. ¶ 38.

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Epson also devotes significant employee resources to the manufacture of cartridges that practice the Asserted Patents. [REDACTED] Epson Portland employees are dedicated to the manufacture of Group 3 and Group 5 ink cartridges and [REDACTED] employees are dedicated to the manufacture of Group 1 ink cartridges. *Id.* ¶ 39. [REDACTED] of Epson Portland’s employees are dedicated to manufacturing or support tasks for ink cartridges that do not practice any claims of one or more of the Asserted Patents. *Id.* Epson Portland plans to hire [REDACTED] employees in FY15 to [REDACTED]. *Id.* At present, Epson Portland’s total salary expenditure allocable to the manufacture of Group 3 and Group 5 cartridges is [REDACTED] per year and its total salary expenditure allocable to the manufacture of Group 1 cartridges is approximately [REDACTED] per year, as summarized below:

<b>Labor Cost</b>	<b>Costs Allocable to Practice of Each of the Patents-in-Suit</b>	<b>Additional Costs Allocable to Practice of the '749 Patent</b>	<b>Total Amount Allocable to Practice of the '749 Patent</b>
Total Annual Salary	[REDACTED]	[REDACTED]	[REDACTED]

*Id.* ¶ 41.

**4. Conclusion**

In sum, Epson Portland has made a substantial investment in plant and equipment and it continues to invest significantly in labor and capital to practice the Asserted Patents. *See* SResp. at 53-55. The specific investments and costs that are allocable to the patents-in-suit are summarized in the following table:

<b>Investments or Costs</b>	<b>Amount Allocable to Practice of All Five of the Patents-in-Suit</b>	<b>Additional Amount Allocable to Practice of the '749 Patent</b>	<b>Total Amount Allocable to Practice of the '749 Patent</b>
Facility Investments	[REDACTED]	[REDACTED]	[REDACTED]
Capital Equipment Costs	[REDACTED]	[REDACTED]	[REDACTED]
Labor Costs (annual)	[REDACTED]	[REDACTED]	[REDACTED]

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McEvers 2015 Decl. ¶¶ 34, 38, 41.

Accordingly, I find that Epson has satisfied the domestic industry requirement.

### VIII. REMEDY & BONDING

For the reasons discussed below, it is my recommended determination that a general exclusion order and a cease and desist order issue to remedy the violation of section 337.

#### A. General Exclusion Order

##### 1. Legal Standards

Under subsection 337(d), the Commission may issue either a limited or a general exclusion order. A limited exclusion order instructs the Bureau of Customs and Border Protection (“Customs”) to exclude from entry all articles that are covered by the intellectual property right at issue and that originate from an entity that was a party to the Commission investigation. *Certain Condensers, Parts Thereof and Products Containing Same, including Air Conditioners for Automobiles*, Inv. No. 337-TA-334 (Remand), Comm’n Op. at 24, U.S.I.T.C. Pub 3063 (September 1997). A general exclusion order (“GEO”), on the other hand, instructs Customs to exclude from entry all articles that are covered by the intellectual property right at issue, without regard to source. 19 U.S.C. §1337(d)(2)(B).

19 U.S.C. § 1337(d)(2) provides:

A general exclusion order may be ordered if:

(A) a general exclusion from entry of articles is necessary to prevent circumvention of an exclusion order limited to products of named persons;  
or

(B) there is a pattern of violation of this section and it is difficult to identify the source of infringing products.

19 U.S.C. § 1337(d)(2).<sup>9</sup>

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<sup>9</sup> 19 U.S.C. § 1337(g)(2) provides:

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A general exclusion order may issue if either of these conditions is met. *See, e.g., Certain Cigarettes and Packaging Thereof*, Inv. No. 337-TA-643, Comm'n Op., 2009 WL 6751505, \*12 (Oct. 1, 2009). Rather than focusing on the so-called *Spray Pump* factors, as it did in the past, the Commission now “focus[es] principally on the statutory language itself” when determining whether a GEO is warranted. *Certain Ground Fault Circuit Interrupters and Products Containing Same*, Inv. No. 337-TA-615, Comm'n Op., 2009 WL 852257, \*13 (Mar. 26, 2009), *rev'd on other grounds by Gen. Protecht Group, Inc. v. Int'l Trade Comm'n*, 619 F.3d 1303 (Fed. Cir. 2010). Although the evidence that was previously considered in applying the *Spray Pump* factors may still be useful for determining if the requirements of the statute have been met, the Commission does “not view *Spray Pumps* as imposing additional requirements beyond those identified in [19 U.S.C. § 1337(d)(2)].” *Certain Hydraulic Excavators and*

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In addition to the authority of the Commission to issue a general exclusion from entry of articles when a respondent appears to contest an investigation concerning a violation of the provisions of this section, a general exclusion from entry of articles, regardless of the source or importer of the articles, may be issued if—

- (A) no person appears to contest an investigation concerning a violation of the provisions of this section,
- (B) such a violation is established by substantial, reliable, and probative evidence, and
- (C) the requirements of subsection (d)(2) of this section are met.

19 U.S.C. § 1337(g)(2). The Commission has determined that a GEO issued under 19 U.S.C. § 1337(g)(2) is appropriate only when *no* respondents appear to contest the investigation. *See, e.g., Certain Plastic Molding Machines with Control Systems Having Programmable Operator Interfaces Incorporating General Purpose Computers, and Components Thereof II*, Inv. No. 337-TA-462, Comm'n Op., 2003 WL 24011979, \*3-4 (Apr. 2, 2003). Subsection (g)(2) does not apply to this Investigation because the now-terminated Nano Digital Respondents appeared to contest the Investigation. *See* Order No. 10 (July 8, 2015).

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*Components Thereof*, Inv. No. 337-TA-582, Comm'n. Op., 2009 WL 7148704, \*8-9 (Feb. 3, 2009).

### 2. Discussion

I find that a GEO is proper under each of the statutory subsections of 19 U.S.C. § 1337(d)(2).

#### a. Preventing Circumvention of an LEO

The Commission has deemed it proper to issue GEOs under 19 U.S.C. § 1337(d)(2)(A) to prevent circumvention of an exclusion order limited to named parties in a variety of circumstances, each of which is present here. The Commission has issued GEOs in several recent investigations involving the ink cartridge and/or toner cartridge markets because it found that it would be difficult for Customs officials to identify the source of the infringing goods, and hence to enforce an LEO, where the respondents had engaged in business practices that made circumvention likely, such as using multiple company names and affiliates and shipping the infringing products in packaging that disguised the source of the infringing goods. *See, e.g., Certain Toner Cartridges and Components Thereof*, Inv. No. 337-TA-829, Comm'n. Op. at 6-7 (July 29, 2013) (GEO issued under 19 U.S.C. § 1337(d)(2)(A) to prevent likely circumvention because respondents “do business under multiple names and create an array of subsidiaries and changing corporate profiles” and because their accused cartridges “are often labeled under other brand names or packaged in unmarked, generic packaging”); *Certain Toner Cartridges and Components Thereof*, Inv. No. 337-TA-740, Comm'n Op. at 5 (October 5, 2011) (GEO issued under 19 U.S.C. § 1337(d)(2)(A) because “respondents do business under multiple names” and “an LEO could be circumvented because Lexmark-compatible laser toner cartridges are often labeled under other original equipment manufacturer brand names, making it easier . . . to evade

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enforcement.”); *Certain Inkjet Ink Cartridges with Printheads and Components Thereof*, Inv. No. 337-TA-723, Comm’n. Op. at 23 (Dec. 1, 2011) (GEO issued under 19 U.S.C. § 1337(d)(2)(A) to prevent circumvention of LEO because it was difficult to identify source of infringing goods as “foreign manufacturers package products in unmarked generic or reseller branded packaging that lacks any markings to identify their origin” and “many manufacturers and distributors create multiple websites and corporate identities allowing them to sell infringing products without revealing their true identities.”).

The Commission also has issued GEOs when market conditions exist that would incentivize circumvention, or create a high likelihood of circumvention, such as large U.S. demand for the accused products, extensive sources of manufacture of the infringing goods, ease of entry into the market to manufacture infringing goods, and established distribution channels to facilitate circumvention by overseas manufacturers and distributors, including abundant distributors and/or internet retailers. *See, e.g., Certain Paper Towel Dispensing Devices and Components Thereof*, Inv. No. 337-TA-718, Comm’n Op. on Remedy, Public Interest and Bonding, at 15 (Jan. 20, 2012) (GEO issued under 19 U.S.C. § 1337(d)(2)(A) because of likelihood of circumvention due to “interchangeability of manufacturers in a large distribution system, . . . low cost to make the infringing goods, and . . . well-established distribution channels . . . [including] abundant distributors and internet retailers who can sell these manufactured articles”). The evidence establishes that each of these factors is present in this Investigation.

### 1) Likelihood of Circumvention

In connection with his purchases for this Investigation, Epson’s private investigator, Mr. Seitz, had email exchanges with Jonathan Wang, a senior manager at named Respondent Orink Infotech. In an email dated [REDACTED], Mr. Wang wrote to Mr. Seitz that: [REDACTED]



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*Thereof*, Inv. No. 337-TA-565, Notice of Commission Determinations on Civil Penalties; Termination of Enforcement Proceedings, 2010 WL 5642166, \*3 (Dec. 2010).

In addition, manufacturers have continued to violate the GEO issued in the 565 Investigation. For example, Customs has issued at least three recent Seizure Notices advising of violations of that GEO, including by a Ninestar affiliate, Nano Pacific. Seitz 2015 Decl. ¶ 173, 179, Seitz Exs. 1.283, 1.292-1.295.

### **2) Market Conditions Create a High Likelihood of Circumvention**

A second factor that the Commission has found is sufficient to support the issuance of a GEO under the circumvention prong of the statute is a set of market conditions that create a strong likelihood that respondents and others would try to circumvent an LEO, including strong U.S. demand for the products, extensive sources of manufacture of the infringing goods, ease of entry into the market to manufacture infringing goods, and well established distribution channels, including abundant distributors and Internet retailers. *See, e.g., Certain Paper Towel Dispensing Devices*, Comm'n Op. on Remedy, Public Interest and Bonding at 15.

Each of these elements is present here. There is large demand in the United States for ink cartridges for use with Epson printers. Seitz 2015 Dec. ¶¶ 215-227, 241-242, Seitz Exs. 1.95, 1.101, 1.235, 1.238, 1.248, 1.260, 1.267, 1.268, 1.270. Further, there are numerous foreign manufacturers of these ink cartridges for use with Epson printers. Complainants point to search results from the website *alibaba.com*, a business to business website, which identified at least 338 Chinese companies willing to provide price quotations for Epson-compatible ink cartridges. Seitz 2015 Decl. ¶ 263, Seitz Ex. 1.242. Complainants allege, and it appears likely, that those companies are offering products that probably infringe the claims asserted in this Investigation. Seitz 2015 Decl. ¶¶ 262-269, Seitz Exs. 1.242-1.244, 1.302-1.305.

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A well-established distribution network for selling accused products in the U.S. also exists. *See* Seitz 2015 Dec. ¶¶ 215-227, Seitz Exs. 1.235-1.238. Many retailers sell accused products over the Internet, including on popular websites such as *amazon.com* and *ebay.com*. *Id.* These retailers can source infringing goods from the suppliers discussed above.

### 3) Difficulty Of Detecting the Source of Infringing Goods

The Commission has issued a GEO where the business practices of the respondents would make it difficult for Customs to detect the source of infringing goods, making circumvention of an LEO likely. In this regard, the Commission has considered, for example, the use of numerous corporate affiliates and complex corporate structures, and the use of product packaging that masks the true source of the infringing goods. *See, e.g., Certain Toner Cartridges*, Inv. No. 337-TA-829, Comm'n. Op. at 6-7. Both of these types of business practices are prevalent here.

According to Mr. Seitz, Epson's private investigator, most of the foreign Respondents are members of complex groups of associated entities that use multiple names and entities to carry out their infringing sales. Seitz 2015 Decl. ¶¶ 191-198, Seitz Exs. 1.21-1.22, 1.24-1.26, 1.42, 1.80, 1.84, 1.110, 1.254. For example, the Kingway Group is a collection of at least eight separate Chinese companies, all of which are directly or indirectly owned by Zhao Zhixiang (aka Frank Zhao), and have complex corporate structures and that sell and import infringing Epson-compatible ink cartridge products into the United States under various brand names. *Id.* ¶¶ 93-100, 193, Seitz Exs. 1.80-1.86, 1.100, 1.254, 1.275-1.276. Non-respondent Zhuhai Aowei Electronics Co., Ltd. ("Aowei Electronics") and Ourway Image are two members of the Kingway Group that share the same business registration number and address, with Aowei Electronics shipping Ourway Image's infringing Epson-compatible ink cartridges into the United States. *Id.* ¶¶ 97, 111, 193, Seitz Exs. 1.80, 1.84, 1.259. Another Kingway Group member, non-

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respondent Supricolor Image, has its own business registration number but displays registration certificates on its website issued to Kingway Image, as well as “certificates of conformity” issued to non-respondent Zhongshan Kingway Image Co. Ltd., and also displays photographs of the Kingway Image inkjet cartridge factory on its website. *Id.* ¶¶ 98, 193, Seitz Exs. 1.85, 1.275. Zhuhai Aicon Image Co., Ltd. is another non-respondent member of the Kingway Group that also displays photographs of Kingway Image's ink cartridge factory on its website, *www.iaicon.com*, along with a quality assurance certificate issued to Zhongshan Kingway Image Co. Ltd. *Id.* ¶¶ 99, 193, Seitz Exs. 1.86, 1.276.

The evidence shows that Orink Group is another collection of Chinese companies with complex corporate structures that sell and import infringing Epson-compatible ink cartridge products into the United States using a variety of names. *Id.* ¶¶ 23-28, 48-49, 194, Seitz Exs. 1.20-1.26, 1.42. Orink Infotech and Shanghai Orink, two Orink Group Respondents that sell and import Epson-compatible ink cartridges into the United States, appear to share the same business registration number but hold themselves out as separate companies on *www.orink.com*. *Id.* ¶¶ 27-28, 48-49, 194, Seitz Exs. 1.24-1.26, 1.42. Orink Group Respondents Huebon and Chancen share the same Hong Kong registration address, and both ship Zhuhai National's Epson-compatible ink cartridges into the United States. *Id.* ¶¶ 24-25, 35-36, 38-39, 194, Seitz Exs. 1.21-1.22, 1.28, 1.30, 1.32, 1.33. In addition, Rich Imaging, an Orink Group Respondent, appears to sell Epson-compatible ink cartridges manufactured by Zhuhai National, another Orink Group Respondent. *Id.* ¶¶ 43-45, 196, Seitz Exs. 1.246, 1.279, 1.286.

Further, the Respondents sell infringing products in unmarked or generic packaging that often bears no indication of the true source of the goods. *Id.* ¶¶ 41, 48, 63, 103, 130, 180-190, Seitz Exs. 1.28, 1.35, 1.42, 1.89, 1.107, 1.112. For example, Ourway Image offers purchasers

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the option of having their cartridges packaged in “bulk packing with plastic bag only,” “neutral white box,” “neutral color box,” “STARINK color box,” or “Customer’s brand OEM packing.” *Id.* ¶¶ 103, 182, Seitz Exs. 1.89, 1.93. Upon receiving Epson-compatible ink cartridges ordered from Ourway Image, Mr. Seitz observed that the cartridge packaging did not state the name of the manufacturer. *Id.* ¶¶ 106, 109-111, 182, Seitz Exs. 1.223, 1.228.

Respondents Aomya, Rich Imaging, Zhuhai National, Yotat Group, Shanghai Orink, Chinamate Technology, and Richeng Development use similar packaging for Epson-compatible ink cartridges shipped into the United States. *Id.* ¶¶ 180-190, Seitz Exs. 1.28, 1.35, 1.42, 1.89, 1.107, 1.117. Epson’s investigator observed that the packaging on cartridges he ordered from Chinamate Technology, Zhuhai National, Rich Imaging, and Aomya did not state the name of the manufacturer. *Id.* ¶¶ 35-39, 45, 126-127, 137-138, Seitz Exs. 1.224-1.227, 1.278-1.280. Epson’s investigator also observed that the packaging on the cartridges ordered from Yotat Group, Shanghai Orink, and Richeng Development consisted of small, clear plastic bags that bore no markings. *Id.* ¶¶ 52-54, 56, 62, 69, 144, 146-147.

Some Respondents ship their products with either an affiliate or a logistics company listed as the importer, which also masks the source of the infringing goods. *Id.* ¶¶ 199-204, 276. For example, as noted above, Ourway Image uses Aowei Electronics to ship Epson-compatible ink cartridges into the United States. *Id.* ¶¶ 111-112, Seitz Exs. 1.96, 1.259-1.260. The shipping documents accompanying certain Ourway Image orders that Epson's investigator received in the United States did not indicate that Ourway Image sold or manufactured such cartridges, but instead only provided contact information for Aowei Electronics. *Id.* ¶¶ 111, Seitz Exs. 1.96, 1.259-1.260. Shanghai Orink uses at least three shipping companies to import Epson-compatible ink cartridges into the United States: J&J International Co. Ltd., CE&H Technology (HK) Co.

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Ltd, and YFHEX LOGISTICS (HK) Co. Ltd. *Id.* ¶¶ 52-54, 56, 201, Seitz Exs. 1.41, 1.45. When Epson's investigator received the Epson-compatible ink cartridges he ordered from Shanghai Orink, he observed that the shipping documents accompanying these orders did not indicate that Shanghai Orink sold or manufactured such cartridges, but instead only listed the shipping company. *Id.* Similarly, Zhuhai National uses Huebon and Chancen to ship Epson-compatible ink cartridges into the United States, as shown by the shipping documents accompanying the Epson-compatible cartridges Mr. Seitz ordered from Zhuhai National and subsequently received in the United States. *Id.* ¶¶ 35-36, 38-39, 203, Seitz Exs. 1.28, 1.32, 1.33.

Accordingly, the evidence establishes that the named Respondents engage in business practices that would make it difficult to detect infringement if only LEOs were issued, justifying the issuance of a GEO.

### **b. Pattern of Violation and Difficulty in Identifying the Source of Infringing Products**

A GEO is authorized by 19 U.S.C. § 1337(d)(2)(B), when it is shown that there is a widespread pattern of infringement by respondents and non-respondents, and that it is difficult to identify the source of infringing goods. *See, e.g., Certain Toner Cartridges*, Inv. No. 337-TA-829, Comm'n. Op. at 7 (GEO authorized under section 19 U.S.C. § 1337(d)(2)(B) when there are a multitude of existing sources of infringing products and low barriers to entry for future participants, and where products are packaged in unmarked, generic packaging, including the use of private label services, making it difficult to identify the source of infringing goods). To meet this requirement, a complainant must show that there is a likelihood that non-respondents, in addition to the named Respondents, also are infringing the asserted claims. *Id.* at 7 n.5.

The evidence demonstrates a widespread pattern of infringement by both Respondents and non-respondents. As shown in the declarations of Dr. Murch and Mr. Seitz, the Respondents

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all import, sell for importation or sell after importation ink cartridges and/or components thereof that infringe the asserted claims. In addition, a large number of other companies in China offer ink cartridges that also appear likely to infringe the Asserted Patents. Seitz 2015 Decl. ¶¶ 219-227, 261-270; Murch 2015 Decl. ¶¶ 577-578. By searching on *www.alibaba.com*, Mr. Seitz identified a number of non-respondent companies in China that offer ink cartridges that are either specified to be used with the printers identified in the Murch declaration as using infringing cartridges, or advertised as substitutes for the Epson cartridges listed in the Murch declaration that practice the asserted claims. Seitz 2015 Decl. ¶¶ 262-267, Seitz Exs. 1.242, 1.302, 1.305. As Dr. Murch's testimony establishes, each of these products sold by these non-respondents also likely infringes the patents in suit. Murch 2015 Decl. ¶¶ 577-578.

Further, Complainants demonstrate that it is difficult to identify the source of such infringing goods. As discussed above, the Respondents offer infringing products in unmarked or generic packaging, as well as in private label packaging. Seitz 2015 Decl. ¶¶ 41, 48, 63, 103, 130, 180-190, Seitz Exs. 1.28, 1.35, 1.42, 1.89, 1.107, 1.117. Non-respondents who also are likely infringers similarly offer unmarked or generic packaging. Seitz 2015 Decl. ¶¶ 180, 273.

Accordingly, the evidence establishes there is a widespread pattern of infringement by respondents and non-respondents, and that it is difficult to identify the source of infringing goods, further justifying the issuance of a GEO.

### **B. Cease and Desist Order**

Complainants seek cease and desist orders prohibiting Respondents InkPro2day and Zinyaw from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for Epson-compatible ink cartridges, and components

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thereof, that infringe the Asserted Claims. To obtain a cease and desist order directed to a particular respondent, a complainant must demonstrate that a “commercially significant” inventory of imported, infringing products is in the possession of the respondent or related entities in the United States. *See, e.g., Certain Digital Photo Frames and Image Display Devices and Components Thereof*, Inv. No. 337-TA-807, Comm’n Op. at 7-8 (Mar. 27, 2013) (issuing cease and desist orders directed to three domestic respondents that had been found in default); *Certain Toner Cartridges and Components Thereof*, Inv. No. 337-TA-829, Comm. Op. at 8-11 (July 29, 2013). When deciding whether to issue a cease and desist order, the Commission’s practice is to infer that a domestic defaulting respondent maintains a commercially significant inventory in the United States. *See id.* (citing 19 C.F.R. § 210.16(c)(1)); *see also Certain Digital Photo Frames*, Comm’n Op. at 8. The Commission “does not require a precise accounting of inventories.” *Certain Electronic Digital Media Devices and Components Thereof*, Inv. No. 337-TA-796, Comm’n Op., 2013 WL 10734395, \*74 (Sept. 6, 2013).

Both InkPro2day and Zinyaw are domestic respondents that have been found in default in this Investigation. Order No. 9, Initial Determination finding Respondents in Default (June 18, 2015), *not rev’d* (Comm’n Notice (July 10, 2015)). In addition to the reasonable inference that domestic respondents maintain commercially significant inventories, Zinyaw states on its website that “65000+ customers have placed 120000+ orders for 330000+ items since 2005,” Complaint ¶ 31, Seitz 2015 Decl. ¶ 151, Seitz Ex. 1.127, and the Commission recently has issued a cease and desist order against Zinyaw relating to infringing Canon toner cartridges. *See Certain Toner Cartridges and Components Thereof*, Inv. No. 337-TA-829, Comm. Op. at 8-11 (July 29, 2013). Import Genius reports run by Epson’s investigator show that Zinyaw has a history of receiving shipments of “printer consumables” from China and Hong Kong at its

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Houston, Texas location, with such shipments sometimes weighing 7,000 pounds or more. Seitz 2015 Decl. ¶¶ 157, 206, Seitz Ex. 1.34 at 3, 7, 10, 11.

There also is evidence that InkPro2day maintains a commercially significant inventory of infringing Epson-compatible ink cartridges in the United States. Epson's investigator, Mr. Seitz, was informed by a representative from Dongguan OcBestjet, a Respondent Chinese ink cartridge manufacturer with annual revenues of \$50-\$100 million USD, that InkPro2day was its U.S. distributor. *Id.* ¶¶ 89, 91, Seitz Ex. 1.78-1.79. Further, Inkpro2Day operates a showroom in downtown Los Angeles where customers are invited to “[s]hop how you want, Buy Online and pickup at our New Showroom or Shop and Buy at the Showroom.” *Id.* ¶ 75, Seitz Ex. 1.277.

Under these circumstances, it is appropriate for the Commission to infer that InkPro2day and Zinyaw maintain commercially significant inventories of infringing products. Based on this inference, the Commission should issue cease and desist orders directed to InkPro2day and Zinyaw.

### C. Bonding

Pursuant to 19 U.S.C. § 1337(j), accused products are permitted entry into the United States under bond during the Presidential review period of any exclusion order. The overriding concern is that the bond “be sufficient to protect the complainant from any injury.” 19 U.S.C. § 1337(j)(3). When reliable price information is available, the bond should be set such that it eliminates the differential in sales price between the domestic product and the lower price of the infringing imported product. *Certain Cigarettes*, Comm’n Opinion, 2009 WL 6751505, at \*15. Where prices vary or where reliable price information is not available, as is the case here where the named Respondents have defaulted and failed to participate in discovery, the Commission typically sets the bond at 100% of the value of the imported infringing products. *See, e.g., id.* at

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\*16; *see also Certain Tadalafil or Any Salt or Solvate Thereof and Products Containing Same*, Inv. No. 337-TA-539, Comm'n Op., 2008 WL 2109706, at \*9 (June 16, 2006) (accepting recommendation of 100% bond against defaulting respondents); *Certain Oscillating Sprinklers*, 2002 WL 342071 at \*3 (imposing 100% bond against defaulting respondent); *Certain Microsphere Adhesives, Process for Making Same, & Products Containing Same, Including Self-Stick Repositionable Notes*, Inv. No. 337-TA-366, Notice of Termination of Investigation & Issuance of Ltd. Exclusion Order, 1996 WL 1056298, at \*14 (Jan. 1996). Accordingly, in this instance the bonding requirement pending presidential review should be set at 100% of the value of the imported infringing products.

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### IX. CONCLUSIONS OF LAW

1. The Commission has subject matter jurisdiction over this Investigation.
2. The Commission has *in personam* jurisdiction over domestic Respondents Zinyaw and InkPro2day.
3. The Commission has *in rem* jurisdiction over the accused ink cartridges and components thereof.
4. There has been an importation into the United States, sale for importation, or sale within the United States after importation of the accused ink cartridges and components thereof.
5. A domestic industry exists in the United States pursuant to Section 337(a)(2) with respect to each of the Asserted Patents.
6. Certain accused ink cartridges infringe '233 patent claims 1 and 10.
7. Certain accused ink cartridges infringe '116 patent claims 9, 14, 18, and 21.
8. Certain accused ink cartridges and components thereof infringe '749 patent claims 1, 18, 49, and 60.
9. Certain accused ink cartridges infringe '163 patent claim 6.
10. Certain accused ink cartridges infringe '513 patent claims 14, 15, and 19.
11. The Asserted Patents have not been shown to be invalid.
12. There is a violation of section 337 by Respondents Zhuhai National, Chancen, Huebon, Rich Imaging, Shanghai Orink, Orink Infotech, Zinyaw, Yotat Group, Yotat Zhuhai, Ourway Image, Kingway Image, Chinamate Technology, Dongguan OcBestjet, OcBestjet (HK), InkPro2day, Aomya, and Richeng Development in the importation, sale for importation, and/or sale after importation of certain ink cartridges and components thereof with respect to the each of the Asserted Patents.

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### X. INITIAL DETERMINATION AND RECOMMENDED DETERMINATION

Based on the foregoing, and the record as a whole, it is my Final Initial Determination that there is a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the importation into the United States, the sale for importation, and/or the sale within the United States after importation of certain ink cartridges and components thereof. It is my Recommended Determination that a general exclusion order issue to remedy this violation, and I . I further recommend that cease and desist orders issue against Respondents Zinyaw and InkPro2day. I recommend a bond of 100% of entered value during the Presidential review period.

I hereby certify the record in this Investigation to the Commission with my Final Initial and Recommended Determinations. Pursuant to Commission Rule 210.38, the record further comprises the Complaint and exhibits thereto filed with the Secretary, and the exhibits attached to Complainants' summary determination motion and the Staff's response thereto. 19 C.F.R. § 210.38(a).

The initial determination portion of this Initial and Recommended Determination, issued pursuant to Commission Rule 210.42(c), shall become the determination of the Commission 45 days after the service thereof, unless the Commission, within that period, shall have ordered its review of certain issues therein, or by order, has changed the effective date of the initial determination portion. 19 C.F.R. § 210.43(c). If the Commission determines that there is a violation of 19 U.S.C. § 1337(a)(1), the recommended determination portion, issued pursuant to Commission Rule 210.42(a)(1)(ii), will be considered by the Commission in reaching a determination on remedy and bonding. 19 C.F.R. § 210.50(a).

Within ten (10) days of the date of this Initial Determination, each party shall submit to

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the Administrative Law Judge a statement as to whether or not it seeks to have any portion of this document deleted from the public version. *See* 19 C.F.R. § 210.5(f). A party seeking to have a portion of the order deleted from the public version thereof must attach to its submission a copy of the order with red brackets indicating the portion(s) asserted to contain confidential business information.<sup>10</sup> The parties' submissions under this subsection need not be filed with the Commission Secretary but shall be submitted by paper copy to the Administrative Law Judge and by e-mail to the Administrative Law Judge's attorney advisor.

**SO ORDERED.**

*Dee Lord*

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Dee Lord  
Administrative Law Judge

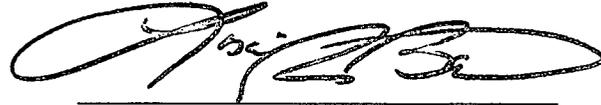
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<sup>10</sup> To avoid depriving the public of the basis for understanding the result and reasoning underlying the decision, redactions should be limited. Parties who submit excessive redactions may be required to provide an additional written statement, supported by declarations from individuals with personal knowledge, justifying each proposed redaction and specifically explaining why the information sought to be redacted meets the definition for confidential business information set forth in Commission Rule 201.6(a). 19 C.F.R. § 201.6(a).

**PUBLIC CERTIFICATE OF SERVICE**

I, Lisa R. Barton, hereby certify that the attached **PUBLIC ORDER** has been served by hand upon the Commission Investigative Attorney, Brian Koo, Esq., and the following parties as indicated, on

**NOV 23 2015**



\_\_\_\_\_  
Lisa R. Barton, Secretary  
U.S. International Trade Commission  
500 E Street, SW, Room 112  
Washington, DC 20436

**On Behalf of Complainants Epson Portland Inc., Epson  
America, Inc., and Seiko Epson Corporation:**

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