

In the Matter of

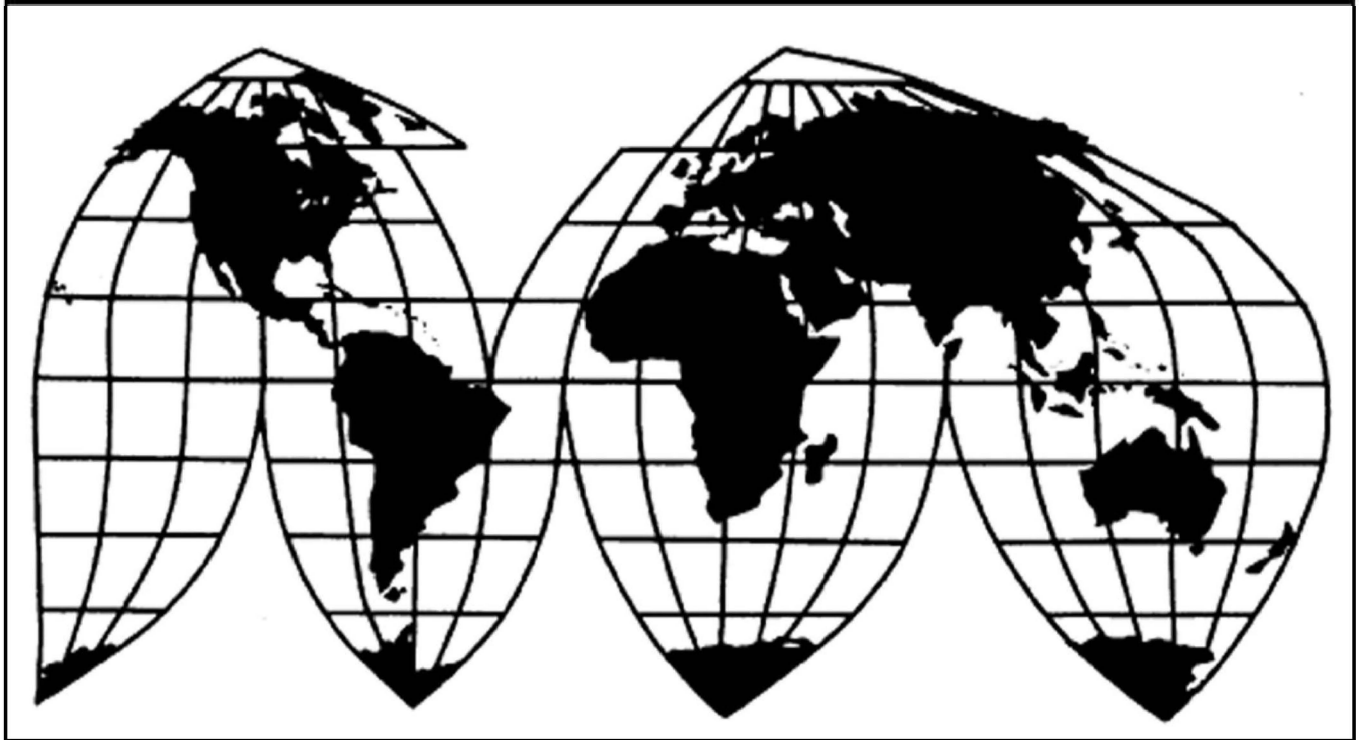
**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND SYSTEMS
CONTAINING SAME**

Investigation No. 337-TA-1174

Publication 5303

March 2022

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 TONER CARTRIDGES, COMPONENTS THEREOF, AND SYSTEMS CONTAINING SAME

Investigation No. 337-TA-1174



UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

**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 affirmed a summary determination of violation of section 337 and has determined to issue (1) a general exclusion order (“GEO”) denying entry of certain toner cartridges, components thereof, and systems containing same; and (2) cease and desist orders (“CDOs”) against 20 respondents (listed below). The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3179. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: On September 23, 2019, the Commission instituted this investigation based on a complaint filed by Brother Industries, Ltd. of Nagoya Japan; Brother International Corp. (U.S.A.) of Bridgewater, New Jersey; and Brother Industries (U.S.A.), Inc. of Bartlett, Tennessee (collectively, “Brother”). 84 FR 49762-63 (Sept. 23, 2019). The complaint alleged violations of section 337 based on the importation into the United States, the sale for importation, or the sale within the United States after importation of certain toner cartridges, components thereof, and systems containing same by reason of infringement of certain claims of U.S. Patent Nos. 9,568,856 (“the ’856 patent”); 9,575,460 (“the ’460 patent”); 9,632,456 (“the ’456 patent”); 9,785,093 (“the ’093 patent”); and 9,846,387 (“the ’387 patent”) (collectively, “the Asserted Patents”). *Id.* The Commission’s notice of investigation named the following 32 respondents: AMI Brothers, Inc. of San Bruno, California (“AMI”); An An Beauty Limited of Kowloon, Hong Kong (“An An Beauty”); Aster Graphics, Inc. of Riverside, California (“Aster”); Aztech Enterprises Limited of Kowloon, Hong Kong (“Aztech”);

Billiontree Technology USA Inc. of City of Industry, California (“Billiontree”); Carlos Imaging Supplies, Inc. of Hacienda Heights, California (“Carlos”); Cartridge Evolution, Inc. of Brooklyn, New York (“Cartridge Evolution”); Do it Wiser, LLC of Wilmington, Delaware (“Do it Wiser”); Eco Imaging Inc. of Irvine, California (“Eco Imaging”); Ecoolsmart Co. of Rowland Heights, California (“Ecoolsmart”); EPrinter Solution LLC of Pomona, California (“EPS”); E–Z Ink Inc. of Brooklyn, New York (“E-Z Ink”); Globest Trading Inc. of Ontario, California (“Globest”); Greencycle Tech, Inc. of South El Monte, California (“Greencycle”); Hongkong Boze Co., Ltd. of Kowloon, Hong Kong (“Hongkong Boze”); I8 International, Inc. of City of Industry, California (“I8”); IFree E-Commerce Co. of Kowloon, Hong Kong (“IFree”); Ikong E-Commerce of Walnut, California (“Ikong”); Intercon International Corp. of Brea, California (“Intercon”); IPrint Enterprise Limited of Kowloon, Hong Kong (“IPrint”); LD Products, Inc. of Long Beach, California (“LD Products”); Linkyo Corp. of La Puente, California (“Linkyo”); Mangoket LLC of Alhambra, California (“Mangoket”); New Era Image LLC of Corona, California (“New Era”); OW Supplies Corp. of Corona, California (“OW Supplies”); Solong E-Commerce Co., LLC of Wan Chai, Hong Kong (“Solong”); Smartjet E-Commerce Co., LLC of Wan Chai, Hong Kong (“Smartjet”); Super Warehouse Inc. of Blaine, Washington (“Super Warehouse”); Theresa Meng of Brooklyn, New York (“Ms. Meng”); Triple Best LLC of San Diego, California (“Triple Best”); V4ink, Inc. of Diamond Bar, California (“V4ink”); and Zhuhai Xiaohui E-Commerce Co., Ltd. of Zhuhai, China (“Xiaohui”). *Id.* at 49762-63. The notice of investigation also named the Office of Unfair Import Investigations (“OUII”) as a party. *Id.* at 49763.

Of the 32 respondents, only one, Aster, is participating at this stage. Aster, however, did not oppose the summary determination motion of violation as to the accused products, even though Aster’s products are subject to the motion. *See* Joint Stipulation of Brother and Aster for Resolution as to Aster in the Investigation (Mar. 4, 2020). EPS and IFree were terminated from the investigation based upon withdrawal of the complaint against them. *See* Order No. 32 (Jan. 28, 2020), *unreviewed by* Comm’n Notice (Feb. 25, 2020). Cartridge Evolution, E-Z Ink, Linkyo, New Era, OW Supplies, Ms. Meng, Triple Best, and V4ink were terminated from the investigation based upon entry of consent orders. *See* Order No. 36 (Mar. 12, 2020), *unreviewed by* Comm’n Notice (Mar. 31, 2020); Order No 38 (Mar. 12, 2020), *unreviewed by* Comm’n Notice (Mar. 31, 2020); Order No. 37 (Mar. 12, 2020), *unreviewed by* Comm’n Notice (Mar. 31, 2020); Order No. 10 (Oct. 18, 2019), *unreviewed by* Comm’n Notice (Nov. 6, 2019); Order No. 17 (Nov. 21, 2019), *unreviewed by* Comm’n Notice (Dec. 18, 2019); Order No. 28 (Dec. 30, 2019), *unreviewed by* Comm’n Notice (Jan. 29, 2020); Order No. 18 (Nov. 27, 2019), *unreviewed by* Comm’n Notice (Dec. 18, 2019); Order No. 33 (Fe. 3, 2020), *unreviewed by* Comm’n Notice (Mar. 4, 2020). The following 21 respondents defaulted: AMI, Globest, An An Beauty, Aztech, Xiaohui, Ecoolmart, Greencycle, Intercon, Do it Wiser, I8, Solong, Billiontree, Carlos Imaging, Eco Imaging, Hongkong Boze, Ikong, IPrint, Mangoket, Smartjet, Super Warehouse, and LD Products (collectively, “Defaulting Respondents”). *See* Order No. 35 (Mar. 5, 2020), *unreviewed by* Comm’n Notice (Mar. 19, 2020); Order No. 31 (Jan. 22, 2020), *unreviewed by* Comm’n Notice (Feb. 21, 2020); Order No. 26 (Dec. 20, 2019), *unreviewed by* Comm’n Notice (Jan 16, 2020); Order No. 25 (Dec. 18, 2019), *unreviewed by* Comm’n Notice (Jan. 16, 2020); Order No. 24 (Dec. 18, 2019), *unreviewed by* Comm’n Notice (Jan. 16, 2020); Order No. 8 (Oct. 15, 2019), *unreviewed by* Comm’n Notice (Nov. 7, 2019).

On March 12, 2020, Brother filed a motion for summary determination of violation of section 337 by Aster and the Defaulting Respondents and for a recommendation that the Commission issue a GEO and CDOs. *See* Complainants' Motion for Summary Determination of Violation and for Recommended Determination on Remedy and Bonding. On March 23, 2020, OUII filed a response in support of Brother's motion. *See* Commission Investigative Staff's Response to Brother's Motion for Summary Determination of Violation. No respondent filed a response to Brother's motion. *Id.*

On July 23, 2020, the presiding administrative law judge ("ALJ") issued an initial determination ("ID") (Order No. 40) granting Brother's motion for summary determination on violation of section 337 and issued a recommended determination ("RD") on remedy and bonding. The ID found that the Commission has subject matter jurisdiction over the investigation. ID at 34. The ID further found that none of the respondents contest the Commission's personal jurisdiction over them or in rem jurisdiction as to the accused products. ID at 34-35. The ID found that Brother: (1) established the importation requirement as to Aster and Defaulting Respondents, ID at 36-79; (2) demonstrated that the accused products infringe the asserted claims, *id.* at 118-133; and (3) demonstrated that the domestic industry ("DI") products practice at least one claim of each Asserted Patent and that a DI exists in the United States, *id.* at 84-118. The RD recommended issuance of a general exclusion order ("GEO") (or, in the alternative, a limited exclusion order directed to Aster and each of the Defaulting Respondents). RD at 134-44. The RD further recommended issuance of cease and desist orders ("CDOs") directed to Aster and each defaulting respondent that has domestic operations. *Id.* at 144-46. The RD also recommended setting different bond rates for entry of the different products covered by the GEO during the period of Presidential review. *Id.* at 146-48 (recommended bond rate table at 147). No one petitioned for review of the ID.

On August 24, 2020, Aster filed a public interest statement in response to the Commission's notice soliciting public interest comments pursuant to 19 CFR 210.50(a)(4)(i). In its submission, Aster argued that any Commission remedial orders issued in this investigation should not cover its new products pursuant to its stipulation with Brother. *See* Respondent Aster Graphics, Inc.'s Statement of Public Interest. On August 26, 2020, Brother filed a response. *See* Complainants' Motion to Strike Aster Graphics, Inc.'s Statement on the Public Interest for Failure to Comply with Commission Rule 210.15 Or, in the Alternative, for Leave to Respond.

On September 8, 2020, the Commission determined not to review the ID and requested written submissions on remedy, the public interest, and bonding. 85 FR 56628-31 (Sept. 14, 2020). The Commission rejected Aster's August 24, 2020 public interest submission as improper under 19 CFR 210.50(a)(4)(i). *Id.* at 56630. The Commission noted that while 19 CFR 210.50(a)(4)(i) provides that parties may file information with the Commission relating to the public interest, Aster's submission concerned the scope of the remedy and thus did not fall within the ambit of the public interest submissions provided for under 19 CFR 210.50(a)(4)(i). *Id.* The Commission stated that "Aster will have an opportunity to raise its arguments regarding the scope of any remedial orders in a remedy submission before the Commission in response to the instant notice, which invites parties to file submissions addressing remedy, bonding and the public interest as noted below." *Id.*

On September 22, 2020, Brother, Aster, and OUII filed initial submissions in response to the Commission's request. *See* Complainants' Submission on Remedy, the Public Interest, and Bonding; Respondent Aster Graphics, Inc.'s Submission on Remedy, the Public Interest and Bonding; Response of the Office of Unfair Import Investigations to the Commission's Request for Written Submissions Regarding Remedy, the Public Interest, and Bonding. On September 29, 2020, the parties filed reply submissions. *See* Complainants' Reply Submission on Remedy, the Public Interest, and Bonding;¹ Respondent Aster Graphics, Inc.'s Reply to the Submission of the Office of Unfair Import Investigations and Complainants on Remedy, the Public Interest and Bonding; Reply of the Office of Unfair Import Investigations to the Private Parties' Written Submissions Regarding Remedy, the Public Interest, and Bonding.

As noted above, the Commission affirmed the ID's finding that there is a violation of section 337 with respect to Aster and Defaulting Respondents. The Commission also finds that the statutory requirements for issuance of a GEO under section 337(d)(2) are met. *See* 19 U.S.C. 1337(d)(2). The Commission further finds that issuance of CDOs against Aster and 19 of the defaulting respondents (noted below) is appropriate under section 337(f)(1). *See* 19 U.S.C. 1337(f)(1). In addition, the Commission finds that the public interest factors do not preclude issuance of the requested relief. *See* 19 U.S.C. 1337(d)(1), (f)(1).

The Commission therefore has determined that the appropriate remedy in this investigation is: (1) a GEO prohibiting the unlicensed importation of certain toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the '093 patent; claims 1, 7-11, 15, and 16 of the '460 patent; claims 1-7, and 9 of the '856 patent; claims 1, 4, 5, and 9 of the '456 patent; and claims 1, 3, 5, 7-12, and 18 of the '387 patent; and (2) CDOs directed to Aster, AMI, Billiontree, Carlos Imaging, Do It Wiser, Eco Imaging, Ecoolmart, Globest, Greencycle, Hongkong Boze, I8, Ikong, Intercon, IPrint, LD Products, Mangoket, Smartjet, Solong, Super Warehouse, and Xiaohui. The Commission has also determined that the bond during the period of Presidential review shall be in the amount of the following percentages of the entered value for respondents AMI, Aster, and Globest:

Infringing Products	AMI	Aster	Globest
Accused 221/225 Products	568%	1463%	900%
Accused 223/227 Products	274%	336%	372%
Accused 420/450 Products	-	623%	682%
Accused 630/660 Products	575%	886%	635%
Accused 730/760/770 Products	589%	354%	369%

The bond for all other infringing articles shall be in the amount of one hundred percent (100%) of the entered value.

The Commission's orders were delivered to the President and to the United States Trade Representative on the day of their issuance. The investigation is terminated.

¹ The Chair granted Brother's motion for leave to file one day late. Brother filed on time but inadvertently omitted to include the certificate of service. Brother corrected the omission the next day.

While temporary remote operating procedures are in place in response to COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

The Commission vote for this determination took place on November 23, 2020.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 23, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

Lisa M. Kattan, Esq.
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Email: lisa.kattan@bakerbotts.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent Aster Graphics, Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

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MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

- ☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Email Notification
of Availability for Download

Respondents:

An An Beauty Limited
Flat/Room 2104 21/F, Mongkok Commercial Centre
16 Argyle Street, Mongkok, Kowloon,
Hong Kong 999077

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Aztech Enterprises Limited
Units 1206, 12/F, Hheuk Nang Center
9 Hillwood Road
Kowloon, Hong Kong 999077

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Billiontree Technology USA Inc.
19945 Harrison Avenue
City of Industry, CA 91789

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Carlos Imaging Supplies, Inc.
PMB 540
17128 Colima Road
Hacienda Heights, CA 91745

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Do It Wiser, LLC
2422 Old Capital Trail
Suite 747
Wilmington, DE 19808

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Eco Imaging Inc.
PMB A839
14252 culver Drive
Irvine, AC 92604

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 3

Ecoolmart Co.
PMB 322
17360 Colima Road
Rowland Heights, CA 91748

Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Greencycle Tech, Inc.
9638 Rush Street, Unit E
South El Monte, CA 91733

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Hongkong Boze Co., Ltd.
Flat/Room A 27/F, Billion Plaza 2,
10 Cheung Yee Street, Lai Chi Kok,
Kowloon, Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

I8 International, Inc.
19961 Harrison Avenue
City of Industry, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Ikong E-Commerce
PMB 429, 385 South Lemon Avenue
Suite E
Walnut, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Intercon International Corp.
PMB 109, 407 West Imperial Highway
Suite H
Brea, CA 92821

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

IPrint Enterprise Limited
Rooms 1318-19, 13/F Hollywood Plaza
610 Nathan Road, Mongkok, Kowloon,
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 4

Mangoket LLC
1641 West Main Street
Suite 222
Alhambra, CA 91801

☒ Other: Service to Be
Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Solong E-Commerce Co., LLC
Flat/Room 19C, Lockhart Center,
301-307 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Smartjet E-Commerce Co., LLC
Flat/Room A 20/F, Kiu Fu Commercial Building,
300 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Super Warehouse Inc.
1160 Yew Avenue
DSS-5179
Blaine, WA 98230

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Zhuhai Xiaohui E-Commerce., Ltd.
Room 502, Factory five, No. 12, Pingdong 3rd Road
Nanping Keji Industrial Park, Xiangzhou District,
Zhuhai, China 519000

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

GENERAL EXCLUSION ORDER

The United States International Trade Commission (“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, sale for importation, or sale within the United States after importation of certain toner cartridges, components thereof, and systems containing same (as defined in paragraph 2 below) that infringe one or more of claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”).

Having reviewed the record in 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 (1) to prevent circumvention of an exclusion order limited to products of named persons and (2) because there is a pattern of violation of Section 337 and it is difficult to identify the source of the infringing products. Accordingly, the Commission has determined

to issue a general exclusion order prohibiting the unlicensed importation of infringing toner cartridges, components thereof, and systems containing same.

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. The bond during the period of Presidential review shall be in the amount of the following percentages of the entered value for respondents AMI Brother, Inc. (“AMI”), Aster Graphics, Inc. (“Aster”), and Globest Trading Inc. (“Globest”):

Infringing Products	AMI	Aster	Globest
Accused 221/225 Products	568%	1463%	900%
Accused 223/227 Products	274%	336%	372%
Accused 420/450 Products	-	623%	682%
Accused 630/660 Products	575%	886%	635%
Accused 730/760/770 Products	589%	354%	369%

The bond during the period of Presidential review shall be in the amount of one hundred (100%) percent of the entered value for all other infringing articles subject to this Order.

Accordingly, the Commission hereby **ORDERS** that:

1. Toner cartridges, components thereof, and systems containing same (as defined in paragraph 2 below) that infringe one or more of claims 1-5, 10, and 12-15 of the '093 patent; claims 1, 7-11, 15, and 16 of the '460 patent; claims 1-7, and 9 of the '856 patent; claims 1, 4, 5, and 9 of the '456 patent; and claims 1, 3, 5, 7-12, and 18 of the '387 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 from, or with the permission of, the patent owner or as provided by law.
2. The toner cartridges, components thereof, and systems containing the same that are subject to this Order (*i.e.*, “covered articles”) are as follows: laser toner

cartridges designed for use with Brother printers, fax machines, and MFCs (“Multi-Function Centers”).

3. Notwithstanding paragraph 1 of this Order, covered articles 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 the following percentages of the entered value for respondents AMI, Aster, and Globest:

Infringing Products	AMI	Aster	Globest
Accused 221/225 Products	568%	1463%	900%
Accused 223/227 Products	274%	336%	372%
Accused 420/450 Products	-	623%	682%
Accused 630/660 Products	575%	886%	635%
Accused 730/760/770 Products	589%	354%	369%

and in the amount of one hundred percent (100%) of the entered value for all other covered articles, 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.* 43,251), 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 (60) days after the date of receipt of this Order. All entries of covered articles made pursuant to this paragraph are to be reported to U.S. Customs and Border Protection (“CBP”), in advance of the date of the entry, pursuant to procedures CBP establishes.

4. At the discretion of CBP and pursuant to the procedures it establishes, persons seeking to import covered articles 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.
5. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to covered articles that are 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.
6. 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).
7. The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rule 201.16(a) and 210.7(a)(1) (19 C.F.R. §§ 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a

method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

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

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 23, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

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- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent Aster Graphics, Inc.:

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1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

- ☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Email Notification
of Availability for Download

Respondents:

An An Beauty Limited
Flat/Room 2104 21/F, Mongkok Commercial Centre
16 Argyle Street, Mongkok, Kowloon,
Hong Kong 999077

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Aztech Enterprises Limited
Units 1206, 12/F, Hheuk Nang Center
9 Hillwood Road
Kowloon, Hong Kong 999077

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Billiontree Technology USA Inc.
19945 Harrison Avenue
City of Industry, CA 91789

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Carlos Imaging Supplies, Inc.
PMB 540
17128 Colima Road
Hacienda Heights, CA 91745

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Do It Wiser, LLC
2422 Old Capital Trail
Suite 747
Wilmington, DE 19808

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Eco Imaging Inc.
PMB A839
14252 culver Drive
Irvine, AC 92604

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be

**CERTAIN TONER CARTRIDGES, COMPONENTS
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Inv. No. 337-TA-1174

Certificate of Service – Page 3

Ecoolmart Co.
PMB 322
17360 Colima Road
Rowland Heights, CA 91748

Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Greencycle Tech, Inc.
9638 Rush Street, Unit E
South El Monte, CA 91733

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Hongkong Boze Co., Ltd.
Flat/Room A 27/F, Billion Plaza 2,
10 Cheung Yee Street, Lai Chi Kok,
Kowloon, Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

I8 International, Inc.
19961 Harrison Avenue
City of Industry, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Ikong E-Commerce
PMB 429, 385 South Lemon Avenue
Suite E
Walnut, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Intercon International Corp.
PMB 109, 407 West Imperial Highway
Suite H
Brea, CA 92821

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

IPrint Enterprise Limited
Rooms 1318-19, 13/F Hollywood Plaza
610 Nathan Road, Mongkok, Kowloon,
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 4

Mangoket LLC
1641 West Main Street
Suite 222
Alhambra, CA 91801

☒ Other: Service to Be
Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Solong E-Commerce Co., LLC
Flat/Room 19C, Lockhart Center,
301-307 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Smartjet E-Commerce Co., LLC
Flat/Room A 20/F, Kiu Fu Commercial Building,
300 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Super Warehouse Inc.
1160 Yew Avenue
DSS-5179
Blaine, WA 98230

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Zhuhai Xiaohui E-Commerce., Ltd.
Room 502, Factory five, No. 12, Pingdong 3rd Road
Nanping Keji Industrial Park, Xiangzhou District,
Zhuhai, China 519000

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Greencycle Tech, Inc. cease and desist from conducting any of the following activities in the United States: importing, selling, offering for sale, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of toner cartridges, components thereof, and systems containing same (as defined in Definition (G) below) that infringe one or more of claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”) (collectively, “the Asserted Patents”) 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 Brother Industries, Ltd.; Brother International Corporation (U.S.A.); and Brother Industries (U.S.A.), Inc.
- (C) “Respondent” shall mean Greencycle Tech, Inc.
- (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 toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the ’093 patent; claims 1, 7-11, 15, and 16 of the ’460 patent; claims 1-7, and 9 of the ’856 patent; claims 1, 4, 5, and 9 of the ’456 patent; and claims 1, 3, 5, 7-12, and 18 of the ’387 patent. The toner cartridges, components thereof, and systems containing the same that are subject to this Order are as follows: laser toner cartridges designed for use with Brother printers, fax machines, and MFCs (“Multi-Function Centers”). Covered products shall not include articles for which a provision of law or license avoids liability for infringement.

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 terms of the Asserted Patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, 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:

- (A) in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct; or
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States.

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, 2020. 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. The Commission's paper filing requirements in 19 C.F.R. § 210.4(f) are currently waived. 85 Fed. Reg. 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1174") 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.

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 Complainant's counsel.¹

¹ 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.

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 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, duly 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

The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to

COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) 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 (15) 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 of the Asserted 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's 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 accompanying documentation on Complainant's counsel.²

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 Commission.

This bond is to be released in the event (i) 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, (ii) 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 (iii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

² *See* Footnote 1.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 24, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

Lisa M. Kattan, Esq.
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Email: lisa.kattan@bakerbotts.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent Aster Graphics, Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

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- ☐ Via Express Delivery
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of Availability for Download

On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

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16 Argyle Street, Mongkok, Kowloon,
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City of Industry, CA 91789

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PMB 540
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Suite 747
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Eco Imaging Inc.
PMB A839
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**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 3

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19961 Harrison Avenue
City of Industry, CA 91789

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Walnut, CA 91789

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Inv. No. 337-TA-1174

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1641 West Main Street
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Alhambra, CA 91801

☒ Other: Service to Be
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Solong E-Commerce Co., LLC
Flat/Room 19C, Lockhart Center,
301-307 Lockhart Road, Wan Chai
Hong Kong 999077

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Smartjet E-Commerce Co., LLC
Flat/Room A 20/F, Kiu Fu Commercial Building,
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1160 Yew Avenue
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Zhuhai Xiaohui E-Commerce., Ltd.
Room 502, Factory five, No. 12, Pingdong 3rd Road
Nanping Keji Industrial Park, Xiangzhou District,
Zhuhai, China 519000

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☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Zhuhai Xiaohui E-Commerce Co., Ltd. cease and desist from conducting any of the following activities in the United States: importing, selling, offering for sale, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of toner cartridges, components thereof, and systems containing same (as defined in Definition (G) below) that infringe one or more of claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”) (collectively, “the Asserted Patents”) 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 Brother Industries, Ltd.; Brother International Corporation (U.S.A.); and Brother Industries (U.S.A.), Inc.
- (C) “Respondent” shall mean Zhuhai Xiaohui E-Commerce Co., Ltd.
- (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 toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the ’093 patent; claims 1, 7-11, 15, and 16 of the ’460 patent; claims 1-7, and 9 of the ’856 patent; claims 1, 4, 5, and 9 of the ’456 patent; and claims 1, 3, 5, 7-12, and 18 of the ’387 patent. The toner cartridges, components thereof, and systems containing the same that are subject to this Order are as follows: laser toner cartridges designed for use with Brother printers, fax machines, and MFCs (“Multi-Function Centers”). Covered products shall not include articles for which a provision of law or license avoids liability for infringement.

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 terms of the Asserted Patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, 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:

- (A) in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct; or
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States.

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, 2020. 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. The Commission's paper filing requirements in 19 C.F.R. § 210.4(f) are currently waived. 85 Fed. Reg. 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1174") 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.

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 Complainant's counsel.¹

¹ 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.

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 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, duly 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

The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to

COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) 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 (15) 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 of the Asserted 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's 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 accompanying documentation on Complainant's counsel.²

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 Commission.

This bond is to be released in the event (i) 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, (ii) 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 (iii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

² *See* Footnote 1.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 23, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

Lisa M. Kattan, Esq.
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Email: lisa.kattan@bakerbotts.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent Aster Graphics, Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

Respondents:

An An Beauty Limited
Flat/Room 2104 21/F, Mongkok Commercial Centre
16 Argyle Street, Mongkok, Kowloon,
Hong Kong 999077

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Aztech Enterprises Limited
Units 1206, 12/F, Hheuk Nang Center
9 Hillwood Road
Kowloon, Hong Kong 999077

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Billiontree Technology USA Inc.
19945 Harrison Avenue
City of Industry, CA 91789

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Carlos Imaging Supplies, Inc.
PMB 540
17128 Colima Road
Hacienda Heights, CA 91745

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Do It Wiser, LLC
2422 Old Capital Trail
Suite 747
Wilmington, DE 19808

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Eco Imaging Inc.
PMB A839
14252 culver Drive
Irvine, AC 92604

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 3

Ecoolmart Co.
PMB 322
17360 Colima Road
Rowland Heights, CA 91748

Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Greencycle Tech, Inc.
9638 Rush Street, Unit E
South El Monte, CA 91733

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Hongkong Boze Co., Ltd.
Flat/Room A 27/F, Billion Plaza 2,
10 Cheung Yee Street, Lai Chi Kok,
Kowloon, Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

I8 International, Inc.
19961 Harrison Avenue
City of Industry, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Ikong E-Commerce
PMB 429, 385 South Lemon Avenue
Suite E
Walnut, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Intercon International Corp.
PMB 109, 407 West Imperial Highway
Suite H
Brea, CA 92821

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

IPrint Enterprise Limited
Rooms 1318-19, 13/F Hollywood Plaza
610 Nathan Road, Mongkok, Kowloon,
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 4

Mangoket LLC
1641 West Main Street
Suite 222
Alhambra, CA 91801

☒ Other: Service to Be
Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Solong E-Commerce Co., LLC
Flat/Room 19C, Lockhart Center,
301-307 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Smartjet E-Commerce Co., LLC
Flat/Room A 20/F, Kiu Fu Commercial Building,
300 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Super Warehouse Inc.
1160 Yew Avenue
DSS-5179
Blaine, WA 98230

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Zhuhai Xiaohui E-Commerce., Ltd.
Room 502, Factory five, No. 12, Pingdong 3rd Road
Nanping Keji Industrial Park, Xiangzhou District,
Zhuhai, China 519000

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Super Warehouse Inc. cease and desist from conducting any of the following activities in the United States: importing, selling, offering for sale, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of toner cartridges, components thereof, and systems containing same (as defined in Definition (G) below) that infringe one or more of claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”) (collectively, “the Asserted Patents”) 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 Brother Industries, Ltd.; Brother International Corporation (U.S.A.); and Brother Industries (U.S.A.), Inc.
- (C) “Respondent” shall mean Super Warehouse Inc.
- (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 toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the '093 patent; claims 1, 7-11, 15, and 16 of the '460 patent; claims 1-7, and 9 of the '856 patent; claims 1, 4, 5, and 9 of the '456 patent; and claims 1, 3, 5, 7-12, and 18 of the '387 patent. The toner cartridges, components thereof, and systems containing the same that are subject to this Order are as follows: laser toner cartridges designed for use with Brother printers, fax machines, and MFCs (“Multi-Function Centers”). Covered products shall not include articles for which a provision of law or license avoids liability for infringement.

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 terms of the Asserted Patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, 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:

- (A) in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct; or
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States.

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, 2020. 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. The Commission's paper filing requirements in 19 C.F.R. § 210.4(f) are currently waived. 85 Fed. Reg. 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1174") 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.

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 Complainant's counsel.¹

¹ 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.

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 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, duly 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

The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to

COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) 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 (15) 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 of the Asserted 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's 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 accompanying documentation on Complainant's counsel.²

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 Commission.

This bond is to be released in the event (i) 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, (ii) 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 (iii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

² *See* Footnote 1.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'LRB', is positioned above the printed name and title.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 23, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

Lisa M. Kattan, Esq.
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Email: lisa.kattan@bakerbotts.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
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of Availability for Download

On Behalf of Respondent Aster Graphics, Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

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- ☒ Other: Email Notification
of Availability for Download

**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

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An An Beauty Limited
Flat/Room 2104 21/F, Mongkok Commercial Centre
16 Argyle Street, Mongkok, Kowloon,
Hong Kong 999077

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- ☐ Via Express Delivery
- ☐ Via First Class Mail
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Completed by Complainants

Aztech Enterprises Limited
Units 1206, 12/F, Hheuk Nang Center
9 Hillwood Road
Kowloon, Hong Kong 999077

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Carlos Imaging Supplies, Inc.
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17128 Colima Road
Hacienda Heights, CA 91745

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- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Do It Wiser, LLC
2422 Old Capital Trail
Suite 747
Wilmington, DE 19808

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Eco Imaging Inc.
PMB A839
14252 culver Drive
Irvine, AC 92604

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 3

Ecoolmart Co.
PMB 322
17360 Colima Road
Rowland Heights, CA 91748

Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Greencycle Tech, Inc.
9638 Rush Street, Unit E
South El Monte, CA 91733

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Hongkong Boze Co., Ltd.
Flat/Room A 27/F, Billion Plaza 2,
10 Cheung Yee Street, Lai Chi Kok,
Kowloon, Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

I8 International, Inc.
19961 Harrison Avenue
City of Industry, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Ikong E-Commerce
PMB 429, 385 South Lemon Avenue
Suite E
Walnut, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Intercon International Corp.
PMB 109, 407 West Imperial Highway
Suite H
Brea, CA 92821

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

IPrint Enterprise Limited
Rooms 1318-19, 13/F Hollywood Plaza
610 Nathan Road, Mongkok, Kowloon,
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 4

Mangoket LLC
1641 West Main Street
Suite 222
Alhambra, CA 91801

☒ Other: Service to Be
Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Solong E-Commerce Co., LLC
Flat/Room 19C, Lockhart Center,
301-307 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Smartjet E-Commerce Co., LLC
Flat/Room A 20/F, Kiu Fu Commercial Building,
300 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Super Warehouse Inc.
1160 Yew Avenue
DSS-5179
Blaine, WA 98230

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Zhuhai Xiaohui E-Commerce., Ltd.
Room 502, Factory five, No. 12, Pingdong 3rd Road
Nanping Keji Industrial Park, Xiangzhou District,
Zhuhai, China 519000

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Solong E-Commerce Co., LLC cease and desist from conducting any of the following activities in the United States: importing, selling, offering for sale, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of toner cartridges, components thereof, and systems containing same (as defined in Definition (G) below) that infringe one or more of claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”) (collectively, “the Asserted Patents”) 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 Brother Industries, Ltd.; Brother International Corporation (U.S.A.); and Brother Industries (U.S.A.), Inc.
- (C) “Respondent” shall mean Solong E-Commerce Co., LLC.
- (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 toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the ’093 patent; claims 1, 7-11, 15, and 16 of the ’460 patent; claims 1-7, and 9 of the ’856 patent; claims 1, 4, 5, and 9 of the ’456 patent; and claims 1, 3, 5, 7-12, and 18 of the ’387 patent. The toner cartridges, components thereof, and systems containing the same that are subject to this Order are as follows: laser toner cartridges designed for use with Brother printers, fax machines, and MFCs (“Multi-Function Centers”). Covered products shall not include articles for which a provision of law or license avoids liability for infringement.

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 terms of the Asserted Patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, 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:

- (A) in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct; or
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States.

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, 2020. 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. The Commission's paper filing requirements in 19 C.F.R. § 210.4(f) are currently waived. 85 Fed. Reg. 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1174") 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.

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 Complainant's counsel.¹

¹ 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.

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 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, duly 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

The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to

COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) 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 (15) 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 of the Asserted 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's 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 accompanying documentation on Complainant's counsel.²

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 Commission.

This bond is to be released in the event (i) 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, (ii) 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 (iii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

² *See* Footnote 1.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 23, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

Lisa M. Kattan, Esq.
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Email: lisa.kattan@bakerbotts.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent Aster Graphics, Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

Respondents:

An An Beauty Limited
Flat/Room 2104 21/F, Mongkok Commercial Centre
16 Argyle Street, Mongkok, Kowloon,
Hong Kong 999077

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Aztech Enterprises Limited
Units 1206, 12/F, Hheuk Nang Center
9 Hillwood Road
Kowloon, Hong Kong 999077

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Billiontree Technology USA Inc.
19945 Harrison Avenue
City of Industry, CA 91789

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Carlos Imaging Supplies, Inc.
PMB 540
17128 Colima Road
Hacienda Heights, CA 91745

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Do It Wiser, LLC
2422 Old Capital Trail
Suite 747
Wilmington, DE 19808

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Eco Imaging Inc.
PMB A839
14252 culver Drive
Irvine, AC 92604

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 3

Ecoolmart Co.
PMB 322
17360 Colima Road
Rowland Heights, CA 91748

Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Greencycle Tech, Inc.
9638 Rush Street, Unit E
South El Monte, CA 91733

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Hongkong Boze Co., Ltd.
Flat/Room A 27/F, Billion Plaza 2,
10 Cheung Yee Street, Lai Chi Kok,
Kowloon, Hong Kong 999077

☐ Via Hand Delivery
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☐ Via First Class Mail
☒ Other: Service to Be
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I8 International, Inc.
19961 Harrison Avenue
City of Industry, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Ikong E-Commerce
PMB 429, 385 South Lemon Avenue
Suite E
Walnut, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Intercon International Corp.
PMB 109, 407 West Imperial Highway
Suite H
Brea, CA 92821

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

IPrint Enterprise Limited
Rooms 1318-19, 13/F Hollywood Plaza
610 Nathan Road, Mongkok, Kowloon,
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 4

Mangoket LLC
1641 West Main Street
Suite 222
Alhambra, CA 91801

☒ Other: Service to Be
Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Solong E-Commerce Co., LLC
Flat/Room 19C, Lockhart Center,
301-307 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Smartjet E-Commerce Co., LLC
Flat/Room A 20/F, Kiu Fu Commercial Building,
300 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Super Warehouse Inc.
1160 Yew Avenue
DSS-5179
Blaine, WA 98230

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Zhuhai Xiaohui E-Commerce., Ltd.
Room 502, Factory five, No. 12, Pingdong 3rd Road
Nanping Keji Industrial Park, Xiangzhou District,
Zhuhai, China 519000

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Smartjet E-Commerce Co., LLC cease and desist from conducting any of the following activities in the United States: importing, selling, offering for sale, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of toner cartridges, components thereof, and systems containing same (as defined in Definition (G) below) that infringe one or more of claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”) (collectively, “the Asserted Patents”) 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 Brother Industries, Ltd.; Brother International Corporation (U.S.A.); and Brother Industries (U.S.A.), Inc.
- (C) “Respondent” shall mean Smartjet E-Commerce Co., LLC.
- (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 toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the '093 patent; claims 1, 7-11, 15, and 16 of the '460 patent; claims 1-7, and 9 of the '856 patent; claims 1, 4, 5, and 9 of the '456 patent; and claims 1, 3, 5, 7-12, and 18 of the '387 patent. The toner cartridges, components thereof, and systems containing the same that are subject to this Order are as follows: laser toner cartridges designed for use with Brother printers, fax machines, and MFCs (“Multi-Function Centers”). Covered products shall not include articles for which a provision of law or license avoids liability for infringement.

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 terms of the Asserted Patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, 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:

- (A) in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct; or
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States.

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, 2020. 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. The Commission's paper filing requirements in 19 C.F.R. § 210.4(f) are currently waived. 85 Fed. Reg. 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1174") 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.

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 Complainant's counsel.¹

¹ 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.

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 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, duly 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

The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to

COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) 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 (15) 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 of the Asserted 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's 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 accompanying documentation on Complainant's counsel.²

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 Commission.

This bond is to be released in the event (i) 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, (ii) 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 (iii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

² *See* Footnote 1.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 23, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

Lisa M. Kattan, Esq.
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Email: lisa.kattan@bakerbotts.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent Aster Graphics, Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

- ☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Email Notification
of Availability for Download

Respondents:

An An Beauty Limited
Flat/Room 2104 21/F, Mongkok Commercial Centre
16 Argyle Street, Mongkok, Kowloon,
Hong Kong 999077

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Aztech Enterprises Limited
Units 1206, 12/F, Hheuk Nang Center
9 Hillwood Road
Kowloon, Hong Kong 999077

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Billiontree Technology USA Inc.
19945 Harrison Avenue
City of Industry, CA 91789

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Carlos Imaging Supplies, Inc.
PMB 540
17128 Colima Road
Hacienda Heights, CA 91745

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Do It Wiser, LLC
2422 Old Capital Trail
Suite 747
Wilmington, DE 19808

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Eco Imaging Inc.
PMB A839
14252 culver Drive
Irvine, AC 92604

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 3

Ecoolmart Co.
PMB 322
17360 Colima Road
Rowland Heights, CA 91748

Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Greencycle Tech, Inc.
9638 Rush Street, Unit E
South El Monte, CA 91733

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Hongkong Boze Co., Ltd.
Flat/Room A 27/F, Billion Plaza 2,
10 Cheung Yee Street, Lai Chi Kok,
Kowloon, Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

I8 International, Inc.
19961 Harrison Avenue
City of Industry, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Ikong E-Commerce
PMB 429, 385 South Lemon Avenue
Suite E
Walnut, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Intercon International Corp.
PMB 109, 407 West Imperial Highway
Suite H
Brea, CA 92821

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

IPrint Enterprise Limited
Rooms 1318-19, 13/F Hollywood Plaza
610 Nathan Road, Mongkok, Kowloon,
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 4

Mangoket LLC
1641 West Main Street
Suite 222
Alhambra, CA 91801

☒ Other: Service to Be
Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Solong E-Commerce Co., LLC
Flat/Room 19C, Lockhart Center,
301-307 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Smartjet E-Commerce Co., LLC
Flat/Room A 20/F, Kiu Fu Commercial Building,
300 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Super Warehouse Inc.
1160 Yew Avenue
DSS-5179
Blaine, WA 98230

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Zhuhai Xiaohui E-Commerce., Ltd.
Room 502, Factory five, No. 12, Pingdong 3rd Road
Nanping Keji Industrial Park, Xiangzhou District,
Zhuhai, China 519000

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Mangoket LLC cease and desist from conducting any of the following activities in the United States: importing, selling, offering for sale, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of toner cartridges, components thereof, and systems containing same (as defined in Definition (G) below) that infringe one or more of claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”) (collectively, “the Asserted Patents”) 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 Brother Industries, Ltd.; Brother International Corporation (U.S.A.); and Brother Industries (U.S.A.), Inc.
- (C) “Respondent” shall mean Mangoket LLC.
- (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 toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the ’093 patent; claims 1, 7-11, 15, and 16 of the ’460 patent; claims 1-7, and 9 of the ’856 patent; claims 1, 4, 5, and 9 of the ’456 patent; and claims 1, 3, 5, 7-12, and 18 of the ’387 patent. The toner cartridges, components thereof, and systems containing the same that are subject to this Order are as follows: laser toner cartridges designed for use with Brother printers, fax machines, and MFCs (“Multi-Function Centers”). Covered products shall not include articles for which a provision of law or license avoids liability for infringement.

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 terms of the Asserted Patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, 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:

- (A) in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct; or
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States.

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, 2020. 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. The Commission's paper filing requirements in 19 C.F.R. § 210.4(f) are currently waived. 85 Fed. Reg. 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1174") 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.

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 Complainant's counsel.¹

¹ 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.

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 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, duly 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

The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to

COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) 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 (15) 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 of the Asserted 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's 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 accompanying documentation on Complainant's counsel.²

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 Commission.

This bond is to be released in the event (i) 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, (ii) 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 (iii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

² *See* Footnote 1.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 23, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

Lisa M. Kattan, Esq.
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Email: lisa.kattan@bakerbotts.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent Aster Graphics, Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

- ☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Email Notification
of Availability for Download

Respondents:

An An Beauty Limited
Flat/Room 2104 21/F, Mongkok Commercial Centre
16 Argyle Street, Mongkok, Kowloon,
Hong Kong 999077

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Aztech Enterprises Limited
Units 1206, 12/F, Hheuk Nang Center
9 Hillwood Road
Kowloon, Hong Kong 999077

- ☐ Via Hand Delivery
☐ Via Express Delivery
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19945 Harrison Avenue
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☒ Other: Service to Be
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Carlos Imaging Supplies, Inc.
PMB 540
17128 Colima Road
Hacienda Heights, CA 91745

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Do It Wiser, LLC
2422 Old Capital Trail
Suite 747
Wilmington, DE 19808

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Eco Imaging Inc.
PMB A839
14252 culver Drive
Irvine, AC 92604

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 3

Ecoolmart Co.
PMB 322
17360 Colima Road
Rowland Heights, CA 91748

Completed by Complainants

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9638 Rush Street, Unit E
South El Monte, CA 91733

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Kowloon, Hong Kong 999077

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☐ Via Hand Delivery
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Ikong E-Commerce
PMB 429, 385 South Lemon Avenue
Suite E
Walnut, CA 91789

☐ Via Hand Delivery
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PMB 109, 407 West Imperial Highway
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IPrint Enterprise Limited
Rooms 1318-19, 13/F Hollywood Plaza
610 Nathan Road, Mongkok, Kowloon,
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 4

Mangoket LLC
1641 West Main Street
Suite 222
Alhambra, CA 91801

☒ Other: Service to Be
Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Solong E-Commerce Co., LLC
Flat/Room 19C, Lockhart Center,
301-307 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Smartjet E-Commerce Co., LLC
Flat/Room A 20/F, Kiu Fu Commercial Building,
300 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Super Warehouse Inc.
1160 Yew Avenue
DSS-5179
Blaine, WA 98230

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Zhuhai Xiaohui E-Commerce., Ltd.
Room 502, Factory five, No. 12, Pingdong 3rd Road
Nanping Keji Industrial Park, Xiangzhou District,
Zhuhai, China 519000

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT LD Products, Inc. cease and desist from conducting any of the following activities in the United States: importing, selling, offering for sale, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of toner cartridges, components thereof, and systems containing same (as defined in Definition (G) below) that infringe one or more of claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”) (collectively, “the Asserted Patents”) 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 Brother Industries, Ltd.; Brother International Corporation (U.S.A.); and Brother Industries (U.S.A.), Inc.
- (C) “Respondent” shall mean LD Products, Inc.
- (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 toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the '093 patent; claims 1, 7-11, 15, and 16 of the '460 patent; claims 1-7, and 9 of the '856 patent; claims 1, 4, 5, and 9 of the '456 patent; and claims 1, 3, 5, 7-12, and 18 of the '387 patent. The toner cartridges, components thereof, and systems containing the same that are subject to this Order are as follows: laser toner cartridges designed for use with Brother printers, fax machines, and MFCs (“Multi-Function Centers”). Covered products shall not include articles for which a provision of law or license avoids liability for infringement.

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 terms of the Asserted Patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, 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:

- (A) in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct; or
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States.

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, 2020. 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. The Commission's paper filing requirements in 19 C.F.R. § 210.4(f) are currently waived. 85 Fed. Reg. 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1174") 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.

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 Complainant's counsel.¹

¹ 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.

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 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, duly 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

The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to

COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) 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 (15) 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 of the Asserted 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's 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 accompanying documentation on Complainant's counsel.²

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 Commission.

This bond is to be released in the event (i) 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, (ii) 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 (iii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

² *See* Footnote 1.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'LRB', is positioned above the printed name and title.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 23, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

Lisa M. Kattan, Esq.
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Email: lisa.kattan@bakerbotts.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent Aster Graphics, Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

Respondents:

An An Beauty Limited
Flat/Room 2104 21/F, Mongkok Commercial Centre
16 Argyle Street, Mongkok, Kowloon,
Hong Kong 999077

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Aztech Enterprises Limited
Units 1206, 12/F, Hheuk Nang Center
9 Hillwood Road
Kowloon, Hong Kong 999077

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Billiontree Technology USA Inc.
19945 Harrison Avenue
City of Industry, CA 91789

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Carlos Imaging Supplies, Inc.
PMB 540
17128 Colima Road
Hacienda Heights, CA 91745

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Do It Wiser, LLC
2422 Old Capital Trail
Suite 747
Wilmington, DE 19808

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Eco Imaging Inc.
PMB A839
14252 culver Drive
Irvine, AC 92604

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 3

Ecoolmart Co.
PMB 322
17360 Colima Road
Rowland Heights, CA 91748

Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Greencycle Tech, Inc.
9638 Rush Street, Unit E
South El Monte, CA 91733

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Hongkong Boze Co., Ltd.
Flat/Room A 27/F, Billion Plaza 2,
10 Cheung Yee Street, Lai Chi Kok,
Kowloon, Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

I8 International, Inc.
19961 Harrison Avenue
City of Industry, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Ikong E-Commerce
PMB 429, 385 South Lemon Avenue
Suite E
Walnut, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Intercon International Corp.
PMB 109, 407 West Imperial Highway
Suite H
Brea, CA 92821

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

IPrint Enterprise Limited
Rooms 1318-19, 13/F Hollywood Plaza
610 Nathan Road, Mongkok, Kowloon,
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 4

Mangoket LLC
1641 West Main Street
Suite 222
Alhambra, CA 91801

☒ Other: Service to Be
Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
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☒ Other: Service to Be
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Solong E-Commerce Co., LLC
Flat/Room 19C, Lockhart Center,
301-307 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
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Completed by Complainants

Smartjet E-Commerce Co., LLC
Flat/Room A 20/F, Kiu Fu Commercial Building,
300 Lockhart Road, Wan Chai
Hong Kong 999077

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☐ Via Express Delivery
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1160 Yew Avenue
DSS-5179
Blaine, WA 98230

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Zhuhai Xiaohui E-Commerce., Ltd.
Room 502, Factory five, No. 12, Pingdong 3rd Road
Nanping Keji Industrial Park, Xiangzhou District,
Zhuhai, China 519000

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT IPrint Enterprise Limited cease and desist from conducting any of the following activities in the United States: importing, selling, offering for sale, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of toner cartridges, components thereof, and systems containing same (as defined in Definition (G) below) that infringe one or more of claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”) (collectively, “the Asserted Patents”) 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 Brother Industries, Ltd.; Brother International Corporation (U.S.A.); and Brother Industries (U.S.A.), Inc.
- (C) “Respondent” shall mean IPrint Enterprise Limited.
- (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 toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the '093 patent; claims 1, 7-11, 15, and 16 of the '460 patent; claims 1-7, and 9 of the '856 patent; claims 1, 4, 5, and 9 of the '456 patent; and claims 1, 3, 5, 7-12, and 18 of the '387 patent. The toner cartridges, components thereof, and systems containing the same that are subject to this Order are as follows: laser toner cartridges designed for use with Brother printers, fax machines, and MFCs (“Multi-Function Centers”). Covered products shall not include articles for which a provision of law or license avoids liability for infringement.

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 terms of the Asserted Patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, 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:

- (A) in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct; or
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States.

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, 2020. 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. The Commission's paper filing requirements in 19 C.F.R. § 210.4(f) are currently waived. 85 Fed. Reg. 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1174") 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.

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 Complainant's counsel.¹

¹ 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.

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 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, duly 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

The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to

COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) 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 (15) 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 of the Asserted 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's 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 accompanying documentation on Complainant's counsel.²

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 Commission.

This bond is to be released in the event (i) 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, (ii) 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 (iii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

² *See* Footnote 1.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'LRB', is positioned above the printed name and title.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 23, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

Lisa M. Kattan, Esq.
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Email: lisa.kattan@bakerbotts.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent Aster Graphics, Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

- ☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Email Notification
of Availability for Download

Respondents:

An An Beauty Limited
Flat/Room 2104 21/F, Mongkok Commercial Centre
16 Argyle Street, Mongkok, Kowloon,
Hong Kong 999077

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Aztech Enterprises Limited
Units 1206, 12/F, Hheuk Nang Center
9 Hillwood Road
Kowloon, Hong Kong 999077

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Billiontree Technology USA Inc.
19945 Harrison Avenue
City of Industry, CA 91789

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Carlos Imaging Supplies, Inc.
PMB 540
17128 Colima Road
Hacienda Heights, CA 91745

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Do It Wiser, LLC
2422 Old Capital Trail
Suite 747
Wilmington, DE 19808

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Eco Imaging Inc.
PMB A839
14252 culver Drive
Irvine, AC 92604

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be

**CERTAIN TONER CARTRIDGES, COMPONENTS
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Inv. No. 337-TA-1174

Certificate of Service – Page 3

Ecoolmart Co.
PMB 322
17360 Colima Road
Rowland Heights, CA 91748

Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Greencycle Tech, Inc.
9638 Rush Street, Unit E
South El Monte, CA 91733

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Hongkong Boze Co., Ltd.
Flat/Room A 27/F, Billion Plaza 2,
10 Cheung Yee Street, Lai Chi Kok,
Kowloon, Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

I8 International, Inc.
19961 Harrison Avenue
City of Industry, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Ikong E-Commerce
PMB 429, 385 South Lemon Avenue
Suite E
Walnut, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Intercon International Corp.
PMB 109, 407 West Imperial Highway
Suite H
Brea, CA 92821

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

IPrint Enterprise Limited
Rooms 1318-19, 13/F Hollywood Plaza
610 Nathan Road, Mongkok, Kowloon,
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 4

Mangoket LLC
1641 West Main Street
Suite 222
Alhambra, CA 91801

☒ Other: Service to Be
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☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Solong E-Commerce Co., LLC
Flat/Room 19C, Lockhart Center,
301-307 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
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Smartjet E-Commerce Co., LLC
Flat/Room A 20/F, Kiu Fu Commercial Building,
300 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
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Completed by Complainants

Super Warehouse Inc.
1160 Yew Avenue
DSS-5179
Blaine, WA 98230

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Zhuhai Xiaohui E-Commerce., Ltd.
Room 502, Factory five, No. 12, Pingdong 3rd Road
Nanping Keji Industrial Park, Xiangzhou District,
Zhuhai, China 519000

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Intercon International Corp. cease and desist from conducting any of the following activities in the United States: importing, selling, offering for sale, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of toner cartridges, components thereof, and systems containing same (as defined in Definition (G) below) that infringe one or more of claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”) (collectively, “the Asserted Patents”) 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 Brother Industries, Ltd.; Brother International Corporation (U.S.A.); and Brother Industries (U.S.A.), Inc.
- (C) “Respondent” shall mean Intercon International Corp.
- (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 toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the ’093 patent; claims 1, 7-11, 15, and 16 of the ’460 patent; claims 1-7, and 9 of the ’856 patent; claims 1, 4, 5, and 9 of the ’456 patent; and claims 1, 3, 5, 7-12, and 18 of the ’387 patent. The toner cartridges, components thereof, and systems containing the same that are subject to this Order are as follows: laser toner cartridges designed for use with Brother printers, fax machines, and MFCs (“Multi-Function Centers”). Covered products shall not include articles for which a provision of law or license avoids liability for infringement.

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 terms of the Asserted Patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, 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:

- (A) in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct; or
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States.

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, 2020. 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. The Commission's paper filing requirements in 19 C.F.R. § 210.4(f) are currently waived. 85 Fed. Reg. 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1174") 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.

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 Complainant's counsel.¹

¹ 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.

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 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, duly 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

The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to

COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) 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 (15) 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 of the Asserted 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's 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 accompanying documentation on Complainant's counsel.²

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 Commission.

This bond is to be released in the event (i) 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, (ii) 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 (iii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

² *See* Footnote 1.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 23, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

Lisa M. Kattan, Esq.
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Email: lisa.kattan@bakerbotts.com

- ☐ Via Hand Delivery
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of Availability for Download

On Behalf of Respondent Aster Graphics, Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

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**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

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On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

- ☐ Via Express Delivery
☐ Via First Class Mail
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Flat/Room 2104 21/F, Mongkok Commercial Centre
16 Argyle Street, Mongkok, Kowloon,
Hong Kong 999077

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9 Hillwood Road
Kowloon, Hong Kong 999077

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City of Industry, CA 91789

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PMB 540
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Hacienda Heights, CA 91745

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Suite 747
Wilmington, DE 19808

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Eco Imaging Inc.
PMB A839
14252 culver Drive
Irvine, AC 92604

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PMB 109, 407 West Imperial Highway
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Hong Kong 999077

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Ikong E-Commerce cease and desist from conducting any of the following activities in the United States: importing, selling, offering for sale, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of toner cartridges, components thereof, and systems containing same (as defined in Definition (G) below) that infringe one or more of claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”) (collectively, “the Asserted Patents”) 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 Brother Industries, Ltd.; Brother International Corporation (U.S.A.); and Brother Industries (U.S.A.), Inc.
- (C) “Respondent” shall mean Ikong E-Commerce.
- (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 toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the ’093 patent; claims 1, 7-11, 15, and 16 of the ’460 patent; claims 1-7, and 9 of the ’856 patent; claims 1, 4, 5, and 9 of the ’456 patent; and claims 1, 3, 5, 7-12, and 18 of the ’387 patent. The toner cartridges, components thereof, and systems containing the same that are subject to this Order are as follows: laser toner cartridges designed for use with Brother printers, fax machines, and MFCs (“Multi-Function Centers”). Covered products shall not include articles for which a provision of law or license avoids liability for infringement.

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 terms of the Asserted Patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, 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:

- (A) in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct; or
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States.

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, 2020. 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. The Commission's paper filing requirements in 19 C.F.R. § 210.4(f) are currently waived. 85 Fed. Reg. 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1174") 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.

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 Complainant's counsel.¹

¹ 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.

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 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, duly 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

The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to

COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) 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 (15) 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 of the Asserted 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's 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 accompanying documentation on Complainant's counsel.²

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 Commission.

This bond is to be released in the event (i) 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, (ii) 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 (iii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

² *See* Footnote 1.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'LRB', is positioned above the printed name and title.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 23, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

Lisa M. Kattan, Esq.
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Email: lisa.kattan@bakerbotts.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent Aster Graphics, Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

- ☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Email Notification
of Availability for Download

Respondents:

An An Beauty Limited
Flat/Room 2104 21/F, Mongkok Commercial Centre
16 Argyle Street, Mongkok, Kowloon,
Hong Kong 999077

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Aztech Enterprises Limited
Units 1206, 12/F, Hheuk Nang Center
9 Hillwood Road
Kowloon, Hong Kong 999077

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Billiontree Technology USA Inc.
19945 Harrison Avenue
City of Industry, CA 91789

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Carlos Imaging Supplies, Inc.
PMB 540
17128 Colima Road
Hacienda Heights, CA 91745

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Do It Wiser, LLC
2422 Old Capital Trail
Suite 747
Wilmington, DE 19808

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Eco Imaging Inc.
PMB A839
14252 culver Drive
Irvine, AC 92604

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 3

Ecoolmart Co.
PMB 322
17360 Colima Road
Rowland Heights, CA 91748

Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Greencycle Tech, Inc.
9638 Rush Street, Unit E
South El Monte, CA 91733

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Hongkong Boze Co., Ltd.
Flat/Room A 27/F, Billion Plaza 2,
10 Cheung Yee Street, Lai Chi Kok,
Kowloon, Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

I8 International, Inc.
19961 Harrison Avenue
City of Industry, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Ikong E-Commerce
PMB 429, 385 South Lemon Avenue
Suite E
Walnut, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Intercon International Corp.
PMB 109, 407 West Imperial Highway
Suite H
Brea, CA 92821

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

IPrint Enterprise Limited
Rooms 1318-19, 13/F Hollywood Plaza
610 Nathan Road, Mongkok, Kowloon,
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 4

Mangoket LLC
1641 West Main Street
Suite 222
Alhambra, CA 91801

☒ Other: Service to Be
Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Solong E-Commerce Co., LLC
Flat/Room 19C, Lockhart Center,
301-307 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Smartjet E-Commerce Co., LLC
Flat/Room A 20/F, Kiu Fu Commercial Building,
300 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Super Warehouse Inc.
1160 Yew Avenue
DSS-5179
Blaine, WA 98230

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Zhuhai Xiaohui E-Commerce., Ltd.
Room 502, Factory five, No. 12, Pingdong 3rd Road
Nanping Keji Industrial Park, Xiangzhou District,
Zhuhai, China 519000

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT I8 International, Inc. cease and desist from conducting any of the following activities in the United States: importing, selling, offering for sale, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of toner cartridges, components thereof, and systems containing same (as defined in Definition (G) below) that infringe one or more of claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”) (collectively, “the Asserted Patents”) 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 Brother Industries, Ltd.; Brother International Corporation (U.S.A.); and Brother Industries (U.S.A.), Inc.
- (C) “Respondent” shall mean I8 International, Inc.
- (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 toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the '093 patent; claims 1, 7-11, 15, and 16 of the '460 patent; claims 1-7, and 9 of the '856 patent; claims 1, 4, 5, and 9 of the '456 patent; and claims 1, 3, 5, 7-12, and 18 of the '387 patent. The toner cartridges, components thereof, and systems containing the same that are subject to this Order are as follows: laser toner cartridges designed for use with Brother printers, fax machines, and MFCs (“Multi-Function Centers”). Covered products shall not include articles for which a provision of law or license avoids liability for infringement.

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 terms of the Asserted Patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, 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:

- (A) in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct; or
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States.

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, 2020. 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. The Commission's paper filing requirements in 19 C.F.R. § 210.4(f) are currently waived. 85 Fed. Reg. 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1174") 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.

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 Complainant's counsel.¹

¹ 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.

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 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, duly 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

The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to

COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) 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 (15) 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 of the Asserted 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's 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 accompanying documentation on Complainant's counsel.²

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 Commission.

This bond is to be released in the event (i) 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, (ii) 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 (iii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

² *See* Footnote 1.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 23, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

Lisa M. Kattan, Esq.
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Email: lisa.kattan@bakerbotts.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent Aster Graphics, Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

- ☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Email Notification
of Availability for Download

Respondents:

An An Beauty Limited
Flat/Room 2104 21/F, Mongkok Commercial Centre
16 Argyle Street, Mongkok, Kowloon,
Hong Kong 999077

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Aztech Enterprises Limited
Units 1206, 12/F, Hheuk Nang Center
9 Hillwood Road
Kowloon, Hong Kong 999077

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Billiontree Technology USA Inc.
19945 Harrison Avenue
City of Industry, CA 91789

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Carlos Imaging Supplies, Inc.
PMB 540
17128 Colima Road
Hacienda Heights, CA 91745

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Do It Wiser, LLC
2422 Old Capital Trail
Suite 747
Wilmington, DE 19808

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Eco Imaging Inc.
PMB A839
14252 culver Drive
Irvine, AC 92604

- ☐ Via Hand Delivery
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☒ Other: Service to Be

**CERTAIN TONER CARTRIDGES, COMPONENTS
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Ecoolmart Co.
PMB 322
17360 Colima Road
Rowland Heights, CA 91748

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☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Greencycle Tech, Inc.
9638 Rush Street, Unit E
South El Monte, CA 91733

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Hongkong Boze Co., Ltd.
Flat/Room A 27/F, Billion Plaza 2,
10 Cheung Yee Street, Lai Chi Kok,
Kowloon, Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
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I8 International, Inc.
19961 Harrison Avenue
City of Industry, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Ikong E-Commerce
PMB 429, 385 South Lemon Avenue
Suite E
Walnut, CA 91789

☐ Via Hand Delivery
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☒ Other: Service to Be
Completed by Complainants

Intercon International Corp.
PMB 109, 407 West Imperial Highway
Suite H
Brea, CA 92821

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☒ Other: Service to Be
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IPrint Enterprise Limited
Rooms 1318-19, 13/F Hollywood Plaza
610 Nathan Road, Mongkok, Kowloon,
Hong Kong 999077

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**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

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1641 West Main Street
Suite 222
Alhambra, CA 91801

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Solong E-Commerce Co., LLC
Flat/Room 19C, Lockhart Center,
301-307 Lockhart Road, Wan Chai
Hong Kong 999077

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Smartjet E-Commerce Co., LLC
Flat/Room A 20/F, Kiu Fu Commercial Building,
300 Lockhart Road, Wan Chai
Hong Kong 999077

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Super Warehouse Inc.
1160 Yew Avenue
DSS-5179
Blaine, WA 98230

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Zhuhai Xiaohui E-Commerce., Ltd.
Room 502, Factory five, No. 12, Pingdong 3rd Road
Nanping Keji Industrial Park, Xiangzhou District,
Zhuhai, China 519000

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Hongkong Boze Co., Ltd. cease and desist from conducting any of the following activities in the United States: importing, selling, offering for sale, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of toner cartridges, components thereof, and systems containing same (as defined in Definition (G) below) that infringe one or more of claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”) (collectively, “the Asserted Patents”) 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 Brother Industries, Ltd.; Brother International Corporation (U.S.A.); and Brother Industries (U.S.A.), Inc.
- (C) “Respondent” shall mean Hongkong Boze Co., Ltd.
- (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 toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the '093 patent; claims 1, 7-11, 15, and 16 of the '460 patent; claims 1-7, and 9 of the '856 patent; claims 1, 4, 5, and 9 of the '456 patent; and claims 1, 3, 5, 7-12, and 18 of the '387 patent. The toner cartridges, components thereof, and systems containing the same that are subject to this Order are as follows: laser toner cartridges designed for use with Brother printers, fax machines, and MFCs (“Multi-Function Centers”). Covered products shall not include articles for which a provision of law or license avoids liability for infringement.

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 terms of the Asserted Patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, 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:

- (A) in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct; or
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States.

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, 2020. 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. The Commission's paper filing requirements in 19 C.F.R. § 210.4(f) are currently waived. 85 Fed. Reg. 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1174") 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.

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 Complainant's counsel.¹

¹ 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.

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 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, duly 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

The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to

COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) 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 (15) 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 of the Asserted 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's 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 accompanying documentation on Complainant's counsel.²

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 Commission.

This bond is to be released in the event (i) 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, (ii) 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 (iii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

² *See* Footnote 1.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'LRB', is positioned above the printed name and title.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 23, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

Lisa M. Kattan, Esq.
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Email: lisa.kattan@bakerbotts.com

- ☐ Via Hand Delivery
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On Behalf of Respondent Aster Graphics, Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

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**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

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On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

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2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

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Zhuhai, China 519000

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Globest Trading Inc. cease and desist from conducting any of the following activities in the United States: importing, selling, offering for sale, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of toner cartridges, components thereof, and systems containing same (as defined in Definition (G) below) that infringe one or more of claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”) (collectively, “the Asserted Patents”) 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 Brother Industries, Ltd.; Brother International Corporation (U.S.A.); and Brother Industries (U.S.A.), Inc.
- (C) “Respondent” shall mean Globest Trading Inc.
- (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 toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the ’093 patent; claims 1, 7-11, 15, and 16 of the ’460 patent; claims 1-7, and 9 of the ’856 patent; claims 1, 4, 5, and 9 of the ’456 patent; and claims 1, 3, 5, 7-12, and 18 of the ’387 patent. The toner cartridges, components thereof, and systems containing the same that are subject to this Order are as follows: laser toner cartridges designed for use with Brother printers, fax machines, and MFCs (“Multi-Function Centers”). Covered products shall not include articles for which a provision of law or license avoids liability for infringement.

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 terms of the Asserted Patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, 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:

- (A) in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct; or
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States.

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, 2020. 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. The Commission's paper filing requirements in 19 C.F.R. § 210.4(f) are currently waived. 85 Fed. Reg. 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1174") 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.

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 Complainant's counsel.¹

¹ 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.

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 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, duly 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

The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to

COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) 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 (15) 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 of the Asserted 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's posting of a bond in the amount of 900 percent of entered value for infringing 221/225 Products, 372 percent of entered value for infringing 223/227 Products, 682 percent of entered value for infringing 420/450 Products, 635 percent of entered value for infringing 630/660 Products, and 369 percent of entered value for infringing 730/760/770 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 accompanying documentation on Complainant's counsel.²

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 Commission.

This bond is to be released in the event (i) 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, (ii) 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 (iii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission, upon service

² *See* Footnote 1.

on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 23, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

Lisa M. Kattan, Esq.
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Email: lisa.kattan@bakerbotts.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent Aster Graphics, Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

Respondents:

An An Beauty Limited
Flat/Room 2104 21/F, Mongkok Commercial Centre
16 Argyle Street, Mongkok, Kowloon,
Hong Kong 999077

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Aztech Enterprises Limited
Units 1206, 12/F, Hheuk Nang Center
9 Hillwood Road
Kowloon, Hong Kong 999077

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Billiontree Technology USA Inc.
19945 Harrison Avenue
City of Industry, CA 91789

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Carlos Imaging Supplies, Inc.
PMB 540
17128 Colima Road
Hacienda Heights, CA 91745

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Do It Wiser, LLC
2422 Old Capital Trail
Suite 747
Wilmington, DE 19808

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Eco Imaging Inc.
PMB A839
14252 culver Drive
Irvine, AC 92604

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 3

Ecoolmart Co.
PMB 322
17360 Colima Road
Rowland Heights, CA 91748

Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Greencycle Tech, Inc.
9638 Rush Street, Unit E
South El Monte, CA 91733

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Hongkong Boze Co., Ltd.
Flat/Room A 27/F, Billion Plaza 2,
10 Cheung Yee Street, Lai Chi Kok,
Kowloon, Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

I8 International, Inc.
19961 Harrison Avenue
City of Industry, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Ikong E-Commerce
PMB 429, 385 South Lemon Avenue
Suite E
Walnut, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Intercon International Corp.
PMB 109, 407 West Imperial Highway
Suite H
Brea, CA 92821

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

IPrint Enterprise Limited
Rooms 1318-19, 13/F Hollywood Plaza
610 Nathan Road, Mongkok, Kowloon,
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 4

Mangoket LLC
1641 West Main Street
Suite 222
Alhambra, CA 91801

☒ Other: Service to Be
Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Solong E-Commerce Co., LLC
Flat/Room 19C, Lockhart Center,
301-307 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Smartjet E-Commerce Co., LLC
Flat/Room A 20/F, Kiu Fu Commercial Building,
300 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Super Warehouse Inc.
1160 Yew Avenue
DSS-5179
Blaine, WA 98230

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Zhuhai Xiaohui E-Commerce., Ltd.
Room 502, Factory five, No. 12, Pingdong 3rd Road
Nanping Keji Industrial Park, Xiangzhou District,
Zhuhai, China 519000

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Eco Imaging Inc. cease and desist from conducting any of the following activities in the United States: importing, selling, offering for sale, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of toner cartridges, components thereof, and systems containing same (as defined in Definition (G) below) that infringe one or more of claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”) (collectively, “the Asserted Patents”) 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 Brother Industries, Ltd.; Brother International Corporation (U.S.A.); and Brother Industries (U.S.A.), Inc.
- (C) “Respondent” shall mean Eco Imaging Inc.
- (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 toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the ’093 patent; claims 1, 7-11, 15, and 16 of the ’460 patent; claims 1-7, and 9 of the ’856 patent; claims 1, 4, 5, and 9 of the ’456 patent; and claims 1, 3, 5, 7-12, and 18 of the ’387 patent. The toner cartridges, components thereof, and systems containing the same that are subject to this Order are as follows: laser toner cartridges designed for use with Brother printers, fax machines, and MFCs (“Multi-Function Centers”). Covered products shall not include articles for which a provision of law or license avoids liability for infringement.

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 terms of the Asserted Patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, 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:

- (A) in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct; or
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States.

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, 2020. 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. The Commission's paper filing requirements in 19 C.F.R. § 210.4(f) are currently waived. 85 Fed. Reg. 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1174") 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.

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 Complainant's counsel.¹

¹ 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.

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 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, duly 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

The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to

COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) 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 (15) 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 of the Asserted 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's 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 accompanying documentation on Complainant's counsel.²

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 Commission.

This bond is to be released in the event (i) 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, (ii) 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 (iii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

² *See* Footnote 1.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 23, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

Lisa M. Kattan, Esq.
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Email: lisa.kattan@bakerbotts.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent Aster Graphics, Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

Respondents:

An An Beauty Limited
Flat/Room 2104 21/F, Mongkok Commercial Centre
16 Argyle Street, Mongkok, Kowloon,
Hong Kong 999077

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Aztech Enterprises Limited
Units 1206, 12/F, Hheuk Nang Center
9 Hillwood Road
Kowloon, Hong Kong 999077

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Billiontree Technology USA Inc.
19945 Harrison Avenue
City of Industry, CA 91789

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Carlos Imaging Supplies, Inc.
PMB 540
17128 Colima Road
Hacienda Heights, CA 91745

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Do It Wiser, LLC
2422 Old Capital Trail
Suite 747
Wilmington, DE 19808

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Eco Imaging Inc.
PMB A839
14252 culver Drive
Irvine, AC 92604

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 3

Ecoolmart Co.
PMB 322
17360 Colima Road
Rowland Heights, CA 91748

Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Greencycle Tech, Inc.
9638 Rush Street, Unit E
South El Monte, CA 91733

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Hongkong Boze Co., Ltd.
Flat/Room A 27/F, Billion Plaza 2,
10 Cheung Yee Street, Lai Chi Kok,
Kowloon, Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

I8 International, Inc.
19961 Harrison Avenue
City of Industry, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Ikong E-Commerce
PMB 429, 385 South Lemon Avenue
Suite E
Walnut, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Intercon International Corp.
PMB 109, 407 West Imperial Highway
Suite H
Brea, CA 92821

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

IPrint Enterprise Limited
Rooms 1318-19, 13/F Hollywood Plaza
610 Nathan Road, Mongkok, Kowloon,
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 4

Mangoket LLC
1641 West Main Street
Suite 222
Alhambra, CA 91801

☒ Other: Service to Be
Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Solong E-Commerce Co., LLC
Flat/Room 19C, Lockhart Center,
301-307 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Smartjet E-Commerce Co., LLC
Flat/Room A 20/F, Kiu Fu Commercial Building,
300 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Super Warehouse Inc.
1160 Yew Avenue
DSS-5179
Blaine, WA 98230

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Zhuhai Xiaohui E-Commerce., Ltd.
Room 502, Factory five, No. 12, Pingdong 3rd Road
Nanping Keji Industrial Park, Xiangzhou District,
Zhuhai, China 519000

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Ecoolsmart Co. cease and desist from conducting any of the following activities in the United States: importing, selling, offering for sale, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of toner cartridges, components thereof, and systems containing same (as defined in Definition (G) below) that infringe one or more of claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”) (collectively, “the Asserted Patents”) 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 Brother Industries, Ltd.; Brother International Corporation (U.S.A.); and Brother Industries (U.S.A.), Inc.
- (C) “Respondent” shall mean Ecoolsmart Co.
- (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 toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the '093 patent; claims 1, 7-11, 15, and 16 of the '460 patent; claims 1-7, and 9 of the '856 patent; claims 1, 4, 5, and 9 of the '456 patent; and claims 1, 3, 5, 7-12, and 18 of the '387 patent. The toner cartridges, components thereof, and systems containing the same that are subject to this Order are as follows: laser toner cartridges designed for use with Brother printers, fax machines, and MFCs (“Multi-Function Centers”). Covered products shall not include articles for which a provision of law or license avoids liability for infringement.

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 terms of the Asserted Patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, 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:

- (A) in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct; or
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States.

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, 2020. 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. The Commission's paper filing requirements in 19 C.F.R. § 210.4(f) are currently waived. 85 Fed. Reg. 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1174") 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.

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 Complainant's counsel.¹

¹ 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.

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 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, duly 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

The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to

COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) 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 (15) 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 of the Asserted 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's 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 accompanying documentation on Complainant's counsel.²

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 Commission.

This bond is to be released in the event (i) 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, (ii) 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 (iii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

² *See* Footnote 1.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 23, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

Lisa M. Kattan, Esq.
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Email: lisa.kattan@bakerbotts.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent Aster Graphics, Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

Respondents:

An An Beauty Limited
Flat/Room 2104 21/F, Mongkok Commercial Centre
16 Argyle Street, Mongkok, Kowloon,
Hong Kong 999077

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Aztech Enterprises Limited
Units 1206, 12/F, Hheuk Nang Center
9 Hillwood Road
Kowloon, Hong Kong 999077

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
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19945 Harrison Avenue
City of Industry, CA 91789

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- ☐ Via Express Delivery
- ☐ Via First Class Mail
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Completed by Complainants

Carlos Imaging Supplies, Inc.
PMB 540
17128 Colima Road
Hacienda Heights, CA 91745

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Do It Wiser, LLC
2422 Old Capital Trail
Suite 747
Wilmington, DE 19808

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Eco Imaging Inc.
PMB A839
14252 culver Drive
Irvine, AC 92604

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 3

Ecoolmart Co.
PMB 322
17360 Colima Road
Rowland Heights, CA 91748

Completed by Complainants

☐ Via Hand Delivery
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☐ Via First Class Mail
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Completed by Complainants

Greencycle Tech, Inc.
9638 Rush Street, Unit E
South El Monte, CA 91733

☐ Via Hand Delivery
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Hongkong Boze Co., Ltd.
Flat/Room A 27/F, Billion Plaza 2,
10 Cheung Yee Street, Lai Chi Kok,
Kowloon, Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

I8 International, Inc.
19961 Harrison Avenue
City of Industry, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Ikong E-Commerce
PMB 429, 385 South Lemon Avenue
Suite E
Walnut, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Intercon International Corp.
PMB 109, 407 West Imperial Highway
Suite H
Brea, CA 92821

☐ Via Hand Delivery
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IPrint Enterprise Limited
Rooms 1318-19, 13/F Hollywood Plaza
610 Nathan Road, Mongkok, Kowloon,
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☐ Via Hand Delivery
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**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 4

Mangoket LLC
1641 West Main Street
Suite 222
Alhambra, CA 91801

☒ Other: Service to Be
Completed by Complainants

☐ Via Hand Delivery
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Solong E-Commerce Co., LLC
Flat/Room 19C, Lockhart Center,
301-307 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
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Smartjet E-Commerce Co., LLC
Flat/Room A 20/F, Kiu Fu Commercial Building,
300 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
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☐ Via First Class Mail
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Super Warehouse Inc.
1160 Yew Avenue
DSS-5179
Blaine, WA 98230

☐ Via Hand Delivery
☐ Via Express Delivery
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☒ Other: Service to Be
Completed by Complainants

Zhuhai Xiaohui E-Commerce., Ltd.
Room 502, Factory five, No. 12, Pingdong 3rd Road
Nanping Keji Industrial Park, Xiangzhou District,
Zhuhai, China 519000

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Do it Wiser, LLC cease and desist from conducting any of the following activities in the United States: importing, selling, offering for sale, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of toner cartridges, components thereof, and systems containing same (as defined in Definition (G) below) that infringe one or more of claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”) (collectively, “the Asserted Patents”) 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 Brother Industries, Ltd.; Brother International Corporation (U.S.A.); and Brother Industries (U.S.A.), Inc.
- (C) “Respondent” shall mean Do it Wiser, LLC.
- (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 toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the ’093 patent; claims 1, 7-11, 15, and 16 of the ’460 patent; claims 1-7, and 9 of the ’856 patent; claims 1, 4, 5, and 9 of the ’456 patent; and claims 1, 3, 5, 7-12, and 18 of the ’387 patent. The toner cartridges, components thereof, and systems containing the same that are subject to this Order are as follows: laser toner cartridges designed for use with Brother printers, fax machines, and MFCs (“Multi-Function Centers”). Covered products shall not include articles for which a provision of law or license avoids liability for infringement.

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 terms of the Asserted Patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, 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:

- (A) in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct; or
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States.

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, 2020. 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. The Commission's paper filing requirements in 19 C.F.R. § 210.4(f) are currently waived. 85 Fed. Reg. 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1174") 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.

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 Complainant's counsel.¹

¹ 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.

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 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, duly 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

The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to

COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) 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 (15) 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 of the Asserted 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's 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 accompanying documentation on Complainant's counsel.²

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 Commission.

This bond is to be released in the event (i) 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, (ii) 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 (iii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

² *See* Footnote 1.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 23, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

Lisa M. Kattan, Esq.
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Email: lisa.kattan@bakerbotts.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent Aster Graphics, Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

Respondents:

An An Beauty Limited
Flat/Room 2104 21/F, Mongkok Commercial Centre
16 Argyle Street, Mongkok, Kowloon,
Hong Kong 999077

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Aztech Enterprises Limited
Units 1206, 12/F, Hheuk Nang Center
9 Hillwood Road
Kowloon, Hong Kong 999077

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Billiontree Technology USA Inc.
19945 Harrison Avenue
City of Industry, CA 91789

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Carlos Imaging Supplies, Inc.
PMB 540
17128 Colima Road
Hacienda Heights, CA 91745

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Do It Wiser, LLC
2422 Old Capital Trail
Suite 747
Wilmington, DE 19808

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Eco Imaging Inc.
PMB A839
14252 culver Drive
Irvine, AC 92604

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 3

Ecoolmart Co.
PMB 322
17360 Colima Road
Rowland Heights, CA 91748

Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Greencycle Tech, Inc.
9638 Rush Street, Unit E
South El Monte, CA 91733

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Hongkong Boze Co., Ltd.
Flat/Room A 27/F, Billion Plaza 2,
10 Cheung Yee Street, Lai Chi Kok,
Kowloon, Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

I8 International, Inc.
19961 Harrison Avenue
City of Industry, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Ikong E-Commerce
PMB 429, 385 South Lemon Avenue
Suite E
Walnut, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Intercon International Corp.
PMB 109, 407 West Imperial Highway
Suite H
Brea, CA 92821

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

IPrint Enterprise Limited
Rooms 1318-19, 13/F Hollywood Plaza
610 Nathan Road, Mongkok, Kowloon,
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 4

Mangoket LLC
1641 West Main Street
Suite 222
Alhambra, CA 91801

☒ Other: Service to Be
Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Solong E-Commerce Co., LLC
Flat/Room 19C, Lockhart Center,
301-307 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Smartjet E-Commerce Co., LLC
Flat/Room A 20/F, Kiu Fu Commercial Building,
300 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Super Warehouse Inc.
1160 Yew Avenue
DSS-5179
Blaine, WA 98230

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Zhuhai Xiaohui E-Commerce., Ltd.
Room 502, Factory five, No. 12, Pingdong 3rd Road
Nanping Keji Industrial Park, Xiangzhou District,
Zhuhai, China 519000

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Carlos Imaging Supplies, Inc. cease and desist from conducting any of the following activities in the United States: importing, selling, offering for sale, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of toner cartridges, components thereof, and systems containing same (as defined in Definition (G) below) that infringe one or more of claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”) (collectively, “the Asserted Patents”) 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 Brother Industries, Ltd.; Brother International Corporation (U.S.A.); and Brother Industries (U.S.A.), Inc.
- (C) “Respondent” shall mean Carlos Imaging Supplies, Inc.
- (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 toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the ’093 patent; claims 1, 7-11, 15, and 16 of the ’460 patent; claims 1-7, and 9 of the ’856 patent; claims 1, 4, 5, and 9 of the ’456 patent; and claims 1, 3, 5, 7-12, and 18 of the ’387 patent. The toner cartridges, components thereof, and systems containing the same that are subject to this Order are as follows: laser toner cartridges designed for use with Brother printers, fax machines, and MFCs (“Multi-Function Centers”). Covered products shall not include articles for which a provision of law or license avoids liability for infringement.

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 terms of the Asserted Patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, 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:

- (A) in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct; or
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States.

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, 2020. 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. The Commission's paper filing requirements in 19 C.F.R. § 210.4(f) are currently waived. 85 Fed. Reg. 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1174") 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.

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 Complainant's counsel.¹

¹ 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.

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 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, duly 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

The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to

COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) 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 (15) 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 of the Asserted 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's 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 accompanying documentation on Complainant's counsel.²

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 Commission.

This bond is to be released in the event (i) 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, (ii) 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 (iii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

² *See* Footnote 1.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 23, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

Lisa M. Kattan, Esq.
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Email: lisa.kattan@bakerbotts.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
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- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent Aster Graphics, Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

- ☐ Via Hand Delivery
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- ☒ Other: Email Notification
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**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

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- ☐ Via First Class Mail
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of Availability for Download

On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

- ☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Email Notification
of Availability for Download

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An An Beauty Limited
Flat/Room 2104 21/F, Mongkok Commercial Centre
16 Argyle Street, Mongkok, Kowloon,
Hong Kong 999077

- ☐ Via Hand Delivery
☐ Via Express Delivery
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Aztech Enterprises Limited
Units 1206, 12/F, Hheuk Nang Center
9 Hillwood Road
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PMB 540
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Hacienda Heights, CA 91745

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☐ Via Express Delivery
☐ Via First Class Mail
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Do It Wiser, LLC
2422 Old Capital Trail
Suite 747
Wilmington, DE 19808

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☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Eco Imaging Inc.
PMB A839
14252 culver Drive
Irvine, AC 92604

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

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PMB 322
17360 Colima Road
Rowland Heights, CA 91748

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South El Monte, CA 91733

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☒ Other: Service to Be
Completed by Complainants

I8 International, Inc.
19961 Harrison Avenue
City of Industry, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Ikong E-Commerce
PMB 429, 385 South Lemon Avenue
Suite E
Walnut, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Intercon International Corp.
PMB 109, 407 West Imperial Highway
Suite H
Brea, CA 92821

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

IPrint Enterprise Limited
Rooms 1318-19, 13/F Hollywood Plaza
610 Nathan Road, Mongkok, Kowloon,
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 4

Mangoket LLC
1641 West Main Street
Suite 222
Alhambra, CA 91801

☒ Other: Service to Be
Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Solong E-Commerce Co., LLC
Flat/Room 19C, Lockhart Center,
301-307 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Smartjet E-Commerce Co., LLC
Flat/Room A 20/F, Kiu Fu Commercial Building,
300 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Super Warehouse Inc.
1160 Yew Avenue
DSS-5179
Blaine, WA 98230

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Zhuhai Xiaohui E-Commerce., Ltd.
Room 502, Factory five, No. 12, Pingdong 3rd Road
Nanping Keji Industrial Park, Xiangzhou District,
Zhuhai, China 519000

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Billiontree Technology USA Inc. cease and desist from conducting any of the following activities in the United States: importing, selling, offering for sale, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of toner cartridges, components thereof, and systems containing same (as defined in Definition (G) below) that infringe one or more of claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”) (collectively, “the Asserted Patents”) 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 Brother Industries, Ltd.; Brother International Corporation (U.S.A.); and Brother Industries (U.S.A.), Inc.
- (C) “Respondent” shall mean Billiontree Technology USA Inc.
- (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 toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the '093 patent; claims 1, 7-11, 15, and 16 of the '460 patent; claims 1-7, and 9 of the '856 patent; claims 1, 4, 5, and 9 of the '456 patent; and claims 1, 3, 5, 7-12, and 18 of the '387 patent. The toner cartridges, components thereof, and systems containing the same that are subject to this Order are as follows: laser toner cartridges designed for use with Brother printers, fax machines, and MFCs (“Multi-Function Centers”). Covered products shall not include articles for which a provision of law or license avoids liability for infringement.

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 terms of the Asserted Patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, 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:

- (A) in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct; or
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States.

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, 2020. 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. The Commission's paper filing requirements in 19 C.F.R. § 210.4(f) are currently waived. 85 Fed. Reg. 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1174") 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.

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 Complainant's counsel.¹

¹ 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.

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 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, duly 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

The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to

COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) 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 (15) 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 of the Asserted 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's 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 accompanying documentation on Complainant's counsel.²

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 Commission.

This bond is to be released in the event (i) 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, (ii) 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 (iii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission, upon service on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

² *See* Footnote 1.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'LRB', is positioned above the printed name and title.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 23, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

Lisa M. Kattan, Esq.
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Email: lisa.kattan@bakerbotts.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent Aster Graphics, Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

Respondents:

An An Beauty Limited
Flat/Room 2104 21/F, Mongkok Commercial Centre
16 Argyle Street, Mongkok, Kowloon,
Hong Kong 999077

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Aztech Enterprises Limited
Units 1206, 12/F, Hheuk Nang Center
9 Hillwood Road
Kowloon, Hong Kong 999077

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Billiontree Technology USA Inc.
19945 Harrison Avenue
City of Industry, CA 91789

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Carlos Imaging Supplies, Inc.
PMB 540
17128 Colima Road
Hacienda Heights, CA 91745

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Do It Wiser, LLC
2422 Old Capital Trail
Suite 747
Wilmington, DE 19808

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Eco Imaging Inc.
PMB A839
14252 culver Drive
Irvine, AC 92604

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 3

Ecoolmart Co.
PMB 322
17360 Colima Road
Rowland Heights, CA 91748

Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Greencycle Tech, Inc.
9638 Rush Street, Unit E
South El Monte, CA 91733

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Hongkong Boze Co., Ltd.
Flat/Room A 27/F, Billion Plaza 2,
10 Cheung Yee Street, Lai Chi Kok,
Kowloon, Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

I8 International, Inc.
19961 Harrison Avenue
City of Industry, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Ikong E-Commerce
PMB 429, 385 South Lemon Avenue
Suite E
Walnut, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Intercon International Corp.
PMB 109, 407 West Imperial Highway
Suite H
Brea, CA 92821

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

IPrint Enterprise Limited
Rooms 1318-19, 13/F Hollywood Plaza
610 Nathan Road, Mongkok, Kowloon,
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 4

Mangoket LLC
1641 West Main Street
Suite 222
Alhambra, CA 91801

☒ Other: Service to Be
Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Solong E-Commerce Co., LLC
Flat/Room 19C, Lockhart Center,
301-307 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Smartjet E-Commerce Co., LLC
Flat/Room A 20/F, Kiu Fu Commercial Building,
300 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Super Warehouse Inc.
1160 Yew Avenue
DSS-5179
Blaine, WA 98230

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Zhuhai Xiaohui E-Commerce., Ltd.
Room 502, Factory five, No. 12, Pingdong 3rd Road
Nanping Keji Industrial Park, Xiangzhou District,
Zhuhai, China 519000

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT AMI Brothers, Inc. cease and desist from conducting any of the following activities in the United States: importing, selling, offering for sale, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of toner cartridges, components thereof, and systems containing same (as defined in Definition (G) below) that infringe one or more of claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”) (collectively, “the Asserted Patents”) 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 Brother Industries, Ltd.; Brother International Corporation (U.S.A.); and Brother Industries (U.S.A.), Inc.
- (C) “Respondent” shall mean AMI Brothers, Inc.
- (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 toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the '093 patent; claims 1, 7-11, 15, and 16 of the '460 patent; claims 1-7, and 9 of the '856 patent; claims 1, 4, 5, and 9 of the '456 patent; and claims 1, 3, 5, 7-12, and 18 of the '387 patent. The toner cartridges, components thereof, and systems containing the same that are subject to this Order are as follows: laser toner cartridges designed for use with Brother printers, fax machines, and MFCs (“Multi-Function Centers”). Covered products shall not include articles for which a provision of law or license avoids liability for infringement.

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 terms of the Asserted Patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, 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:

- (A) in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct; or
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States.

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, 2020. 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. The Commission's paper filing requirements in 19 C.F.R. § 210.4(f) are currently waived. 85 Fed. Reg. 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1174") 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.

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 Complainant's counsel.¹

¹ 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.

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 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, duly 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

The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to

COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) 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 (15) 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 of the Asserted 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's posting of a bond in the amount of 568 percent of entered value for infringing 221/225 Products, 274 percent of entered value for infringing 223/227 Products, 575 percent of entered value for infringing 630/660 Products, and 589 percent of entered value for infringing 730/760/770 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 accompanying documentation on Complainant's counsel.²

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 Commission.

This bond is to be released in the event (i) 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, (ii) 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 (iii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission, upon service

² *See* Footnote 1.

on Respondent of an order issued by the Commission based upon application therefor made by
Respondent to the Commission.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 23, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

Lisa M. Kattan, Esq.
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Email: lisa.kattan@bakerbotts.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent Aster Graphics, Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Email Notification
of Availability for Download

Respondents:

An An Beauty Limited
Flat/Room 2104 21/F, Mongkok Commercial Centre
16 Argyle Street, Mongkok, Kowloon,
Hong Kong 999077

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Aztech Enterprises Limited
Units 1206, 12/F, Hheuk Nang Center
9 Hillwood Road
Kowloon, Hong Kong 999077

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Billiontree Technology USA Inc.
19945 Harrison Avenue
City of Industry, CA 91789

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Carlos Imaging Supplies, Inc.
PMB 540
17128 Colima Road
Hacienda Heights, CA 91745

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Do It Wiser, LLC
2422 Old Capital Trail
Suite 747
Wilmington, DE 19808

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be
Completed by Complainants

Eco Imaging Inc.
PMB A839
14252 culver Drive
Irvine, AC 92604

- ☐ Via Hand Delivery
- ☐ Via Express Delivery
- ☐ Via First Class Mail
- ☒ Other: Service to Be

**CERTAIN TONER CARTRIDGES, COMPONENTS
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Inv. No. 337-TA-1174

Certificate of Service – Page 3

Ecoolmart Co.
PMB 322
17360 Colima Road
Rowland Heights, CA 91748

Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Greencycle Tech, Inc.
9638 Rush Street, Unit E
South El Monte, CA 91733

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
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Hongkong Boze Co., Ltd.
Flat/Room A 27/F, Billion Plaza 2,
10 Cheung Yee Street, Lai Chi Kok,
Kowloon, Hong Kong 999077

☐ Via Hand Delivery
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I8 International, Inc.
19961 Harrison Avenue
City of Industry, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Ikong E-Commerce
PMB 429, 385 South Lemon Avenue
Suite E
Walnut, CA 91789

☐ Via Hand Delivery
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Intercon International Corp.
PMB 109, 407 West Imperial Highway
Suite H
Brea, CA 92821

☐ Via Hand Delivery
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IPrint Enterprise Limited
Rooms 1318-19, 13/F Hollywood Plaza
610 Nathan Road, Mongkok, Kowloon,
Hong Kong 999077

☐ Via Hand Delivery
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☐ Via First Class Mail

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 4

Mangoket LLC
1641 West Main Street
Suite 222
Alhambra, CA 91801

☒ Other: Service to Be
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☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
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Solong E-Commerce Co., LLC
Flat/Room 19C, Lockhart Center,
301-307 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
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Smartjet E-Commerce Co., LLC
Flat/Room A 20/F, Kiu Fu Commercial Building,
300 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Super Warehouse Inc.
1160 Yew Avenue
DSS-5179
Blaine, WA 98230

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Zhuhai Xiaohui E-Commerce., Ltd.
Room 502, Factory five, No. 12, Pingdong 3rd Road
Nanping Keji Industrial Park, Xiangzhou District,
Zhuhai, China 519000

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Aster Graphics, Inc. cease and desist from conducting any of the following activities in the United States: importing, selling, offering for sale, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of toner cartridges, components thereof, and systems containing same (as defined in Definition (G) below) that infringe one or more of claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”) (collectively, “the Asserted Patents”) 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 Brother Industries, Ltd.; Brother International Corporation (U.S.A.); and Brother Industries (U.S.A.), Inc.
- (C) “Respondent” shall mean Aster Graphics, Inc.
- (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 toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the ’093 patent; claims 1, 7-11, 15, and 16 of the ’460 patent; claims 1-7, and 9 of the ’856 patent; claims 1, 4, 5, and 9 of the ’456 patent; and claims 1, 3, 5, 7-12, and 18 of the ’387 patent. The toner cartridges, components thereof, and systems containing the same that are subject to this Order are as follows: laser toner cartridges designed for use with Brother printers, fax machines, and MFCs (“Multi-Function Centers”). Covered products shall not include articles for which a provision of law or license avoids liability for infringement.

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 terms of the Asserted Patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, 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:

- (A) in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct; or
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States.

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, 2020. 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. The Commission's paper filing requirements in 19 C.F.R. § 210.4(f) are currently waived. 85 Fed. Reg. 15798 (March 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1174") 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.

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 Complainant's counsel.¹

¹ 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.

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 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, duly 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

The Secretary shall serve copies of this Order upon each party of record in this investigation that has retained counsel or otherwise provided a point of contact for electronic service and upon CBP. While temporary remote operating procedures are in place in response to

COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service of this Order for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

Respondent is ordered and directed to:

- (A) Serve, within fifteen (15) 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 (15) 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 of the Asserted 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's posting of a bond in the amount of 1463 percent of entered value for infringing 221/225 Products, 336 percent of entered value for infringing 223/227 Products, 623 percent of entered value for infringing 420/450 Products, 886 percent of entered value for infringing 630/660 Products, and 354 percent of entered value for infringing 730/760/770 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 accompanying documentation on Complainant's counsel.²

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 Commission.

This bond is to be released in the event (i) 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, (ii) 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 (iii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the Commission, upon service

² *See* Footnote 1.

on Respondent of an order issued by the Commission based upon application therefor made by Respondent to the Commission.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton
Secretary to the Commission

Issued: November 23, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER, COMMISSION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **November 23, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

Lisa M. Kattan, Esq.
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Email: lisa.kattan@bakerbotts.com

- ☐ Via Hand Delivery
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- ☒ Other: Email Notification
of Availability for Download

On Behalf of Respondent Aster Graphics, Inc.:

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1150 18th Street NW, Suite 775
Washington, DC 20036
Email: bmurphy@fostermurphy.com

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**On Behalf of Respondents AMI Brothers, Inc. and Globest
Trading Inc.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Email: ghnath@mayerbrown.com

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On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

2001 K Street, NW, Suite 400
Washington, DC 20006
Email: seadkins@mcguirewoods.com

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PMB A839
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☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Super Warehouse Inc.
1160 Yew Avenue
DSS-5179
Blaine, WA 98230

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Zhuhai Xiaohui E-Commerce., Ltd.
Room 502, Factory five, No. 12, Pingdong 3rd Road
Nanping Keji Industrial Park, Xiangzhou District,
Zhuhai, China 519000

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

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

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

COMMISSION OPINION

The Commission has determined that there has been a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“section 337”), with respect to claims 1-7 and 9 of U.S. Patent No. 9,568,856 (“the ’856 patent”); claims 1, 7-11, 15, and 16 of U.S. Patent No. 9,575,460 (“the ’460 patent”); claims 1, 4, 5, and 9 of U.S. Patent No. 9,632,456 (“the ’456 patent”); claims 1-5, 10, and 12-15 of U.S. Patent No. 9,785,093 (“the ’093 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. Patent No. 9,846,387 (“the ’387 patent”) by 21 defaulting respondents and one participating respondent. The Commission has determined that the appropriate form of relief is (1) a general exclusion order (“GEO”) prohibiting the unlicensed importation of certain toner cartridges, components thereof, and systems containing same that infringe the asserted claims and (2) cease and desist orders (“CDOs”) directed to 20 respondents (listed below). The Commission finds that the public interest factors do not preclude the issuance of the remedial orders. Finally, the Commission has determined to set the bond during the period of Presidential review at varying percentages of the entered value of the subject articles as discussed herein. This opinion sets forth the Commission’s reasoning in support of its determinations as to remedy, bonding, and the public interest.

I. BACKGROUND

A. Procedural History

On September 23, 2019, the Commission instituted this investigation based on a complaint filed by Brother Industries, Ltd. of Nagoya Japan; Brother International Corp. (U.S.A.) of Bridgewater, New Jersey; and Brother Industries (U.S.A.), Inc. of Bartlett, Tennessee (collectively, “Brother”). 84 Fed. Reg. 49762-63 (Sept. 23, 2019). The complaint alleged violations of section 337 based on the importation into the United States, the sale for importation, or the sale within the United States after importation of certain toner cartridges, components thereof, and systems containing same by reason of infringement of claims 1-7 and 9 of the ’856 patent; claims 1, 7-11, 15, and 16 of the ’460 patent; claims 1, 4, 5, and 9 of the ’456 patent; claims 1-5, 10, and 12-15 of the ’093 patent; and claims 1, 3, 5, 7-12, and 18 of the ’387 patent. *Id.* The Commission’s notice of investigation named the following 32 respondents: AMI Brothers, Inc. of San Bruno, California (“AMI”); An An Beauty Limited of Kowloon, Hong Kong (“An An Beauty”); Aster Graphics, Inc. of Riverside, California (“Aster”); Aztech Enterprises Limited of Kowloon, Hong Kong (“Aztech”); Billiontree Technology USA Inc. of City of Industry, California (“Billiontree”); Carlos Imaging Supplies, Inc. of Hacienda Heights, California (“Carlos”); Cartridge Evolution, Inc. of Brooklyn, New York (“Cartridge Evolution”); Do it Wiser, LLC of Wilmington, Delaware (“Do it Wiser”); Eco Imaging Inc. of Irvine, California (“Eco Imaging”); Ecoolsmart Co. of Rowland Heights, California (“Ecoolsmart”); EPrinter Solution LLC of Pomona, California (“EPS”); E-Z Ink Inc. of Brooklyn, New York (“E-Z Ink”); Globest Trading Inc. of Ontario, California (“Globest”); Greencycle Tech, Inc. of South El Monte, California (“Greencycle”); Hongkong Boze Co., Ltd. of Kowloon, Hong Kong (“Hongkong Boze”); I8 International, Inc. of City of Industry, California (“I8”); IFree E-Commerce Co. of Kowloon, Hong Kong (“IFree”); Ikong E-Commerce of Walnut, California

(“Ikong”); Intercon International Corp. of Brea, California (“Intercon”); IPrint Enterprise Limited of Kowloon, Hong Kong (“IPrint”); LD Products, Inc. of Long Beach, California (“LD Products”); Linkyo Corp. of La Puente, California (“Linkyo”); Mangoket LLC of Alhambra, California (“Mangoket”); New Era Image LLC of Corona, California (“New Era”); OW Supplies Corp. of Corona, California (“OW Supplies”); Solong E-Commerce Co., LLC of Wan Chai, Hong Kong (“Solong”); Smartjet E-Commerce Co., LLC of Wan Chai, Hong Kong (“Smartjet”); Super Warehouse Inc. of Blaine, Washington (“Super Warehouse”); Theresa Meng of Brooklyn, New York (“Ms. Meng”); Triple Best LLC of San Diego, California (“Triple Best”); V4ink, Inc. of Diamond Bar, California (“V4ink”); and Zhuhai Xiaohui E-Commerce Co., Ltd. of Zhuhai, China (“Xiaohui”). *Id.* at 49762-63. The notice of investigation also names the Office of Unfair Import Investigations (“OUII”) as a party. *Id.* at 49763.

Of the 32 respondents, only one, Aster, is participating at this stage. Aster, however, did not oppose Brother’s summary determination motion of a Section 337 violation as to the accused products, even though Aster’s products are subject to the motion.¹ EPS and IFree were terminated from the investigation based upon withdrawal of the complaint against them.² Cartridge Evolution, E-Z Ink, Linkyo, New Era, OW Supplies, Ms. Meng, Triple Best, and V4ink were terminated from the investigation based upon entry of consent orders.³ The

¹ See Joint Stipulation of Brother and Aster for Resolution as to Aster in the Investigation (Mar. 4, 2020).

² See Order No. 32 (Jan. 28, 2020), *unreviewed by* Comm’n Notice (Feb. 25, 2020).

³ See Order No. 36 (Mar. 12, 2020), *unreviewed by* Comm’n Notice (Mar. 31, 2020); Order No. 38 (Mar. 12, 2020), *unreviewed by* Comm’n Notice (Mar. 31, 2020); Order No. 37 (Mar. 12, 2020), *unreviewed by* Comm’n Notice (Mar. 31, 2020); Order No. 10 (Oct. 18, 2019), *unreviewed by* Comm’n Notice (Nov. 6, 2019); Order No. 17 (Nov. 21, 2019), *unreviewed by* Comm’n Notice (Dec. 18, 2019); Order No. 28 (Dec. 30, 2019), *unreviewed by* Comm’n Notice (Jan. 29, 2020); Order No. 18 (Nov. 27, 2019), *unreviewed by* Comm’n Notice (Dec. 18, 2019); Order No. 33 (Feb. 3, 2020), *unreviewed by* Comm’n Notice (Mar. 4, 2020).

following 21 respondents defaulted: AMI, Globest, An An Beauty, Aztech, Xiaohui, Ecoolsmart, Greencycle, Intercon, Do it Wiser, I8, Solong, Billiontree, Carlos Imaging, Eco Imaging, Hongkong Boze, Ikong, IPrint, Mangoket, Smartjet, Super Warehouse, and LD Products (collectively, “Defaulting Respondents”).⁴

On March 12, 2020, Brother filed a motion for summary determination of violation of section 337 by Aster and the Defaulting Respondents and for a recommendation that the Commission issue a general exclusion order and cease and desist orders.⁵ On March 23, 2020, OUII filed a response in support of Brother’s motion.⁶ No respondent filed a response to Brother’s motion.

On July 23, 2020, the presiding administrative law judge (“ALJ”) issued an initial determination (“ID”) (Order No. 40), granting Brother’s motion for summary determination of a violation of section 337 by Aster and the Defaulting Respondents. The ID found that the Commission has subject matter jurisdiction over the investigation. ID at 34. The ID further found that none of the respondents contest the Commission’s personal jurisdiction over them or *in rem* jurisdiction as to the accused products. ID at 34-35. The ID found that Brother: (1) established the importation requirement as to Aster and the Defaulting Respondents, ID at 36-79; (2) demonstrated that the accused products practice the asserted claims, *id.* at 118-133;

⁴ See Order No. 35 (Mar. 5, 2020), *unreviewed by* Comm’n Notice (Mar. 19, 2020); Order No. 31 (Jan. 22, 2020), *unreviewed by* Comm’n Notice (Feb. 21, 2020); Order No. 26 (Dec. 20, 2019), *unreviewed by* Comm’n Notice (Jan 16, 2020); Order No. 25 (Dec. 18, 2019), *unreviewed by* Comm’n Notice (Jan. 16, 2020); Order No. 24 (Dec. 18, 2019), *unreviewed by* Comm’n Notice (Jan. 16, 2020); Order No. 8 (Oct. 15, 2019), *unreviewed by* Comm’n Notice (Nov. 7, 2019).

⁵ See Complainants’ Motion for Summary Determination of Violation and for Recommended Determination on Remedy and Bonding (“Brother Motion”).

⁶ See Commission Investigative Staff’s Response to Brother’s Motion for Summary Determination of Violation (“OUII Response”).

(3) demonstrated that the domestic industry (“DI”) products practice at least one claim of each asserted patent; and (4) that a DI exists in the United States, *id.* at 84-118. The ALJ’s Recommended Determination (“RD”) on remedy and bonding recommended issuance of a GEO (or, in the alternative, a limited exclusion order (“LEO”) directed to Aster and each of the Defaulting Respondents). *Id.* at 134-44. The RD further recommended issuing CDOs directed to Aster and each defaulting respondent that has domestic operations. *Id.* at 144-46. The RD also recommended setting different bond rates for entry of the different products covered by the GEO during the period of Presidential review, based on stipulations between Brother and certain respondents. *Id.* at 146-48 (recommended bond rate table at 147 of the ID). No one petitioned for review of the ID.

On September 8, 2020, the Commission determined not to review the ID and requested written submissions on remedy, the public interest, and bonding. 85 Fed. Reg. 56628-31 (Sept. 14, 2020).

On August 24, 2020, Aster filed a public interest statement in response to the Commission’s notice soliciting public interest comments pursuant to 19 C.F.R. § 210.50(a)(4)(i). In its submission, Aster argued that any Commission remedial orders issued in this investigation should not cover its new products pursuant to its stipulation with Brother.⁷ On August 26, 2020, Brother filed a response.⁸ The Commission rejected Aster’s August 24, 2020 public interest submission as improper under 19 C.F.R. § 210.50(a)(4)(i). *Id.* at 56630. The Commission noted that while 19 C.F.R. § 210.50(a)(4)(i) provides that parties may file information with the Commission relating to the public interest, Aster’s submission concerned the scope of the

⁷ See Respondent Aster Graphics, Inc.’s Statement of Public Interest.

⁸ See Complainants’ Motion to Strike Aster Graphics, Inc.’s Statement on the Public Interest for Failure to Comply with Commission Rule 210.15 Or, in the Alternative, for Leave to Respond.

remedy and thus did not fall within the ambit of the public interest submissions provided for under 19 C.F.R. § 210.50(a)(4)(i). *Id.* The Commission stated that “Aster will have an opportunity to raise its arguments regarding the scope of any remedial orders in a remedy submission before the Commission in response to the instant notice, which invites parties to file submissions addressing remedy, bonding and the public interest as noted below.” *Id.*

On September 22, 2020, Brother, Aster, and OUII filed initial submissions in response to the Commission’s request.⁹ On September 29, 2020, the parties filed reply submissions.¹⁰

B. The Asserted Patents

The technology at issue is laser toner cartridges designed for use with Brother printers, fax machines, and Multi-Function Centers (“MFCs”).¹¹ Printers, fax machines, and MFCs use toner cartridges to print images on paper or other such materials. *ID* at 17. Toner is transferred from the toner cartridge to paper through a system of electrically charged components. *Id.* A toner cartridge generally includes a toner hopper, an agitator, a developing chamber, a supply roller, and a developing roller. *Id.* at 18. Toner is stored in the toner hopper and moved to the supply roller when the agitator rotates. *Id.* The supply roller and the developing roller include electrodes that charge the toner with a positive electrostatic charge. *Id.* The charged toner is

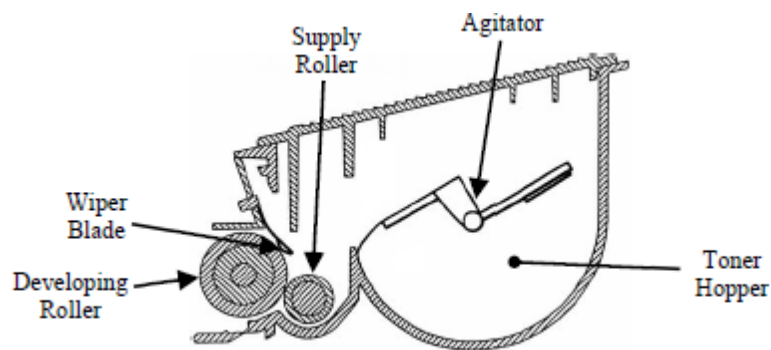
⁹ See Complainants’ Submission on Remedy, the Public Interest, and Bonding (“Brother Sub.”); Respondent Aster Graphics, Inc.’s Submission on Remedy, the Public Interest and Bonding (“Aster Sub.”); Response of the Office of Unfair Import Investigations to the Commission’s Request for Written Submissions Regarding Remedy, the Public Interest, and Bonding (“OUII Sub.”).

¹⁰ See Respondent Aster Graphics, Inc.’s Reply to the Submission of the Office of Unfair Import Investigations and Complainants on Remedy, the Public Interest and Bonding (“Aster Rep.”); Reply of the Office of Unfair Import Investigations to the Private Parties’ Written Submissions Regarding Remedy, the Public Interest, and Bonding (“OUII Rep.”); Complainants’ Reply Submission on Remedy, the Public Interest, and Bonding (“Brother Rep.”). The Chair granted Brother’s motion for leave to file its reply one day late. Brother filed on time but inadvertently omitted to include the certificate of service. Brother corrected the omission the next day.

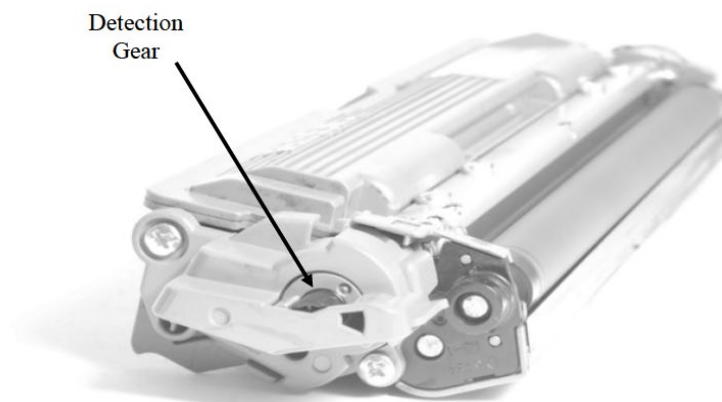
¹¹ MFCs are printer/copier/scanner/fax combinations.

deposited in the desired pattern on a photosensitive drum, where it is then transferred onto paper.

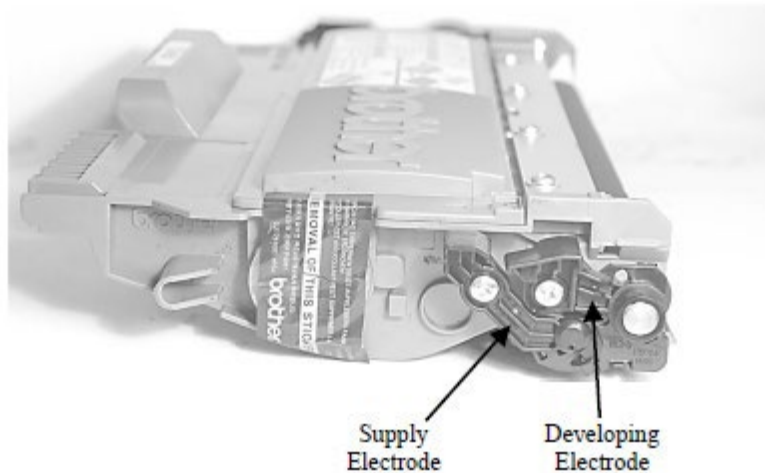
Id.



The Asserted Patents are directed to toner cartridges with certain features, including a detection gear (shown below), a supply roller electrode, and a developing roller electrode. *Id.* at



20. The asserted claims of the '093, '460, and '387 patents are directed to various aspects of a detection gear, while the asserted claims of the '456 and '856 patents are directed to various aspects of the supply roller electrode and developing roller electrode (shown below). *Id.*



The '093 patent, entitled “Developing Cartridge Including Developing Roller Having Developing Roller Shaft,” issued on October 10, 2019. The patent generally relates to a developing cartridge that is reduced in size and can be prevented from being damaged. '093 patent, col. 1, ll. 50-52. Brother asserts claims 1-5, 10, and 12-15.

The '460 patent entitled “Developer Cartridge Having Developing Roller and Electrode,” issued on February 21, 2017. The patent generally relates to a developer cartridge “whose information can be detected with a simpler configuration.” '460 patent, col. 1, ll. 51-53. Brother asserts claims 1, 7-11, 15, and 16.

The '387 patent entitled “Developing Cartridge Having Coupling and Developing Roller,” issued on December 19, 2017. The patent generally relates to a smaller developing cartridge that has a cartridge frame, a driving unit, and an electric-power supplying unit. '387 patent, col. 6, ll. 30-35. Brother asserts claims 1, 3, 5, 7-12, and 18.

The '456 patent entitled “Developing Cartridge,” issued on April 25, 2017. The patent generally relates to a thin developing cartridge that provides individual electrodes to a developing roller and a supply roller. '456 patent, col. 2, ll.13-15. Brother asserts claims 1-7 and 9.

The '856 patent entitled “Developing Cartridge,” issued on February 14, 2017. The patent generally relates to a thin developing cartridge that provides individual electrodes to a developing roller and a supply roller. '856 patent col. 2, ll. 13-15. Brother asserts claims 1, 4, 5, and 9.

C. Products at Issue

1. The Domestic Industry Products

According to Brother, it offers five lines of toner cartridges for sale in the United States that utilize the technology of the asserted patents: the “DCL,” “ECL,” “BLL,” “DLL,” and “ELL” lines (collectively the “Covered Cartridges”). *Id.* at 21 (citing Cummins Decl. ¶¶ 81-106). The ALJ observed that the toner cartridges in Brother’s DCL line can be identified by model numbers TN-221BK, TN-221C, TN-221M, TN- 221Y, TN-225C, TN-225M, and TN-225Y (collectively, the “Covered 221/225 Cartridges”). *Id.* The toner cartridges in Brother’s ECL line can be identified by model numbers TN-223BK, TN-223C, TN-223M, TN-223Y, TN-227BK, TN-227C, TN-227M, TN-227Y (collectively, the “Covered 223/227 Cartridges”). *Id.* The toner cartridges in Brother’s BLL line can be identified by model numbers TN-420 and TN-450 (collectively, the “Covered 420/450 Cartridges”). *Id.* The toner cartridges in Brother’s DLL line can be identified by model numbers TN-630 and TN-660 (collectively, the “Covered 630/660 Cartridges”). *Id.* Finally, toner cartridges in Brother’s ELL line can be identified by model numbers TN-730, TN-760, and TN-770 (collectively, the “Covered 730/760/770 Cartridges”). *Id.* The ALJ noted that “[w]ithin each product line, Brother’s toner cartridges are identical to each other in all respects relevant to this investigation.” *Id.* at 22. The ALJ further noted that “[t]he primary difference between the toner cartridges in the DCL and ECL lines is that the model numbers with ‘BK,’ ‘C,’ ‘M,’ and ‘Y’ suffixes hold black, cyan, magenta, and yellow toner, respectively, and the toner cartridges with higher model numbers (*e.g.*, TN-225C)

are filled with more toner than those with lower model numbers (*e.g.*, TN-221C)” and “[t]he toner cartridges with higher model numbers in the BLL, DLL, and ELL lines also are filled with more toner than those with lower model numbers,” but that “all model numbers within the BLL, DLL, and ELL lines are filled with black toner.” Brother’s DCL, ECL, BLL, DLL, and ELL product lines also include compatible printers, fax machines, and MFCs with corresponding model numbers (“Related Products”). *Id.*

2. The Infringing Products

The infringing products are toner cartridges designed to be compatible with Brother’s printers, fax machines, and MFCs in the DCL, ECL, BLL, DLL, and ECL product lines. The Commission found that the Accused 221/225 and 223/225 Cartridges infringe at least claims 1-5, 10, and 12-15 of the ’093 patent; claims 1, 7-11, 15, and 16 of the ’460 patent; and claims 1, 3, 5, 7-12, and 18 of the ’387 patent. *Id.* at 123-26. The Commission found that the Accused 420/450 and 630/660 Cartridges infringe at least claims 1-7 and 9 of the ’456 patent; and claims 1, 4, 5, and 9 of the ’856 patent. *Id.* at 126-31. The Commission found that the Accused 730/760/770 Cartridges infringe at least claims 1-7 and 9 of the ’456 patent; claims 1, 4, 5, and 9 of the ’856 patent; and claims 1, 3, 5, 7-12, and 18 of the ’387 patent. *Id.* at 131-33

The Commission found that the TN-225 model is representative of the TN-221 model and that the TN-227 model is representative of the TN-223 model. Based on this, Brother’s expert, Jarrett Gayne, identified the Accused Group 1 Products by TN-225 and TN-227 compatible brands, as shown below:

Accused Group 1 Products		
Respondent(s)	Brand(s)	
	TN-225 Compatible	TN-227 Compatible
AMI	Arthur Imaging	Arthur Imaging
Cartridge Evolution	E-Z Ink	E-Z Ink
Do It Wiser	Do It Wiser	-
Eco Imaging	Cool Toner	Cool Toner
Ecoolmart	Hi-Vision Hi-Yields	-
E-Z Ink	E-Z Ink	E-Z Ink
Globest	InkeSale	InkeSale
Greencycle	Greencycle	Greencycle
I8 International	Ink4work	-
Ikong / Solong E-Commerce	IKONG	-
Intercon	Arcon	Arcon
IPrint	Toner Bank	-
LD Products	LD Products / SpeedyInks	-
Linkyo	LINKYO	-
Smartjet	MIROO	-
Super Warehouse	Inktoneram	-
V4Ink	v4ink	v4ink
Xiaohui E- Commerce	JARBO	-

ID at 25-26. Similarly, the Commission found that the TN-450 model is representative of the TN-420 model, the TN-660 model is representative of the TN-630 model, and the TN-760 model is representative of the TN-730 and TN-770 models. Based on this, Brother's expert, Dr. Grune, identified the Accused Group 2 Products by TN-450, TN-660, and TN-760 compatible brands, as shown below:

Accused Group 2 Products			
Respondent(s)	Brand(s)		
	TN-450 Compatible	TN-660 Compatible	TN-760 Compatible
An An Beauty	CMYBabee	CMYBabee	CMYBabee
AMI	-	Arthur Imaging	Arthur Imaging
Aztech	Aztech	Aztech	Aztech
Billiontree	Toner Kingdom	Toner Kingdom	-
Carlos Imaging	-	-	Green Toner Supply
Do It Wiser	Do It Wiser	Do It Wiser	Do It Wiser
Eco Imaging	Cool Toner	Cool Toner	Cool Toner
Ecoolmart	Hi-Vision Hi-Yields	Hi-Vision Hi-Yields	Hi-Vision Hi-Yields
E-Z Ink	EZInk	EZInk	EZInk
Globest	InkeSale	InkeSale	InkeSale
Greencycle	Greencycle	Greencycle	Greencycle
Honkong Boze	Greensky	Greensky	Greensky
I8 International	Ink4work	Ink4work	Ink4work
Ikong and Solong E-Commerce	IKONG	IKONG	IKONG
Intercon	Arcon	Arcon	Arcon
IPrint	-	Toner Bank	Toner Bank
LD Products	LD Products and Speedy Inks	LD Products and Speedy Inks	LD Products
Linkyo	LINKYO	LINKYO	LINKYO
Mangoket	EPS	EPS	-
Smartjet	MIROO	-	-
Super Warehouse	Inktoneram	Inktoneram	Inktoneram
V4Ink	V4Ink	V4Ink	V4Ink
Xiaohui E- Commerce	JARBO	JARBO	JARBO

ID at 27-28. Brother's expert, Jarrett Gayne, grouped TN-225, TN-227, and TN-760 compatible brands into Accused Group 3 Products as shown below:

Accused Group 3 Products			
Respondent(s)	Brand(s)		
	TN-225 Compatible	TN-227 Compatible	TN-760 Compatible
AMI	Arthur Imaging	Arthur Imaging	Arthur Imaging
An An Beauty	-	-	CMYBabee
Aztech	-	-	Aztech
Carlos Imaging	-	-	Green Toner Supply
Cartridge Evolution	E-Z Ink	E-Z Ink	E-Z Ink
Do It Wiser	Do It Wiser	-	Do It Wiser
Eco Imaging	Cool Toner	Cool Toner	Cool Toner
Ecoolmart	Hi-Vision Hi-Yields	-	Hi-Vision Hi-Yields
E-Z Ink	E-Z Ink	E-Z Ink	E-Z Ink
Globest	InkeSale	InkeSale	InkeSale
Greencycle	Greencycle	Greencycle	Greencycle
I8 International	Ink4work	-	Ink4work
Ikong and Solong E-Commerce	IKONG	-	IKONG
Intercon	Arcon	Arcon	Arcon
IPrint	Toner Bank	-	Toner Bank
LD Products	LD Products / SpeedyInks	-	LD Products / SpeedyInks
Linkyo	LINKYO	-	LINKYO
Smartjet	MIROO	-	-
Super Warehouse	Inktoneram	-	Inktoneram
V4Ink	v4ink	v4ink	v4Ink
Xiaohui E-Commerce	JARBO	-	JARBO

The evidence supporting the Commission’s infringement findings is set forth in the ID at 118-33.

II. REMEDY

In section 337 proceedings, the Commission has “broad discretion in selecting the form, scope, and extent of the remedy.” *See Viscofan, S.A. v. United States Int ’l Trade Comm ’n*, 787 F.2d 544, 548 (Fed. Cir. 1986). Where a violation is found, the Commission generally issues a limited exclusion order directed to products imported by persons found in violation of the statute. In certain circumstances, however, the Commission may issue a GEO directed to all infringing products. *See* 19 U.S.C. § 1337(d)(2). In conjunction with (or in lieu of) an exclusion order, the

Commission may also issue orders directing persons found in violation of section 337 “to cease and desist from engaging in the unfair methods or acts involved.” 19 U.S.C. § 1337(f).

A. General Exclusion Order

Under section 337(d)(2), the Commission may issue a GEO barring the entry of infringing goods, regardless of the source, if the Commission determines that either of the following requirements is met:

(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); *Certain Cigarettes and Packaging Thereof*, Inv. No. 337-TA-643, Comm’n Op. at 24 (Oct. 1, 2009). In evaluating 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 as respondents who have defaulted or been terminated from the investigation. *Certain Elec. Paper Towel Dispensing Devices and Components Thereof* (“*Towel Dispensers*”), Inv. No. 337-TA-718, Comm’n Op. at 16 (Jan. 20, 2012).

The ALJ recommended that the Commission issue a GEO under both 19 U.S.C. §§ 1337(d)(2)(A) and (B). RD at 135-43. According to the ALJ, “[t]he undisputed record in this investigation closely tracks the facts of prior Commission investigations into the same industry” in which the Commission issued GEOs. *Id.*; see, e.g., *Certain Toner Cartridges, and Components Thereof* (“*Toner Cartridges IV*”), Inv. No. 337-TA-918, Comm’n Op. at 6 (Oct. 1, 2015).

The RD found that the criteria for obtaining a GEO under section 337(d)(2)(A) are satisfied. The RD stated that “[a]s in prior investigations in this industry, such as *Toner*

exclusion orders directed to respondents Aster, An An Beauty, AMI, Aztech, Billiontree, Carlos Imaging, Do It Wiser, Eco Imaging, Ecoosmart, Globest, Greencycle, Hongkong Boze, I8, Ilong, Intercon, IPrint, LD Products, Mangoket, Smartjet, Solong, Super Warehouse, and Xiaohui.” *Id.* at 144. According to the RD, “[t]he undisputed evidence supports a determination that Respondents have violated section 337, so the condition precedent for limited exclusion orders has been satisfied.” *Id.*

The Commission agrees with the ALJ that the requirements of section 337(d)(2) are met (as explained below), warranting the issuance of a GEO in this investigation. Accordingly, the Commission has determined to issue a GEO prohibiting the unlicensed importation from any source of certain toner cartridges, components thereof, and systems containing same that infringe one or more of the asserted claims.

1. A GEO Is Necessary to Prevent Circumvention of a Limited Exclusion Order

Under section 337(d)(2)(A), the Commission considers whether “conditions are ripe for circumvention of a limited exclusion order.” *Towel Dispensers*, Comm’n Op. at 16. In determining whether conditions are ripe for circumvention, the Commission has considered whether it is difficult to identify sellers or manufacturers, whether previous attempts to address infringement have been unsuccessful, and whether infringing operations could be easily replicated. *See, e.g., Toner Cartridges IV*, Comm’n Op. at 6; *Certain Pocket Lighters*, 337-TA-1142, ID at 40-43 (Feb. 12, 2020). We agree with the ALJ that “based on the record evidence of the past and present business practices of the Respondents that a limited exclusion order would be easily circumvented” and therefore that a GEO is necessary. RD at 139.

Specifically, as the ALJ found, the evidence shows that foreign aftermarket toner cartridge manufacturers, such as Aster’s parent company, have the capacity to replicate their

operations to appear as a new business within a few months. ID at 136-37. The ALJ further found that the parent company of Aster was set up by a management company that entered into a consent order stipulation in investigation number 337-TA-731 and was mass producing infringing toner cartridges within a month. ID at 136; *see also Certain Toner Cartridges and Components Thereof*, Inv. No. 337-TA-829, Order No. 25, ID at 120 (Feb. 28, 2013) (“*Toner Cartridges*”). The ALJ concluded that this shows that the same scenario involving toner cartridges could repeat itself if the Commission does not issue a GEO. RD at 136-37. The ALJ surmised that “[a]s in prior investigations in this industry, such as *Toner Cartridges IV*, Inv. No. 337-TA-918, Comm’n Op. at 7, several of the Respondents here sell Accused Products under multiple names on Amazon.com” and that “[i]f limited exclusion orders were directed to the entities named as Respondents in this investigation, it is likely that the same entities would continue online sales and importation using different names.” RD at 137 (citing Ex. 5 at ¶¶ 3.34, 3.39, 3.53, 3.62, 3.69, 3.78, 3.148; Exs. 5-36, 5-41, 5-66, 5-77, 5-87, 5-99, 5-186 (examples of Amazon storefronts of respondents); Globest Import. Stip. at ¶¶ 6, 7 (Globest admission of importation through Amazon.com)). This evidence is undisputed.

2. A GEO Is Warranted Based on a Pattern of Violation and Difficulty Identifying Sources of Infringing Products

Section 337(d)(2)(B) permits the issuance of a general exclusion order where there is a pattern of violation of section 337 and it is difficult to identify the source of the infringing goods. As the ALJ found, Brother “established by substantial, reliable, and probative evidence a pattern of violation of section 337 by sources that are difficult to identify.” RD at 143. The evidence shows that there are numerous suppliers and distributors of infringing toner cartridges in addition to the Respondents, including, for example, numerous “reseller” customers that distribute

infringing toner cartridges to potentially hundreds of customers in the United States. RD at 140-41. For example, “[n]on-party [[

]] RD at 141 (citing Ex. 59 ([[]]), at 1, 3, 4, 6). “Print-Rite, another non-party supplier, identifies nineteen customers of Accused Products in the United States, including Respondents Do It Wiser, LD Products, Linkyo, and V4ink” and “Aster acknowledges that it supplies Accused Products to at least eight of the Defaulting Respondents—An An Beauty, Aztech, Eco Imaging, Hongkong Boze, I8, Intercon, IPrint, and Mangoket.” *Id.* (citing Ex. 57 at ¶ 6 (Jan. 17, 2020); Ex. 38, Response of Aster Graphics, Inc. to Complaint and Notice of Investigation at ¶ 3.26 (Oct. 18, 2019)). We agree with the RD’s conclusion that “[t]his multiplicity of suppliers and distributors of infringing toner cartridges qualitatively demonstrates a widespread pattern of violation.” RD at 141.

In addition, the evidence shows that the sources of infringing products are difficult to identify. RD at 141. As the ALJ found, Aster provides private labelling and custom packaging to its customers, which, while a legitimate practice, obscures the identity of the original manufacturer. *Id.* The evidence further shows that “respondents An An Beauty, Aztech, Billiontree, Eco Imaging, Globest, Hongkong Boze, I8, IPrint, and Super Warehouse each package their Accused Products in generic boxes marked only as ‘toner,’ ‘toner cartridge,’ ‘premium toner cartridge,’ ‘laser toner cartridge,’ or ‘laser printer toner cartridge,’ omitting any identifiable branding tying their products to their origins.” *Id.* at 141-42. The ALJ further found that the “channels of commerce Respondents use also help conceal the identity of infringers,” as shown by their use of popular e-commerce sites like Amazon.com, eBay.com, and Alibaba.com. *Id.* at 142. The record shows that Respondents AMI, Do It Wiser, Eco Imaging, Ecoolsmart,

Globest, Greencycle, Hongkong Boze, I8, Ikong, Intercon, IPrint, Mangoket, Solong, Smartjet, SuperWarehouse, and Xiaohui all shipped Accused Products through an Amazon fulfillment center, with only the address of the fulfillment center appearing on the shipping materials. *Id.* Nothing in the record contradicts any of this evidence. The record evidence thus establishes that issuance of a GEO is warranted.

B. Cease and Desist Orders

In conjunction with (or in lieu of) an exclusion order, the Commission may also issue orders directing persons found in violation of section 337 “to cease and desist from engaging in the unfair methods or acts involved.” 19 U.S.C. § 1337(f). The Commission generally issues a CDO when the evidence shows that the respondent maintains “commercially significant” inventory of imported infringing products for that respondent in the United States or has significant domestic operations that could undercut the remedy provided by an exclusion order. *See, e.g., Certain Elec. Skin Care Devices, Brushes & Chargers Therefor, & Kits Containing the Same*, Inv. No. 337-TA-959, Comm’n Op., 2017 WL 8683854, *16 (Feb. 13, 2017).

The RD recommended that the Commission grant Brother’s request to issue cease and desist orders against respondents with addresses or operations based in the United States, namely Aster, AMI, Billiontree, Carlos Imaging, Do It Wiser, Eco Imaging, Ecoolsmart, Globest, Greencycle, Hongkong Boze, I8, Ikong, Intercon, IPrint, LD Products, Mangoket, Smartjet, Solong, Super Warehouse, and Xiaohui. RD at 144. The RD noted that the record shows that Aster maintains commercially significant inventory in the United States. RD at 145 (citing Aster Stipulation at Ex. A, shown below).

Accused Aster Product	Domestic Inventory
221/225	[[]]
223/227	[[]]
420/450	[[]]
630/660	[[]]
730/760/770	[[]]

The RD stated that “Brother adduced substantial, undisputed evidence” that “respondents AMI, Billiontree, Carlos Imaging, Do It Wiser, Eco Imaging, Ecoolsmart, Globest, Greencycle, I8, Ikong, Intercon, IPrint, LD Products, Mangoket, and Super Warehouse “each operates from addresses in the United States.” *Id.* Because they have all defaulted, “the commercial significance of their inventories may be inferred, and a cease and desist order is appropriate.” *Id.* (citing *Certain Arrowheads with Deploying Blades & Components Thereof & Packaging Therefor*, Inv. No. 337-TA-977, Comm’n Op. at 18 (Apr. 6, 2017)).

Moreover, Brother adduced substantial, undisputed evidence that U.S. based respondents AMI, Do It Wiser, Eco Imaging, Ecoolsmart, Globest, Greencycle, I8, Ikong, Inercon, IPrint, Mangoket, and Super Warehouse as well as foreign respondents Hongkong Boze, Solong, Smartjet, and Xiaohui “each fulfills orders through Amazon.com fulfillment centers in the United States” and that the use of these U.S. fulfillment centers “allows an inference of commercially significant domestic inventory.” *Id.* at 145-46 (citing *Certain Hand Dryers & Housing for Hand Dryers*, Inv. No. 337-TA-1015, Comm’n Op. at 11 (Oct. 30, 2017)) (“evidence that infringing . . . products sold on Amazon.com are fulfilled from an Amazon.com facility in Kentucky . . . supports the inference that [foreign defaulting respondents] maintain a commercially significant inventory of infringing articles in the United States” and that issuance of a cease and desist order is appropriate))). Brother does not request CDOs against foreign respondents An An Beauty and Aztech. Brother Motion at 197-98; Brother Sub. at 17-20. The

Commission agrees with the ALJ that cease and desist orders should issue as to the 20 respondents identified above for the reasons provided in the RD.^{12 13}

¹² In Commissioner Schmidtlein's view, Brother's request for CDOs against defaulting respondents LD Products, Billiontree, Carlos Imaging, Do It Wiser, Eco Imaging, Ecoolmart, Hongkong Boze, I8, Ikong, Intercon, IPrint, Mangoket, Smartjet, Solong, Super Warehouse, and Xiaohui is governed by section 337(g)(1), rather than section 337(f)(1). Section 337(g)(1) governs because the conditions of subsections (A) through (E) are satisfied for each of those defaulting respondents. For example, each of those defaulting respondents was named in the complaint and each was served or refused service of the complaint and notice of investigation satisfying subsections 337(g)(1)(A)-(B). Further, each failed to file an answer to the complaint and failed to present good cause as to why default should not be found against them satisfying subsections 337(g)(1)(C)-(D). *See* Order No. 31 (Jan. 22, 2020), unreviewed by Comm'n Notice (Feb. 21, 2020); Order No. 26 (Dec. 20, 2019), unreviewed by Comm'n Notice (Jan 16, 2020); Order No. 25 (Dec. 18, 2019), unreviewed by Comm'n Notice (Jan. 16, 2020); Order No. 24 (Dec. 18, 2019), unreviewed by Comm'n Notice (Jan. 16, 2020); Order No. 8 (Oct. 15, 2019), unreviewed by Comm'n Notice (Nov. 7, 2019). Brother requested CDOs directed to each of those defaulting respondents thus satisfying subsection 337(g)(1)(E). Of those defaulting respondents, I8 and LD Products did participate in the investigation to a limited extent and/or file submissions, but Commissioner Schmidtlein finds that section 337(g)(1) still governs the request for CDO relief against I8 and LD Products. Specifically, I8 entered an appearance through counsel, but soon thereafter failed to participate in the investigation, including failing to respond to the complaint and a show cause order. *See* EDIS Doc IDs 690960; Order No. 25. LD Products filed a notice "that it will not be participating in the Investigation" and "will not oppose entry of default" and thereafter did not participate in the investigation, including failing to respond to the complaint. EDIS Doc ID 690803; Order No. 8. LD Products' statement that it "will not oppose entry of default" satisfied the condition of subsection 337(g)(1)(D) and obviated the need under the Commission rules for the ALJ to issue a show cause order. *See* 19 C.F.R. § 210.16 (b)(3).

In prior investigations, Commissioner Schmidtlein has explained her view that absent public interest considerations to the contrary the "shall, upon request, issue" language in section 337(g)(1) does not grant the Commission discretion to decline to issue a requested CDO when the conditions of subsections (A) through (E) are satisfied. *See Certain Industrial Automation Systems and Components Thereof Including Control Systems, Controllers, Visualization Hardware, Motion and Motor Control Systems, Networking Equipment, Safety Devices, and Power Supplies*, Inv. No. 337-TA-1074, Comm'n Op., Dissenting Views of Commissioner Schmidtlein (Apr. 23, 2019); *Certain Water Filters and Components Thereof*, Inv. No. 337-TA-1126, Comm'n Op. at 10, n.1 (Nov. 12, 2019). Consistent with that view, Commissioner Schmidtlein finds that the Commission is required to issue the requested CDOs against LD Products, Billiontree, Carlos Imaging, Do It Wiser, Eco Imaging, Ecoolmart, Hongkong Boze, I8, Ikong, Intercon, IPrint, Mangoket, Smartjet, Solong, Super Warehouse, and Xiaohui.

With respect to Respondents Aster, AMI, Greencycle, and Globest, Commissioner Schmidtlein agrees that section 337(f) governs the requested CDO relief because those four respondents responded to the complaint. *See* EDIS Doc. ID 690712 (AMI's answer); EDIS Doc. ID 690720 (Globest's answer); EDIS Doc ID 691633 (Aster's answer); EDIS Doc ID 691808 (Greencycle answer). However, when the presence of infringing domestic inventory or domestic operations is asserted as the basis for a CDO under section 337(f)(1), Commissioner Schmidtlein does not adopt the view that the inventory or domestic operations needs to be "commercially significant" in order to issue the CDO. *See, e.g., Certain Magnetic Tape Cartridges and Components Thereof*, Inv. No. 337-TA-1058, Comm'n Op. at 65, n.24 (Mar. 25, 2019); *Certain Table Saws Incorporating Active Injury Mitigation Technology & Components Thereof*, Inv. No. 338-TA-965, Comm'n Op., 2017 WL 1476193, *4 n.2 (Feb. 1, 2017). In Commissioner Schmidtlein's view, the presence of some infringing domestic inventory or domestic operations, regardless of commercial significance, provides a basis to issue a CDO. *Id.* Because the record shows that Aster, AMI, Greencycle, and Globest maintain some domestic inventory or business operations in the United States Commissioner Schmidtlein supports issuance of CDOs against Aster, AMI, Greencycle, and Globest.

¹³ Commissioner Karpel would issue CDOs directed to defaulting respondents AMI, Globest, Xiaohui, Ecoolmart, Greencycle, Intercon, Do it Wiser, I8, Solong, Billiontree, Carlos Imaging, Eco Imaging, Hongkong Boze, Ikong, IPrint, Mangoket, Smartjet, Super Warehouse, and LD Products. For the reasons noted in *Certain Powered Cover Plates*, Inv. No. 337-TA-1124, Comm'n Op. at 22-23 n.20 (June 11, 2020) and in *Certain Pocket Lighters*, Inv. No. 337-TA-1142, Comm'n Op. at 19-20 n.15 (July 13, 2020), Commissioner Karpel does not consider the Commission's determination to issue a GEO under section 337(d)(2) to direct that the requested CDOs with respect to defaulting respondents Xiaohui, Ecoolmart, Intercon, Do it Wiser, Solong, Billiontree, Carlos Imaging, Eco Imaging, Hongkong Boze, Ikong, IPrint, Mangoket, Smartjet, and Super Warehouse be considered under section 337(f)(1). Rather, she considers section 337(g)(1) is the appropriate authority for the issuance of CDOs as to these defaulting respondents because the criteria for issuance of CDOs under subsection 337(g)(1)(A)-(E) are met as to these respondents. Each of these respondents was named in the complaint and each was served or refused service of the complaint and notice of investigation. *See* Order No. 31 (Jan. 22, 2020), *unreviewed by* Comm'n Notice (Feb. 21, 2020) (finding Xiaohui in default for failing to respond to the complaint and notice of investigation); Order No. 26 (Dec. 20, 2019), (finding Ecoolmart and Intercon in default for failing to respond to the complaint and notice of investigation), *unreviewed by* Comm'n Notice (Jan. 16, 2020); Order No. 25 (Dec. 18, 2019) (finding Do It Wiser and Solong in default for failing to respond to the complaint and notice of investigation), *unreviewed by* Comm'n Notice (Jan. 16, 2020); Order No. 24 (Dec. 18, 2019) (finding Billiontree, Carlos Imaging, Eco Imaging, Hongkong Boze, Ikong, IPrint, Mangoket, Smartjet, and Super Warehouse in default for failing to respond to the complaint and notice of investigation), *unreviewed by* Comm'n Notice (Jan. 16, 2020). The ALJ issued show cause orders ordering these respondents to show cause why they should not be held in default for failing to respond to the complaint and notice of investigation. *See id.* None of these respondents filed responses to the show cause orders. *Id.* These findings satisfy subsections 337(g)(1)(A)-(D). Brother requested CDOs limited to each of these defaulting respondents thus

C. Aster's Newly Designed Products

1. Aster's Submission

Aster argues that its newly designed products should be excluded from any remedial orders that issue. According to Aster, it timely disclosed its newly designed products to Brother on November 22, 2019, during the discovery phase of the investigation. *Id.* at 2. Aster states that it and Brother then entered into an agreement on January 31, 2020 ("Agreement"), "agreeing and stipulating that Aster's Newly Designed Products produced to Brother on November 22, 2019, '... will **not** be covered by any remedial order that issues in this Investigation directed to toner cartridges and components thereof that infringe [the Asserted Claims of the Asserted

satisfying subsection 337(g)(1)(E). Given that subsections 337(g)(1)(A)-(E) are satisfied and Brother requested CDOs directed to these respondents, the statute directs the Commission to issue the requested CDOs, subject to consideration of the public interest. The public interest factors as detailed in Section II.D *infra* do not support a finding that CDOs directed to these defaulting respondents in this investigation would be contrary to the public interest. Accordingly, Commissioner Karpel would issue CDOs against Xiaohui, Ecoolmart, Intercon, Do it Wiser, Solong, Billiontree, Carlos Imaging, Eco Imaging, Hongkong Boze, Ikong, IPrint, Mangoket, Smartjet, and Super Warehouse under section 337(g)(1).

Commissioner Karpel agrees that Section 337(f) applies with respect to Brother's request for CDOs as to respondents Aster, Ami, Globest, Greencycle, 18, and LD Products. Respondents Aster, AMI, Globest, and Greencycle filed answers to the complaint. *See* EDIS Doc ID 691633 (Aster answer); EDIS Doc. ID 690711 (AMI answer); EDIS Doc. ID 690720 (Globest answer); EDIS Doc. ID 691808 (Greencycle answer). Respondent I8 entered an appearance through counsel, requested additional time to file an answer to the complaint, and thereafter failed to participate in the investigation after its counsel withdrew from representation. *See* EDIS Doc IDs 690960, 6922223. Respondent LD Products was found in default based on filing a notice of default pursuant to Commission Rule 210.16(b)(3), and thus the ALJ did not issue a show cause order. For these reasons, the criteria for section 337(g)(1) are not met as to these respondents and that section 337(f)(1) is the appropriate authority with respect to CDOs for these respondents. Commissioner Karpel concurs that respondents Aster, Ami, Globest, Greencycle, 18, and LD Products have sufficient inventories or business operations in the United States to support the issuance of CDOs directed to these respondents, subject to consideration of the public interest. The public interest factors as detailed in Section II.D *infra* do not support a finding that CDOs directed to these respondents in this investigation would be contrary to the public interest.

Patents].” *Id.* (citing Agreement at ¶¶ 1.12-1.19 (emphasis added by Aster)). Subsequently, Brother and Aster filed a Joint Stipulation on March 4, 2020, attaching the Agreement and summarizing its terms. *See* Joint Stipulation of Brother and Aster for Resolution as to Aster in the Investigation (March 4, 2020) (“Joint Stipulation”). In the Joint Stipulation, Aster agreed that it “would ‘... not argue or otherwise dispute’ that any of the Original Design Products [Aster’s accused products] ... should be excluded from the scope of any remedy ...” Aster Sub. at 2 (citing Joint Stip. at ¶ 13; Agreement at ¶ 1.4). Accordingly, while Order No. 40, which grants Brother’s motion for summary determination of violation “makes infringement findings against Aster’s Original Design Products and recommends that they be subject to a CDO, a GEO, or in the alternative, an LEO,” it “does not mention Aster’s Newly Designed Products or recommend that Aster’s Newly Designed Products be included within the scope of the ALJ’s recommended LEO, GEO, or CDO remedies.” *Id.* at 3-4. Aster contends that pursuant to its Agreement with Brother, the Commission’s remedial orders should include an express carve out for Aster’s newly designed products. *Id.* at 6.

Aster anticipates that “Brother will suggest that the parties agreed that only Aster (and Aster-related entities) and Aster’s customers are permitted to import Aster’s Newly Designed Products into the United States” and argues that “[s]uch an assertion has no merit because the plain language of the Agreement clearly says that Aster’s Newly Designed Products will not be covered by any remedial order that may issue.” *Id.* at 9 (citing Agreement at ¶¶ 1.14-1.19).

Aster points to the Agreement’s provision that:

1.14. The Parties agree that toner cartridges that are compatible with Brother’s TN-221BK, TN-221C, TN-221M, TN-221Y, TN-225C, TN-225M, or TN-225Y toner cartridges and have the specific configurations shown in Figures 1-5 in Table 7 below (including those with Aster-, Arcon-, Aztech-, CMYBabee-, Cool Toner-, EPS-, Greensky-, Ink4work-, and Toner Bank-brands) will **not** be covered by any remedial order that issues in this Investigation directed to toner cartridges

and components thereof that infringe one or more of Claims 1-5, 10, and 12-15 of the '093 Patent; Claims 1, 3, 5, 7-12, and 18 of the '387 Patent; or Claims 1, 7-11, 15, and 16 of the '460 Patent.

Agreement at ¶¶ 1.14-1.19 (emphasis added by Aster). Aster asserts that “[t]he clear language of the Agreement establishes that it is Aster’s Newly Designed Products that the parties agreed should not be covered by any remedial order that issues” and that “[t]he parties did not agree that only certain people/entities could import Aster’s Newly Designed Products.” *Id.* at 9-10.

2. Brother’s Response

Brother states that “[a]n express carve-out is inappropriate for Aster’s Newly Designed Products because, as Aster acknowledges, those products were not adjudicated in this Investigation.” Brother Rep. at 2-3. Brother argues that the Commission should not depart from its long-standing practice not to include express carve-outs in remedial orders for non-adjudicated products. *Id.* (citing *See Certain Optical Disk Controller Chips & Chipsets & Products Containing Same, Including DVD Players & PC Optical Storage Devices*, Inv. No. 337-TA-506, Comm’n Op. at 56 (Sept. 28, 2005) (finding “no basis for specifically exempting [the MT1888] chip from the limited exclusion order” because “[t]he Commission’s long-standing practice is to direct its remedial orders to all products covered by the patent claims as to which a violation has been found” and “neither the ALJ nor the Commission found that the MT1888 chip does not infringe or, in fact, made any infringement determination as to the MT1888 chip”); *Certain Magnetic Tape Cartridges & Components Thereof*, Inv. No. 337-TA-1058 (“*Magnetic Tape*”), Comm’n Op. at 58 (Mar. 25, 2019) (concurring with “the ALJ’s recommendation against including an express carve out” for certain products because it was “clear from the record that these products ... were not adjudicated as part of this investigation”)).

Brother also argues that an express carve-out for these products would be redundant and unnecessary. *Id.* at 4-5. According to Brother, “the general exception for imports made ‘with

the permission[] of the patentee’ in GEOs, the general exception for ‘if ... the owner of the Asserted Patents ... authorizes’ in CDOs, and Brother’s and Aster’s agreement regarding the Newly Designed Products (i.e., the Agreement) already allow Aster to import and sell its Newly Designed Products in the United States.” *Id.* Brother states that “[t]he Agreement expressly states that the Newly Designed Products, including those with each of the brand names identified through discovery with which Aster admitted affiliation, “will not be covered by any remedial order that issues in this Investigation.” *Id.* at 4 (citing See Agreement at ¶¶ 1.14-1.19 (Jan. 31, 2020)). As Brother explains, “Aster has Brother’s permission to import and sell the Newly Designed Products in the United States.” *Id.*

Brother asserts that “Aster improperly attempts to expand the scope of the Agreement so it may inure the benefits of the Agreement to any number of unknown and unidentified entities.” Brother Rep. at 8. Brother finds it “particularly troubling in light of Aster’s request that it and these unnamed entities also be permitted to import products without first proving to CBP that their products are covered by the Agreement” and that “[s]uch a loophole would make it unnecessarily challenging for CBP to effectively enforce the GEO.” *Id.* Brother states that “[t]he Agreement is only between Brother and Aster” (Agreement at 1) and “clearly states that it ‘may not be assigned, licensed, or delegated without the express written consent of the Parties.’” *Id.* (citing Agreement at ¶ 5.7). Brother emphasizes that it “has not and does not consent to entities other than Aster entities importing the Newly Designed Products.” *Id.*

3. OUII Response

OUII agrees that “Aster’s Newly Designed Products should not be covered by any remedial order that issues in this investigation and that there should not be any finding of infringement as to those products.” OUII Rep. at 2. OUII, however, argues that an express carve out is not warranted because the “Commission has generally included express carve outs in

exclusion orders only for products that were found to be non-infringing,” but that here, the newly designed products were *not* found to be non-infringing. *Id.* at 4 (citing *Certain Powered Cover Plates*, Inv. No. 337-TA-1124, Comm’n Op. at 19-20 (July 10, 2020) (EDIS Doc. ID 714335) (excluding redesigns found to be non-infringing from the scope of the GEO)). In OUII’s view, the language proposed in the “GEO is sufficient to cover the newly designed products set forth in the Aster Joint Stipulation and Agreement, and that by agreeing that Aster’s . . . newly designed toner cartridges are outside the scope of any remedial order, Brother has provided permission to allow their importation.” *Id.* Thus, “[a]ny additional express carve out would simply be redundant and unnecessary.” *Id.*

OUII also argues that the “Aster Joint Stipulation and Agreement do not contain . . . limiting language” included in agreements with other respondents. *Id.* As an example, OUII points to the agreement between Brother and AMI, which states that:

22. The Parties agree that the stipulations set forth in Paragraphs 15-20 above do not apply to the products of any entity other than AMI, and that this Stipulation does not allow AMI to act as the importer of record or sell in the United States toner cartridges with the specific configurations shown in Tables 6-11 of this Stipulation for, with, or otherwise on behalf of any other entity. This Stipulation applies only to AMI toner cartridges.

AMI Stipulation at ¶ 22.¹⁴ Thus, OUII states that “the Aster Joint Stipulation and Agreement do not restrict permissible importation of Aster’s Newly Designed Products to any particular entity.” *Id.* at 7.

¹⁴ We note that Brother entered into joint agreements with AMI, Cartridge Evolution, E-Z Ink, Globest, and Linkyo, stipulating that it would not accuse their Newly Designed Products of infringement in this investigation. *ID* at 34; Brother and AMI Joint Stipulation as to Original and Newly Designed Products at ¶¶ 12-20 (Feb. 3, 2020); Brother and Cartridge Evolution Joint Stipulation as to Original and Newly Designed Products at ¶¶ 13-21 (Feb. 3, 2020); Brother and E-Z Ink Joint Stipulation as to Original and New Designed Products at ¶¶ 13-21 (Feb. 3, 2020);

4. Analysis

The Commission finds that the Joint Stipulation and Agreement between Brother and Aster with respect to specifically identified newly designed products is pertinent to the enforcement of the remedial orders here.¹⁵ The Agreement expressly identifies these products in paragraphs 1.14 through 1.19 and states that these enumerated toner cartridges “will not be covered by any remedial order that issues in this Investigation directed to toner cartridges and components thereof that infringe” asserted claims of the patents at issue. *See* Agreement ¶¶ 1.14 – 1.19. Brother states that, through the Agreement, it has assented to the importation and sale of the specifically enumerated toner cartridge models. *See* Brother Rep. at 4 (“In other words, Aster has Brother’s permission to import and sell the Newly Designed Products in the United States.”). It is unnecessary here to include an express exemption for these products in the remedial orders, however, as these products are already the subject of the Joint Stipulation and Agreement between the parties.

The Commission further finds that the Joint Stipulation and Agreement do not restrict permissible importation of the identified Newly Designed Products to any particular entity. As OUII notes, “In general, the Aster Joint Stipulation and Agreement both state, *inter alia*, that Brother and Aster agree that Aster’s Newly Designed Products will not be covered by any remedial order that issues in this investigation.” OUII Rep. at 6 (citing Aster Joint Stipulation at

Brother and Globest Joint Stipulation as to Original and Newly Designed Products at ¶¶ 13-21 (Feb. 7, 2020); Brother and Linkyo Joint Stipulation as to Original and Newly Designed Products at ¶¶ 12-26 (Feb. 7, 2020).

¹⁵ Aster’s Newly Designed Products are identified in the Agreement and Joint Stipulation by product numbers: AN-B0221, AN-B0223, AN-B0225, AN-B0227, AS-B0420, AS-B0450, AS-B0630, AS-B0660, AN-B0730, AN-B0760, and AN-B0770 and Bates numbers Aster PX-1, Aster PX-2, Aster PX-3, Aster PX-4, Aster PX-5, Aster PX-6, Aster PX-7, Aster PX-8, Aster PX-9, Aster PX-10, and Aster PX-11 respectively (for the physical samples produced to Brother). Agreement at ¶¶ 1.14 – 1.19; Joint Stip. at ¶ 6. These Newly Designed Products are also depicted in photographs within the Agreement. *See* Tables 7–12 of the Agreement.

¶ 11; Aster Agreement at ¶¶ 1.12-1.19; Aster Br. at 9). For instance, exemplary paragraph 1.14 to the Agreement states:

1.14. The Parties agree that toner cartridges that are compatible with Brother's TN-221BK, TN-221C, TN-221M, TN-221Y, TN-225C, TN-225M, or TN-225Y toner cartridges and have the specific configurations shown in Figures 1-5 in Table 7 below (including those with Aster-, Arcon-, Aztech-, CMYBabee-, Cool Toner-, EPS-, Greensky-, Ink4work-, and Toner Bank-brands) will not be covered by any remedial order that issues in this Investigation directed to toner cartridges and components thereof that infringe one or more of Claims 1-5, 10, and 12-15 of the '093 Patent; Claims 1, 3, 5, 7-12, and 18 of the '387 Patent; or Claims 1, 7-11, 15, and 16 of the '460 Patent.

Agreement at ¶ 1.14. As is evident from the language of paragraphs 1.14 through 1.19, the products that the parties agree “will not be covered by any remedial order that issues in this Investigation” are identified in terms of (1) compatibility with Brother's identified toner cartridges; (2) conformity with identified configurations specified in the referenced Tables of the Agreement; and (3) include branded toner cartridges “with Aster-, Arcon-, Aztech-, CMYBabee-, Cool Toner-, EPS-, Greensky-, Ink4work-, and Toner Bank-brands.” *Id.* No language in these paragraphs limit the entities that would be authorized to import these products. There is no such limiting language elsewhere in the Joint Stipulation or Agreement.

Brother argues that the Agreement does not allow “[a]ny entity ... to import Aster's Newly Designed Products.” Brother Rep. at 11. We find this argument unpersuasive because Brother has not shown that the language of the Joint Stipulation and Agreement restricts importation of the identified newly designed products to any specific entities. The Commission finds that nothing in the Agreement or Joint Stipulation is so limiting. The Agreement and Joint Stipulation are directed to products not covered by the remedial orders, not the identity of the importer. Thus, the Commission declines to read such a restriction into the parties' Agreement.

D. The Public Interest

Prior to issuing remedial orders under section 337, the Commission must weigh the effect the orders would have on four public interest factors: (1) the public health and welfare; (2) competitive conditions in the United States economy; (3) the production of like or directly competitive articles in the United States; and (4) United States consumers. 19 U.S.C. §§ 1337(d), (f). “[T]he statute does not require the Commission to determine that a remedial order would advance the public interest factors but rather requires the Commission to consider whether issuance of such an order will adversely affect the public interest factors.” *Certain Loom Kits for Creating Linked Articles*, Inv. No. 337-TA-923, Comm’n Op. at 15 (June 26, 2015) (“*Loom Kits*”) (internal citation omitted). The Commission finds that entry of the recommended GEO and CDOs would not be contrary to the public interest.

1. Public Health and Welfare

The remedial orders do not raise any public health or welfare concerns. As observed by the Federal Circuit, remedial orders have been denied based on overriding public interest concerns in only a handful of investigations, where having “inadequate supply within the United States—by both the patentee and domestic licensees—meant that an exclusion order would deprive the public of products necessary for some important health or welfare need: energy efficient automobiles, basic scientific research, or hospital equipment.” *Spansion, Inc. v. U.S. Int’l Trade Comm’n*, 629 F.3d 1331, 1360 (Fed. Cir. 2010); *see, e.g., Certain Ink Cartridges and Components Thereof*, Inv. No. 337-TA-946, Comm’n Op. at 4-13 (June 29, 2016) (“*Ink Cartridges*”); *Toner Cartridges*, Comm’n Op. at 4-11; *Certain Toner Cartridges and Components Thereof*, Inv. No. 337-TA-740, Comm’n Op. at 4-8 (Oct. 5, 2011). The toner cartridges at issue in this investigation do not implicate public health or welfare concerns.

2. Competitive Conditions in the United States Economy

There appears to be a large number of other manufacturers of toner cartridges, including HP, Epson, Samsung, Canon, Panasonic, Dell, Xerox, Lexmark, Ricoh, and PrintRite can adequately supply the domestic market. *See, e.g.*, <https://www.reportsanddata.com/report-detail/printer-ink-cartridges-market> (accessed Sept. 18, 2020); *see also Ink Cartridges*, Comm’n Op. at 16 (finding that there are numerous competitors in the market for ink cartridges that will not be affected by remedial orders); *Toner Cartridges*, Comm’n Op. at 14 (finding that there are many other companies in the toner cartridge market such as Dell, Epson, Lexmark, Ricoh, Samsung, and Xerox that sell toner cartridges and would be able to meet domestic demand). Thus, remedial orders will not cause adverse competitive conditions in the US economy.

3. The Production of Like or Directly Competitive Articles in the United States

As OUII notes, “the accused products are manufactured abroad, whereas Brother remanufactures used toner cartridges in the U.S.” OUII Sub. at 17 (citing ID at 104). The fact that the articles covered by the remedial orders are made outside of the United States means that the orders will not affect the production of like or directly competitive articles in the United States.

4. United States Consumers

Brother asserts that it “manufactures products that can replace all of the infringing articles that would be subject to exclusion” and that “[s]ince 2010, Brother has sold millions of toner cartridges in the United States that practice the Asserted Patents, and that are competitive with, and indeed are direct replacements for, the infringing articles.” Brother Sub. at 21-22. Brother notes that “Aster and the Defaulting Respondents all market their infringing toner cartridges as direct alternatives to Brother’s toner cartridges.” *Id.* at 22. Brother further asserts

that it “can manufacture and distribute products in quantities sufficient to meet demand if the infringing articles are subject to exclusion, using its existing distribution networks.” *Id.* Brother adds that, in addition, “[t]here also are numerous other well-known companies that sell similar types of laser print systems and toner cartridges that compete with Brother laser printing systems, such as Canon, Hewlett Packard, and Dell” and that “[n]one of these companies would be impacted by the requested remedial orders, and their products are another alternative to Brothers systems.” *Id.* In sum, Brother and other toner manufacturers can adequately supply the U.S. market and so an exclusion order will not harm U.S. consumers of toner cartridges. Accordingly, the Commission finds that the remedial orders will not be adverse to United States consumers.

E. Bond

When the Commission enters an exclusion order and/or CDO, a respondent may continue to import and sell its products during the 60-day period of Presidential review subject to posting a bond. 19 U.S.C. § 1337(j)(3). The amount of the bond is specified by the Commission and must be sufficient to protect a complainant from any injury. *Id.*; 19 C.F.R. § 210.50(a)(3). “The Commission typically sets the bond based on the price differential between the imported infringing product and the domestic industry article or based on a reasonable royalty. However, where the available pricing or royalty information is inadequate, the bond may be set at one hundred (100) percent of the entered value of the infringing product.” *Loom Kits*, Comm’n Op. at 17-19 (internal citations omitted). The Commission has set a 100 percent bond in cases where respondents have defaulted and provided no discovery regarding pricing, precluding any reliable determination of an appropriate bond amount. *See id.* at 19.

As the RD noted, “In appropriate circumstances, the Commission sets different bond rates for different respondents.” RD at 147 (citing *e.g.*, *Certain Foam Footwear*, Inv. No. 337-

TA-567, Comm’n Op. at 9 (Aug. 2, 2011); *Certain Coaxial Cable Connectors & Components Thereof & Prod. Containing Same*, 337-TA-650, Comm’n Notice at 2 (Sept. 13, 2011)). The RD further noted that “[t]he Commission may also set different bond rates for different products of the same respondent.” *Id.* (citing *Certain Magnetic Data Storage & Tape Cartridges Containing the Same (II)*, Inv. No. 337-TA-1076, Comm’n Op. at 67 (June 20, 2019)).

The RD observed that “Brother, AMI, Aster, and Globest stipulated to different bond rates for different Accused Products, as shown below, based on the calculated price differentials for those products.” *Id.* (citing AMI Import. Stip., Ex. A; Aster Import. Stip., Ex. A; Globest Import. Stip., Ex. A.)

Infringing Products	AMI	Aster	Globest
Accused 221/225 Products	568%	1463%	900%
Accused 223/227 Products	274%	336%	372%
Accused 420/450 Products	-	623%	682%
Accused 630/660 Products	575%	886%	635%
Accused 730/760/770 Products	589%	354%	369%

The RD stated that “[a]s these bond rates were calculated using reliable data and the parties agreed to the percentages, I recommend entry of bond at the above-referenced bond rates.” *Id.* at 147-48. The RD recommended a bond rate of 100% of the entered value of infringing toner cartridges and components thereof for the remaining defaulting respondents. *Id.* at 148.

OUII “agrees with the ALJ’s recommendation in view of the parties’ stipulated bond calculations.” OUII Sub. at 20. For the remaining respondents, OUII agrees with the ALJ that the Commission set a bond in the amount of 100 percent of the entered value of infringing

products imported inasmuch as Brother was not able to obtain adequate discovery from these defaulting respondents. The Commission agrees with the ALJ's recommendation and has determined to set the bond in the amounts prescribed in the table above and at one hundred (100%) percent of the entered value of infringing toner cartridges and components thereof for the remaining defaulting respondents.

III. CONCLUSION

For the reasons detailed above, the Commission has determined to (1) issue a GEO prohibiting the unlicensed importation of certain toner cartridges, components thereof, and systems containing same that infringe one or more of claims 1-5, 10, and 12-15 of the '093 Patent; claims 1, 7-11, 15, and 16 of the '460 Patent; claims 1-7, and 9 of the '856 Patent; claims 1, 4, 5, and 9 of the '456 Patent; and claims 1, 3, 5, 7-12, and 18 of the '387 Patent; (2) issue cease and desist orders directed to Aster, AMI, Billiontree, Carlos Imaging, Do It Wiser, Eco Imaging, Ecoosmart, Globest, Greencycle, Hongkong Boze, I8, Ikong, Intercon, IPrint, LD Products, Mangoket, Smartjet, Solong, Super Warehouse, and Xiaohui; (3) find that the public interest does not preclude the issuance of the remedial orders; and (4) set the bond during the period of Presidential review in the amount of the following percentages of the entered value for respondents AMI, Aster, and Globest:

Infringing Products	AMI	Aster	Globest
Accused 221/225 Products	568%	1463%	900%
Accused 223/227 Products	274%	336%	372%
Accused 420/450 Products	-	623%	682%
Accused 630/660 Products	575%	886%	635%
Accused 730/760/770 Products	589%	354%	369%

The Commission determines to set the bond in the amount of one hundred (100%) percent of the entered value for all other infringing articles.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', enclosed within a large, loopy oval shape.

Lisa R. Barton
Secretary to the Commission

Issued: December 17, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **COMMISSION OPINION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **December 17, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd., Brother
International Corporation (U.S.A.), and Brother Industries
(U.S.A.), Inc.:**

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- ☐ Via First Class Mail
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Trading Inc.:**

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- ☐ Via First Class Mail
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of Availability for Download

On Behalf of Respondent LD Products, Inc.

Steven E. Adkins, Esq.

- ☐ Via Hand Delivery

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 2

McGUIREWOODS LLP

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Email: seadkins@mcguirewoods.com

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Flat/Room 2104 21/F, Mongkok Commercial Centre
16 Argyle Street, Mongkok, Kowloon,
Hong Kong 999077

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Aztech Enterprises Limited
Units 1206, 12/F, Hheuk Nang Center
9 Hillwood Road
Kowloon, Hong Kong 999077

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Billiontree Technology USA Inc.
19945 Harrison Avenue
City of Industry, CA 91789

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Carlos Imaging Supplies, Inc.
PMB 540
17128 Colima Road
Hacienda Heights, CA 91745

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Do It Wiser, LLC
2422 Old Capital Trail
Suite 747
Wilmington, DE 19808

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Eco Imaging Inc.
PMB A839
14252 culver Drive
Irvine, AC 92604

- ☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 3

Ecoolmart Co.
PMB 322
17360 Colima Road
Rowland Heights, CA 91748

Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Greencycle Tech, Inc.
9638 Rush Street, Unit E
South El Monte, CA 91733

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Hongkong Boze Co., Ltd.
Flat/Room A 27/F, Billion Plaza 2,
10 Cheung Yee Street, Lai Chi Kok,
Kowloon, Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

I8 International, Inc.
19961 Harrison Avenue
City of Industry, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Ikong E-Commerce
PMB 429, 385 South Lemon Avenue
Suite E
Walnut, CA 91789

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Intercon International Corp.
PMB 109, 407 West Imperial Highway
Suite H
Brea, CA 92821

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☐ Via Express Delivery
☐ Via First Class Mail
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Completed by Complainants

IPrint Enterprise Limited
Rooms 1318-19, 13/F Hollywood Plaza
610 Nathan Road, Mongkok, Kowloon,
Hong Kong 999077

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☐ Via Express Delivery
☐ Via First Class Mail

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

Certificate of Service – Page 4

Mangoket LLC
1641 West Main Street
Suite 222
Alhambra, CA 91801

☒ Other: Service to Be
Completed by Complainants

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Solong E-Commerce Co., LLC
Flat/Room 19C, Lockhart Center,
301-307 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Smartjet E-Commerce Co., LLC
Flat/Room A 20/F, Kiu Fu Commercial Building,
300 Lockhart Road, Wan Chai
Hong Kong 999077

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Super Warehouse Inc.
1160 Yew Avenue
DSS-5179
Blaine, WA 98230

☐ Via Hand Delivery
☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

Zhuhai Xiaohui E-Commerce., Ltd.
Room 502, Factory five, No. 12, Pingdong 3rd Road
Nanping Keji Industrial Park, Xiangzhou District,
Zhuhai, China 519000

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☐ Via Express Delivery
☐ Via First Class Mail
☒ Other: Service to Be
Completed by Complainants

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND
SYSTEMS CONTAINING SAME**

Investigation No. 337-TA-1174

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW
AN INITIAL DETERMINATION GRANTING COMPLAINANTS' MOTION
FOR SUMMARY DETERMINATION OF A VIOLATION OF SECTION 337;
SCHEDULE FOR FILING WRITTEN SUBMISSIONS ON REMEDY, THE PUBLIC
INTEREST, AND BONDING**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that, on July 23, 2020, the presiding administrative law judge ("ALJ") issued an initial determination ("ID") (Order No. 40) in the above-captioned investigation, granting summary determination on violation of section 337 and including a recommended determination ("RD") on remedy and bonding. The Commission has determined not to review the ID. The Commission requests briefing from the parties, interested government agencies, and interested persons on the issues of remedy, the public interest, and bonding.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3179. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: On September 17, 2019, the Commission instituted this investigation based on a complaint filed by Brother Industries, Ltd. of Nagoya Japan; Brother International Corp. (U.S.A.) of Bridgewater, New Jersey; and Brother Industries (U.S.A.), Inc. of Bartlett, Tennessee (collectively, "Brother"). 84 FR 49762-63 (Sept. 23, 2019). The complaint alleged violations of section 337 based on the importation into the United States, the sale for importation, or the sale within the United States after importation of certain toner cartridges, components thereof, and systems containing same by reason of infringement of certain claims of U.S. Patent Nos. 9,568,856; 9,575,460; 9,632,456; 9,785,093; and 9,846,387 (collectively, "the Asserted Patents"). *Id.* The Commission's notice of investigation named the

following 32 respondents: AMI Brothers, Inc. of San Bruno, California (“AMI”); An An Beauty Limited of Kowloon, Hong Kong (“An An Beauty”); Aster Graphics, Inc. of Riverside, California (“Aster”); Aztech Enterprises Limited of Kowloon, Hong Kong (“Aztech”); Billiontree Technology USA Inc. of City of Industry, California (“Billiontree”); Carlos Imaging Supplies, Inc. of Hacienda Heights, California (“Carlos”); Cartridge Evolution, Inc. of Brooklyn, New York (“Cartridge Evolution”); Do it Wiser, LLC of Wilmington, Delaware (“Do it Wiser”); Eco Imaging Inc. of Irvine, California (“Eco Imaging”); Ecoolsmart Co. of Rowland Heights, California (“Ecoolsmart”); EPrinter Solution LLC of Pomona, California (“EPS”); E-Z Ink Inc. of Brooklyn, New York (“E-Z Ink”); Globest Trading Inc. of Ontario, California (“Globest”); Greencycle Tech, Inc. of South El Monte, California (“Greencycle”); Hongkong Boze Co., Ltd. of Kowloon, Hong Kong (“Hongkong Boze”); I8 International, Inc. of City of Industry, California (“I8”); IFree E-Commerce Co. of Kowloon, Hong Kong (“IFree”); Ikong E-Commerce of Walnut, California (“Ikong”); Intercon International Corp. of Brea, California (“Intercon”); IPrint Enterprise Limited of Kowloon, Hong Kong (“IPrint”); LD Products, Inc. of Long Beach, California (“LD Products”); Linkyo Corp. of La Puente, California (“Linkyo”); Mangoket LLC of Alhambra, California (“Mangoket”); New Era Image LLC of Corona, California (“New Era”); OW Supplies Corp. of Corona, California (“OW Supplies”); Solong E-Commerce Co., LLC of Wan Chai, Hong Kong (“Solong”); Smartjet E-Commerce Co., LLC of Wan Chai, Hong Kong (“Smartjet”); Super Warehouse Inc. of Blaine, Washington (“Super Warehouse”); Theresa Meng of Brooklyn, New York (“Ms. Meng”); Triple Best LLC of San Diego, California (“Triple Best”); V4ink, Inc. of Diamond Bar, California (“V4ink”); and Zhuhai Xiaohui E-Commerce Co., Ltd. of Zhuhai, China (“Xiaohui”). *Id.* at 49762-63. The notice of investigation also names the Office of Unfair Import Investigations (“OUII”) as a party. *Id.* at 49763.

Of the 32 respondents, only one, Aster, is participating at this stage. Aster, however, decided not to oppose the summary determination motion of violation as to the accused products, even though Aster’s products are subject to the motion. *See* Joint Stipulation of Brother and Aster for Resolution as to Aster in the Investigation (Mar. 4, 2020). EPS and IFree were terminated from the investigation based upon withdrawal of the complaint against them. *See* Order No. 32 (Jan. 28, 2020), *unreviewed by* Comm’n Notice (Feb. 25, 2020). Cartridge Evolution, E-Z Ink, Linkyo, New Era, OW Supplies, Ms. Meng, Triple Best, and V4ink were terminated from the investigation based upon entry of consent orders. *See* Order No. 36 (Mar. 12, 2020), *unreviewed by* Comm’n Notice (Mar. 31, 2020); Order No. 38 (Mar. 12, 2020), *unreviewed by* Comm’n Notice (Mar. 31, 2020); Order No. 37 (Mar. 12, 2020), *unreviewed by* Comm’n Notice (Mar. 31, 2020); Order No. 10 (Oct. 18, 2019), *unreviewed by* Comm’n Notice (Nov. 6, 2019); Order No. 17 (Nov. 21, 2019), *unreviewed by* Comm’n Notice (Dec. 18, 2019); Order No. 28 (Dec. 30, 2019), *unreviewed by* Comm’n Notice (Jan. 29, 2020); Order No. 18 (Nov. 27, 2019), *unreviewed by* Comm’n Notice (Dec. 18, 2019); Order No. 33 (Fe. 3, 2020), *unreviewed by* Comm’n Notice (Mar. 4, 2020). The following 21 respondents defaulted: AMI, Globest, An An Beauty, Aztech, Xiaohui, Ecoolmart, Greencycle, Intercon, Do it Wiser, I8, Solong, Billiontree, Carlos Imaging, Eco Imaging, Hongkong Boze, Ikong, IPrint, Mangoket, Smartjet, Super Warehouse, and LD Products (collectively, “Defaulting Respondents”). *See* Order No. 35 (Mar. 5, 2020), *unreviewed by* Comm’n Notice (Mar. 19, 2020); Order No. 31 (Jan. 22, 2020), *unreviewed by* Comm’n Notice (Feb. 21, 2020); Order No. 26 (Dec. 20, 2019), *unreviewed by* Comm’n Notice (Jan 16, 2020); Order No. 25 (Dec. 18, 2019), *unreviewed by*

Comm’n Notice (Jan. 16, 2020); Order No. 24 (Dec. 18, 2019), *unreviewed by* Comm’n Notice (Jan. 16, 2020); Order No. 8 (Oct. 15, 2019), *unreviewed by* Comm’n Notice (Nov. 7, 2019).

On March 12, 2020, Brother filed a motion for summary determination of violation of section 337 by Aster and the Defaulting Respondents and for a recommendation that the Commission issue a general exclusion order and cease and desist orders. *See* Complainants’ Motion for Summary Determination of Violation and for Recommended Determination on Remedy and Bonding. On March 23, 2020, OUII filed a response in support of Brother’s motion. *See* Commission Investigative Staff’s Response to Brother’s Motion for Summary Determination of Violation. No respondent filed a response to Brother’s motion. *Id.*

On July 23, 2020, the ALJ issued the subject ID granting summary determination of violation of section 337 by Aster and Defaulting Respondents. The ID finds that the Commission has subject matter jurisdiction over the investigation. ID at 34. The ID further finds that none of the respondents contest the Commission’s personal jurisdiction over them or in rem jurisdiction as to the accused products. ID at 34-35. The ID finds that Brother: (1) established the importation requirement as to Aster and Defaulting Respondents, ID at 36-79; (2) demonstrated that the accused products infringe the asserted claims, *id.* at 118-133; and (3) demonstrated that the domestic industry (“DI”) products practice at least one claim of each Asserted Patent and that a DI exists in the United States, *id.* at 84-118. The RD recommends issuance of a general exclusion order (“GEO”) (or, in the alternative, a limited exclusion order directed to Aster and each of the Defaulting Respondents). *Id.* at 134-44. The RD further recommends issuance of cease and desist orders (“CDOs”) directed to Aster and each defaulting respondent that has domestic operations. *Id.* at 144-46. The RD also recommends setting different bond rates for entry of the different products covered by the GEO during the period of Presidential review. *Id.* at 146-48 (recommended bond rate table at 147). No one petitioned for review of the ID.

The Commission has determined not to review the ID.

On August 24, 2020, Aster filed a public interest statement in response to the Commission’s notice soliciting public interest comments pursuant to 19 CFR 210.50(a)(4)(i). In its submission, Aster argued that any Commission remedial orders issued in this investigation should not cover its new products pursuant to its stipulation with Brother. *See* Respondent Aster Graphics, Inc.’s Statement of Public Interest. On August 26, 2020, Brother filed a response. *See* Complainants’ Motion to Strike Aster Graphics, Inc.’s Statement on the Public Interest for Failure to Comply with Commission Rule 210.15 Or, in the Alternative, for Leave to Respond. The Commission has determined to reject Aster’s submission as improper under 19 CFR 210.50(a)(4)(i). 19 CFR 210.50(a)(4)(i) provides that parties may file information with the Commission relating to the public interest. Aster’s submission, however, concerns the scope of the remedy and therefore does not fall within the ambit of the public interest submissions provided for under 19 CFR 210.50(a)(4)(i). Brother’s response is thereby moot. The Commission notes that Aster will have an opportunity to raise its arguments regarding the scope of any remedial orders in a remedy submission before the Commission in response to the instant notice, which invites parties to file submissions addressing remedy, bonding and the public interest as noted below.

In connection with the final disposition of this investigation, the statute authorizes issuance of: (1) an exclusion order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) one or more cease and desist orders that could result in Aster and the Defaulting Respondents 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, Comm'n Op. at 7-10 (December 1994).

The statute requires the Commission to consider the effects of any remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion order and/or CDO 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, disapprove, or take no action on the Commission's determination. 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 this investigation, interested government agencies, and any other interested parties are invited to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should include views on the recommended determination by the ALJ on remedy and bonding.

In their initial written submissions, Brother is also requested to identify the remedy sought and Brother and OUII are also requested to submit proposed remedial orders for the Commission's consideration. Brother is further requested to identify the dates the Asserted Patents expire, to provide the HTSUS subheadings under which the subject articles are imported, and to supply identification information for all known importers of the subject articles.

Initial written submissions, including proposed remedial orders, must be filed no later than close of business on September 22, 2020. Reply submissions must be filed no later than the close of business on September 29, 2020. 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. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (Mar. 19, 2020). Submissions should refer to the

investigation number (Inv. No. 337-TA-1174) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.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 CFR 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 information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The Commission vote for these determinations took place on September 8, 2020.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

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: September 8, 2020

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **September 8, 2020**.



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

**On Behalf of Complainants Brother Industries, Ltd.,
Brother International Corporation (U.S.A.), and Brother
Industries (U.S.A.), Inc.:**

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On Behalf of Respondent Aster Graphics, Inc.:

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- ☐ Via First Class Mail
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PUBLIC VERSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES,
COMPONENTS THEREOF, AND SYSTEMS
CONTAINING SAME**

INV. NO. 337-TA-1174

**ORDER NO. 40: INITIAL DETERMINATION GRANTING COMPLAINANTS'
MOTION FOR SUMMARY DETERMINATION OF VIOLATION,
RECOMMENDED DETERMINATION ON REMEDY AND
BONDING**

(July 23, 2020)

PUBLIC VERSION

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TABLE OF ABBREVIATIONS

MSD	Complainant's [Brother's] Motion for Summary Determination of Violation Confidential Version EDIS Doc. ID 704827 (March 12, 2020) Public Version EDIS Doc. ID 705126 (March 17, 2020)
Tr.	Transcript
Response	Commission Investigative Staff's Response to Complainant's Motion for Summary Determination of Violation Confidential Version EDIS Doc. ID 705684 (March 23, 2019) Public Version EDIS Doc. ID 706999 (April 7, 2020)

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I. INTRODUCTION

Imitation may be the sincerest form of flattery but copying patented components of copiers and printers is not flattery; it is infringement. And importing copied components is unlawful under section 337 of the Tariff Act of 1930. In this investigation, the complainant has demonstrated through undisputed evidence that section 337 has been violated through the importation and sale of infringing toner cartridges.

A. Procedural History

On August 19, 2019, complainants Brother Industries, Ltd.; Brother International Corporation (U.S.A.); and Brother Industries (U.S.A.), Inc. (collectively, “Brother”) filed a complaint alleging violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation certain toner cartridges, components thereof, and systems containing the same, by reason of infringement of one or more of claims 1-5, 10, and 12-15 of U.S. patent No. 9,785,093 (“the ’093 patent”); claims 1, 7-11, 15, and 16 of U.S. patent No. 9,575,460 (“the ’460 patent”); claims 1-7, and 9 of U.S. patent No. 9,568,856 (“the ’856 patent”); claims 1, 4, 5, and 9 of U.S. patent No. 9,632,456 (“the ’456 patent”); and claims 1, 3, 5, 7-12, and 18 of U.S. patent No. 9,846,387 (“the ’387 patent”) (collectively, “Asserted Patents”). A supplement to the complaint was filed on August 20, 2019. EDIS Doc. ID 685778.

On September 17, 2019, the Commission instituted this investigation 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 [toner cartridges, components, and systems] by reason of infringement of one or more of claims 1–5, 10, and 12–15 of the ’093 patent; claims 1, 7–11, 15, and 16 of the ’460 patent; claims 1–7 and 9 of the ’856 patent; claims 1, 4–5, and 9 of the ’456 patent; and claims 1, 3, 5, 7–12, and 18 of the ’387 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

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84 Fed. Reg. 49762 (Sept. 23, 2019). The plain language description of the accused products or category of accused products is “laser toner cartridges designed for use with Brother printers, fax machines, and Multi-Function Centers (‘MFCs’)¹.” *Id.*

The complaint, as supplemented, named the following 32 parties as respondents (“Respondents”):

- AMI Brothers, Inc.
 (“AMI”)
- An An Beauty Limited
 (“An An Beauty”)
- Aster Graphics, Inc.
 (“Aster”)
- Aztech Enterprises Limited
 (“Aztech”)
- Billiontree Technology USA Inc.
 (“Billiontree”)
- Carlos Imaging Supplies, Inc.
 (“Carlos”)
- Cartridge Evolution, Inc.
 (“Cartridge Evolution”)
- Do It Wiser, LLC
 (“Do It Wiser”)
- Eco Imaging Inc.
 (“Eco Imaging”)
- Ecoolmart Co.
 (“Ecoolmart”)
- EPrinter Solution LLC
 (“EPS”)
- E-Z Ink Inc.
 (“E-Z Ink”)
- Globest Trading Inc.
 (“Globest”)
- Greencycle Tech, Inc.
 (“Greencycle”)
- Hongkong Boze Co., Ltd.
 (“Hongkong Boze”)
- I8 International Inc.
 (“I8”)
- IFree E-Commerce Co.
 (“IFree”)
- Ikong E-Commerce
 (“Ikong”)
- Intercon International Corp.
 (“Intercon”)
- IPrint Enterprise Limited
 (“IPrint”)
- Linkyo Corp.
 (“Linkyo”)
- LD Products, Inc.
 (“LD Products”)
- Mangoket LLC
 (“Mangoket”)
- New Era Image LLC
 (“New Era”)

¹ MFCs are printer/copier/scanner/fax combinations.

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- | | |
|---|---|
| <ul style="list-style-type: none"> • OW Supplies Corp.
("OW Supplies") • Solong E-Commerce Co., LLC
("Solong") • Smartjet E-Commerce Co., LLC
("Smartjet") • Super Warehouse Inc.
("Super Warehouse") | <ul style="list-style-type: none"> • Theresa Meng
("Ms. Meng") • Triple Best LLC
("Triple Best") • V4ink, Inc.
("V4ink") • Zhuhai Xiaohui E- Commerce Co., Ltd.
("Xiaohui") |
|---|---|

Of the 32 respondents named in the complaint, 21 were found to be in default after being successfully served and failing to respond to Orders to Show Cause or filing notices of intent to default, 8 respondents were terminated from the investigation based on consent order stipulations and consent orders, and the complaint was withdrawn as to 2 respondents, as shown below.

Respondent	Status (Default/Consent/Etc.)
Aster	
Aster	Stipulated that Aster would not oppose any motion for summary determination of violation as to Original Design Products; Joint Stipulation of Brother and Aster for Resolution as to Aster in the Investigation (March 4, 2020) (EDIS Doc. ID 704103)
Defaulting Respondents	
AMI	Default; Order No. 35 (March 5, 2020) (EDIS Doc. ID 704151), <i>unreviewed</i> , Notice (March 19, 2020) (EDIS Doc. ID 705425)
An An Beauty	Default; Order No. 31 (Jan. 22, 2020) (EDIS Doc. ID 699926), <i>unreviewed</i> , Notice (Feb. 21, 2020) (EDIS Doc. ID 703103)
Aztech	Default; Order No. 31 (Jan. 22, 2020) (EDIS Doc. ID 699926), <i>unreviewed</i> , Notice (Feb. 21, 2020) (EDIS Doc. ID 703103)
Billiontree	Default; Order No. 24 (Dec. 18, 2019) (EDIS Doc. ID 697570), <i>unreviewed</i> , Notice (Jan. 16, 2020) (EDIS Doc. ID 699413)

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Respondent	Status (Default/Consent/Etc.)
Carlos Imaging	Default; Order No. 24 (Dec. 26, 2019) (EDIS Doc. ID 697570), <i>unreviewed</i> , Notice (Jan. 16, 2020) (EDIS Doc. ID 699413).
Do it Wiser	Default; Order No. 25 (Dec. 18, 2019) (EDIS Doc. ID 697572), <i>unreviewed</i> , Notice (Jan. 16, 2020) (EDIS Doc. ID 699414)
Eco Imaging	Default; Order No. 24 (Dec. 18, 2019) (EDIS Doc. ID 697570), <i>unreviewed</i> , Notice (Jan. 16, 2020) (EDIS Doc. ID 699413)
Ecoolmart	Default; Order No. 26 (Dec. 20, 2019) (EDIS Doc. ID 697848) <i>unreviewed</i> , Notice (Jan. 16, 2020) (EDIS Doc. ID 699468)
Globest	Default; Order No. 35 (March 5, 2020) (EDIS Doc. ID 704151), <i>unreviewed</i> , Notice (March 19, 2020) (EDIS Doc. ID 705425)
Greencycle	Default; Order No. 26 (Dec. 20, 2019) (EDIS Doc. ID 697848) <i>unreviewed</i> , Notice (Jan. 16, 2020) (EDIS Doc. ID 699468)
Hongkong Boze	Default; Order No. 24 (Dec. 18, 2019) (EDIS Doc. ID 697570), <i>unreviewed</i> , Notice (Jan. 16, 2020) (EDIS Doc. ID 699413).
I8	Default; Order No. 25 (Dec. 18, 2019) (EDIS Doc. ID 697572), <i>unreviewed</i> , Notice (Jan. 16, 2020) (EDIS Doc. ID 699414).
Ikong	Default; Order No. 24 (Dec. 18, 2019) (EDIS Doc. ID 697570), <i>unreviewed</i> , Notice (Jan. 16, 2020) (EDIS Doc. ID 699413).
Intercon	Default; Order No. 26 (Dec. 20, 2019) (EDIS Doc. ID 697848) <i>unreviewed</i> , Notice (Jan. 16, 2020) (EDIS Doc. ID 699468)
IPrint	Default; Order No. 24 (Dec. 18, 2019) (EDIS Doc. ID 697570), <i>unreviewed</i> , Notice (Jan. 16, 2020) (EDIS Doc. ID 699413).
LD Products	Default; Order No. 8 (Oct. 15, 2019) (EDIS Doc. ID 691206), <i>unreviewed</i> , Notice (Nov. 7, 2019) (EDIS Doc. ID 693710)
Mangoket	Default; Order No. 24 (Dec. 18, 2019) (EDIS Doc. ID 697570), <i>unreviewed</i> , Notice (Jan. 16, 2020) (EDIS Doc. ID 699413)
Solong	Default; Order No. 25 (Dec. 18, 2019) (EDIS Doc. ID 697572), <i>unreviewed</i> , Notice (Jan. 16, 2020) (EDIS Doc. ID 699414)

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Respondent	Status (Default/Consent/Etc.)
Smartjet	Default; Order No. 24 (Dec. 18, 2019) (EDIS Doc. ID 697570), <i>unreviewed</i> , Notice (Jan. 16, 2020) (EDIS Doc. ID 699413).
Super Warehouse	Default; Order No. 24 (Dec. 18, 2019) (EDIS Doc. ID 697570), <i>unreviewed</i> , Notice (Jan. 16, 2020) (EDIS Doc. ID 699413).
Xiaohui	Default; Order No. 31 (Jan. 22, 2020) (EDIS Doc. ID 699926), <i>unreviewed</i> , Notice (Feb. 21, 2020) (EDIS Doc. ID 703103)
Terminated On the Basis of a Consent Order	
Cartridge Evolution	Consent; Order No. 36 (March 12, 2020) (EDIS Doc. ID 704794), <i>unreviewed</i> , Notice (March 31, 2020) (EDIS Doc. ID 706544)
E-Z Ink	Consent; Order No. 38 (March 12, 2020) (EDIS Doc. ID 704797), <i>unreviewed</i> , Notice (March 31, 2020) (EDIS Doc. ID 706546)
Linkyo	Consent; Order No. 37 (March 12, 2020) (EDIS Doc. ID 704795), <i>unreviewed</i> , Notice (March 31, 2020) (EDIS Doc. ID 706542)
New Era	Consent; Order No. 10 (Oct. 18, 2019) (EDIS Doc. ID 691620), <i>unreviewed</i> , Notice (Nov. 6, 2019) (EDIS Doc. ID 693502)
OW Supplies	Consent; Order No. 17 (Nov. 21, 2019) (EDIS Doc. ID 695238), <i>unreviewed</i> , Notice (Dec. 18, 2019) (EDIS Doc. ID 697623).
Theresa Meng	Consent; Order No. 28 (Dec. 30, 2019) (EDIS Doc. ID 698076), <i>unreviewed</i> , Notice (Jan. 29, 2020) (EDIS Doc. ID 700635)
Triple Best	Consent; Order No. 18 (Nov. 27, 2019) (EDIS Doc. ID 695239), <i>unreviewed</i> , Notice (Dec. 18, 2019) (EDIS Doc. ID 697613)
V4ink	Consent; Order No. 33 (Feb. 3, 2020) (EDIS Doc. ID 701131), <i>unreviewed</i> , Notice (March 4, 2020) (EDIS Doc. ID 704076).
Terminated Based on Withdrawal of Complaint	
EPS	Terminated based on withdrawal of Complaint; Order No. 32 (Jan. 28, 2020) (EDIS Doc. ID 700467), <i>unreviewed</i> , Notice (Feb. 25, 2020) (EDIS Doc. ID 703352)
IFree	Terminated based on withdrawal of Complaint; Order No. 32 (Jan. 28, 2020) (EDIS Doc. ID 700467), <i>unreviewed</i> , Notice (Feb. 25, 2020) (EDIS Doc. ID 703352)

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The Commission investigative staff (“Staff”) is a party to this investigation. 84 Fed. Reg. at 49763.

Pending before me is an unopposed motion for summary determination filed by Brother seeking an initial determination that Respondents violated Section 337 and that Brother satisfies the domestic industry requirement of Section 337. Motion Docket No. 1174-32 (EDIS Doc. ID 704827) (“MSD”). The motion also seeks a recommended determination that the Commission issue a general exclusion order pursuant to 19 U.S.C. § 1337(d)(2)(A) and (B) covering toner cartridges and components thereof that infringe the Asserted Patents (or in the alternative limited exclusion orders against each of Respondents) and setting various bond rates for accused products imported during the Presidential review period. *Id.*

B. The Parties

1. Complainants

Complainants are three related entities, as laid out below.

a) Brother Industries, Ltd.

Complainant Brother Industries, Ltd. (“BIL”), also known as Brother Kogyo Kabushiki Kaisha, is a corporation duly organized and existing under the laws of Japan. Its principal place of business is 15-1, Naeshiro-cho, Mizuho-ku Nagoya-shi, Aichi-ken, Japan 467-8561. Ex. 6, Declaration of Donald Cummins at ¶ 6 (Mar. 9, 2020) (“Cummins Decl.”). BIL is the owner of the entire right and title to, and interest in, the Asserted Patents. Exs. 6-C (’093 Assignment); 6-D (’460 Assignment); 6-E (’856 and ’456 Assignments); 6-F (’387 Assignment).

b) Brother International Corporation (U.S.A.)

Complainant Brother International Corporation (U.S.A.) (“BIC”) is a wholly-owned subsidiary of BIL and is a corporation duly organized and existing under the laws of the State of Delaware. Cummins Decl. at ¶ 10. Its principal place of business is 200 Crossing Boulevard,

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Bridgewater, New Jersey 08807. Cummins Decl. at ¶ 11. BIC markets, sells, and supports the industrial products, home appliances, and business products manufactured by BIL and Brother Industries (U.S.A.), Inc. (“BIUS”), including printers and printer/copier/scanner/fax combinations (also called “Multi-Function Centers” or “MFCs”). Cummins Decl. at ¶ 12; Ex. 6-G (“About BIC” webpage) at 1; Ex 6-H at 2; Ex. 6-I at 1, 3; Ex. 6-J at 2, 3.

c) Brother Industries (U.S.A.), Inc.

BIUS is a wholly owned subsidiary of BIC and is a corporation duly organized and existing under the laws of the State of Delaware. Cummins Decl. at ¶¶ 35, 36. Its principal place of business is 7819 North Brother Boulevard, Bartlett, Tennessee 38133. *Id.* at ¶ 36. BIUS was incorporated in 1986 and manufactures various domestic goods, including printing equipment. Cummins Decl. at ¶ 37; Ex. 6-G (“About BIC” webpage) at 1; Ex. 6-AC (Bloomberg page about BIUS) at 1. BIUS also has a substantial business in refilling and reselling used toner cartridges and in refurbishing used printers and MFCs returned by customers. Cummins Decl. at ¶ 45; Ex. 6-H at 15.

2. Respondents

Of the 32 respondents named in Brother’s initial complaint, 10 named respondents were terminated from this Investigation, and 21 were found in default. Only one respondent remains active in the investigation.

a) Aster

Aster is the only respondent that has not been found in default or been terminated from this Investigation. However, Aster has stipulated to “waive each of its claims and affirmative defenses” as to the products at issue in the pending motion for summary determination. Ex. 7 at ¶ 2.2; *see*

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EDIS Doc. ID 704103 (Joint Stipulation of Brother and Aster for Resolution as to Aster in the Investigation). Aster has also agreed “not to oppose any motion by Brother for summary by Brother for summary determination of violation of Section 337 as to the Original Design Products in this Investigation.” *Id.* at ¶ 2.4.

Aster is a California corporation with a principal place of business at 12000 Magnolia Avenue, Suite 101, Riverside, California 92503. Ex. 5 at ¶ 3.18. Aster is a manufacturer and distributor of printer consumable products. *Id.* at ¶ 3.19. Aster imports, offers for sale, and sells after importation into the United States toner cartridges through the website www.goaster.com. *Id.* at ¶ 3.26.

b) Terminated Respondents

Respondents EPS, IFree, New Era, OW, Ms. Meng, Triple Best, V4ink, Cartridge Evolution, E-Z Ink, and Linkyo were terminated from this Investigation for the reasons detailed below.

EPS and IFree were terminated from this Investigation pursuant to Commission Rule 210.21(a)(1) after Brother and the Commission were unable to serve them with copies of the complaint. Ex. 2; Order No. 32.

New Era, OW Supplies, Ms. Meng, Triple Best, V4Ink, Cartridge Evolution, E-Z Ink, and Linkyo were terminated from this investigation pursuant to Commission Rule 210.21(c) after stipulating to consent orders. Order Nos. 10 (New Era), 17 (OW Supplies), 18 (Triple Best), 28 (Ms. Meng), 33 (V4Ink), 36 (Cartridge Evolution), 37 (Linkyo), and 38 (E-Z Ink).

c) Defaulting Respondents

Respondents An An Beauty, AMI, Aztech, Billiontree, Carlos Imaging, Do It Wiser, Eco Imaging, Ecoolmart, Globest, Greencycle, Hongkong Boze, I8, Ikong, Intercon, IPrint, LD

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Products, Mangoket, Smartjet, Solong, Super Warehouse, and Xiaohui (collectively, the “Defaulting Respondents”) were found in default.

(1) AMI

AMI is a California corporation with a principal place of business at 1370 Valley Vista Drive, Suite 200, Diamond Bar, California 91765 that is in the wholesale and retail business. Ex. 5 at ¶ 3.8. AMI owns the “Arthur Imaging” registered trademark and operates the website arthurimaging.com through which it offers for sale Arthur Imaging-branded toner cartridges. *Id.* at ¶¶ 3.9-3.10. AMI also offers for sale Arthur Imaging-branded toner cartridges through the “Arthur Office Supply” storefront on Amazon.com. *Id.* at ¶ 3.11.

(2) An An Beauty

An An Beauty is a limited liability corporation organized and existing under the laws of Hong Kong with a principal place of business at Flat/Room 2104 21/F, Mongkok Commercial Centre, 16 Argyle Street, Mongkok KL, Hong Kong 999077. Ex. 5 at ¶ 3.12. An An Beauty owns the “CMYBabee” registered trademark and offers for sale CMYBabee-branded toner cartridges through its website cmybabee.com and the Babeeink storefront on Amazon.com. *Id.* at ¶¶ 3.13-3.15.

(3) Aztech

Aztech is a limited liability corporation organized and existing under the laws of Hong Kong with a principal place of business at Units 1206, 12/F, Cheuk Nang Center, 9 Hillwood Road, Kowloon, Hong Kong 999077. Ex. 5 at ¶ 3.30. Aztech owns an “Aztech” registered trademark and offers for sale Aztech-branded toner cartridges through the website aztech-supplies.com and through the AZ-TECH and Chessmo storefronts on Amazon.com. *Id.* at ¶¶ 3.31-3.34.

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(4) Billiontree

Billiontree is a California corporation with a principal place of business at 19945 Harrison Avenue, City of Industry, California 91789. Ex. 5 at ¶ 3.36. Billiontree owns the “Toner Kingdom” registered trademark and offers for sale Toner Kingdom-branded toner cartridges through the website billion-tree.com and through the Palmtree Store and YangM storefronts on Amazon.com. *Id.* at ¶¶ 3.37-3.39.

(5) Carlos Imaging

Carlos Imaging was a California corporation with a principal place of business at PMB 540, 17128 Colima Road, Hacienda Heights, California 91745, that was dissolved in January 2017. Ex. 5 at ¶¶ 3.41, 3.43. Carlos Imaging owns the “Green Toner Supply” registered trademark and offered for sale Green Toner Supply-branded toner cartridges. *Id.* at ¶ 3.42. Despite Carlos Imaging’s dissolution, Green Toner Supply-branded toner cartridges are still being sold and offered for sale through the Carlos Imaging storefront on Amazon.com. *Id.* at ¶¶ 3.43-3.44.

(6) Do It Wiser

Do It Wiser is a Delaware limited liability corporation with a principal place of business at 3422 Old Capital Trail, Suite 747, Wilmington, Delaware 19808. Ex. 5 at ¶ 3.45. Do It Wiser owns the registered trademark “Do It Wiser” under which it offers for sale toner cartridges through the imagetoner.com and doitwiser.com websites and through the Do It Wiser storefront on Amazon.com. *Id.* at ¶¶ 3.46-3.49.

(7) Eco Imaging

Eco Imaging is a California corporation with a principal place of business at PMB A839, 14252 Culver Drive, Irvine, California 92604. Ex. 5 at ¶ 3.50. Eco Imaging owns the “Cool Toner” registered trademark and offers for sale Cool Toner-branded toner cartridges through the

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website us.cooltoner.com and through the Toner H Party, Office and Warehouse Supplies, and King Kong storefronts on Amazon.com. *Id.* at ¶¶ 3.51-3.53.

(8) Ecoolmart

Ecoolmart is a California corporation with a principal place of business at 163 University Parkway, Pomona, California 91768. Ex. 5 at ¶ 3.55. Ecoolmart owns the registered trademark “Hi-Vision Hi-Yields” and offers for sale Hi-Vision Hi-Yields-branded toner cartridges through the “Vision Supplies” storefront on Amazon.com. *Id.* at ¶¶ 3.57-3.58.

(9) Globest

Globest is a California corporation with a principal place of business at 1251 South Rockefeller Avenue, Unit B, Ontario, California 91761. Ex. 5 at ¶ 3.59. Globest owns the registered trademark “InkeSale” and offers for sale InkeSale-branded toner cartridges through its website inkesale.com and through the ManyCartridges, Limito, Global Toner, and VP6 storefronts on Amazon.com. *Id.* at ¶¶ 3.60-3.62.

(10) Greencycle

Greencycle is a California corporation with a principal place of business at 9638 Rush Street, Unit E, South El Monte, California 91733. Ex. 5 at ¶ 3.63. Greencycle offers for sale Greencycle-branded toner cartridges through the Quicktoner storefront on Amazon.com. *Id.* at ¶ 3.65.

(11) Hongkong Boze

Hongkong Boze is an entity organized and existing under the laws of Hong Kong with a principal place of business at Flat/Room A 27/F, Billion Plaza 2, 10 Cheung Yee Street, Lai Chi Kok, KL Hong Kong 999077. Ex. 5 at ¶ 3.66. Hongkong Boze offers for sale Greensky-branded

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toner cartridges through its website greenskytoner.com and through the Fituwork and Greensky storefronts on Amazon.com. *Id.* at ¶¶ 3.67-3.69.

(12) I8

I8 is a California corporation with a principal place of business at 19961 Harrison Avenue, City of Industry, California 91789. Ex. 5 at ¶ 3.71. I8 owns the “Ink4work” registered trademark and offers for sale Ink4work-branded toner cartridges through the INK4WORK storefront on Amazon.com. *Id.* at ¶¶ 3.72-3.73.

(13) Ikong

Ikong is a California corporation with a principal place of business at PMB 429, 385 South Lemon Avenue, Suite E, Walnut, California 91789. Ex. 5 at ¶ 3.77. Ikong offers for sale IKONG-branded toner cartridges through the IKONG and Lyc_usa storefronts on Amazon.com. *Id.* at ¶ 3.78.

(14) Intercon

Intercon is a California corporation with a principal place of business at PMB 109, 407 West Imperial Highway, Suite H, Brea, California 92821. Ex. 5 at ¶ 3.82. Intercon owns the “Arcon” registered trademark and offers for sale Arcon-branded toner cartridges through the iarcon.com website and through the Arcon storefront on Amazon.com. *Id.* at ¶¶ 3.83-3.85.

(15) IPrint

IPrint is an entity organized and existing under the laws of Hong Kong located at Rooms 1318-19, 13/F Hollywood Plaza, 610 Nathan Road, Mongkok Kowloon, Hong Kong 999077. Ex. 5 at ¶ 3.87. IPrint owns the “Toner Bank” registered trademark and offers for sale Toner Bank-branded toner cartridges through the Toner Bank storefront on Amazon.com. *Id.* at ¶¶ 3.88-3.89.

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(16) LD Products

LD Products is a California corporation with a principal place of business at 3700 Cover Street, Long Beach, California 90808. Ex. 5 at ¶ 3.96. LD Products owns the “LD” and “Speedyinks” registered trademarks. Exs. 5 at ¶¶ 3.97, 3.98; 5-121; 5-125. LD Products offers for sale LD-branded toner cartridges through the website ldproducts.com and the LD Products storefront on Amazon.com. Exs. 5 at ¶ 3.99; 5-124. LD Products offers for sale Speedyinks-branded toner cartridges through the Speedy Inks storefront on Amazon.com. Exs. 5 at ¶ 3.101; 5-126.

(17) Mangoket

Mangoket is a California limited liability corporation with a principal place of business at 1641 West Main Street, Suite 222, Alhambra, California 91801. Ex. 5 at ¶ 3.93. Mangoket offers for sale EPS-branded toner cartridges through the MANGOKET storefront on Amazon.com. *Id.* at ¶¶ 3.94.

(18) Solong

Solong is a limited liability company organized and existing under the laws of Hong Kong with a principal place of business at Flat/Room 19C Lockhart Center 301-307 Lockhart Road, Wan Chai, Hong Kong 999077. Ex. 5 at ¶ 3.80. Solong offers for sale IKONG-branded toner cartridges through the ikong-world.com website. *Id.* at ¶ 3.81.

(19) Smartjet

Smartjet is a limited liability company organized and existing under the laws of Hong Kong with a principal place of business at Flat/Room A 20/F, Kiu Fu Commercial Building, 300 Lockhart Road, Wan Chai, Hong Kong 999077. Ex. 5 at ¶ 3.115. Smartjet owns the registered

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trademark “MIROO” and offers for sale MIROO-branded toner cartridges through the usa-miroo.com website and through the Linkinc storefront on Amazon.com. *Id.* at ¶¶ 3.116-3.118.

(20) Super Warehouse

Super Warehouse is a Washington corporation with a principal place of business at 1160 Yew Avenue, DSS-5179, Blaine, Washington 98230. Ex. 5 at ¶ 3.119. Super Warehouse owns the “Inktoneram” registered trademark and offers for sale Inktoneram-branded toner cartridges on the super-warehouse.com website and through the Inktoneram storefront on Amazon.com. *Id.* at ¶¶ 3.120-3.122.

(21) Xiaohui

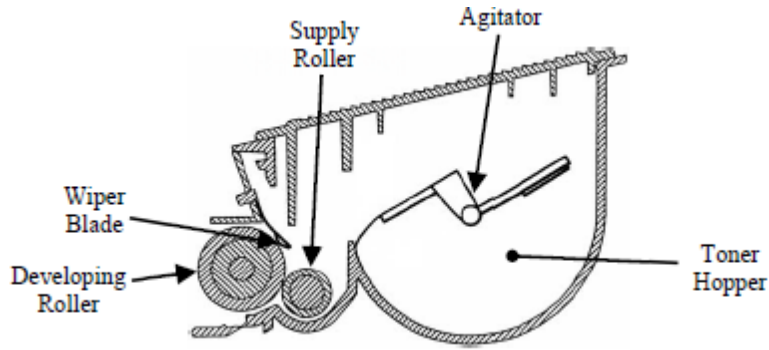
Xiaohui is an entity organized and existing under the laws of China with a principal place of business at Room 502, Factory Five, No. 12, Pingdong 3rd Road, Nanping Keji Industrial Park, Xiangzhou District, Zhuhai, China 519000. Ex. 5 at ¶ 3.145. Xiaohui owns the registered trademark “JARBO” and offers for sale JARBO-branded toner cartridges through its website jarbo-world.com and through the Slsink, TieWrapsNation, and JARBO storefronts on Amazon.com. *Id.* at ¶¶ 3.146-3.148.

C. The Technology at Issue

Printers, fax machines, and MFCs use toner cartridges to print images on *e.g.* paper. Ex. 5 at ¶ 4.1, Cummins Decl. Ex. 6 at ¶ 64. Toner is transferred from the toner cartridge to paper via a system of electrically charged components. *Id.* at ¶ 64.

A toner cartridge generally includes a toner hopper, an agitator, a developing chamber, a supply roller, and a developing roller, as depicted below:

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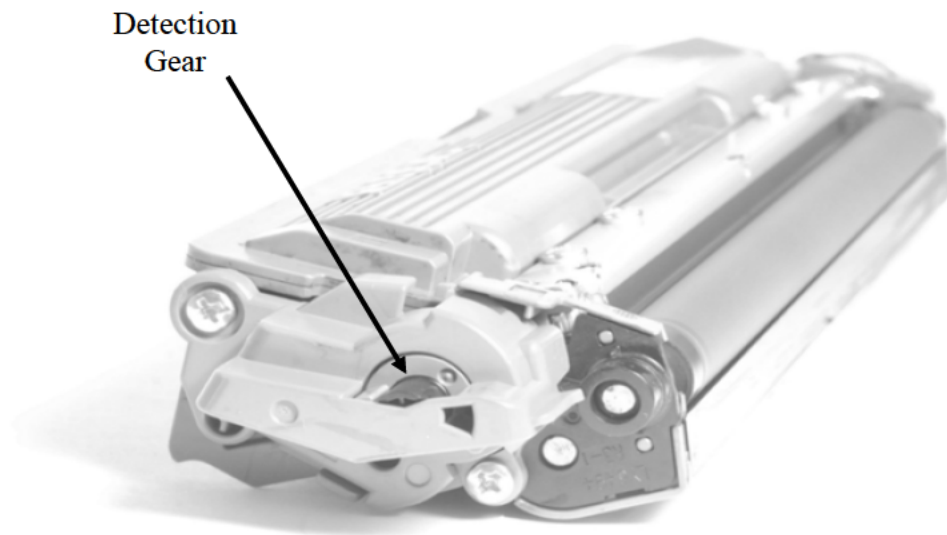
Id. at ¶ 73. Toner is stored in the toner hopper and moved to the supply roller when the agitator rotates. *Id.* at ¶ 74. The supply roller and the developing roller include electrodes that charge the toner with a positive electrostatic charge. *Id.* at ¶ 77. The charged toner is deposited on a photosensitive drum in the desired pattern, where it is then transferred onto paper. *Id.* at ¶¶ 77, 78.

D. The Asserted Patents

As described below, the Asserted Patents are directed to toner cartridges with certain features, including a detection gear, a supply roller electrode, and a developing roller electrode.

The asserted claims of the '093, '460, and '387 patents are directed to various aspects of a detection gear. The detection gear enables a compatible printer, fax machine, or MFC to detect the insertion of a new toner cartridge. Ex. 34 (Declaration of Jarrett Gayne) (hereinafter "Gayne Decl.") at ¶ 53. An exemplary detection gear positioned on a side of the toner cartridge is depicted in the figure below:

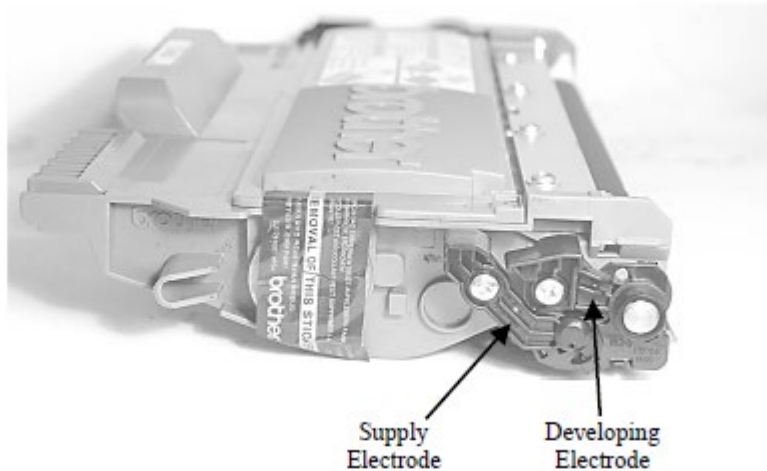
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MSD at 8.

The asserted claims of the '456 and '856 patents are directed to various aspects of a supply roller electrode and a developing roller electrode. Each type of electrode includes protrusions that receive electrical biases from contact points of a compatible printer, fax machine, or MFC. Ex. 33 (Declaration of Guerry Grune) (hereinafter "Grune Decl.") at ¶ 29. The supply roller applies electrical biases to charge the toner particles and opposite electrical biases on the developing roller selectively attract and apply toner particles to form printed images. *Id.* at ¶¶ 30, 31. Examples of supply roller and developing roller electrodes positioned on the side of the toner cartridge are depicted in the figure below:

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MSD at 9.

E. The Domestic Industry Products

Brother offers five lines of toner cartridges for sale in the United States that it claims utilize the claimed technology of the Asserted patents: the “DCL,” “ECL,” “BLL,” “DLL,” and “ELL” lines (collectively the “Covered Cartridges”). Cummins Decl. ¶¶ 81-106. The toner cartridges in Brother’s DCL line are identified with model numbers TN-221BK, TN-221C, TN-221M, TN-221Y, TN-225C, TN-225M, and TN-225Y (collectively, the “Covered 221/225 Cartridges”). *Id.* at ¶¶ 81, 84, 86, 89, 97, 102. The toner cartridges in Brother’s ECL line are identified with model numbers TN-223BK, TN-223C, TN-223M, TN-223Y, TN-227BK, TN-227C, TN-227M, TN-227Y (collectively, the “Covered 223/227 Cartridges”). *Id.* at ¶¶ 82, 85, 87, 90, 98, 103. The toner cartridges in Brother’s BLL line are identified with model numbers TN-420 and TN-450 (collectively, the “Covered 420/450 Cartridges”). *Id.* at ¶¶ 82, 88, 91, 99, 104. The toner cartridges in Brother’s DLL line are identified with model numbers TN-630 and TN-660 (collectively, the “Covered 630/660 Cartridges”). *Id.* at ¶¶ 82, 88, 92, 100, 105. And toner cartridges in Brother’s

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ELL line are identified with model numbers TN-730, TN-760, and TN-770 (collectively, the “Covered 730/760/770 Cartridges”). *Id.* at ¶¶ 82, 82, 88, 93, 101, 106.

Within each product line, Brother’s toner cartridges are identical to each other in all respects relevant to this investigation. *Id.* at ¶¶ 89, 90, 91, 92, 93. The primary difference between the toner cartridges in the DCL and ECL lines is that the model numbers with “BK,” “C,” “M,” and “Y” suffixes hold black, cyan, magenta, and yellow toner, respectively, and the toner cartridges with higher model numbers (*e.g.*, TN-225C) are filled with more toner than those with lower model numbers (*e.g.*, TN-221C). *Id.* at ¶¶ 86, 87, 89, 90. The toner cartridges with higher model numbers in the BLL, DLL, and ELL lines also are filled with more toner than those with lower model numbers, but all model numbers within the BLL, DLL, and ELL lines are filled with black toner. *Id.* at ¶¶ 88, 91, 92, 93.

Brother’s DCL, ECL, BLL, DLL, and ELL product lines also include compatible printers, fax machines, and MFCs with corresponding model numbers (“Related Products”).

F. The Accused Products

Brother has defined the products accused in this investigation as toner cartridges designed to be compatible with Brother’s printers, fax machines and MFCs in the DCL, ECL, BLL, DLL, and ECL lines of products. *See, e.g.*, Ex. 5 at ¶¶ 1.3-1.5, 4.1; 84 Fed. Reg. 49762. The products identified by Brother include toner cartridges marketed as substitutes for Brother’s TN-221BK, TN-221C, TN-221M, TN-221Y, TN-225C, TN-225M, and TN-225Y toner cartridges (collectively, the “Accused 221/225 Cartridges”); Brother’s TN-223BK, TN-223C, TN- 223M, TN-223Y, TN-227BK, TN-227C, TN-227M, TN-227Y toner cartridges (collectively, the “Accused 223/227 Cartridges”); Brother’s TN-420 and TN-450 toner cartridges (collectively, the “Accused 420/450 Cartridges”); Brother’s TN-630 and TN-660 toner cartridges (collectively, the “Accused 630/660 Cartridges”); and Brother’s TN-730, TN-760, and TN-770 toner cartridges

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(collectively, the “Accused 730/760/770 Cartridges”). Ex. 5 at ¶¶ 9.32; Exs. 5-18, 5-22, 5-36, 5-41, 5-47, 5-59, 5-66, 5-71, 5-77, 5-81, 5-87, 5-91, 5-99, 5-106, 5-108, 5-117, 5-124, 5-126, 5-151, 5-156, 5-186 (various Amazon.com storefronts offering accused products as “compatible” Brother toner cartridges); Cummins Decl. at ¶ 96.

The following table shows the brand names under which each of Respondents sells one or more of the Accused 221/225, 223/227, 420/450, 630/660, or 730/760/770 Cartridges (collectively, the “Accused Products”) in the United States.

Respondent(s)	Brand(s)	Record Citations
AMI	Arthur Imaging	Ex. 5 at ¶ 3.9, 3.11, 7.6; Exs. 5-16, 5-18; Ex. 35 at ¶ 3.11, AMI Import. Stip. at ¶ 8
An An Beauty	CMYBabee	Ex. 5 at 3.13, 3.15, 7.8; Exs. 5-19, 5-22, 5-224
Aster	Arcon, Aztech, CMYBabee, Cool Toner, EPS, Greensky, Ink4Work, Toner Bank	Aster and Brother’s Joint Stipulation as to Importation at ¶ 6 (Jan. 30, 2020) (EDIS Doc. ID 700726) (hereinafter “Aster Import. Stip.”); Ex. 38 at ¶ 3.26
Aztech	Aztech	Ex. 5 at ¶ 3.31, 3.34, 7.29; Exs. 5-32, 5-36, 5-239
Billiontree	Toner Kingdom	Ex. 5 at ¶ 3.37, 3.39, 7.36; Exs. 5-39, 5-41, 5-241
Carlos Imaging	Green Toner Supply/GTS	Ex. 5 at ¶ 3.42, 3.44, 7.38; Exs. 5-45, 5-47, 5-243
Do It Wiser	Do It Wiser	Ex. 5 at ¶ 3.46, 3.49, 7.40; Exs. 5-51, 5-59, 5-245
Eco Imaging	Cool Toner	Ex. 5 at ¶ 3.51, 3.53, 7.42; Exs. 5-5-64, 5-66, 5-247
Ecoolmart	Hi-Vision Hi-Yield	Ex. 5 at ¶ 3.57, 3.58, 7.49; Exs. 5-70, 5-71, 5-249
Globest	InkeSale	Ex. 5 at ¶ 3.60, 3.62, 7.51; Exs. 5-74, 5-77, 5-251; Ex. 39 at ¶ 3.60; Globest and Brother’s Joint Stipulation as to Importation at ¶ 6 (Jan. 27, 2020) (EDIS Doc.

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		ID 700411) (“Globest Import. Stip.”)
Greencycle	Greencycle	Ex. 5 at ¶ 3.64, 3.65, 7.53; Exs. 5-80, 5-81, 5-253
Honkong Boze	Greensky	Ex. 5 at ¶ 3.67, 3.69, 7.55; Exs. 5-84, 5-87, 5-255
I8	Ink4work	Ex. 5 at ¶ 3.72, 3.73, 7.60; Exs. 5-90, 5-91, 5-257
Ikong and Solong	Ikong	Ex. 5 at ¶ 3.75, 3.78, 3.81, 7.64; Exs. 5-95, 5-99, 5-100, 5-261
Intercon	Arcon	Ex. 5 at ¶ 3.83, 3.85, 7.66; Exs. 5-104, 5-106, 5-263
IPrint	Toner Bank	Ex. 5 at ¶ 3.88, 3.89, 7.73; Exs. 5-107, 5-108, 5-264
Mongoket	EPS	Ex. 5 at ¶ 3.91, 3.94, 7.78; Exs. 5-109, 5-117, 5-265
LD Products	LD Products, Speedyinks	Ex. 5 at ¶ 3.97, 3.99, 3.100, 3.101, 7.82; Exs. 5-121, 5-124, 5-125, 5-126, 5-267, 5-269
Smartjet	MIROO	Ex. 5 at ¶ 3.116, 3.118, 7.90; Exs. 5-147, 5-151, 5-277
Super Warehouse	Inktoneram	Ex. 5 at ¶ 3.120, 3.122, 7.92; Exs. 5-154, 5-156, 5-279
Xiaohui	JARBO	Ex. 5 at ¶ 3.146, 3.148, 7.102; Exs. 5-183, 5-186, 5-289

Multiple brands are associated with Aster because Aster is the supplier of Accused Products to An An Beauty, Aztech, Eco Imaging, Hong Kong Boze, I8 International, Intercon, IPrint, and Mangoket. Aster Import. Stip. at ¶ 3, Ex. A.

Brother’s experts grouped the Accused Products into three groups of products based on features in the claims of the Asserted Patents. Those product groups are described below.

1. Accused Group 1 Products

Brother alleges that Respondents’ toner cartridges designed as substitutes for Brother’s TN-221BK, TN-221C, TN-221M, TN-221Y, TN-223BK, TN-223C, TN-223M, TN-223Y, TN-225C, TN-225M, TN-225Y, TN-227BK, TN-227C, TN-227M, and TN-227 toner cartridge models (collectively, “Accused Group 1 Products”) infringe the following claims of the ’093 and ’460 patents (collectively, “Asserted Group 1 Patents”):

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Asserted Patent	Asserted Claims
'093 patent	1-5, 10, & 12-15
'460 patent	1, 7-11, 15, & 16

Ex. 5 at ¶ 1.3.

Brother avers that accused TN-225-compatible models are representative of the accused TN-221-compatible models and that the accused TN-227-compatible models are representative of the accused TN-223-compatible models.² AMI, E-Z Ink, Linkyo, and Globest agreed that their TN-225C-compatible toner cartridges are representative of their TN-225- and TN-221-compatible toner cartridges.³ AMI, E-Z Ink, Cartridge Evolution, and Globest also agreed that their compatible TN-227C toner cartridges are representative of their compatible TN-227 and TN-223 toner cartridges. AMI Import. Stip. at ¶ 17, Ex. A; E-Z Ink Import. Stip. at ¶ 14, Ex. A; Brother and Cartridge Evolution's Joint Stipulation as to Importation ("Cartridge Evolution Import. Stip.") at ¶ 12, Ex. A (Feb. 3, 2020) (EDIS Doc. ID 701213); Globest Import. Stip. at ¶ 15, Ex. A.

Based on this, Brother's expert, Jarrett Gayne, identified the Accused Group 1 Products by

² See Ex. 5 at ¶¶ 6.11-6.19, 6.23-6.26 (Arthur Imaging), ¶¶ 6.34-6.37 (CMYBabee), ¶¶ 6.47-6.50 (Aztech), ¶¶ 6.59-6.62 (Green Toner Supply), ¶¶ 6.64-6.67, 6.74-6.77 (Do It Wiser), ¶¶ 6.79-6.86, 6.93-6.96 (Cool Toner), ¶¶ 6.98-6.101, 6.108-6.111 (Hi-Vision Hi-Yields), ¶¶ 6.113-6.120, 6.127-6.130 (InkeSale), ¶¶ 6.132-6.139, 6.146-6.149 (Greencycle), ¶¶ 6.157-6.160 (Greensky), ¶¶ 6.162-6.165, 6.172-6.175 (Ink4work), ¶¶ 6.177-6.180 (IKONG), ¶¶ 6.188-6.190, 6.198-6.201 (Arcon), ¶¶ 6.203-6.209, 6.217-6.220 (Toner Bank), ¶ 6.222 (Mangoket), ¶¶ 6.241-6.243, (LD), ¶¶ 6.244-6.253 (Speedyinks), ¶¶ 6.266-6.269, 6.276-6.279 (Linkyo), ¶¶ 6.297-6.300 (Inktoneram), ¶¶ 6.305-6.307, (Inktoneram) 6.315-6.318 (LxTek), ¶¶ 6.339-6.345, (v4ink), ¶¶ 6.353-6.356 (EZink), ¶¶ 6.358-6.364, (EZink), ¶¶ 6.372-6.375, 6.377-6.379, (JARBO).

³ AMI and Brother's Joint Stipulation as to Importation ("AMI Import. Stip.") at ¶ 16, Ex. A (Jan. 22, 2020) (EDIS Doc. ID 699881); E-Z Ink and Brother's Joint Stipulation as to Importation ("E-Z Ink Import. Stip.") at ¶ 13, Ex. A (Jan. 22, 2020) (EDIS Doc. ID 699885); Linkyo and Brother's Joint Stipulation as to Importation ("Linkyo Import. Stip.") at ¶ 17, Ex. A (Jan. 23, 2020) (EDIS Doc. ID 700057); Globest Import. Stip. at ¶ 14, Ex. A.

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TN-225 and TN-227-compatible brands, as shown below.^{4,5}

Accused Group 1 Products		
Respondent(s)	Brand(s)	
	TN-225 Compatible	TN-227 Compatible
AMI	Arthur Imaging	Arthur Imaging
Cartridge Evolution	E-Z Ink	E-Z Ink
Do It Wiser	Do It Wiser	-
Eco Imaging	Cool Toner	Cool Toner
Ecoolmart	Hi-Vision Hi-Yields	-
E-Z Ink	E-Z Ink	E-Z Ink
Globest	InkeSale	InkeSale
Greencycle	Greencycle	Greencycle
I8 International	Ink4work	-
Ikong / Solong E-Commerce	IKONG	-
Intercon	Arcon	Arcon
IPrint	Toner Bank	-
LD Products	LD Products / SpeedyInks	-
Linkyo	LINKYO	-
Smartjet	MIROO	-
Super Warehouse	Inktoneram	-
V4Ink	v4ink	v4ink
Xiaohui E-Commerce	JARBO	-

Gayne Decl. at ¶ 4.

2. Accused Group 2 Products

Brother alleges that Respondents’ toner cartridges designed as substitutes for Brother’s TN-420, TN-450, TN-630, TN-660, TN-730, TN-760, and TN-770 toner cartridges (collectively, “Accused Group 2 Products”) infringe the following claims of the ’856 and ’456 patents

⁴ Aster supplies Accused Products to Eco Imaging, I8, Intercon, and IPrint. Aster and Brother’s Joint Stipulation as to Importation at ¶ 6 (Jan. 30, 2020) (EDIS Doc. ID 700726) (“Aster Import. Stip.”).

⁵ Brother and Aster stipulated that the Arcon-branded TN-225C compatible toner cartridge and the Arcon-branded TN-227C compatible toner cartridge are each “representative of all such compatible toner cartridges.” Aster Import. Stip. at ¶¶ 10-11.

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(collectively, “Asserted Group 2 Patents”):

Asserted Patent	Asserted Claims
'856 patent	1-7, 9
'456 patent	1, 4, 5, 9

Ex. 5 at ¶ 1.4.

In its complaint, Brother avers that the TN-450-compatible models are representative of the TN-420-compatible models, the TN-660-compatible models are representative of the TN-630-compatible model, and the TN-760-compatible models are representative of the TN-730- and TN-770-compatible models.⁶ E-Z Ink, Linkyo, Cartridge Evolution, and Globest agreed that their Brother TN-450-compatible toner cartridges are representative of their Brother-compatible TN-420 and TN-450 toner cartridges. E-Z Ink Import. Stip. at ¶ 15, Ex. A; Linkyo Import. Stip. at ¶ 18, Ex. A; Cartridge Evolution Import. Stip. at ¶ 13, Ex. A; Globest Import. Stip. at ¶ 16, Ex. A. Additionally, AMI, E-Z Ink, Linkyo, Cartridge Evolution, and Globest agreed that their Brother TN-660-compatible toner cartridges are representative of their Brother-compatible TN-630 and TN-660 toner cartridges. AMI Import. Stip. at ¶ 18, Ex. A; E-Z Ink Import. Stip. at ¶ 16, Ex. A; Linkyo Import. Stip. at ¶ 19, Ex. A; Cartridge Evolution Import. Stip. at ¶ 14, Ex. A; Globest Import. Stip. at ¶ 17, Ex. A. The same respondents also agreed that their Brother TN-760-compatible toner cartridges are representative of their Brother-compatible TN-730, TN-760, and TN-770 toner cartridges. AMI Import. Stip. at ¶ 19, Ex. A; E-Z Ink Import. Stip. at ¶ 17, Ex. A;

⁶ See Ex. 5 at ¶¶ 6.211, 6.214, 6.217 (Toner Bank); ¶¶ 6.121, 6.124, 6.127 (InkeSale); ¶¶ 6.270, 6.273, 6.276 (New Era Toner); ¶¶ 6.366, 6.369, 6.372 (Jarbo); ¶¶ 6.347, 6.350, 6.353 (EZink); ¶¶ 7.36, 7.37 (Toner Kingdom); ¶¶ 6.87, 6.90, 6.93 (Cool Toner); ¶¶ 6.151, 6.154, 6.157 (Greensky); ¶¶ 6.192, 6.195, 6.198 (Arcon); ¶¶ 6.234, 6.237 (LD); ¶ 6.301 (Inktoneram); ¶¶ 6.309, 6.312, 6.315 (LxTek); ¶¶ 6.68, 6.71, 6.74 (Do It Wiser); ¶¶ 6.245, 6.248, 6.251 (Speedyinks); ¶¶ 6.259, 6.262 (LINKYO); ¶¶ 6.166, 6.169, 6.172 (Ink4work); ¶¶ 6.102, 6.105, 6.108 (Hi-Vision Hi-Yields); ¶¶ 6.140, 6.143, 6.146 (Greencycle); ¶¶ 6.41, 6.44, 6.47 (Aztech); ¶¶ 6.28, 6.31, 6.34 (CMYBabee);.

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Linkyo Import. Stip. at ¶ 20, Ex. A; Cartridge Evolution Import. Stip. at ¶ 15, Ex. A; Globest Import. Stip. at ¶ 18, Ex. A.

Based on this, Brother’s expert, Guerry Grune, identified the Accused Group 2 Products by TN-450, TN-660, and TN-760 compatible brands, as shown below.^{7,8,9}

Accused Group 2 Products			
Respondent(s)	Brand(s)		
	TN-450 Compatible	TN-660 Compatible	TN-760 Compatible
An An Beauty	CMYBabee	CMYBabee	CMYBabee
AMI	-	Arthur Imaging	Arthur Imaging
Aztech	Aztech	Aztech	Aztech
Billiontree	Toner Kingdom	Toner Kingdom	-
Carlos Imaging	-	-	Green Toner Supply
Do It Wiser	Do It Wiser	Do It Wiser	Do It Wiser
Eco Imaging	Cool Toner	Cool Toner	Cool Toner
Ecoolmart	Hi-Vision Hi-Yields	Hi-Vision Hi-Yields	Hi-Vision Hi-Yields
E-Z Ink	EZInk	EZInk	EZInk
Globest	InkeSale	InkeSale	InkeSale
Greencycle	Greencycle	Greencycle	Greencycle
Honkong Boze	Greensky	Greensky	Greensky
I8 International	Ink4work	Ink4work	Ink4work
Ikong and Solong E-Commerce	IKONG	IKONG	IKONG
Intercon	Arcon	Arcon	Arcon
IPrint	-	Toner Bank	Toner Bank
LD Products	LD Products and Speedy Inks	LD Products and Speedy Inks	LD Products
Linkyo	LINKYO	LINKYO	LINKYO
Mangoket	EPS	EPS	-
Smartjet	MIROO	-	-
Super Warehouse	Inktoneram	Inktoneram	Inktoneram
V4Ink	V4Ink	V4Ink	V4Ink
Xiaohui E- Commerce	JARBO	JARBO	JARBO

⁷ Dr. Grune included in his chart respondents and products that have been terminated from this investigation, such as Linkyo and V4ink. Ex. 33 at 38. I have omitted those respondents and products here.

⁸ Aster supplies Accused Products to An An Beauty, Aztech, Carlos Imaging, Eco Imaging, Hongkong Boze, I8, Intercon, IPrint, and Mangoket. Aster Import. Stip. at ¶ 6.

⁹ Brother and Aster stipulated that the Arcon-branded TN-450 compatible toner cartridge, the Arcon-branded TN-660 compatible toner cartridge, and the Arcon-branded TN-760 compatible toner cartridge are each “representative of all such compatible toner cartridges.” Aster Import. Stip. at ¶¶ 12-14.

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Grune Decl. at ¶ 38.

3. Accused Group 3 Products

Brother alleges that Respondents' toner cartridges designed as substitutes for Brother's TN-221BK, TN-221C, TN-221M, TN-221Y, TN-223BK, TN-223C, TN-223M, TN-223Y, TN-225C, TN-225M, TN-225Y, TN-227BK, TN-227C, TN-227M, TN-227Y, TN-730, TN-760, and TN-770 toner cartridges (collectively, "Accused Group 3 Products") infringe the following claims of the '387 patent ("Asserted Group 3 Patent"):

Asserted Patent	Asserted Claims
'387 patent	1, 3, 5, 7-12, & 18

Ex. 5 at ¶ 1.5.

In view of Brother's contentions about representative models, discussed above, Jarrett Gayne identified the Accused Group 3 Products by TN-225, TN-227, and TN-760 compatible brands, as shown below.

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Accused Group 3 Products			
Respondent(s)	Brand(s)		
	TN-225 Compatible	TN-227 Compatible	TN-760 Compatible
AMI	Arthur Imaging	Arthur Imaging	Arthur Imaging
An An Beauty	-	-	CMYBabee
Aztech	-	-	Aztech
Carlos Imaging	-	-	Green Toner Supply
Cartridge Evolution	E-Z Ink	E-Z Ink	E-Z Ink
Do It Wiser	Do It Wiser	-	Do It Wiser
Eco Imaging	Cool Toner	Cool Toner	Cool Toner
Ecoolmart	Hi-Vision Hi-Yields	-	Hi-Vision Hi-Yields
E-Z Ink	E-Z Ink	E-Z Ink	E-Z Ink
Globest	InkeSale	InkeSale	InkeSale
Greencycle	Greencycle	Greencycle	Greencycle
I8 International	Ink4work	-	Ink4work
Ikong and Solong E-Commerce	IKONG	-	IKONG
Intercon	Arcon	Arcon	Arcon
IPrint	Toner Bank	-	Toner Bank
LD Products	LD Products / SpeedyInks	-	LD Products / SpeedyInks
Linkyo	LINKYO	-	LINKYO
Smartjet	MIROO	-	-
Super Warehouse	Inktoneram	-	Inktoneram
V4Ink	v4ink	v4ink	v4Ink
Xiaohui E-Commerce	JARBO	-	JARBO

Gayne Decl. at ¶ 5.

4. Representative Products

Brother's experts, Mr. Gayne and Dr. Grune, evaluated each of the Accused Products individually and thoroughly and both determined that many of the products are functionally identical for purposes of analyzing infringement of the asserted patents. Grune Decl. at ¶ 40; Gayne Decl. at ¶ 8. In line with those conclusions, both experts divided the Accused Products according to "type" and provided separate infringement analyses for each Accused Product type. MSD App'x B (cross-reference to claim charts for each product accused of infringing the '093 patent), MSD App'x C (same for '460 patent), MSD App'x D (same for '856 patent). MSD App'x

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E (same for '456 patent), MSD App'x F (same for '387 patent). According to Mr. Gayne and Dr. Grune's analyses, "the accused products within the same 'type' are identical to one another in all respects."¹⁰ Gayne Decl. at ¶ 8. Each expert deemed any differences among models of the same type to be insignificant unless separately addressed in their analysis. Gayne Decl. at ¶ 8; Grune Decl. at ¶ 40.

Mr. Gayne grouped the Accused Group 1 and Accused Group 3 Products as follows:¹¹

Accused TN-225 Product Types		
Type	Represented Products	Representative Product
Type-A	Do It Wiser-, Hi-Vision Hi-Yield-, MIROO-, Inktoneram-, EZink-, and Arthur Imaging-branded TN-225 compatible toner cartridges	Arthur Imaging-branded TN-225
Type-B	Arcon-, Toner Bank, and Cool Toner-branded TN-225 compatible toner cartridges	Arcon-branded TN-225
Type-C	V4Ink-, InkESale-, and OfficeWorld – branded TN-225 compatible toner cartridges	V4Ink-branded TN-225
Type-D	Greencycle, Ink4Work-, Ikong-, and JARBO- branded TN-225 compatible toner cartridges	Greencycle-branded TN-225
Type-E	LD Products-, SpeedInks-, Linkyo-branded TN-225 compatible toner cartridges	Linkyo-branded TN-225

¹⁰ Dr. Grune stated that "the accused products within the same 'type' are structurally identical to one another in all respects." Grune Decl. at ¶ 40.

¹¹ In the Accused TN-225 Product Types chart provided by Brother, the listed OfficeWorld-branded toner cartridges were sold by IFree. Ex. 5 at ¶¶ 6.177-6.180. Brother withdrew its complaint as to IFree and, as a result, I do not include IFree products in the accused product charts reproduced here. See Order No. 32.

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Accused TN-227 Product Types		
Type	Represented Products	Representative Product
Type-A	InkESale-, Greencycle-, V4ink-, and Arthur Imaging-branded TN-227 compatible toner cartridges	Arthur Imaging-branded TN-227
Type-B	Arcon- and Cool Toner-branded TN-227 compatible toner cartridges	Arcon-branded TN-227
Type-C	EZink-branded TN-227 compatible toner cartridge	EZink-branded TN-227

Accused TN-760 Product Types		
Type	Represented Products	Representative Product
Type-A	Arthur Imaging-, JARBO-, Ikong-, Hi-Vision Hi-Yields-, and InkESale-branded TN-760 compatible toner cartridges	Arthur Imaging branded TN-760
Type-B	Eco Imaging- [Cool Toner], Greensky-, Inktoneram-, Neweratoner- [Not Accused], LD Products-, Greencycle-, Do it Wiser-, GTS-, EZink-, and Linkyo-branded TN-760 compatible toner cartridges	EZink-branded TN-760
Type-C	Arcon-, Toner Bank-, Ink4Work-, Aztech-, and CMYBabee-branded TN-760 compatible toner cartridges	Arcon-branded TN-760
Type-D	V4ink-branded TN-760 compatible toner cartridge	V4ink-branded TN-760

Gayne Decl. at ¶ 9.

Dr. Grune grouped the Accused Group 2 Products as follows:

TN-450 Accused Product Types		
Type	Represented Products	Representative Product
Type-1	InkeSale-, EZink-, V4ink-, CMYBabee-, Do it Wiser-, Greencycle-, Greensky-, High-Vision High-Yields-, IKONG-, Ink4work-, Inktoneram-, Jarbo-, Toner Kingdom-, and MIROO-branded TN-450 compatible toner cartridges	InkeSale-branded TN-450
Type-2	Arcon-, Aztech-, and Cool Toner-branded TN-450 compatible toner cartridges	Arcon-branded TN-450
Type-3	Linkyo- and LD Products-branded TN-450 compatible toner cartridges	Linkyo-branded TN-450
Type-4	EPS-branded TN-450 compatible toner cartridges	EPS-branded TN-450

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TN-660 Accused Product Types		
Type	Represented Products	Representative Product
Type-1	InkeSale-, Arthur Imaging-, CMYBabee-, Do it Wiser-, Greencycle-, Ink4work-, and Toner Kingdom-branded TN-660 compatible toner cartridges	InkeSale-branded TN-660
Type-2	Arcon-, Aztech-, Cool Toner-, Greensky-, and Toner Bank-branded TN-660 compatible toner cartridges	Arcon-branded TN-660
Type-3	Linkyo- and LD Products-branded TN-660 compatible toner cartridges	Linkyo-branded TN-660
Type-4	Jarbo- and Hi-Vision Hi-Yields-branded TN-660 compatible toner cartridges	Jarbo-branded TN-660
Type-5	IKONG- and Inktoneram-branded TN-660 compatible toner cartridges	IKONG-branded TN-660
Type-6	EZink-branded TN-660 compatible toner cartridges	EZink-branded TN-660

TN-760 Accused Product Types		
Type	Represented Products	Representative Product
Type-1	InkeSale- and V4ink-branded TN-760 compatible toner cartridges	InkeSale-branded TN-760
Type-2	Arcon-, Aztech-, CMYBabee-, Ink4work-, and Toner Bank-branded TN-760 compatible toner cartridges	Arcon-branded TN-760
Type-3	Linkyo-, EZink-, Arthur Imaging-, Cool Toner-, Do it Wiser-, Greencycle-, Inktoneram-, LD Products-, and Green Toner Supply-branded TN-760 compatible toner cartridges	Linkyo-branded TN-760
Type-4	Jarbo-, IKONG-, and Hi-Vision Hi-Yields-branded TN-760 compatible toner cartridges	Jarbo-branded TN-760

Grune Decl. at ¶ 41.

The conclusions that Dr. Grune and Mr. Gayne drew about representative products are based on their careful examination of each Accused Product model. No evidence contradicts their findings or their conclusions about representative products. I therefore conclude that the products identified in the charts above are representative of the other products indicated at least so far as is material to the patent claims around which Dr. Grune and Mr. Gavne organized their respective analyses.

PUBLIC VERSION

5. Newly Designed Products

During the course of the investigation, respondents AMI, Cartridge Evolution, E-Z Ink, Globest, and Linkyo introduced certain newly designed toner cartridges (“Newly Designed Products”) as replacements for the initially Accused Products (“Original Design Products”). *See* Brother and AMI Joint Stipulation as to Original and Newly Designed Products at pp. 1-2 (Feb. 3, 2020) (EDIS Doc. ID 701193); Brother and Cartridge Evolution Joint Stipulation as to Original and Newly Designed Products at pp. 1-2 (Feb. 3, 2020) (EDIS Doc. ID 701213); Brother and E-Z Ink Joint Stipulation as to Original and New Designed Products at pp. 1-2 (Feb. 3, 2020) (EDIS Doc. ID 701191); Brother and Globest Joint Stipulation as to Original and Newly Designed Products at pp. 1-4 (Feb. 7, 2020) (EDIS Doc. ID 701816); Brother and Linkyo Joint Stipulation as to Original and Newly Designed Products at pp. 1-4 (Feb. 7, 2020) (EDIS Doc. ID 701890). Brother stipulated that it would not accuse the Newly Designed Products of infringement in this investigation. *See* Brother and AMI Joint Stipulation as to Original and Newly Designed Products at ¶¶ 2-3, 12-14; Brother and Cartridge Evolution Joint Stipulation as to Original and Newly Designed Products at ¶¶ 2-3, 13-15; Brother and E-Z Ink Joint Stipulation as to Original and New Designed Products at ¶¶ 2-3, 13-15; Brother and Globest Joint Stipulation as to Original and Newly Designed Products at ¶¶ 2-3, 13-15; Brother and Linkyo Joint Stipulation as to Original and Newly Designed Products at ¶¶ 2-3, 12-14. Accordingly, I do not find that any of the Newly Designed Products infringe any of the Asserted Patents.

II. JURISDICTION & IMPORTATION

A. Subject Matter Jurisdiction

Section 337 confers subject matter jurisdiction on the Commission to investigate, and if appropriate, to provide a remedy for, unfair acts and unfair methods of competition in the

PUBLIC VERSION

importation of articles into the United States and the sale of such articles. *See* 19 U.S.C. §§ 1337(a)(1)(B) and (a)(2). Brother filed a complaint alleging a violation of section 337, and the Commission has subject matter jurisdiction over the complaint. *See Amgen, Inc. v. Int’l. Trade Comm’n*, 902 F.2d 1532, 1536 (Fed. Cir. 1990).

B. Personal Jurisdiction

No party has contested personal jurisdiction. By appearing and participating in the investigation, Aster has consented to personal jurisdiction. *See, e.g., Certain Pocket Lighters*, 337-TA-1142, ID at 12 (Feb. 12, 2020) (EDIS Doc. ID 706458) (Public Version), *unreviewed in pertinent part*, 85 Fed. Reg. 23528 (EDIS Doc. ID 709087). The Commission has personal jurisdiction over Defaulting Respondents AMI, Billiontree, Carlos Imaging, Do It Wiser, Eco Imaging, Ecoalmart, Globest, Greencycle, I8, Ikong, Intercon, LD Products, Mangoket, Super Warehouse because they are companies located within the United States. *See* 19 U.S.C. § 1333(b); *U.S. Int’l Trade Comm’n v. ASAT, Inc.*, 411 F.3d 245, 246 (D.C. Cir. 2005) (“section 333(b) of the Tariff Act of 1930 authorizes nationwide service of process”); *Certain Pocket Lighters*, ID at 12, *unreviewed in pertinent part*, 85 Fed. Reg. 23528 (EDIS Doc. ID 709087). The Commission has personal jurisdiction over the remaining Defaulting Respondents as a result of their intentional and systematic contacts with the United States. *See infra* part II.D; *see also Certain Pocket Lighters*, ID at 12-13.

C. In Rem Jurisdiction

No party has contested the Commission’s *in rem* jurisdiction over the accused products. Accordingly, I have determined the Commission has in rem jurisdiction over the Accused Products. *See* 19 U.S.C. § 1337 (d); *Sealed Air Corp. v. Int’l Trade Comm’n*, 645 F.2d 976, 985–86 (C.C.P.A. 1981) (the Commission has jurisdiction over imported goods).

PUBLIC VERSION

D. Importation

A single importation of an accused product is sufficient to satisfy the importation requirement of section 337. *Certain Trolley Wheel Assemblies*, Inv. No. 337-TA-161, Comm’n Op. at 7–8, USITC Pub. No. 1605 (Nov. 1984) (deeming the importation requirement satisfied by the importation of a single product of no commercial value). Brother submitted un rebutted evidence showing the Accused Products sold by each the Defaulting Respondents were imported. Additionally, Brother and Aster entered into a Joint Stipulation as to Importation where Aster stipulated to importation of the products it sold itself and distributed to others. A review of the importation evidence follows.

1. AMI

On January 22, 2020, Brother and AMI stipulated that at least one unit of each of certain TN-221, TN-225, TN-227, TN-660 and TN-760 toner cartridges (collectively, “Accused AMI Products”) “has been imported into the United States and/or sold for importation into the United States within the meaning of 19 U.S.C. § 1337(a)(1)(B) by [REDACTED]

[REDACTED] AMI and Brother’s Joint Stipulation as to Importation (“AMI Import. Stip.”) at ¶ 3, Ex. A (Jan. 22, 2020) (EDIS Doc. ID 699881)

Additionally, AMI stipulated that it “has sold after importation into the United States within the meaning of 19 U.S.C. 1337(a)(1)(B) at least one unit of each of the Accused AMI Products through www.Amazon.com and/or www.ArthurImaging.com.” *Id.* at ¶ 8.

The accused Arthur Imaging-branded, Brother-compatible toner cartridges have been purchased from Amazon.com and shipped to a United States address. Ex. 5 at ¶ 7.6; Ex. 5-222. The purchased toner cartridges were marked “Made in China.” Ex. 5 at ¶ 7.7; Ex. 5-223.

I find that the foregoing un rebutted evidence shows that the accused AMI products have been imported into the United States and that AMI sold those products after importation.

PUBLIC VERSION


2. An An Beauty

Brother provided evidence showing that An An Beauty sells within the United States after importation from China toner cartridges under the brand name “CMYBabee.”

An An Beauty is located in China and established the brand “CMYBabee” to provide printing supplies, as shown below.

About Us

Company Profile



AN AN BEAUTY LIMITED

FLAT/RM 2104 21/F
MONGKOK COMMERCIAL CENTR
E
16 ARGYLE STREET
MONGKOK KL
HONG KONG
web: www.cmybabee.com
Email: cmybabee-cs@foxmail.com

Company Profile

AN AN BEAUTY LIMITED, a company who's specializing in printing supply trading, especially the printer ink cartridges and toner cartridges.

Fortunately, we're adjacent to the world's largest printing supplies production base, Zhuhai, China. From this position we seized a unique source of supply advantages, and we recognized the opportunity for online printing supply business.

We established the brand CMYBabee, which aims at global printing supply online market. The logo Smile Bee is to present our target to offer customers not only good products and service, but also happy experience.

At the same time, we also hired customer service staff who is rich in customer service experiences. For quality control, we hired someone who has 10 years' QC experience in printing supply product and set up a strict quality control flow. Also we set up a sales teams who aims at present customers not only high quality but also competitive price.

Our price advantage in the supply chain, and our professionalism in the product, our professional sales and after-sales team, enable us to be a qualified printing supplier, we believe!

The ultimate pursuit of products and services, is the cause of our life! Thank you for your continued support and attention to us!


See Amended Complaint Ex. 5-20; *see also* Ex. 5-19 (Trademark registration for CMYBabee).

CMYBabee-branded, Brother-compatible TN-450, TN-660, and TN-760 toner cartridges have been purchased from Amazon.com and shipped to a United States address. *See* Ex. 5-224. For example, Brother purchased through Amazon a CMYBabee-branded TN-450 toner cartridge three pack on February 19, 2019, that was delivered to a Washington, DC, address. *Id.* at 2-5.

PUBLIC VERSION


Order Details

Ordered on February 19, 2019 Order# 112-7093974-5342616 [View or Print invoice](#)

Shipping Address Thomas Martin BAKER BOTTS LLP 1299 PENNSYLVANIA AVE NW WASHINGTON, DC 20004-2400 United States	Payment Method  **** 1929	Order Summary Item(s) Subtotal: \$24.99 Shipping & Handling: \$5.99 Total before tax: \$30.98 Estimated tax to be collected: \$0.00 Grand Total: \$30.98
---	--	---

[Transactions](#)

Delivered Feb 22, 2019



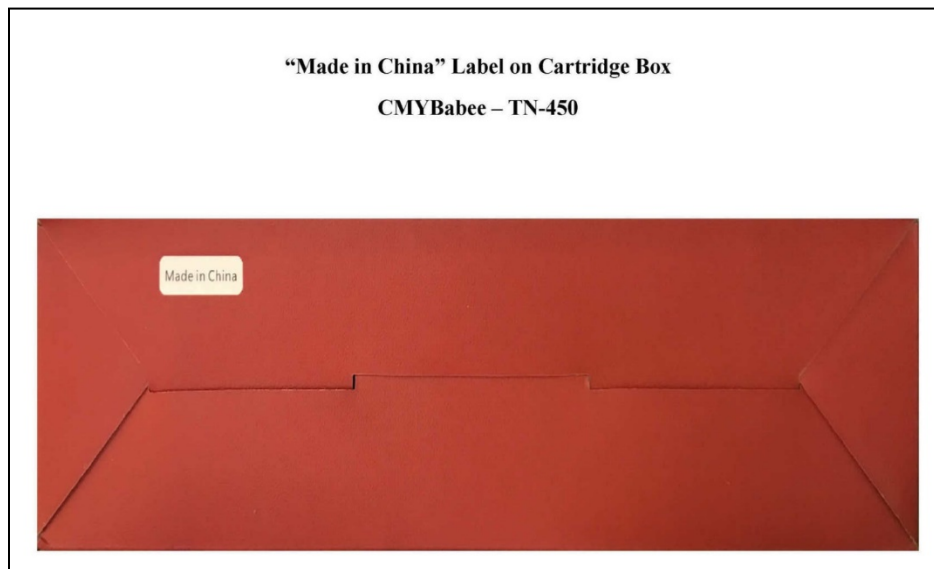
TN450 TN420 High Yield Toner Cartridge CMYBabee 3 Black Replacement for Brother TN-450 TN-420 Used with Brother HL-2270DW HL-2280DW HL-2230 HL-2240D MFC-7860DW MFC-7360N Printer
Sold by: Babeelink
Return window closed on Mar 24, 2019
\$24.99
Condition: New
[Buy it again](#)

[Track package](#)
[Leave seller feedback](#)
[Write a product review](#)
[Archive order](#)

Id. at 2.

CMYBabee-branded toner cartridges that Brother ordered were labeled “Made in China.”

Ex. 5-225.



Id. at 1.

PUBLIC VERSION

Further, Aster admitted that it imports certain accused toner cartridges and sells them to An An Beauty. *See* Aster Response to Complaint at ¶ 3.26 (Oct. 18, 2019) (EDIS Doc. ID 691633) (“Aster Response to Complaint”).

I find that the foregoing unrebutted evidence shows that the accused An An Beauty products have been imported into the United States and that An An Beauty sold those products after importation.

3. Aster

On January 30, 2020, Aster stipulated that “it has imported into the United States and/or sold for importation into the United States within the meaning of 19 U.S.C. § 1337(a)(1)(B), at least one unit of each of” its Brother-compatible TN-221, TN-223, TN-225, TN-227, TN-420, TN-450, TN-630, TN-660, TN-730, TN-760, and TN-770 toner cartridges (collectively, “the Accused Aster Products”). Aster Import. Stip. at ¶ 3, Ex. A.

Further, Aster stipulated that “it has sold after importation into the United States within the meaning of 19 U.S.C. 1337(a)(1)(B) at least one unit of the Accused Aster Products through www.Aster-USA.com and www.GoAster.com.” *Id.* at ¶ 6. Additionally, Aster admitted that it “imports into the U.S., sells for importation and/or sells within the U.S. after importation certain Accused Cartridges to An An Beauty; Aztech; Eco Imaging; EPS; Hong Kong Boze; I8 International; Intercon; IPrint; and Mangoket.” Aster Response to Complaint at ¶ 3.26.

Accused Arcon-branded, Aztech-branded, CMYBabee-branded, Cool Toner-branded, EPS-branded, Greensky-branded, Ink4work-branded, and Toner Bank-branded, Brother-compatible toner cartridges sold by Intercon, Aztech, An An Beauty, Eco Imaging, Mangoket, Hongkong Boze, I8, and IPrint have been purchased from Amazon.com and shipped to a United

PUBLIC VERSION

States address. Ex. 5 at ¶¶ 7.11, 7.28; Compl. Exs. 234, 236, 238. Additionally, there is importation data indicating that Aster imports toner cartridges from China. Compl. Ex. 226.

I find that the foregoing un rebutted evidence shows that Aster has imported the Accused Aster Products into the United States, and that Aster sold those products for importation and after importation.

4. Aztech

Aztech sells within the United States after importation from China Aztech-branded toner cartridges. Aztech is located in China, as shown by the address provided on aztech-supplies.com. Compl. Ex. 33.



Id. at 1.

Aztech-branded, Brother-compatible TN-450, TN-660, and TN-760 toner cartridges have been purchased from Amazon.com and shipped to a United States address. *See* Compl. Ex. 239. For example, Brother purchased through Amazon an Aztech-branded TN-450/TN-420 black toner cartridge two pack on December 18, 2018, that was delivered to a Washington, DC, address. *Id.* at 2-5. The seller is listed as “AZ-TECH.” *Id.*


PUBLIC VERSION

Order Details

Ordered on December 18, 2018 Order# 112-3272681-6493826

View or Print invoice


Shipping Address
Thomas Martin
BAKER BOTTS LLP
1299 PENNSYLVANIA AVE NW
WASHINGTON, DC 20004-2400
United States

Payment Method
 **** 1929

Order Summary
Item(s) Subtotal: \$18.29
Shipping & Handling: \$0.00
Total before tax: \$18.29
Estimated tax to be collected: \$0.00
Grand Total: \$18.29
[See tax and seller information](#)

Transactions

Delivered Dec 27, 2018
Signed by: HARRIS



AZTECH 2 Packs Compatible for Brother TN450 TN 450 TN420 Black Toner Cartridge
Replacement for Brother HL-2280DW HL-2270DW MFC-7860DW MFC-7360N HL-2240
HL-2240DMFC-7460DN DCP-7065DN Toner Printer
Sold by: AZ-TECH Product question? [Ask Seller](#)
\$18.29
Condition: New
[Buy it again](#)

[Return or replace items](#)
[Problem with order](#)
[Share gift receipt](#)
[Archive order](#)

Id. at 2.

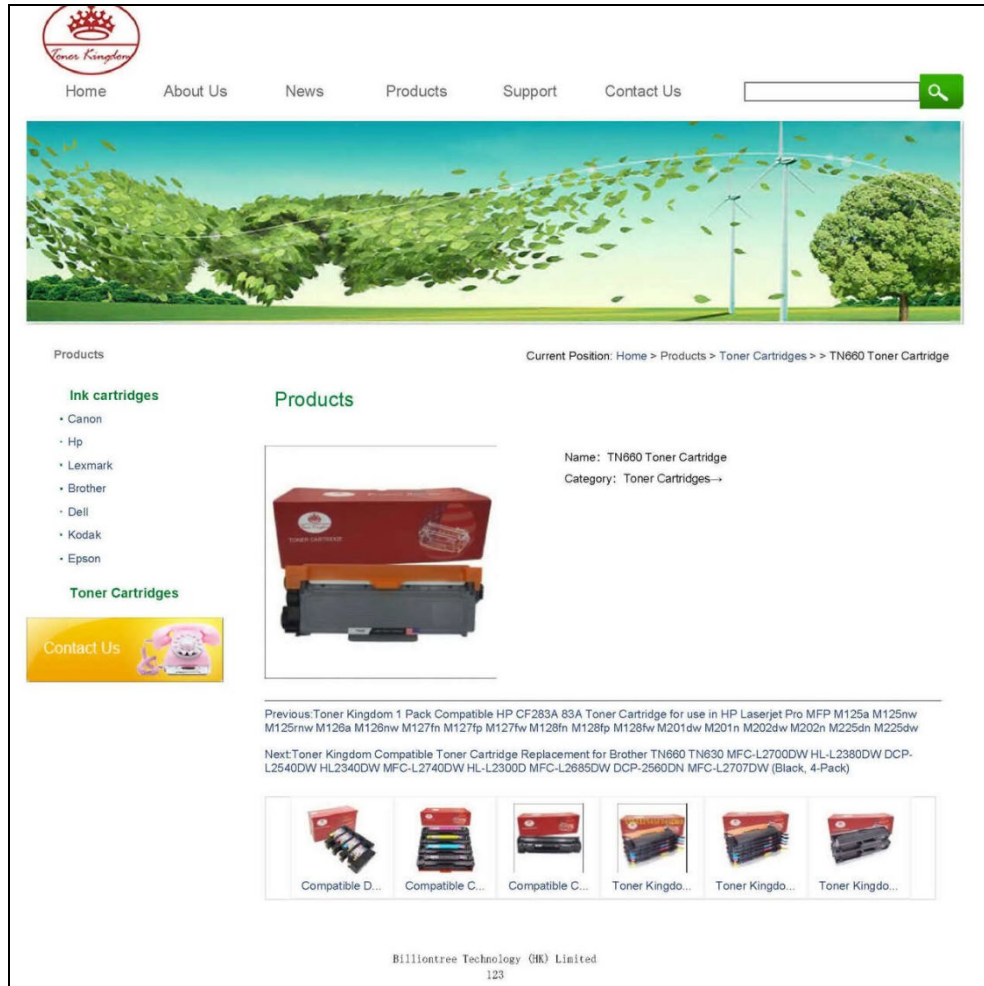
Further, Aster admitted that it imports certain accused toner cartridges and sells them to Aztech. Aster's Response to Complaint at ¶ 3.26.

I find that the foregoing un rebutted evidence shows that the accused Aztech products have been imported into the United States and that Aztech sold those products after importation.

5. Billiontree

Billiontree sells for importation from China into the United States Toner Kingdom-branded toner cartridges. Specifically, Billiontree sells Toner Kingdom-branded toner cartridges on its website www.billion-tree.com. Compl. Ex. 40.

PUBLIC VERSION



Id.


Toner Kingdom-branded, Brother-compatible TN-450, TN-630, and TN-760 toner cartridges have been purchased from Amazon.com and shipped to a United States address. *See* Ex. 5-241. For instance, on November 9, 2018, Brother purchased through Amazon a Toner Kingdom-branded TN-450 toner cartridge for delivery to a Washington, DC, address. *Id.* at 2-5.

PUBLIC VERSION

Order Details

Ordered on November 9, 2018 Order# 111-4069646-2822609 [View or Print invoice](#)

Shipping Address
Thomas Martin
BAKER BOTTS LLP
1299 PENNSYLVANIA AVE NW
WASHINGTON, DC 20004-2400
United States
[Change](#)


Payment Method
 **** 1929
[Change](#)

Apply gift card balance

Order Summary

Item(s) Subtotal:	\$17.99
Shipping & Handling:	\$5.99
Free Shipping:	-\$5.99
Total before tax:	\$17.99
Estimated tax to be collected:	\$0.00
Grand Total:	\$17.99

[Transactions](#)

Arriving Wed, Nov 21

Toner Kingdom Compatible Toner Cartridge Replacement for Brother TN450 TN420 TN-450 TN-420 (Black, 2-Pack)
Sold by: YangM
\$17.99
Condition: New
[Add gift option](#)
[Buy it again](#)

[Track package](#)
[Change Payment Method](#)
[Change shipping speed](#)
[Cancel items](#)
[Archive order](#)

Id. at 2.

The Toner Kingdom-branded toner cartridges Brother purchased are labeled “Made in China.” Ex. 5-242.




Id. at 1.

I find that the foregoing unrebutted evidence shows that the accused Billiontree products have been imported into the United States and that Billiontree sold those products for importation.

PUBLIC VERSION

6. Carlos Imaging

Carlos Imaging sells after importation into the United States Green Toner Supply-branded toner cartridges. Brother provided evidence that Carlos Imaging is the owner of the “Green Toner Supply” registered trademark, which indicates that it is the source of Green Toner Supply-branded toner cartridges. Ex. 5-45.

TSDR	ASSIGN Status	TTAB Status
(Use the "Back" button of the Internet Browser to return to TESS)		
		
Word Mark	GREEN TONER SUPPLY	
Goods and Services	IC 002. US 006 011 016. G & S: Photocopier toner in cartridges; Printing toner; Toner; Toner cartridges, filled, for printers and photocopiers. FIRST USE: 20150105. FIRST USE IN COMMERCE: 20150105	
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS	
Design	02.11.01 - Hearts excluding hearts as carriers or depicted on playing cards	
Search Code	05.03.07 - Clover, four-leaf 05.03.08 - More than one leaf, including scattered leaves, bunches of leaves not attached to branches	
Serial Number	86498043	
Filing Date	January 8, 2015	
Current Basis	1A	
Original Filing Basis	1A	
Published for Opposition	July 7, 2015	
Registration Number	4816787	
Registration Date	September 22, 2015	
Owner	(REGISTRANT) Carlos Imaging Supplies, Inc. CORPORATION CALIFORNIA 17128 Colima Road, Unit 540 Hacienda Heights CALIFORNIA 91745 DOMINO WANG	


Id.

Green Toner Supply-branded, Brother-compatible TN-760 toner cartridges have been purchased from Amazon.com and shipped to a United States address. *See* Ex. 5-243. For instance, on November 19, 2018, Brother purchased through Amazon two GTS-branded, Brother-compatible TN-760 toner cartridges for delivery to a Washington, DC, address. *Id.* at 2-4.

PUBLIC VERSION


Order Details

Ordered on November 19, 2018 Order# 111-2860993-9786662 [View or Print invoice](#)

Shipping Address Thomas Martin BAKER BOTTS LLP 1299 PENNSYLVANIA AVE NW WASHINGTON, DC 20004-2400 United States Change	Payment Method  **** 1003 Change	Apply gift card balance <input type="text" value="Enter code"/> <input type="button" value="Apply"/>	Order Summary <table><tr><td>Item(s) Subtotal:</td><td>\$29.98</td></tr><tr><td>Shipping & Handling:</td><td>\$8.15</td></tr><tr><td>Free Shipping:</td><td>-\$8.15</td></tr><tr><td>Total before tax:</td><td>\$29.98</td></tr><tr><td>Estimated tax to be collected:</td><td>\$0.00</td></tr><tr><td>Grand Total:</td><td>\$29.98</td></tr></table>	Item(s) Subtotal:	\$29.98	Shipping & Handling:	\$8.15	Free Shipping:	-\$8.15	Total before tax:	\$29.98	Estimated tax to be collected:	\$0.00	Grand Total:	\$29.98
Item(s) Subtotal:	\$29.98														
Shipping & Handling:	\$8.15														
Free Shipping:	-\$8.15														
Total before tax:	\$29.98														
Estimated tax to be collected:	\$0.00														
Grand Total:	\$29.98														

[Transactions](#)

Arriving Nov 27 - Nov 30

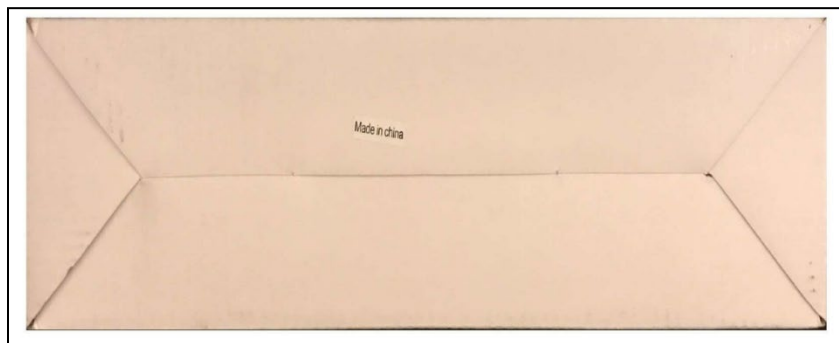


2 of GTS® Compatible TN760 Toner cartridge [NO CHIP] Black High Yield 3,000 pages for HL-L2350DW HL-L2390DW HL-L2395DW HL-L2370DW DCP-L2550DW MFC-L2710DW MFC-L2750DW HL-L2370DW XL MFC-L2750DW XL (1Black)
Sold by: Carlos Imaging
\$14.99
Condition: New

Id. at 2. The GTS toner cartridge box is labeled “Green Toner Supply” and has a clover design that is similar to Carlos Imaging’s trademark.

The “GTS” toner cartridge box that Brother received was labeled “Made in china [sic].”

Ex. 5-244.



Id. at 1.

PUBLIC VERSION

I find that the foregoing un rebutted evidence shows that the accused Carlos Imaging products have been imported into the United States and that Carlos Imaging sold those products after importation.

7. Do It Wiser

Do It Wiser sells after importation into the United States Do It Wiser-branded toner cartridges. Specifically, Do It Wiser-branded, Brother-compatible TN-221/225, TN-450/420, TN-660/630, and TN-760/730 toner cartridges have been purchased from Amazon.com and shipped to a U.S. address. *See* Ex. 5-245. For example, on April 17, 2019, Brother purchased Do It Wiser-branded, Brother-compatible TN 221/225 toner cartridges from Amazon.com for delivery to a Washington, DC, address. *Id.* at 2-5.

The screenshot shows an Amazon 'Order Details' page. At the top, it says 'Order Details' and 'Ordered on April 17, 2019' with 'Order# 113-1390637-8799448'. There is a 'View or Print invoice' button. The page is divided into several sections: 'Shipping Address' (Thomas Martin, BAKER BOTTS LLP, 1299 PENNSYLVANIA AVE NW, WASHINGTON, DC 20004-2400, United States), 'Payment Method' (MasterCard **** 1929), 'Apply gift card balance' (with an 'Enter code' field and an 'Apply' button), and 'Order Summary' (Item(s) Subtotal: \$39.95, Shipping & Handling: \$9.46, Free Shipping: -\$9.46, Total before tax: \$39.95, Estimated tax to be collected: \$2.40, Grand Total: \$42.35). Below these is a 'Transactions' section. The main product section is titled 'Arriving Apr 23 - Apr 26' and shows a product image of toner cartridges. The text describes the product as 'Do It Wiser Compatible Toner Cartridge Replacement for Brother TN221 TN225 to use with Brother HL-3170CDW MFC-9340CDW MFC-9130CW MFC-9330CDW HL-3140CW', sold by 'Do It Wiser' for '\$39.95'. It also includes links for 'Product question? Ask Seller', 'Add gift option', and 'Buy it again'. On the right side of this section, there are buttons for 'Track package', 'Change Payment Method', 'Change shipping speed', 'Cancel items', 'Ask Product Question', and 'Archive order'.

Id. at 2.

Further, Do It Wiser-branded, Brother-compatible toner cartridges Brother purchased were labeled “Made in China.” Ex. 5-246.

PUBLIC VERSION



Id. at 1.

I find that the foregoing unrebutted evidence shows that the accused Do It Wiser products have been imported into the United States and that Do It Wiser sold those products after importation

8. Eco Imaging

Eco Imaging sells within the United States after importation Cool Toner-branded toner cartridges. Eco Imaging owns the “Cool Toner” registered trademark, which indicates that Eco Imaging is the source of Cool Toner-branded toner cartridges. *See* Ex. 5-64.

PUBLIC VERSION

<h1>Cool Toner</h1>	
Word Mark	COOL TONER
Goods and Services	IC 002. US 006 011 016. G & S: Filled toner cartridges. FIRST USE: 20120315. FIRST USE IN COMMERCE: 20120315
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	87521032
Filing Date	July 10, 2017
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	January 30, 2018
Registration Number	5446567
Registration Date	April 17, 2018
Owner	(REGISTRANT) Eco Imaging Inc. DBA Cool Toner CORPORATION CALIFORNIA 14252 Culver Dr., Suite A839 Irvine CALIFORNIA 92604
Attorney of Record	ZIXUAN ZHOU
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "TONER" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE


Id. The TESS information lists the registrant as “Eco Imaging Inc. DBA Cool Toner,” which further suggests that Eco Imaging is the source of Cool Toner-branded toner cartridges. *Id.*

Cool Toner-branded, Brother-compatible TN-221/225, TN-223/227, TN-450, TN-630/660, and TN-730/760 toner cartridges have been purchased from Amazon.com and shipped to a United States address. *See* Ex. 5-247. For example, on April 17, 2019, Brother purchased Cool Toner-branded, Brother-compatible TN-225 toner cartridges from Amazon.com for delivery to a Washington, DC, address. *Id.* at 2-5.

PUBLIC VERSION

Order Details
Ordered on April 17, 2019 | Order# 113-5747179-0849022 [View or Print invoice](#)

Shipping Address
Thomas Martin
BAKER BOTTS LLP
1299 PENNSYLVANIA AVE NW
WASHINGTON, DC 20004-2400
United States
[Change](#)

Payment Method
 **** 1929
[Change](#)


Apply gift card balance

[Apply](#)

Order Summary

Item(s) Subtotal:	\$21.59
Shipping & Handling:	\$5.99
Total before tax:	\$27.58
Estimated tax to be collected:	\$1.66
Grand Total:	\$29.24

[Transactions](#)

Arriving Tuesday

Cool Toner 1 Pack Cyan High Yields 2,200 Pages Compatible Toner Cartridge
Replacement For Brother TN225 TN-225 TN225C Used For HL-3140CW HL-3170
Sold by: Amazon.com Services, Inc
\$21.59
Condition: New
[Add gift option](#)
[Buy it again](#)

[Track package](#)
[Change Payment Method](#)
[Change shipping speed](#)
[Cancel items](#)
[Archive order](#)

Id. at 2.

The Cool Toner-branded, Brother-compatible toner cartridges were shipped with labels stating that they were “Made in China.” Ex, 5-248.



Id. at 1.

Moreover, Aster admitted that it imports certain accused toner cartridges and sells them to Eco Imaging. Aster’s Response to Complaint at ¶ 3.26.

PUBLIC VERSION

I find that the foregoing un rebutted evidence shows that the accused Eco Imaging products have been imported into the United States and that Eco Imaging sold those products after importation

9. Ecoolmart

Ecoolmart sells after importation into the United States Hi-Vision Hi-Yields-branded toner cartridges. “HI-VISION HI-YIELDS” is registered trademark is owned by Ecoolmart, which indicates that Ecoolmart is the source of Hi-Vision Hi-Yields-branded toner cartridges. Ex. 5-70.


HI-VISION HI-YIELDS	
Word Mark	HI-VISION HI-YIELDS
Goods and Services	IC 002. US 006 011 016. G & S: Photocopier toner; Photocopier toner in cartridges; Printing toner; Toner; Toner cartridges; Xerographic toners. FIRST USE: 20110701. FIRST USE IN COMMERCE: 20110701
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85390284
Filing Date	August 5, 2011
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	January 24, 2012
Registration Number	4125386
Registration Date	April 10, 2012
Owner	(REGISTRANT) Ecoolmart Co. CORPORATION CALIFORNIA 163 University Pkway Pomona CALIFORNIA 91768 (LAST LISTED OWNER) ALL INK SUPPLIES CORP. CORPORATION CALIFORNIA 163 UNIVERSITY PKWAY POMONA CALIFORNIA 91768
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Domino Wang
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HIGH YIELDS" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL

Id. at 1.


Hi-Vision Hi-Yields-branded, Brother-compatible toner cartridges have been purchased from Amazon.com and shipped to a United States address. *See* Ex. 5-249. For example, Brother purchased Hi-Vision Hi-Yields-branded, Brother-compatible TN-221/225, TN-450, TN-660, and TN-760 toner cartridges from Amazon.com for delivery to a Washington, DC, address. *Id.*

PUBLIC VERSION

Order Details
Ordered on February 19, 2019 Order# 112-2198197-2026630
[View or Print invoice](#)

Shipping Address Thomas Martin BAKER BOTTS LLP 1299 PENNSYLVANIA AVE NW WASHINGTON, DC 20004-2400 United States	Payment Method  **** 1929	Order Summary Item(s) Subtotal: \$65.92 Shipping & Handling: \$11.03 Free Shipping: -\$11.03 Total before tax: \$65.92 Estimated tax to be collected: \$0.00 Grand Total: \$65.92
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[Transactions](#)

Delivered Feb 22, 2019
 2 of HI-VISION HI-YIELDS Compatible Toner Cartridge Replacement for Brother TN221/TN225 (1 Black, 1 Cyan, 1 Yellow, 1 Magenta, 4-Pack)
Sold by: Vision Supplies
Return window closed on Mar 24, 2019
\$32.96
Condition: New
[Buy it again](#)
[Leave seller feedback](#)
[Write a product review](#)
[Archive order](#)

Id. at 2.

The purchased Hi-Vision Hi-Yields-branded, Brother-compatible toner cartridges were marked “Made in China.” Ex. 5-250.



Id. at 1.

I find that the foregoing unrebutted evidence shows that the accused Ecoolmart products have been imported into the United States and that Ecoolmart sold those products after importation.

10. Globest

PUBLIC VERSION

On January 27, 2020, Brother and Globest stipulated that at least one unit of each of the Ink E-Sale-, V4ink-, and Allwork-branded TN-221/TN225, TN-227, TN-450, TN-660, and TN-760 toner cartridges (“Accused Globest Products”) “has been imported into the United States and/or sold for importation into the United States within the meaning of 19 U.S.C. § 1337(a)(1)(B) by [REDACTED] Globest and Brother’s Joint Stipulation as to Importation (“Globest Import. Stip.”) at ¶ 3 (Jan. 27, 2020) (EDIS Doc. ID 700411).

Further, Globest stipulated that “certain Accused Globest Products are sold and offered for sale in the United States by Globest and its authorized resellers through the ‘Global Toner,’ ‘Limito,’ ‘Many Cartridges,’ and ‘Vp6’ storefronts on www.Amazon.com” and that “[o]rders made through these storefronts are fulfilled using the Fulfillment by Amazon (‘Amazon FBA’) service.” *Id.* at ¶ 6. Globest also stipulated that it “has sold after importation into the United States within the meaning of 19 U.S.C. § 1337(a)(1)(B) at least one unit of each of the Accused Globest Products through www.Amazon.com.” *Id.* at ¶ 7.

Brother also provided evidence that accused InkeSale-branded, Brother-compatible toner cartridges have been purchased from Amazon.com and shipped to a United States address. Ex. 5 at ¶ 7.51; Ex. 5-251. The purchased toner cartridges were marked “Made in China.” Ex. 5 at ¶ 7.52; Ex. 5-252.

I find that the foregoing un rebutted evidence shows that the accused Globest products have been imported into the United States and that Globest sold those products after importation.

11. Greencycle

Greencycle sells after importation into the United States Greencycle-branded toner cartridges. Greencycle admitted that “Greencycle-branded toner cartridges sold in the United

PUBLIC VERSION

States are imported from China.” Greencycle’s Answer to Complaint at ¶ 7.54 (Oct. 21, 2019) (EDIS Doc. ID 691808).


Further, Greencycle-branded, Brother-compatible TN-225/221, TN-227, TN-450, TN-630/660, and TN-730/760 toner cartridges have been purchased from Amazon.com and shipped to a United States address. *See* Ex. 5-253. For example, on April 17, 2019, Brother purchased Greencycle-branded, Brother-compatible TN-221/225 toner cartridges from Amazon.com for shipment to a Washington, DC, address. *Id.* at 2-5.

Order Details

Ordered on April 17, 2019 | Order# 113-8449364-4988211

View or Print invoice

Shipping Address
Thomas Martin
BAKER BOTTS LLP
1299 PENNSYLVANIA AVE NW
WASHINGTON, DC 20004-2400
United States
[Change](#)


Payment Method
 **** 1929
[Change](#)

Apply gift card balance
Enter code
[Apply](#)

Order Summary

Item(s) Subtotal:	\$87.90
Shipping & Handling:	\$11.89
Free Shipping:	-\$11.89
Total before tax:	\$87.90
Estimated tax to be collected:	\$5.28
Grand Total:	\$93.18

[Transactions](#)

Arriving Apr 23 - Apr 26

2 of Greencycle 5 PK Replacement TN221 TN225 BK/C/Y/M high Yield Toner cartridges
Set for Brother HL-3170CDW HL-3170CW Printer
Sold by: [Quicktoner](#)
\$43.95
Condition: New
[Add gift option](#)
[Buy it again](#)

[Track package](#)
[Change Payment Method](#)
[Change shipping speed](#)
[Cancel items](#)
[Archive order](#)

Id. at 2.

The Greencycle-branded toner cartridges Brother purchased were labeled “Made in China.” Ex. 5-254.

PUBLIC VERSION



Id. at 2.

I find that the foregoing un rebutted evidence shows that the accused Greencycle products have been imported into the United States and that Greencycle sold those products after importation.

12. Hongkong Boze

Hongkong Boze sells within the United States after importation Greensky-branded toner cartridges. Hongkong Boze operates the website www.greenskytoner.com and sells and offers for sale Greensky-branded, Brother-compatible toner cartridges. Compl. Ex. 83. An excerpt from the website is shown below.




PUBLIC VERSION

Id. at 1.


Additionally, Greensky-branded, Brother-compatible TN-420/450, TN-630/660, and TN-760 toner cartridges have been purchased from Amazon.com and shipped to a U.S. address. *See* Ex. 5-255. For example, on November 9, 2018, Brother purchased Greensky-branded, Brother-compatible TN-450/420 toner cartridges from Amazon.com for shipment to a Washington, DC, address. *Id.* at 2-4.

Order Details

Ordered on November 9, 2018 Order# 111-9336095-8442664 [View or Print invoice](#)

Shipping Address Thomas Martin BAKER BOTTS LLP 1299 PENNSYLVANIA AVE NW WASHINGTON, DC 20004-2400 United States Change	Payment Method  **** 1929 Change	Apply gift card balance <input type="text" value="Enter code"/> <input type="button" value="Apply"/>	Order Summary Item(s) Subtotal: \$16.99 Shipping & Handling: \$5.99 Free Shipping: -\$5.99 Total before tax: \$16.99 Estimated tax to be collected: \$0.00 Grand Total: \$16.99
---	--	---	---

[Transactions](#)

Arriving Wed, Nov 21

GREENSKY 2 Packs Compatible Toner Cartridges Replacement for Brother TN450 TN-450 TN420 TN-420 High Yield, Use for Brother HL-2270DW HL-2280DW HL-2230 HL-2240 HL-2240D MFC-7860DW MFC-7360N DCP-7065DN
Sold by: Fituwork
\$16.99
Condition: New

Id. at 2.

The purchased Greensky-branded toner cartridges were labeled “Made in China.” Ex. 5-256.

PUBLIC VERSION



Id.

Further, Aster admitted that it imports certain accused toner cartridges and sells them to Hongkong Boze. Aster's Response to Complaint at ¶ 3.26.

I find that the foregoing unrebutted evidence shows that the accused Hongkong Boze products have been imported into the United States and that Hongkong Boze sold those products after importation.

13. I8

I8 sells within the United States after importation Ink4work-branded toner cartridges. I8 registered the "Ink4work" trademark, which indicates that I8 is the source of "Ink4work" branded toner cartridges. Ex. 5-90.

PUBLIC VERSION

INK4WORK	
Word Mark	INK4WORK
Goods and Services	IC 002. US 006 011 016. G & S: Printing inks; Filled ink cartridges; Toner cartridges; printing toner . FIRST USE: 20111101. FIRST USE IN COMMERCE: 20111101 IC 037. US 100 103 106. G & S: Refilling of toner and ink cartridges. FIRST USE: 20111101. FIRST USE IN COMMERCE: 20111101
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	86042351
Filing Date	August 20, 2013
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	January 21, 2014
Registration Number	4510300
Registration Date	April 8, 2014
Owner	(REGISTRANT) i8 International Inc. CORPORATION CALIFORNIA 19961 Harrison Ave City Of Industry CALIFORNIA 91789
Attorney of Record	Heather A. Sapp
Type of Mark	TRADEMARK. SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE
TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG TOP HELP	

Id.


Ink4work-branded, Brother-compatible TN-221, TN-450, TN-660/630, and TN-760 toner cartridges have been purchased on Amazon.com and shipped to a United States address. *See Ex. 5-257.* For example, on February 19, 2019, Brother purchased ink4work-branded, Brother-compatible TN-221 toner cartridges from Amazon.com for shipment to a Washington, DC, address. *Id.* at 2-5.

PUBLIC VERSION

Order Details


Ordered on February 19, 2019 Order# 112-5553718-1001803

[View or Print invoice](#)

Shipping Address Thomas Martin BAKER BOTTS LLP 1299 PENNSYLVANIA AVE NW WASHINGTON, DC 20004-2400 United States	Payment Method  **** 1929	Order Summary Item(s) Subtotal: \$51.90 Shipping & Handling: \$10.47 Free Shipping: -\$10.47 Total before tax: \$51.90 Estimated tax to be collected: \$0.00 Grand Total: \$51.90
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[Transactions](#)

Delivered Feb 22, 2019



2 of ink4work Set of 4 Pack Compatible Brother TN-221 (TN221) B/C/M/Y Color Toner Cartridge For HL-3140CW, HL-3170CDW, MFC-9130CW, MFC-9330CDW, MFC-9340CDW (B/C/M/Y)
Sold by: **INK4WORK**
Return window closed on Mar 24, 2019
\$25.95
Condition: New

[Buy it again](#)

[Leave seller feedback](#)

[Write a product review](#)

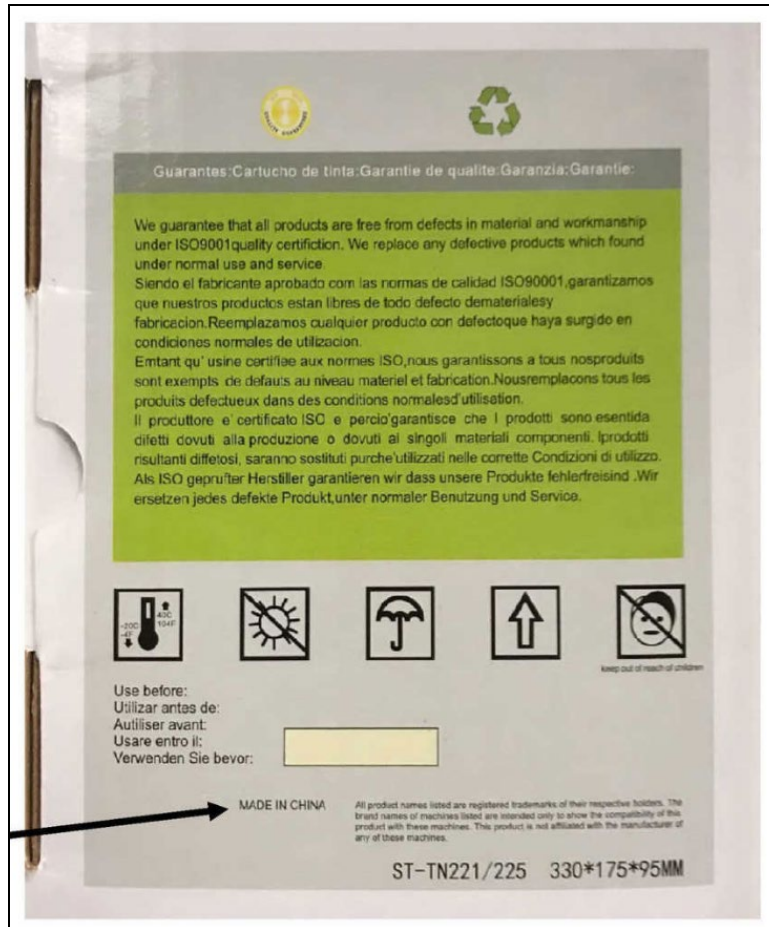
[Archive order](#)

Id. at 2.

The purchased Ink4work-branded toner cartridges were labeled “Made in China.”

Ex. 5-258.

PUBLIC VERSION



Id. at 1.

Further, Aster admitted that it imports certain accused toner cartridges and sells them to I8. Aster's Response to Complaint at ¶ 3.26.

I find that the foregoing un rebutted evidence shows that the accused I8 products have been imported into the United States and that I8 sold those products after importation.

14. Ikong


Ikong sells within the United States after importation IKONG-branded toner cartridges. Specifically, Brother purchased IKONG-branded, Brother-compatible TN-221, TN-450/420, TN-660/630, and TN-760 toner cartridges from Amazon.com (sold by IKONG) for shipment to a U.S. address. Ex. 5-261. For example, on February 19, 2019, Brother purchased IKONG-branded,

PUBLIC VERSION

Brother-compatible TN-221 toner cartridges from IKONG on Amazon.com for shipment to a Washington, DC, address. *Id.* at 2-5.


Order Details

Ordered on February 19, 2019 Order# 112-4761423-7306659 [View or Print invoice](#)

Shipping Address Thomas Martin BAKER BOTTS LLP 1299 PENNSYLVANIA AVE NW WASHINGTON, DC 20004-2400 United States	Payment Method  **** 1929	Order Summary Item(s) Subtotal: \$42.99 Shipping & Handling: \$9.25 Free Shipping: -\$9.25 Total before tax: \$42.99 Estimated tax to be collected: \$0.00 Grand Total: \$42.99
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[Transactions](#)

Delivered Feb 22, 2019



IKONG 5-Pack TN221 Compatible Toner Cartridge Replacement for Brother TN221
TN225 Works with Brother MFC-9130CW HL-3170CDW MFC-9330CDW HL-3140CW MFC-9340CDW HL-3180CDW HL-3150CDN Laser Printer
Sold by: **IKONG**
Return window closed on Mar 24, 2019
~~\$42.99~~
Condition: New
[Buy it again](#)

[Leave seller feedback](#)
[Write a product review](#)
[Archive order](#)

Id. at 2.

The purchased IKONG-branded toner cartridges were labeled “Made in China.” Ex. 5-262.



Id. at 1.

PUBLIC VERSION

I find that the foregoing unrebutted evidence shows that the accused Ikong products have been imported into the United States and that Ikong sold those products after importation.

15. Intercon

Intercon sells within the United States after importation Arcon-branded toner cartridges. The “Arcon” trademark is registered to Intercon, indicating that Intercon is the source of Arcon-branded toner cartridges. Ex. 5-104.

	
Word Mark	ARCON
Goods and Services	IC 002. US 006 011 016. G & S: Toner; Toner cartridges, filled, for inkjet printers; Toner cartridges, filled, for laser printers; Toner cartridges, filled, for printers and photocopiers; Toner cartridges, filled, for inkjet printers; Toner cartridges, filled, for laser printers; Toner cartridges, filled, for printers and photocopiers; Toner for copiers; Filled toner cartridges; Filled toner cartridges for photocopiers; Filled toner cartridges for printers; Filled toner cartridges; Filled toner cartridges for photocopiers; Filled toner cartridges for printers; Filled ink jet cartridges; Photocopier toner; Photocopier toner in cartridges; Photocopier toner in cartridges; Printing toner. FIRST USE: 20140602. FIRST USE IN COMMERCE: 20140602
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	26.17.02 - Bands, wavy; Bars, wavy; Lines, wavy; Wavy line(s), band(s) or bar(s)
Serial Number	86885978
Filing Date	January 25, 2016
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	June 21, 2016
Registration Number	5035774
Registration Date	September 6, 2016
Owner	(REGISTRANT) Intercon International Corp CORPORATION CALIFORNIA 13681 Newport Ave Ste 8325 Tustin CALIFORNIA 92780
Attorney of Record	THOMAS Z. ZHOU
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of the stylized word "ARCON" with an enlarged capital letter "A". A curve is extended from the letter "A" and is above the remaining lower case letters "RCON".

Id.

Brother purchased Arcon-branded, Brother-compatible TN-221/225, TN-223/227, TN-450, TN-660, and TN-760 toner cartridges from Amazon.com for shipment to a United States address. *See* Ex. 5-263. For example, on February 19, 2019, Brother purchased Arcon-branded, Brother-compatible TN-221/225 toner cartridges from Amazon.com (sold by Arcon) for delivery to a Washington, DC, address. *Id.* at 2-5.


PUBLIC VERSION

Order Details

Ordered on February 19, 2019 Order# 112-9369533-8079433

View or Print Invoice


Shipping Address
Thomas Martin
BAKER BOTTS LLP
1299 PENNSYLVANIA AVE NW
WASHINGTON, DC 20004-2400
United States

Payment Method
 **** 1929

Order Summary
Item(s) Subtotal: \$30.99
Shipping & Handling: \$8.91
Free Shipping: -\$8.91
Total before tax: \$30.99
Estimated tax to be collected: \$0.00
Grand Total: \$30.99

Transactions

Delivered Feb 25, 2019



Arcon 4 Packs TN221 TN225 Compatible Toner Cartridges for Brother TN221 TN225 TN-221 TN-225 Toner, Work with Brother HL-3170CDW HL-3140CW HL-3180CDW, Brother MFC-9130CW MFC-9330CDW MFC-9340CDW Printer
Sold by: [Arcon](#)
Return window closed on Mar 27, 2019
~~\$30.99~~
Condition: New

Buy it again

Track package

Leave seller feedback

Write a product review

Archive order

Id. at 2.

Further, Aster admitted that it imports certain accused toner cartridges and sells them to Intercon. Aster’s Response to Complaint at ¶ 3.26.

I find that the foregoing un rebutted evidence shows that the accused Intercon products have been imported into the United States and that Intercon sold those products after importation.

16. IPrint

IPrint sells within the United States after importation Toner Bank-branded toner cartridges. The “Toner Bank” registered trademark is owned by IPrint, which indicates that IPrint is the source of Toner Bank-branded toner cartridges. Ex. 5-107.

62

PUBLIC VERSION

<h1>Toner Bank</h1>	
Word Mark	TONER BANK
Goods and Services	IC 002. US 006 011 016. G & S: Filled toner cartridges. FIRST USE: 20170613. FIRST USE IN COMMERCE: 20170613
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	87819563
Filing Date	March 4, 2018
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	October 2, 2018
Registration Number	5631203
Registration Date	December 18, 2018
Owner	(REGISTRANT) IPRINT ENTERPRISE LIMITED DBA Toner Bank LIMITED LIABILITY COMPANY HONG KONG Rooms 1318-19, 13/F, Hollywood Plaza 610 Nathan Road, Mongkok Kowloon HONG KONG 999077
Attorney of Record	THOMAS Z. ZHOU
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "TONER" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL


Id.

Brother purchased Toner Bank-branded, Brother-compatible TN-221/225, TN-630/660, and TN-730/760 toner cartridges from Amazon.com for shipment to a United States address. *See* Ex. 5-264. For example, on February 19, 2019, Brother purchased Toner Bank-branded, Brother-compatible TN-221/225 toner cartridges from Amazon.com (sold by Toner Bank) for delivery to a Washington, DC, address. *Id.* at 2-5.

PUBLIC VERSION


Order Details

Ordered on February 19, 2019 Order# 112-1426842-5093064 [View or Print invoice](#)

Shipping Address Thomas Martin BAKER BOTTS LLP 1299 PENNSYLVANIA AVE NW WASHINGTON, DC 20004-2400 United States	Payment Method  **** 1929	Order Summary Item(s) Subtotal: \$79.98 Shipping & Handling: \$11.38 Free Shipping: -\$11.38 Total before tax: \$79.98 Estimated tax to be collected: \$0.00 Grand Total: \$79.98
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Transactions

Delivered Feb 22, 2019

 2 of Toner Bank 4 Packs TN221 TN225 Compatible for Brother TN221 TN225 TN221BK Brother MFC-9130CW MFC 9130CW Toner HL-3170CDW Toner for MFC-9130CW MFC 9130CW HL-3140CW MFC-9330CDW MFC-9340CDW MFC 9340CDW
Sold by: Toner Bank
Return window closed on Mar 24, 2019
~~\$39.99~~
Condition: New
[Buy it again](#)

[Leave seller feedback](#)
[Write a product review](#)
[Archive order](#)

Id. at 2.

Further, Aster admitted that it imports certain accused toner cartridges and sells them to IPrint. Aster’s Response to Complaint at ¶ 3.26.

I find that the foregoing un rebutted evidence shows that the accused IPrint products have been imported into the United States and that IPrint sold those products after importation.


17. LD Products

LD Products sells after importation into the United States LD-branded and Speedyink-branded toner cartridges.

a. LD-branded

LD Products is the owner of the “LD” registered trademark, which indicates that LD Products is the source of LD-branded toner cartridges. Ex. 5-121.

PUBLIC VERSION

	
Word Mark	LD
Goods and Services	IC 002. US 006 011 016. G & S: Ink cartridges, filled, for printers; Toner cartridges, filled, for printers and photocopiers. FIRST USE: 20160301. FIRST USE IN COMMERCE: 20160301 IC 016. US 002 005 022 023 029 037 038 050. G & S: Copy paper; Unsensitized photo paper; Laser print paper. FIRST USE: 20160301. FIRST USE IN COMMERCE: 20160301 IC 035. US 100 101 102. G & S: On-line retail store services featuring inkjets, laser toners , and computer related accessories, consisting of paper, electronic media, and camera cards. FIRST USE: 20160301. FIRST USE IN COMMERCE: 20160301
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	26.15.09 - Polygons made of geometric figures, objects, humans, plants or animals 26.17.12 - Angles (geometric) ; Chevrons
Serial Number	88046722
Filing Date	July 20, 2018
Current Basis	1A
Original Filing Basis	1A
Owner	(APPLICANT) LD Products, Inc. CORPORATION CALIFORNIA 3700 Cover Street Long Beach CALIFORNIA 90808
Attorney of Record	Tomasz R. Barczyk
Prior Registrations	3306069;3306070;3492005;AND OTHERS


Id.

Brother purchased LD-branded, Brother-compatible TN-221/225, TN-630/660, and TN-730/760 toner cartridges from Amazon.com for shipment to a United States address. *See* Ex. 5-267. For example, on February 19, 2019, Brother purchased LD-branded, Brother-compatible TN-221/225 toner cartridges from Amazon.com (sold by LD Products) for delivery to a Washington, DC, address. *Id.* at 2-5.

PUBLIC VERSION

Order Details
Ordered on February 19, 2019 Order# 112-8689243-0578615 [View or Print invoice](#)


Shipping Address
Thomas Martin
BAKER BOTTS LLP
1299 PENNSYLVANIA AVE NW
WASHINGTON, DC 20004-2400
United States

Payment Method
 **** 1929

Order Summary

Item(s) Subtotal:	\$73.58
Shipping & Handling:	\$11.68
Free Shipping:	-\$11.68
Total before tax:	\$73.58
Estimated tax to be collected:	\$0.00
Grand Total:	\$73.58

[Transactions](#)

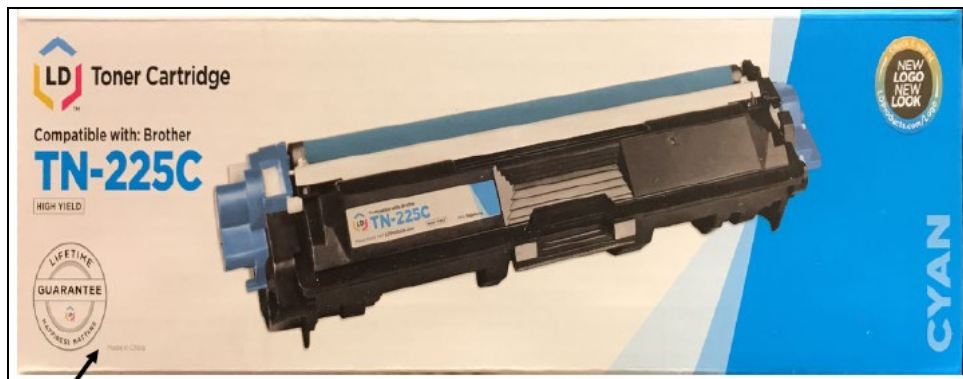
Delivered Feb 25, 2019
Signed by: JERRY


2 of LD Compatible Toner Cartridge Replacements for Brother TN221 & TN225 High Yield (1 Black, 1 Cyan, 1 Magenta, 1 Yellow, 4-Pack)
Sold by: LD Products
Return window closed on Mar 27, 2019
\$36.79
Condition: New
[Buy it again](#)

[Leave seller feedback](#)
[Write a product review](#)
[Archive order](#)

Id. at 2.

The purchased LD-branded toner cartridges were labeled “Made in China.” Ex. 5-268.




Id. at 1.

b. Speedyinks-branded

LD Products is also the owner of the “Speedyinks” registered trademark, which indicates that LD Products is the source of Speedyinks-branded toner cartridges. Ex. 5-125.

PUBLIC VERSION

	
Word Mark	SPEEDYINKS
Goods and Services	IC 002. US 006 011 016. G & S: Ink cartridges, filled, for printers; Toner cartridges, filled, for printers and photocopiers. FIRST USE: 20170501. FIRST USE IN COMMERCE: 20170501 IC 035. US 100 101 102. G & S: On-line retail store services featuring inkjets, laser toners , and computer related accessories, consisting of paper, electronic media, and camera cards. FIRST USE: 20170501. FIRST USE IN COMMERCE: 20170501
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	24.09.04 - Checkered flag ; Flags, checkered
Serial Number	88046649
Filing Date	July 20, 2018
Current Basis	1A
Original Filing Basis	1A
Owner	(APPLICANT) LD Products, Inc. CORPORATION CALIFORNIA 3700 Cover Street Long Beach CALIFORNIA 90808
Attorney of Record	Tomasz R. Barczyk
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of the stylized word SPEEDYINKS with a checkered flag atop the letter "I" in place of the dot.
Type of Mark	TRADEMARK. SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

Id.

Additionally, Brother purchased Speedyinks-branded, Brother-compatible TN-221/225, TN-420/450, and TN-630/660 toner cartridges from Amazon.com for shipment to a United States address. *See* Ex. 5-269. For example, on February 19, 2019, Brother purchased Speedyinks-branded, Brother-compatible TN-221/225 toner cartridges from Amazon.com (sold by Speedy Inks) for delivery to a Washington, DC, address. *Id.* at 2-5.


PUBLIC VERSION

Order Details

Ordered on February 19, 2019 Order# 112-8179297-1052233

[View or Print invoice](#)


Shipping Address
Thomas Martin
BAKER BOTTS LLP
1299 PENNSYLVANIA AVE NW
WASHINGTON, DC 20004-2400
United States

Payment Method
 **** 1929

Order Summary
Item(s) Subtotal: \$83.98
Shipping & Handling: \$0.00
Total before tax: \$83.98
Estimated tax to be collected: \$0.00
Grand Total: \$83.98
[See tax and seller information](#)

[Transactions](#)

Delivered Feb 25, 2019
Signed by: JERRY



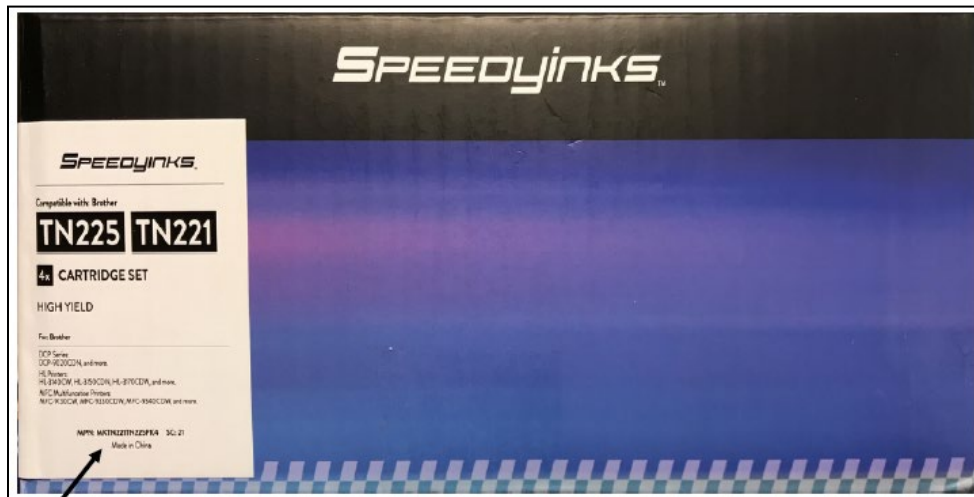
2 of Speedy Inks - Compatible Toner Cartridge Replacements for Brother TN221 / TN225
• 1 Black (TN221BK), 1 Cyan (TN225C), 1 Yellow (TN225Y), 1 Magenta (TN225M)
Sold by: Speedy Inks
\$41.99
Condition: New
[Buy it again](#)

[Return or replace items](#)
[Problem with order](#)
[Share gift receipt](#)
[Leave seller feedback](#)
[Archive order](#)

Id. at 2.

The purchased Speedyinks-branded toner cartridges were labeled “Made in China.” Ex.

5-270.



Id. at 1.

PUBLIC VERSION

c. Conclusion for LD Products

I find that the foregoing un rebutted evidence shows that the accused cartridges sold by LD Products have been imported into the United States and that LD Products sold those cartridges after importation.


18. Mangoket

Mangoket sells after importation into the United States after importation EPS-branded toner cartridges. Ju Shun Hsueh is either a “manager” or “member” of Mangoket. Ex. 5-113.

 Attachment to Statement of Information (Limited Liability Company)		LLC-12A Attachment		17-343227	
A. Limited Liability Company Name MANGOKET LLC 1641 W MAIN ST STE 222 ALHAMBRA, CA 91801					
B. 12-Digit Secretary of State File Number 201312710444				C. State or Place of Organization (only if formed outside of California) CALIFORNIA	
D. List of Additional Manager(s) or Member(s) - If the manager/member is an individual, enter the individual's name and address. If the manager/member is an entity, enter the entity's name and address. Note: The LLC cannot serve as its own manager or member.					
2a. First Name - Do not complete item 2b JUSHUN		Middle Name		Last Name HSUEH	
2b. Entity Name - Do not complete item 2a					
2c. Address 1641 W MAIN ST STE 222		City (no abbreviations) ALHAMBRA		State CA	Zip Code 91801

Id. at 2. Mr. Hsueh is the owner/registration of the “EPS” registered trademark. Ex. 5-109. Brother asserts that Mr. Hsueh’s involvement in Mangoket, combined with his ownership of the EPS trademark, indicates that Mangoket is the source of EPS-branded toner cartridges. No evidence in the record contradicts this conclusion.

PUBLIC VERSION

	
Word Mark	EPS
Goods and Services	IC 002. US 006 011 016. G & S: Filled ink cartridges; Filled toner cartridges. FIRST USE: 20100610. FIRST USE IN COMMERCE: 20100910 IC 009. US 021 023 026 036 038. G & S: Drum units for printers, facsimile machines, scanners, copying machines and multifunction electronic devices for use in copying, printing, scanning, video capture and/or transmitting documents and images. FIRST USE: 20100610. FIRST USE IN COMMERCE: 20100910
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	87157325
Filing Date	August 31, 2016
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	February 7, 2017
Registration Number	5189766
Registration Date	April 25, 2017
Owner	(REGISTRANT) Hsueh, Ju Shun INDIVIDUAL UNITED STATES 959 Whitecliff Dr. Diamond Bar CALIFORNIA 91765
Attorney of Record	May Liou


Id.

Brother purchased EPS-branded, Brother-compatible TN-450 and TN-630/660 toner cartridges from Amazon.com for shipment to a U.S. address. *See* Ex. 5-265. For example, on November 8, 2018, Brother purchased EPS-branded, Brother-compatible TN-450 toner cartridges from Amazon.com (sold by Mangoket) for delivery to a Washington, DC, address. *Id.* at 2-5.


PUBLIC VERSION

Order Details

Ordered on November 8, 2018 Order# 111-9255926-4649056 [View or Print invoice](#)

Shipping Address Thomas Martin BAKER BOTTS LLP 1299 PENNSYLVANIA AVE NW WASHINGTON, DC 20004-2400 United States Change	Payment Method  **** 1929 Change	Apply gift card balance <input type="text" value="Enter code"/> <input type="button" value="Apply"/>	Order Summary <table><tr><td>Item(s) Subtotal:</td><td>\$24.87</td></tr><tr><td>Shipping & Handling:</td><td>\$5.99</td></tr><tr><td>Free Shipping:</td><td>-\$5.99</td></tr><tr><td>Total before tax:</td><td>\$24.87</td></tr><tr><td>Estimated tax to be collected:</td><td>\$0.00</td></tr><tr><td>Grand Total:</td><td>\$24.87</td></tr></table>	Item(s) Subtotal:	\$24.87	Shipping & Handling:	\$5.99	Free Shipping:	-\$5.99	Total before tax:	\$24.87	Estimated tax to be collected:	\$0.00	Grand Total:	\$24.87
Item(s) Subtotal:	\$24.87														
Shipping & Handling:	\$5.99														
Free Shipping:	-\$5.99														
Total before tax:	\$24.87														
Estimated tax to be collected:	\$0.00														
Grand Total:	\$24.87														

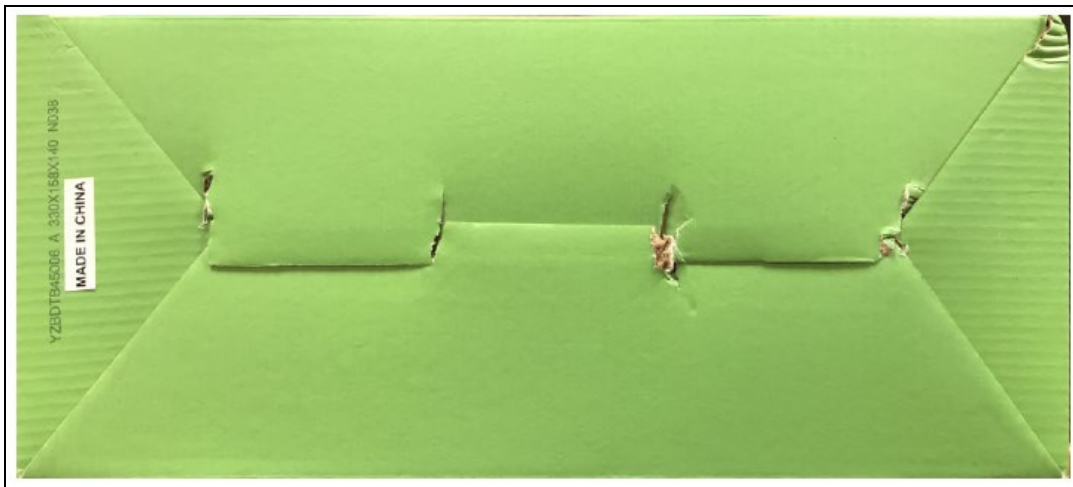
[Transactions](#)

Arriving Tue, Nov 20

Sold by: MANGOKET
\$24.87
Condition: New - EPS toner come with LIFETIME WARRANTY. Please contact EPS directly for any questions. Customer support is 24/7. Company info is on the box. Thank you.
[Add gift option](#)
[Buy it again](#)

[Track package](#)
[Change Payment Method](#)
[Change shipping speed](#)
[Cancel items](#)
[Archive order](#)

Id. at 2.

The purchased EPS-branded toner cartridges were labeled “Made in China.” Ex. 5-266.




Further, Aster admitted that it imports certain accused toner cartridges and sells them to Mangoket. Aster’s Response to Complaint at ¶ 3.26.

I find that the foregoing unrebutted evidence shows that the accused Mangoket products have been imported into the United States and that Mangoket sold those products after importation.

19. Solong

PUBLIC VERSION

Solong sells for importation into the United States Ikong-branded toner cartridges. Solong is the last listed owner of the “IKONG” registered trademark, which indicates that Solong is the source of IKONG-branded toner cartridges. Ex. 5-95.

	
Word Mark	IKONG
Translations	The wording "IKONG" has no meaning in a foreign language.
Goods and Services	IC 002. US 006 011 016. G & S: Colorants for use in the manufacture of printing ink; Filled ink cartridges; Filled ink cartridges for printers; Filled ink jet cartridges; Filled toner cartridges; Ink for multifunction electronic devices for use in copying, printing, scanning, video capture or transmitting documents and images; Ink jet printer ink; Marking ink for animals; Microencapsulated fragrance inks for flexographic printing; Photocopier toner in cartridges; Primer oils for printing; Printing compositions; Printing ink; Printing inks; Printing inks, coatings, pigments and dispersions for use in the graphic arts industry; Printing inks, coatings, pigments and dispersions for use on cartons and packaging; Printing lakes; Printing toner ; Thermochromic printing inks; Toner ; Toner cartridges, filled, for printers and photocopiers. FIRST USE: 20140925. FIRST USE IN COMMERCE: 20140925
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	03.11.01 - Apes; Baboons; Chimpanzees; Gorillas; Monkeys; Orangutans
Serial Number	86833578
Filing Date	November 30, 2015
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	June 21, 2016

Registration Number	5035079
Registration Date	September 6, 2016
Owner	(REGISTRANT) Wang Zhidong INDIVIDUAL CHINA No. 32,Nanpingpingbei First Road Xiangzhou District Zhuhai, Guangdong CHINA (LAST LISTED OWNER) SOLONG E-COMMERCE CO., LIMITED LIMITED COMPANY (LTD.) CHINA FLAT/RM 19C LOCKHART CTR 301-307 LOCKHART RD WAN CHAI HONG KONG
Assignment Recorded	ASSIGNMENT RECORDED
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of the wording, "IKONG" under the design of a rightward walking gorilla.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

Id.

As discussed above, Brother purchased IKONG-branded, Brother-compatible toner cartridges labeled “Made in China” from Amazon.com for delivery to an address in the United States. *See* Exs. 5-261, 5-262.

PUBLIC VERSION

I find that the foregoing un rebutted evidence shows that the accused Solong products have been imported into the United States and that Solong sold those products for importation.

20. Smartjet


Smartjet sells for importation into the United States MIROO-branded toner cartridges. Smartjet is the last known owner of the “MIROO” registered word and design trademarks, which indicates that Smartjet is the source of MIROO-branded toner cartridges. Ex. 5-147, Compl. Ex. 148.

MIROO	
Word Mark	MIROO
Translations	The wording "MIROO" has no meaning in a foreign language.
Goods and Services	IC 002. US 006 011 016. G & S: Colorants for use in the manufacture of printing ink; Filled ink cartridges; Filled ink cartridges for printers; Filled toner cartridges; Ink jet printer ink; Ink for multifunction electronic devices for use in copying, printing, scanning, video capture or transmitting documents and images; Marking ink for animals; Microencapsulated fragrance inks for flexographic printing; Photocopier toner in cartridges; Primer oils for printing; Printing compositions; Printing ink; Printing inks; Printing inks, coatings, pigments and dispersions for use in the graphic arts industry; Printing inks, coatings, pigments and dispersions for use on cartons and packaging; Printing lakes; Printing toner ; Thermochromic printing inks; Toner ; Toner cartridges, filled, for printers and photocopiers; Filled ink jet cartridges. FIRST USE: 20140925. FIRST USE IN COMMERCE: 20140925
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	87574154
Filing Date	August 18, 2017
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	December 26, 2017
	5423382

PUBLIC VERSION

Registration Number	
Registration Date	March 13, 2018
Owner	(REGISTRANT) Wang Zhidong INDIVIDUAL CHINA No. 32, Nanpingpingbei First Road Xiangzhou District, Zhuhai, Guangdong CHINA 519060 (LAST LISTED OWNER) SMARTJET E-COMMERCE CO., LIMITED LIMITED COMPANY (LTD.) HONG KONG FLAT/RM A 20/F KIU FU COMMERCIAL BLDG 300 LOCKHART ROAD WAN CHAI HONG KONG
Assignment Recorded	ASSIGNMENT RECORDED
Prior Registrations	4982075
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

Ex. 5-147.

	
Word Mark	MIROO
Translations	The wording "MIROO" has no meaning in a foreign language.
Goods and Services	IC 002. US 006 011 016. G & S: Colorants for use in the manufacture of printing ink; Filled ink cartridges; Filled ink cartridges for printers; Filled ink jet cartridges; Filled toner cartridges; Ink for multifunction electronic devices for use in copying, printing, scanning, video capture or transmitting documents and images; Ink jet printer ink; Marking ink for animals; Microencapsulated fragrance inks for flexographic printing; Photocopier toner in cartridges; Primer oils for printing; Printing compositions; Printing ink; Printing inks; Printing inks, coatings, pigments and dispersions for use in the graphic arts industry; Printing inks, coatings, pigments and dispersions for use on cartons and packaging; Printing lakes; Printing toner ; Thermochromic printing inks; Toner ; Toner cartridges, filled, for printers and photocopiers. FIRST USE: 20140925. FIRST USE IN COMMERCE: 20140925
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	02.11.06 - Beards; Hair; Hair extensions; Human hair, locks of hair, wigs, beards, mustaches; Mustaches; Toupees; Wigs 09.05.02 - Top hats
Serial Number	86756552
Filing Date	September 15, 2015
Current Basis	1A
Original Filing Basis	1A
	April 5, 2016

PUBLIC VERSION


Published for Opposition	
Registration Number	4982075
Registration Date	June 21, 2016
Owner	(REGISTRANT) Wang Zhidong INDIVIDUAL CHINA No. 32, Nanpingpingbei First Road Xiangzhou Distric Zhuhai, Guangdong, CHINA (LAST LISTED OWNER) SMARTJET E-COMMERCE CO., LIMITED LIMITED COMPANY (LTD.) HONG KONG FLAT/RM A 20/F KIU FU COMMERCIAL BLDG 300 LOCKHART ROAD WAN CHAI HONG KONG
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Yang Guohua
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of the wording "MIROO". The design of a stylized top hat appears above the letters "OO" and a mustache appears under the letters "OO" so as to form a human face with the letter "OO" serving as spectacles.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

Compl. Ex. 148.

Brother purchased MIROO-branded, Brother-compatible TN-221/225 and TN-450 toner cartridges from Amazon.com for shipment to a United States address. *See* Ex. 5-277. For example, on February 19, 2019, Brother purchased MIROO-branded, Brother-compatible TN-221/225 toner cartridges from Amazon.com for delivery to a Washington, DC, address. *Id.* at 2-5.


Order Details

Ordered on February 19, 2019 Order# 112-6263292-2185024 [View or Print invoice](#)

Shipping Address Thomas Martin BAKER BOTTS LLP 1299 PENNSYLVANIA AVE NW WASHINGTON, DC 20004-2400 United States	Payment Method  **** 1929	Order Summary Item(s) Subtotal: \$87.98 Shipping & Handling: \$11.55 Free Shipping: -\$11.55 Total before tax: \$87.98 Estimated tax to be collected: \$0.00 Grand Total: \$87.98
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[Transactions](#)

Delivered Feb 22, 2019



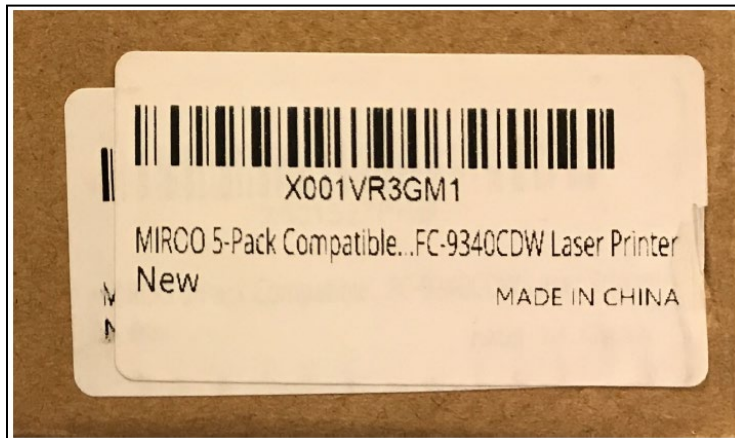
2 of MIROO 5-Pack Compatible Toner Cartridge Replacement Brother TN221 TN-221 TN225 TN-225 High Yield, Use on Brother HL-3140CW HL-3170CDW HL-3180CDW MFC-9130CW MFC-9330CDW MFC-9340CDW Laser Printer
Sold by: Linkinc
Return window closed on Mar 24, 2019
\$43.99
Condition: New
[Buy it again](#)

[Leave seller feedback](#)
[Write a product review](#)
[Archive order](#)

Id. at 2.

PUBLIC VERSION

The purchased MIROO-branded toner cartridges were labeled “Made in China.” Ex. 5-278.




Id. at 2.

I find that the foregoing un rebutted evidence shows that the accused Smartjet products have been imported into the United States and that Smartjet sold those products for importation.

21. Super Warehouse

Super Warehouse sells after importation into the United States Inktoneram-branded toner cartridges. Super Warehouse is the owner of the registered “Inktoneram” trademark, and Super Warehouse also does business as Inktoneram. Ex. 5-152. These facts indicate that Super Warehouse is the source of Inktoneram-branded toner cartridges.

PUBLIC VERSION

	
Word Mark	INKTONERAM
Goods and Services	IC 002. US 006 011 016. G & S: Filled ink cartridges; Ink cartridges for printers; Ink jet cartridges; Photocopier toner ; Photocopier toner in cartridges; Printing toner ; Toner ; Toner cartridges; Toner for copiers; Toners . FIRST USE: 20120716. FIRST USE IN COMMERCE: 20120716
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design	01.01.10 - Stars, three or more; Three or more stars
Search Code	01.01.13 - Stars - multiple stars with five points 26.11.21 - Rectangles that are completely or partially shaded
Serial Number	85942580
Filing Date	May 24, 2013
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	October 29, 2013
Registration Number	4465587
Registration Date	January 14, 2014
Owner	(REGISTRANT) Super Warehouse Inc. DBA Inktoneram CORPORATION CANADA 1160 Yew Ave. DSS5179 Blaine WASHINGTON 98230
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of a rectangle with a dark shaded background on the left side which fades off to a lighter shade on the right side. The font of the letterings is LilyUPC and forms the word "INKTONERAM". The Letterings have a glass effect and a small outer shadow. There are 4 five-pointed stars on the logo. One is located underneath the "n",

Id.


Brother purchased Inktoneram-branded, Brother-compatible TN-221/225, TN-450, TN-660, and TN-760 toner cartridges from Amazon.com for shipment to a United States address. *See* Ex. 5-278. For example, on February 19, 2019, Brother purchased Inktoneram-branded, Brother-compatible TN-221/225 toner cartridges from Amazon.com (sold by Inktoneram) for delivery to a Washington, DC, address. *Id.* at 2-5.

PUBLIC VERSION

Order Details

Ordered on February 19, 2019 Order# 112-6603876-0481843


View or Print invoice

Shipping Address Thomas Martin BAKER BOTTS LLP 1299 PENNSYLVANIA AVE NW WASHINGTON, DC 20004-2400 United States	Payment Method  **** 1929	Order Summary Item(s) Subtotal: \$59.90 Shipping & Handling: \$11.08 Free Shipping: -\$11.08 Total before tax: \$59.90 Estimated tax to be collected: \$0.00 Grand Total: \$59.90
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Transactions

2 SHIPMENTS

Delivered Feb 22, 2019



Inktoneram Compatible Toner Cartridges Replacement for Brother (TN221 TN-221 BK) (TN225 TN-225 CMY) HL-3140CW HL-3150CDN HL-3170CDW HL-3180CDW DCP9020CDN MFC9130CW MFC9330CDW MFC9340CDW (BK,C,M,Y,4PK)

Sold by: **Inktoneram** Product question? [Ask Seller](#)

Return window closed on Mar 24, 2019

\$29.95

Condition: New

[Buy it again](#)

[Ask Product Question](#)
[Leave seller feedback](#)
[Write a product review](#)
[Archive order](#)

Id. at 2.

The purchased Inktoneram-branded toner cartridges were labeled “Made in China.”

Ex. 5-280.




PUBLIC VERSION

Id. at 1.

I find that the foregoing un rebutted evidence shows that the accused Super Warehouse products have been imported into the United States and that Super Warehouse sold those products after importation.

22. Xiaohui

Xiaohui sells for importation into the United States JARBO-branded toner cartridges. Xiaohui is the last listed owner of the “JARBO” registered trademark, which indicates that Xiaohui is the source of JARBO-branded toner cartridges. Ex. 5-183.

	
Word Mark	JARBO
Translations	The wording "JARBO" has no meaning in a foreign language.
Goods and Services	IC 002. US 006 011 016. G & S: Colorants for use in the manufacture of printing ink; Filled ink cartridges; Filled ink cartridges for printers; Filled ink jet cartridges; Filled toner cartridges; Ink for multifunction electronic devices for use in copying, printing, scanning, video capture or transmitting documents and images; Ink jet printer ink; Marking ink for animals; Micro encapsulated fragrance inks for flexographic printing; Photocopier toner in cartridges; Primer oils for printing; Printing compositions; Printing ink; Printing inks; Printing inks, coatings, pigments and dispersions for use in the graphic arts industry; Printing inks, coatings, pigments and dispersions for use on cartons and packaging; Printing lakes; Printing toner ; Thermochromic printing inks; Toner ; Toner cartridges, filled, for printers and photocopiers. FIRST USE: 20140925. FIRST USE IN COMMERCE: 20150225
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design	03.03.01 - Elephants; Mammoths; Mastodons
Search Code	27.03.03 - Animals forming letters or numerals
Serial Number	86796875
Filing Date	October 22, 2015
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	April 12, 2016


PUBLIC VERSION

Registration Number	4988072
Registration Date	June 28, 2016
Owner	(REGISTRANT) Wang Zhidong INDIVIDUAL CHINA Xiangzhou District No. 32, Nanpingpingbei First Road Zhuhai, Guangdong CHINA (LAST LISTED OWNER) ZHUHAI XIAOHUI E-COMMERCE CO., LTD. LIMITED COMPANY (LTD.) CHINA ROOM 502, FACTORY FIVE, NO.12, PINGDONG 3RD RD., NANPING KEJI INDUSTRIAL PARK, XIANGZHOU DIST., ZHUHAI CHINA
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Yang Guohua
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of the wording "JARBO" at bottom; the design of a leftward-facing elephant appears over "JARBO" with the elephant's trunk forming the letter "J" in "JARBO".
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE


Id.

Brother purchased JARBO-branded, Brother-compatible TN-221/225, TN-450, TN-660, and TN-760 toner cartridges from Amazon.com for shipment to a United States address. *See* Ex. 5-289. For example, on February 19, 2019, Brother purchased JARBO-branded, Brother-compatible TN-221/225 toner cartridges from Amazon.com (sold by JARBO) for delivery to a Washington, DC, address. *Id.* at 2-5.

Order Details
Ordered on February 19, 2019 Order# 112-1227782-6742624 [View or Print invoice](#)

Shipping Address Thomas Martin BAKER BOTTS LLP 1299 PENNSYLVANIA AVE NW WASHINGTON, DC 20004-2400 United States	Payment Method  **** 1929	Order Summary Item(s) Subtotal: \$79.98 Shipping & Handling: \$10.56 Free Shipping: -\$10.56 Total before tax: \$79.98 Estimated tax to be collected: \$0.00 Grand Total: \$79.98
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[Transactions](#)

Delivered Feb 22, 2019

2 of JARBO TN225 Compatible for Brother TN221 TN-221 TN225 TN-225 Color Toner Cartridge High Yield, for Brother HL-3140CW HL-3170CDW HL-3180CDW MFC-9130CW MFC-9330CDW MFC-9340CDW (1BK, 1C, 1M, 1Y) 4 Pack
Sold by: JARBO
Return window closed on Mar 24, 2019
\$39.99
Condition: New
[Buy it again](#)

[Leave seller feedback](#)
[Write a product review](#)
[Archive order](#)

Id. at 2.

The purchased JARBO-branded toner cartridges were labeled “Made in China.” Ex. 5-290.

PUBLIC VERSION



Id. at 1-2.

I find that the foregoing un rebutted evidence shows that the accused Xiaohui products have been imported into the United States and that Xiaohui sold those products for importation.

E. Standing

The evidence of record demonstrates that Brother (through BIL), as owner of the Asserted Patents by assignment, has standing to bring its complaint. Ex. 5 at ¶¶ 5.9, 5.24, 5.38; Amended Complaint Exs. 187, 188, 189, 191 (certified assignment records of Asserted Patents). Accordingly, I find that Brother has standing in this investigation.

PUBLIC VERSION

III. LEGAL PRINCIPLES

A. Domestic Industry

For a patent-based complaint, a violation of section 337 can be found “only if an industry in the United States, relating to the articles protected by the patent . . . concerned, exists or is in the process of being established.” 19 U.S.C. § 1337(a)(2). This domestic industry requirement of section 337 is often described as having an economic prong and a technical prong. *InterDigital Commc’ns, LLC v. Int’l Trade Comm’n*, 707 F.3d 1295, 1298 (Fed. Cir. 2013); *Certain Stringed Musical Instruments and Components Thereof*, Inv. No. 337-TA-586, USITC Pub. 4120, 2009 WL 5134139 (Dec. 2009), Comm’n Op. at 12-14. The complainant bears the burden of establishing that the domestic industry requirement is satisfied. *See Certain Set-Top Boxes and Components Thereof*, Inv. No. 337-TA-454, ID at 294, 2002 WL 31556392 (June 21, 2002) (unreviewed by Commission in relevant part).

1. Economic Prong

Section 337(a)(3) sets forth the following economic criteria for determining the existence of a domestic industry in such investigations:

(3) For purposes of paragraph (2), an industry in the United States shall be considered to exist if there is in the United States, with respect to the articles protected by the patent, copyright, trademark, mask work, or design concerned -

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

Given that the statutory criteria are listed in the disjunctive, satisfaction of any one of them will be sufficient to meet the economic prong of the domestic industry requirement. *See Certain Variable*

PUBLIC VERSION

Speed Wind Turbines and Components Thereof, Inv. No. 337-TA-376, USITC Pub. 3003, (Nov. 1996), Comm’n Op. at 15.

2. Technical Prong

The technical prong of the domestic industry requirement is satisfied when the complainant in a patent-based section 337 investigation establishes that it is practicing or exploiting the patents at issue. *See* 19 U.S.C. § 1337(a)(2) and (3); *Certain Microsphere Adhesives, Process for Making Same and Prods. Containing Same, Including Self-Stick Repositionable Notes*, Inv. No. 337-TA-366, Comm’n Op. at 8, USITC Pub. No. 2949, 1996 WL 1056095 (Jan. 16, 1996). “The test for satisfying the ‘technical prong’ of the industry requirement is essentially [the] same as that for infringement, *i.e.*, a comparison of domestic products to the asserted claims.” *Alloc, Inc. v. Int’l Trade Comm’n*, 342 F.3d 1361, 1375 (Fed. Cir. 2003). To prevail, the patentee must establish by a preponderance of the evidence that the domestic product practices one or more claims of the patent. It is sufficient to show that the products practice any claim of that patent, not necessarily an asserted claim of that patent. *See Certain Male Prophylactic Devices*, Inv. No. 337-TA-546, Comm’n Op. at 38 (Aug. 1, 2007).

B. Patent Infringement

“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*) (internal citations omitted), *aff’d*, 517 U.S. 370 (1996). To support a finding of infringement, the record must show every element of the asserted patent or its equivalent in the accused device. *Uniloc USA, Inc. v. Microsoft Corp.*, 632 F.3d 1292, 1301 (Fed. Cir. 2011).

PUBLIC VERSION

In a section 337 investigation, the complainant bears the burden of proving infringement of the asserted patent claims by a preponderance of the evidence. *See Spansion Inc. v. Int’l Trade Comm’n*, 629 F.3d 1331, 1349 (Fed. Cir. 2010). This standard “requires proving that infringement was more likely than not to have occurred.” *Warner-Lambert Co. v. Teva Pharm. USA, Inc.*, 418 F.3d 1326, 1341 n.10 (Fed. Cir. 2005).

“When a patentee with the burden of proof seeks summary judgment of infringement, it must make a prima facie showing of infringement as to each accused device,” not merely assert that one model of the device is representative of other varying models. *L&W, Inc. v. Shertech, Inc.*, 471 F.3d 1311, 1318 (Fed. Cir. 2006). Expert testimony that one model is sufficiently representative of other differing models may be sufficient to support an infringement determination if the testimony explains a reasonable basis for that conclusion. *Spansion, Inc. v. Int’l Trade Comm’n*, 629 F.3d 1331, 1351 (Fed Cir. 2010) (expert’s methodology of selecting representative products that span the range of values for those parameters that most directly affect the claimed movement was reasonable and well thought out).

IV. DOMESTIC INDUSTRY

I begin with an examination of Brother’s undisputed domestic industry evidence to illustrate the application to the Asserted Patent claims to the relevant technology.

A. Technical Prong

As noted above, it is Brother’s burden to demonstrate that the Asserted Patents protect domestic industry articles. *See Certain Male Prophylactic Devices*, Comm’n Op. at 38. **Error! Reference source not found.** below shows the various Brother products alleged to practice claims of the various Asserted Patents:

PUBLIC VERSION

Table 1. Asserted Patents & Their Respective Domestic Industry Products

Asserted Patent	Domestic Industry Product(s) ¹²	Asserted Claim(s)
'093 patent	Brother TN-221/225 ¹³ & TN-223/227 ¹⁴ toner cartridges	1–5, 10, 12–15
'460 patent	Brother TN-221/225 & TN-223/227 toner cartridges	1, 7–11, 15–16
'856 patent	Brother TN-420/450 ¹⁵ & TN-630/660 ¹⁶ toner cartridges	1–9
	Brother TN-730/760/770 ¹⁷ toner cartridges	1, 4, 5, 8, 9
'456 patent	Brother TN-420/450 & TN-630/660 toner cartridges	1, 4, 5, 8, 9,
	Brother TN-730/760/770 toner cartridges	1–9
'387 patent	Brother TN-221/225 & TN-223/227 toner cartridges	1, 3, 5, 7–12, 18
	Brother TN-730/760/770 toner cartridges	1, 3, 5, 7–12, 18

See MSD at 101. Staff agrees that the un rebutted evidence proffered by Brother “supports finding that the technical prong of the domestic industry requirement is satisfied for” all Asserted Patents. Response at 114. I evaluate the evidence below.

¹² As Brother explained, some model numbers include a suffix which indicates which color is in the cartridge, but the cartridges of a specific model with different colors do not differ in any relevant aspect. See Cummins Decl. at ¶ 84-87, 89-90.

¹³ The Brother TN-221 and TN-225 toner cartridges are the same in all relevant aspects. See Cummins Decl. 81, 84, 86, 89, 97, 102. The only difference between the models is their toner capacity. *Id.* at ¶ 89.

¹⁴ The Brother TN-223 and TN-227 toner cartridges are the same in all relevant aspects. See Cummins Decl. at ¶ 82, 85, 87, 90, 98, 103. The only difference between the models is their toner capacity. *Id.* at ¶ 90.

¹⁵ The Brother TN-420 and TN-450 toner cartridges are the same in all relevant aspects. See Cummins Decl. at ¶ 91. The only difference between the models is their toner capacity. *Id.*

¹⁶ The Brother TN-630 and TN-660 toner cartridges are the same in all relevant aspects. See Cummins Decl. at ¶ 92. The only difference between the models is their toner capacity. *Id.*

¹⁷ The Brother TN-730, TN-760, and TN-770 toner cartridges are the same in all relevant aspects. See Cummins Decl. at ¶ 93. The only difference between the models is their toner capacity. *Id.*

PUBLIC VERSION


1. '093 patent

Brother asserts that its TN-221/225 and TN-223/227 toner cartridges practice the following claims of the '093 patent:

Asserted patent	Domestic Industry Product(s)	Asserted Claim(s)
'093 patent	Brother TN-221/225 & TN-223/227 toner cartridges	1–5, 10, 12–15



See MSD at 101. In support, Brother submitted the Declaration of Jarrett C. Gayne, in which Mr. Gayne lays out how the Brother TN-225 toner cartridge practices claim 1 of the '093 patent, as shown in the table below. See Gayne Decl.

'093 patent, Claim 1 Domestic Industry Chart

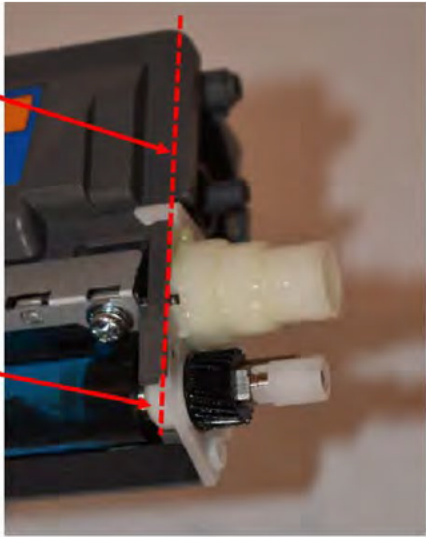
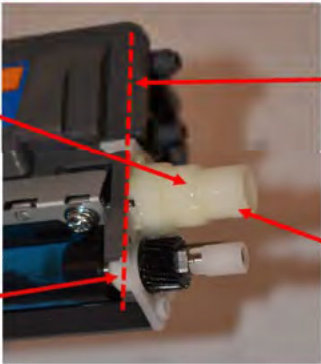
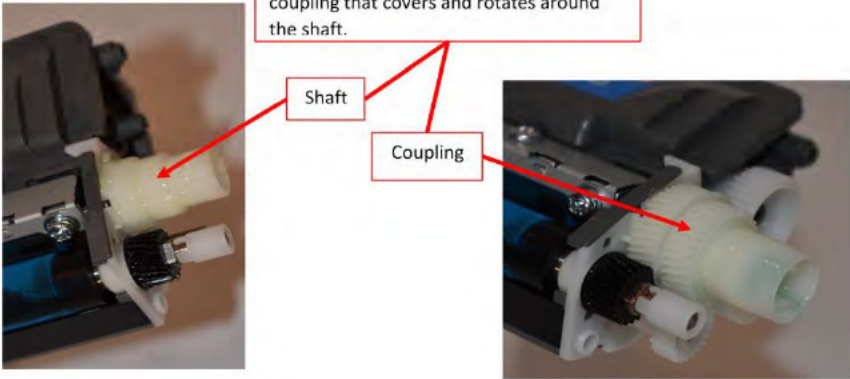
Claim 1 Limitation	Element in Domestic Industry Product
"1. A developing cartridge comprising:" ¹⁸	<div> <p>The packaging of the Product identifies it as a "toner cartridge," and toner is a developer</p> <p>The structure of the Product confirms that it is a toner (developer) cartridge</p>  </div>

¹⁸ I do not hold that the preamble is limiting.

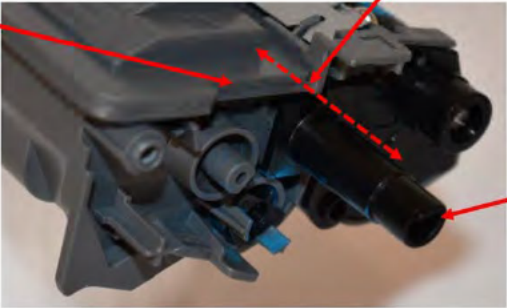
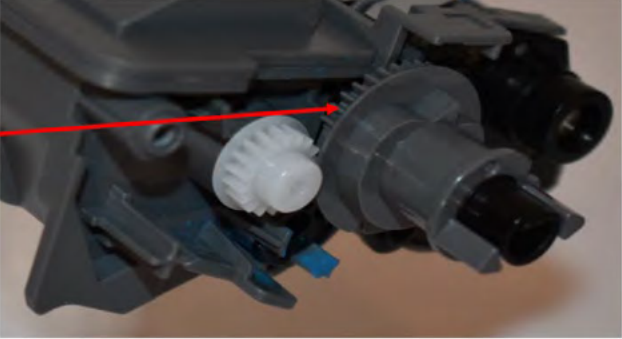
PUBLIC VERSION

Claim 1 Limitation	Element in Domestic Industry Product
<p>“a developing roller rotatable about a first axis extending in a direction, the developing roller including a developing roller shaft extending in the direction, the developing roller shaft having a first end portion and a second end portion separated from the first end portion in the direction;”</p>	<p>The developing cartridge includes a developing roller that rotates about a first axis, which is shown with the dashed red line below. The first axis extends in the direction identified by the dashed red line. The developing roller has first and second end portions that are separated in the direction.</p> 
<p>“a housing configured to accommodate developing material therein, the housing having a first outer surface and a second outer surface separated from the first outer surface in the direction;”</p>	<p>The developing cartridge includes a housing that stores toner, which is one type of developing material. This housing has two outer surfaces that are separated from each other in the direction</p> 

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Claim 1 Limitation	Element in Domestic Industry Product
<p>“a bearing through which the first end portion is inserted, the bearing being positioned to the first outer surface”</p>	<div data-bbox="584 325 776 403" style="border: 1px solid red; padding: 2px; display: inline-block;">First outer surface</div> <div data-bbox="456 527 816 751" style="border: 1px solid red; padding: 5px; margin-top: 10px;"> <p>The developing cartridge includes a bearing that holds the developing roller shaft. The first end portion of the developing roller shaft is inserted through the bearing. The bearing is located at the first outer surface.</p> </div> 
<p>“a first shaft extending in the direction, the first shaft being positioned at an opposite side of the first outer surface relative to the bearing”</p>	<div data-bbox="760 852 1058 919" style="border: 1px solid red; padding: 2px; display: inline-block;">The cover is removed in this view to expose the first shaft.</div> <div data-bbox="456 926 719 1129" style="border: 1px solid red; padding: 5px; margin-top: 10px;"> <p>The developing cartridge includes a first shaft that extends in the direction. The first shaft is positioned opposite to the bearing relative to the first outer surface.</p> </div> <div data-bbox="602 1188 703 1234" style="border: 1px solid red; padding: 2px; display: inline-block;">Bearing</div> <div data-bbox="1089 995 1232 1062" style="border: 1px solid red; padding: 2px; display: inline-block;">First outer surface</div> <div data-bbox="1089 1142 1211 1209" style="border: 1px solid red; padding: 2px; display: inline-block;">First shaft</div> 
<p>“a coupling rotatable about the first shaft”</p>	<div data-bbox="708 1329 1092 1413" style="border: 1px solid red; padding: 5px; margin-bottom: 10px;"> <p>The developing cartridge includes a coupling that covers and rotates around the shaft.</p> </div> <div data-bbox="740 1444 813 1486" style="border: 1px solid red; padding: 2px; display: inline-block;">Shaft</div> <div data-bbox="824 1497 938 1549" style="border: 1px solid red; padding: 2px; display: inline-block;">Coupling</div> 

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Claim 1 Limitation	Element in Domestic Industry Product
<p>“a second shaft extending in the direction, the second shaft being positioned to the second outer surface”</p>	<div style="display: flex; align-items: center;"> <div style="border: 1px solid red; padding: 2px; margin-right: 10px;"> Second outer surface </div>  <div style="border: 1px solid red; padding: 2px; margin-left: 10px;"> The developing cartridge includes a second shaft that extends in the direction. The second shaft is at the second outer surface </div> </div>
<p>“a detection gear rotatable about the second shaft.”</p>	<div style="display: flex; align-items: center;"> <div style="border: 1px solid red; padding: 2px; margin-right: 10px;"> The developing cartridge includes a detection gear that covers and rotates around the second shaft. The detection gear rotates concentric to the second shaft. </div>  </div>

See MSD at 103–13; Gayne Decl. at ¶¶ 392–423; *see also* Gayne Decl. at ¶¶ 424–26 (showing how the Brother TN-225 toner cartridge practices claim 2 of the ’093 patent); *id.* at ¶¶ 427–29 (showing how the Brother TN-225 toner cartridge practices claim 3 of the ’093 patent); *id.* at ¶¶ 430–35 (showing how the Brother TN-225 toner cartridge practices claim 4 of the ’093 patent); *id.* at ¶¶ 436–45 (showing how the Brother TN-225 toner cartridge practices claim 5 of the ’093 patent); *id.* at ¶¶ 446–53 (showing how the Brother TN-225 toner cartridge practices claim 10 of the ’093 patent); *id.* at ¶¶ 454–56 (showing how the Brother TN-225 toner cartridge practices claim 12 of the ’093 patent); *id.* at ¶¶ 457–62 (showing how the Brother TN-225 toner cartridge practices claim 13 of the ’093 patent); *id.* at ¶¶ 463–65 (showing how the Brother TN-225 toner cartridge practices claim 14 of the ’093 patent); *id.* at ¶¶ 466–69 (showing how the Brother TN-225 toner cartridge practices claim 15 of the ’093 patent).

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Based on the foregoing substantial and undisputed evidence, I find Brother is entitled to summary determination that the Brother TN-221/225 and TN-223/227 domestic industry products practice at least claim 1 of the '093 patent.

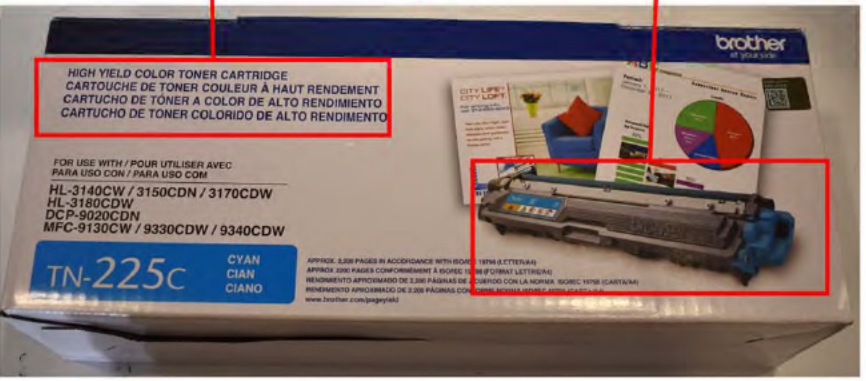
2. '460 patent

Brother asserts that its TN-221/225 and TN-223/227 toner cartridges practice the following claims of the '460 patent:

Asserted Patent	Domestic Industry Product(s)	Asserted Claim(s)
'460 patent	Brother TN-221/225 & TN-223/227 toner cartridges	1, 7–11, 15–16


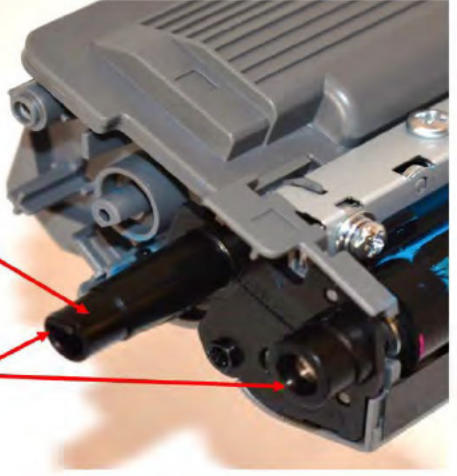

See MSD at 101. In support, Brother submitted the Declaration of Jarrett C. Gayne, which shows how the Brother TN-225 toner cartridge practices claim 1 of the '460 patent, as shown in the table below

'460 patent, Claim 1 Domestic Industry Chart

Claim 1 Limitation	Element in Domestic Industry Product
<p>“A developer cartridge comprising:”¹⁹</p>	<div style="display: flex; justify-content: space-around;"> <div style="border: 1px solid red; padding: 5px; width: 45%;"> <p>The packaging of the Product identifies it as a “toner cartridge,” and toner is a developer</p> </div> <div style="border: 1px solid red; padding: 5px; width: 45%;"> <p>The structure of the Product confirms that it is a toner (developer) cartridge</p> </div> </div> 

¹⁹ I do not hold that the preamble is limiting.

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Claim 1 Limitation	Element in Domestic Industry Product
<p>“a developing roller including a developing roller shaft extending in an extending direction;”</p>	<div data-bbox="609 247 836 346" style="border: 1px solid red; padding: 2px; margin-bottom: 5px;"> Developing roller extending in a direction </div> <div data-bbox="933 241 1323 346" style="border: 1px solid red; padding: 2px; margin-bottom: 5px;"> The developer cartridge includes a developing roller that extends in the direction identified by the dashed red line. </div> 
<p>“an electrode electrically connected to the developing roller shaft, the electrode including a protrusion protruding in the extending direction, the protrusion having a first portion, the first portion being a portion of a circumferential surface of the protrusion; and”</p>	<div data-bbox="646 630 885 781" style="border: 1px solid red; padding: 2px; margin-bottom: 5px;"> The protrusion of the electrode has a first portion that is a portion of the circumferential surface of the protrusion </div> <div data-bbox="576 919 917 1087" style="border: 1px solid red; padding: 2px; margin-bottom: 5px;"> The developer cartridge has an electrode that receives an electrical bias from a compatible printer and establishes an electrical connection to the developing roller shaft. </div> 
<p>“a gear including a plurality of gear teeth on a portion of a circumference of the gear, the gear being rotatable about the protrusion, the gear including a first covering portion covering the first portion, the first covering portion being rotatable with the gear.”</p>	<div data-bbox="609 1150 1010 1228" style="border: 1px solid red; padding: 2px; margin-bottom: 5px;"> The developer cartridge includes a gear that is rotatable about the protrusion. </div> <div data-bbox="576 1234 998 1495" style="border: 1px solid red; padding: 2px; margin-bottom: 5px;"> This is a first covering portion because it covers a first portion of the protrusion as it rotates about the protrusion. The covering portion is part of the gear and rotates with the gear about the protrusion. The covering portion disrupts the electrical connection between the printer and the cartridge as it rotates over the first portion of the protrusion—which is where electrical contact is made with the printer. </div> <div data-bbox="701 1512 1010 1549" style="border: 1px solid red; padding: 2px; margin-bottom: 5px;"> First portion of the protrusion </div> 

See MSD at 114–19; see also Gayne Decl. at ¶¶ 492–97 (showing how the Brother TN-225 toner cartridge practices claim 7 of the ’460 patent); *id.* at ¶¶ 498–504 (showing how the Brother TN-225 toner cartridge practices claim 8 of the ’460 patent); *id.* at ¶¶ 505–12 (showing how the Brother TN-225 toner cartridge practices claim 9 of the ’460 patent); *id.* at ¶¶ 513–15 (showing how the

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Brother TN-225 toner cartridge practices claim 10 of the '460 patent); *id.* at ¶¶ 516–21 (showing how the Brother TN-225 toner cartridge practices claim 11 of the '460 patent); *id.* at ¶¶ 522–28 (showing how the Brother TN-225 toner cartridge practices claim 15 of the '460 patent); *id.* at ¶¶ 529–37 (showing how the Brother TN-225 toner cartridge practices claim 16 of the '460 patent).

Based on this undisputed evidence, I find Brother is entitled to summary determination that the Brother TN-221/225 and TN-223/227 domestic industry products practice at least claim 1 of the '460 patent.

3. '856 patent


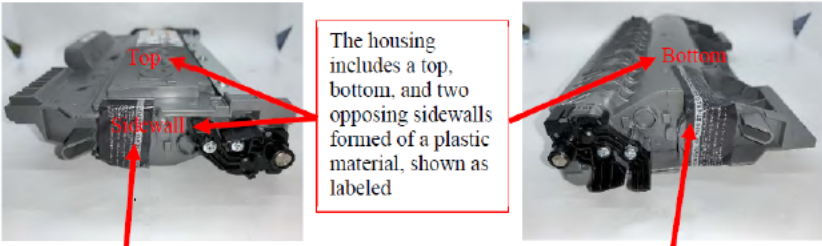
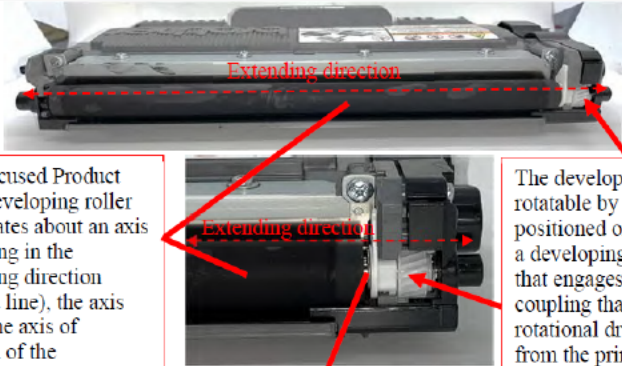
Brother asserts that its TN-420/450, TN-630/660 and TN-730/760/770 toner cartridges practice the following claims of the '856 patent:

Asserted Patent	Domestic Industry Product(s)	Asserted Claim(s)
'856 patent	Brother TN-420/450 & TN-630/660 toner cartridges	1–9
	TN-730/760/770 toner cartridges	1, 4, 5, 8, 9

See MSD at 101. In support, Brother submitted the Declaration Of Guerry L. Grune, Ph.D, which shows how the Brother TN-450 toner cartridge practices claim 1 of the '856 patent, as shown in the table below.

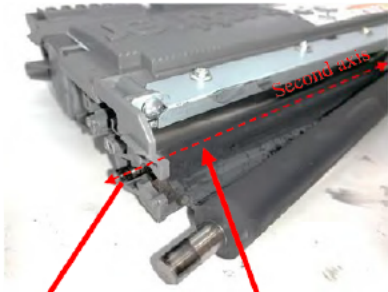




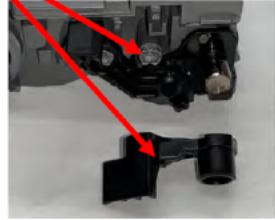
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'856 patent, Claim 1 Domestic Industry Chart

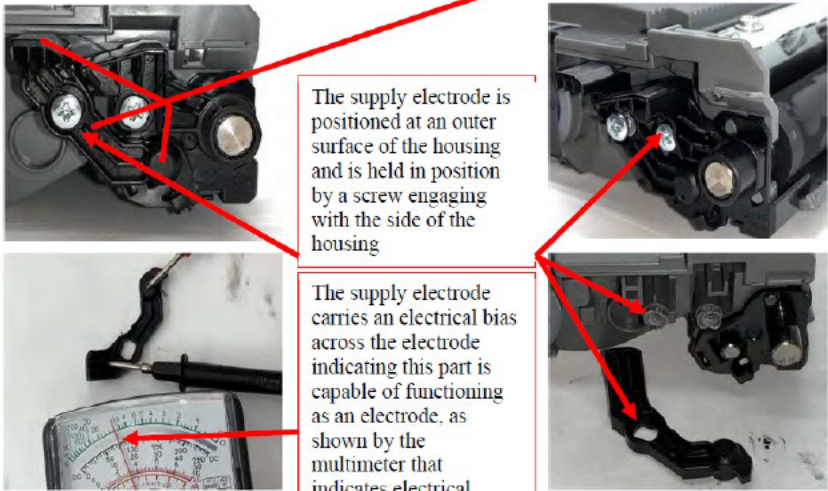
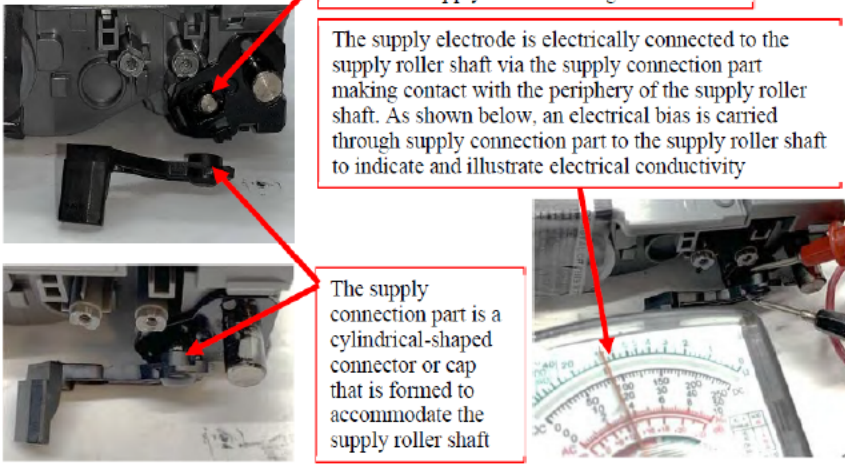
Claim 1 Limitation	Element in Domestic Industry Product
<p>“A developer cartridge comprising:”²⁰</p>	 <p>The packaging of the Domestic Industry Product identifies it as a “toner cartridge,” and toner is a developer</p> <p>The structure of the Domestic Industry Product confirms that it is a toner (developer) cartridge</p>
<p>“a housing configured to accommodate developer therein;”</p>	 <p>The housing includes a top, bottom, and two opposing sidewalls formed of a plastic material, shown as labeled</p> <p>The housing includes a fill port to fill a chamber within the cartridge with toner (developer)</p> <p>The housing is shaped and configured to store toner within a chamber that is adjacent to the developer fill port</p>
<p>“a developing roller rotatable about a first axis extending in an extending direction, the developing roller including a developing roller shaft extending in the extending direction;”</p>	 <p>The Accused Product has a developing roller that rotates about an axis extending in the extending direction (dashed line), the axis being the axis of rotation of the developing roller shaft</p> <p>The developing roller is rotatable by a gear positioned on one end of a developing roller shaft that engages with a coupling that receives a rotational drive force from the printer so that when the coupling rotates the developing roller also rotates</p> <p>The developing roller includes a shaft (metal shaft) extending in the extending direction (dashed line) in the direction of both sidewalls</p>

²⁰ I do not hold that the preamble is limiting.




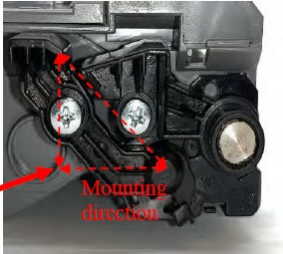
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Claim 1 Limitation	Element in Domestic Industry Product
<p>“a supply roller rotatable about a second axis extending in the extending direction, configured to supply the developer to the developing roller and the supply roller including a supply roller shaft extending in the extending direction;”</p>	<div style="display: flex; justify-content: space-around;"> <div style="text-align: center;">  <p>Supply roller shaft extending in the direction of the sidewalls</p> </div> <div style="text-align: center;">  <p>Supply roller shaft extending in the direction of the sidewalls</p> </div> </div> <p>The Accused Product has a supply roller, which is a sponge roller that contacts the developing roller to supply toner to the developing roller</p> <p>The supply roller is rotatable about a second axis (dashed line supply roller (second) axis) extending in the extending direction by a gear on one end of the supply roller shaft that engages with a coupling (not shown) that receives a rotational drive force from the printer such that when the coupling rotates the supply roller also rotates</p>
<p>“a developing electrode positioned at an outer surface of the housing; and”</p>	<p>A developing electrode is positioned on one side of the housing of the cartridge to provide an electrical bias to the developing roller</p> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;">  <p>The developing electrode is positioned at an outer surface of the housing, on the sidewall, and is held in position by a screw engaging with the outer side surface of the housing</p> </div> <div style="text-align: center;">  </div> </div> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;">  <p>The developing electrode carries an electrical bias across the electrode indicating this part is capable of functioning as an electrode, as shown by the multimeter that indicates electrical conductivity across the developing electrode</p> </div> <div style="text-align: center;">  </div> </div>

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Claim 1 Limitation	Element in Domestic Industry Product
<p>“a supply electrode positioned at the outer surface, the supply electrode including:”</p>	<p>A supply electrode is positioned on one side of the housing of the cartridge to provide an electrical bias to the supply roller</p>  <p>The supply electrode is positioned at an outer surface of the housing and is held in position by a screw engaging with the side of the housing</p> <p>The supply electrode carries an electrical bias across the electrode indicating this part is capable of functioning as an electrode, as shown by the multimeter that indicates electrical conductivity across the developing electrode</p>
<p>“a supply electrode positioned at the outer surface, the supply electrode including:”</p>	<p>The supply roller shaft is a metal shaft around which the supply roller is arranged</p> <p>The supply electrode is electrically connected to the supply roller shaft via the supply connection part making contact with the periphery of the supply roller shaft. As shown below, an electrical bias is carried through supply connection part to the supply roller shaft to indicate and illustrate electrical conductivity</p>  <p>The supply connection part is a cylindrical-shaped connector or cap that is formed to accommodate the supply roller shaft</p>

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Claim 1 Limitation	Element in Domestic Industry Product
<p>“a supply protrusion protruding in the extending direction, the supply protrusion spaced apart from the supply connection part.”</p>	<div style="display: flex; flex-wrap: wrap;"> <div style="width: 50%;">  <p>The supply electrode includes a protrusion protruding from the sidewall of the cartridge in the extending direction, the structure of the protrusion includes several surfaces that are protruded from the sidewall of the cartridge, as shown</p> </div> <div style="width: 50%;">  </div> <div style="width: 50%;">  <p>The supply protrusion is spaced apart from the supply connection part in the extending direction and mounting direction (dashed arrows) via a coupling part and an air gap</p> </div> <div style="width: 50%;">  </div> </div>

See MSD at 119–39; *see also* Grune Decl. at ¶¶ 397–404 (showing how the Brother TN-450 toner cartridge practices claim 2 of the ’856 patent); *id.* at ¶¶ 405–13 (showing how the Brother TN-450 toner cartridge practices claim 3 of the ’856 patent); *id.* at ¶¶ 414–23 (showing how the Brother TN-450 toner cartridge practices claim 4 of the ’856 patent); *id.* at ¶¶ 424–38 (showing how the Brother TN-450 toner cartridge practices claim 5 of the ’856 patent); *id.* at ¶¶ 439–47 (showing how the Brother TN-450 toner cartridge practices claim 6 of the ’856 patent); *id.* at ¶¶ 448–57 (showing how the Brother TN-450 toner cartridge practices claim 7 of the ’856 patent); *id.* at ¶¶ 458–66 (showing how the Brother TN-450 toner cartridge practices claim 8 of the ’856 patent); *id.* at ¶¶ 467–76 (showing how the TN-450 toner cartridge practices claim 9 of the ’856 patent).

Based on this undisputed evidence, I find Brother is entitled to summary determination that the Brother TN-420/TN-450 and Brother TN-730/760/770 domestic industry products practice at least claim 1 of the ’856 patent.

4. ’456 patent



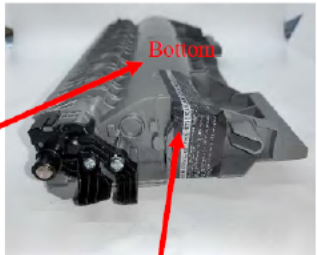
Brother asserts that its TN-420/450, TN-630/660, and TN-730/760/770 toner cartridges practice the following claims of the ’456 patent:

PUBLIC VERSION

Asserted Patent	Domestic Industry Product(s)	Asserted Claim(s)
'456 patent	Brother TN-420/450 & TN-630/660 toner cartridges	1, 4, 5, 8, 9,
	Brother TN-730/760/770 toner cartridges	1–9

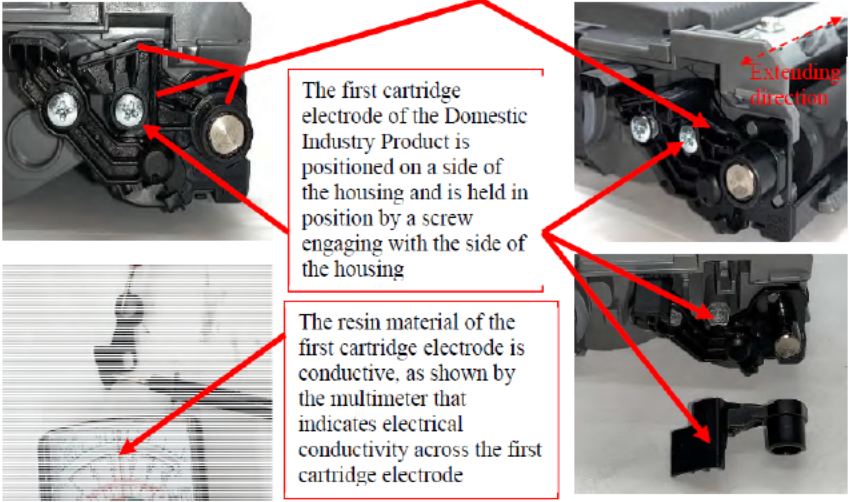
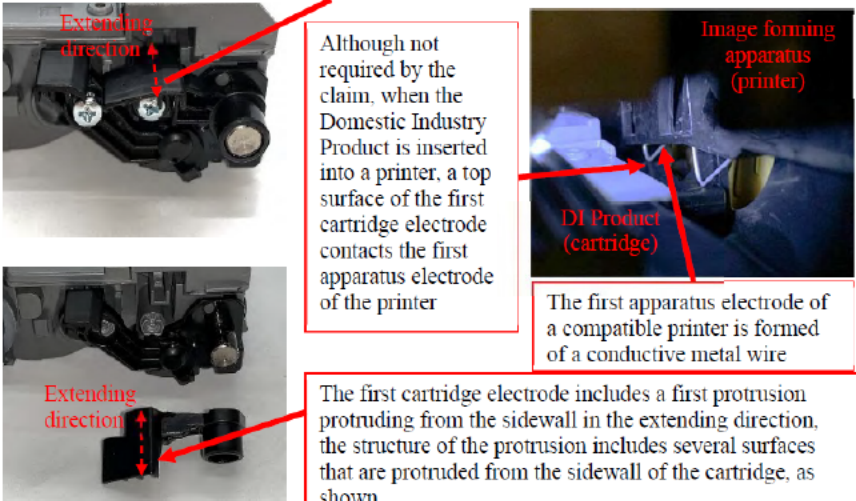
See MSD at 101. In support, Brother submitted the Declaration Of Guerry L. Grune, Ph.D, which shows how the Brother TN-450 toner cartridge practices claim 1 of the '856 patent, as shown in the table below.

'456 patent, Claim 1 Domestic Industry Chart

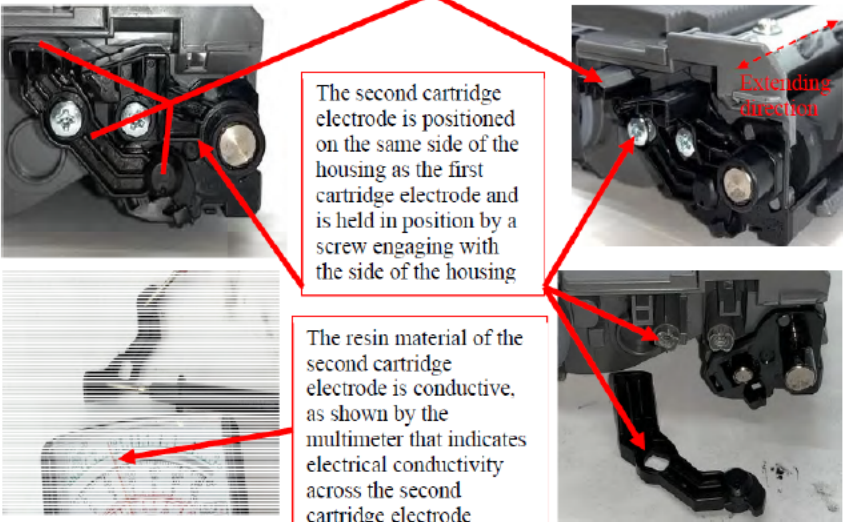
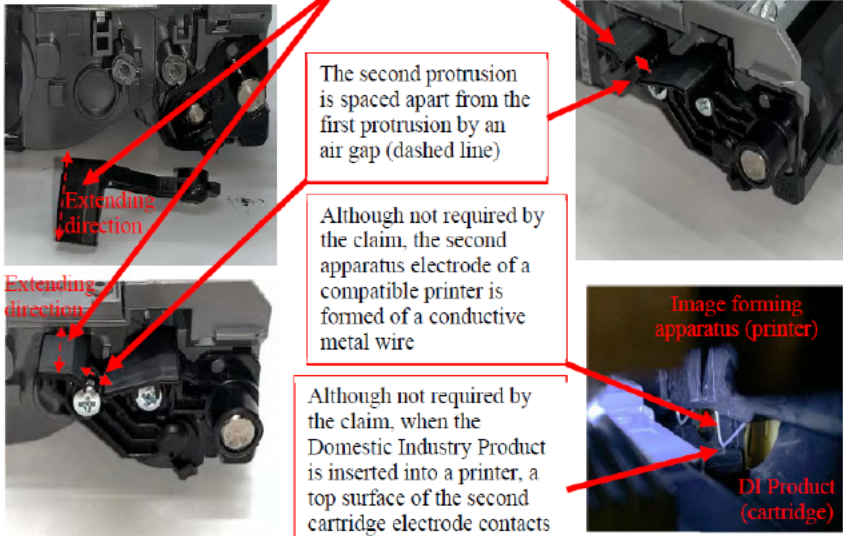
Claim 1 Limitation	Element in Domestic Industry Product
"A cartridge comprising:"²¹	 <p>The packaging of the Domestic Industry Product identifies it as a "toner cartridge," and toner is a developer</p> <p>The structure of the Domestic Industry Product confirms that it is a toner (developer) cartridge</p>
"a housing configured to accommodate developer therein;"	 <p>The housing includes a top, bottom, and two opposing sidewalls formed of a plastic material, shown as labeled</p> <p>The housing includes a fill port to fill a chamber within the cartridge with toner (developer)</p>  <p>The housing is shaped and configured to store toner within a chamber that is adjacent to the developer fill port</p>

²¹ I do not hold that the preamble is limiting.

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Claim 1 Limitation	Element in Domestic Industry Product
<p>“a first cartridge electrode made of conductive resin, the first cartridge electrode positioned on one side of the housing in an extending direction,”</p>	<p>A first cartridge electrode is a developing electrode and is positioned on one side of the housing of the cartridge in an extending direction (dashed line)</p>  <p>The first cartridge electrode of the Domestic Industry Product is positioned on a side of the housing and is held in position by a screw engaging with the side of the housing</p> <p>The resin material of the first cartridge electrode is conductive, as shown by the multimeter that indicates electrical conductivity across the first cartridge electrode</p>
<p>“and the first cartridge electrode including: a first protrusion protruding in the extending direction, the first protrusion being contactable with a first apparatus electrode of an image forming apparatus; and”</p>	<p>The first cartridge electrode (developing electrode) includes a first protrusion that protrudes in the extending direction from the sidewall of the cartridge</p>  <p>Although not required by the claim, when the Domestic Industry Product is inserted into a printer, a top surface of the first cartridge electrode contacts the first apparatus electrode of the printer</p> <p>The first apparatus electrode of a compatible printer is formed of a conductive metal wire</p> <p>The first cartridge electrode includes a first protrusion protruding from the sidewall in the extending direction, the structure of the protrusion includes several surfaces that are protruded from the sidewall of the cartridge, as shown</p>

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Claim 1 Limitation	Element in Domestic Industry Product
<p>“a second cartridge electrode made of conductive resin, the second cartridge electrode positioned on the one side of the housing in the extending direction,”</p>	<p>A second cartridge electrode is a supply electrode and is positioned on one side of the housing of the cartridge in an extending direction (direction of sidewall of the cartridge)</p>  <p>The second cartridge electrode is positioned on the same side of the housing as the first cartridge electrode and is held in position by a screw engaging with the side of the housing</p> <p>The resin material of the second cartridge electrode is conductive, as shown by the multimeter that indicates electrical conductivity across the second cartridge electrode</p>
<p>“and the second cartridge electrode including: a second protrusion in the extending direction, the second protrusion spaced apart from the first protrusion and the second protrusion being contactable with a second apparatus electrode of the image forming apparatus.”</p>	<p>The second cartridge electrode includes a second protrusion that protrudes from the sidewall of the cartridge in the extending direction, the structure of the second protrusion of the Domestic Industry Product includes several surfaces that protrude from the sidewall in the extending direction, as shown</p>  <p>The second protrusion is spaced apart from the first protrusion by an air gap (dashed line)</p> <p>Although not required by the claim, the second apparatus electrode of a compatible printer is formed of a conductive metal wire</p> <p>Although not required by the claim, when the Domestic Industry Product is inserted into a printer, a top surface of the second cartridge electrode contacts the second apparatus electrode of the printer</p>

See MSD at 139–55; see also Gayne Decl. at ¶¶ 541–60 (showing how the Brother TN-450 toner cartridge practices claim 4 of the ’456 patent); *id.* at ¶¶ 561–69 (showing how the Brother TN-450 toner cartridge practices claim 5 of the ’456 patent); *id.* at ¶¶ 570–79 (showing how the Brother

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TN-450 toner cartridge practices claim 8 of the '456 patent); *id.* at ¶¶ 580–86 (showing how the Brother TN-450 toner cartridge practices claim 9 of the '456 patent).

Based on this undisputed evidence, I find Brother is entitled to summary determination that the Brother TN-420/TN-450 and Brother TN-730/760/770 domestic industry products practice at least claim 1 of the '456 patent.

5. '387 patent

Brother asserts that its TN-221/225, TN-223/227, and TN-730/760/770 toner cartridges practice the following claims of the '387 patent:

Asserted Patent	Domestic Industry Product(s)	Asserted Claim(s)
'387 patent	Brother TN-221/225 & TN-223/227 toner cartridges	1, 3, 5, 7–12, 18
	Brother TN-730/760/770 toner cartridges	1, 3, 5, 7–12, 18

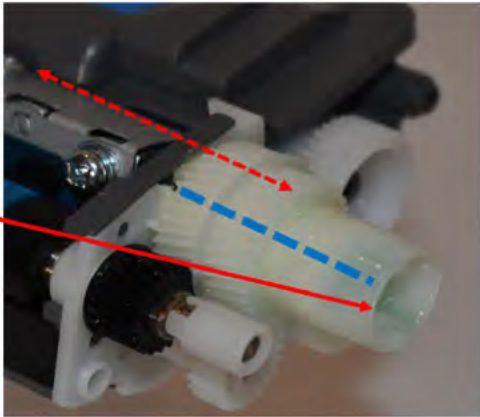
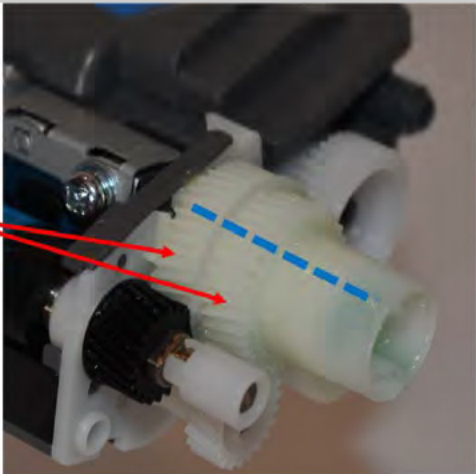
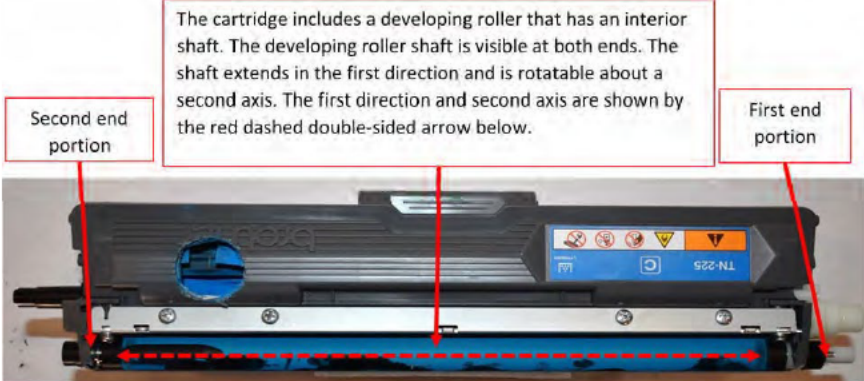
See MSD at 101. In support, Brother submitted the Declaration of Jarrett C. Gayne, which shows how the Brother TN-225 toner cartridge practices claim 1 of the '387 patent, as shown in the table below.

'387 patent, Claim 1 Domestic Industry Chart

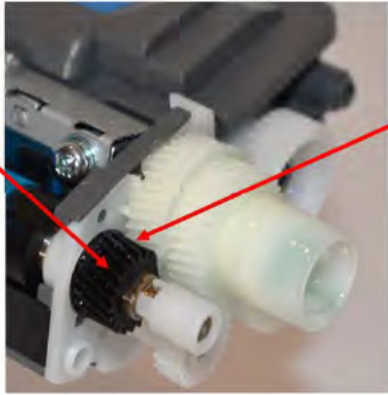




Claim 1 Limitation	Element in Domestic Industry Product
“A cartridge comprising:” ²²	<div style="display: flex; justify-content: space-around;"> <div style="border: 1px solid red; padding: 5px; width: 45%;"> <p>The packaging of the Product identifies it as a “toner cartridge,” and toner is a developer</p> </div> <div style="border: 1px solid red; padding: 5px; width: 45%;"> <p>The structure of the Product confirms that it is a toner (developer) cartridge</p> </div> </div>

²² I do not hold that the preamble is limiting.



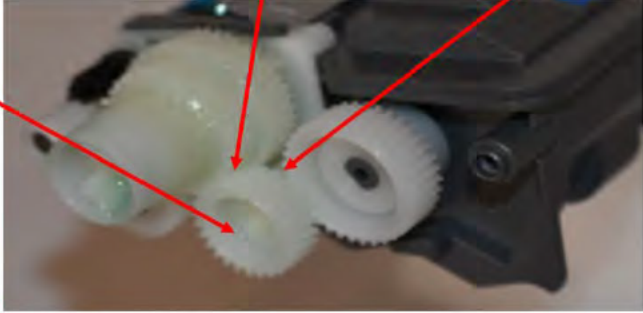
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Claim 1 Limitation	Element in Domestic Industry Product
<p>“a coupling rotatable about a first axis extending in a first direction;”</p>	<p>The cartridge includes a coupling that communicates with and receives a driving force from a printer. This coupling is rotatable about an axis that extends in a first direction. The axis line is shown with the dashed blue line and the first direction is shown with the dashed double-sided red arrow.</p> 
<p>“a coupling gear rotatable with the coupling about the first axis;”</p>	<p>The cartridge includes a coupling gear that is fixed to and rotates with the coupling when a driving force is applied to the coupling. Both of these surfaces are part of the coupling gear. The coupling gear rotates about the first axis, which is shown with the same blue dashed line.</p> 
<p>“a developing roller including a developing roller shaft extending in the first direction, the developing roller being rotatable about a second axis extending in the first direction and the developing roller shaft including a first end portion and a second end portion separated from the first end portion in the first direction;”</p>	<p>The cartridge includes a developing roller that has an interior shaft. The developing roller shaft is visible at both ends. The shaft extends in the first direction and is rotatable about a second axis. The first direction and second axis are shown by the red dashed double-sided arrow below.</p> <p>Second end portion</p> <p>First end portion</p> 

PUBLIC VERSION

Claim 1 Limitation	Element in Domestic Industry Product
<p>“a developing gear meshing with the coupling gear, the developing gear being mounted to the first end portion of the developing roller shaft, and the developing gear being rotatable with the developing roller shaft about the second axis;”</p>	<p>The cartridge includes a developing gear that is mounted to the first end portion of the developing roller shaft. Here, the developing gear is coupled to the developing roller shaft via a D shaped connection. The developing gear rotates with the developing roller shaft about the second axis.</p>  <p>The developing gear meshes with the coupling gear</p>
<p>“an agitator including an agitator shaft extending in the first direction, the agitator shaft including a first end portion and a second end portion separated from the first end portion of the agitator shaft in the first direction, the agitator being rotatable with the agitator shaft about a third axis extending in the first direction;”</p>	<p>The cartridge includes an agitator that extends in the first direction. The agitator is rotatable about a third axis different from the coupling axis and the developer axis</p>   <p>This is the first end portion of the agitator shaft.</p>  <p>This is the second end portion of the agitator shaft.</p>
<p>“a first gear mounted to the first end portion of the agitator shaft and rotatable with the agitator shaft;”</p>	<p>The cartridge includes a first gear that is mounted to the agitator shaft and must rotate with the shaft because of the D shaped hole.</p> 

PUBLIC VERSION

Claim 1 Limitation	Element in Domestic Industry Product
<p>“a second gear mounted to the second end portion of the agitator shaft and rotatable with the agitator shaft; and”</p>	<div style="display: flex; justify-content: space-around;"> <div style="text-align: center;">  <p style="border: 1px solid red; padding: 2px; width: 150px; margin: 0 auto;">The cartridge includes a second gear that is mounted to the second end portion of the agitator shaft</p> </div> <div style="text-align: center;">  <p style="border: 1px solid red; padding: 2px; width: 150px; margin: 0 auto;">The second gear rotates with the agitator shaft because of the D shaped connection.</p> </div> </div>
<p>“an idle gear meshing with the coupling gear and the first gear.”</p>	<div style="display: flex;"> <div style="flex: 1; padding-right: 10px;"> <p style="border: 1px solid red; padding: 2px;">The cartridge includes an idle gear between the coupling gear and the first gear. The gear teeth of the idle gear mesh with the coupling gear and the first gear such that the rotation force applied to the coupling is transferred to the first gear.</p> </div> <div style="flex: 2; text-align: center;">  <div style="display: flex; justify-content: space-around; margin-top: -20px;"> <div style="border: 1px solid red; padding: 2px; font-size: small;">Mesh with coupling gear</div> <div style="border: 1px solid red; padding: 2px; font-size: small;">Mesh with first gear</div> </div> </div> </div>

See MSD at 155–73; see also Gayne Decl. at ¶¶ 578–89 (showing how the Brother TN-225 toner cartridge practices claim 3 of the ’387 patent); *id.* at ¶¶ 590–99 (showing how the Brother TN-225 toner cartridge practices claim 5 of the ’387 patent); *id.* at ¶¶ 600–03 (showing how the Brother TN-225 toner cartridge practices claim 7 of the ’387 patent); *id.* at ¶¶ 604–08 (showing how the Brother TN-225 toner cartridge practices claim 8 of the ’387 patent); *id.* at ¶¶ 609–12 (showing how the Brother TN-225 toner cartridge practices claim 9 of the ’387 patent); *id.* at ¶¶ 613–19 (showing how the Brother TN-225 toner cartridge practices claim 10 of the ’387 patent); *id.* at ¶¶ 620–28 (showing how the Brother TN-225 toner cartridge practices claim 11 of the ’387 patent); *id.* at ¶¶ 629–32 (showing how the Brother TN-225 toner cartridge practices claim 12 of the ’387 patent); *id.* at ¶¶ 633–36 (showing how the Brother TN-225 toner cartridge practices claim 18 of the ’387 patent).

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Based on this undisputed evidence, I find Brother is entitled to summary determination that the Brother TN-221/TN-225, TN-223/227, and Brother TN-730/760/770 domestic industry products practice at least claim 1 of the '387 patent.

B. Economic Prong

As discussed below, Brother has proffered substantial, reliable, and probative evidence showing that Brother's domestic activities satisfy the economic prong of the domestic industry requirement under section 337(a)(3)(A) and (B) with respect to the Asserted Patents.²³

1. Relevant Domestic Industry Activities

Brother claims a domestic industry that includes remanufacturing used Covered Cartridges and refurbishing, replacing, servicing, and supporting Related Products. Cummins Decl. at ¶ 45. As explained above, supra part I.B.1, Brother Industries, Ltd., is a Japanese company with at least two subsidiary companies in the United States: Brother International Corporation (U.S.A.) ("BIC") and Brother Industries (U.S.A.), Inc. ("BIUS"). BIUS remanufactures Covered Cartridges, which involves cleaning used cartridges and refilling them with toner. *See* Cummins Decl. at ¶¶ 45, 46, 47, 57, 60, 61. BIUS also refurbishes Related Products, which involves repairing printers returned by customers. *Id.* BIC replaces, services, and supports Related Products, in addition to marketing and selling the Covered Cartridges and Related Products processed by BIUS. Cummins Decl. at ¶¶ 13, 32-33, 109.

To satisfy its burden, Brother's domestic industry evidence must show there exists a domestic industry "related to" articles protected by the patent. *See* 19 U.S.C. 1337(a)(2). The patent claims at issue here are directed to toner cartridges. Brother avers its industry includes

²³ Brother did not present evidence of a domestic industry based on research and development under section 337(a)(3)(c).

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expenditures on various activities related to the protected toner cartridges, including refurbishing printers adapted to exclusively use cartridges with the patented features. Cummins Decl. at ¶ 95; *see also id.* at ¶¶ 97–101. The Commission has credited similar domestic industry expenditures when “the domestic industry activities ‘have a direct relationship to exploitation of the patented technology.’” *Certain Magnetic Tape Cartridges & Components Thereof*, Inv. No. 337-TA-1058, Comm’n Op. at 56, 2019 WL 2635509, at *31 (Apr. 9, 2019) (“*Magnetic Tape Cartridges*”) (quoting *Certain Video Game Sys. & Wireless Controllers & Components Thereof*, Inv. No. 337-TA-770, Comm’n Op. at 66-67, (Oct. 28, 2013) (“*Video Game Systems*”)) (proper to include expenditures on non-patented machines necessary for the operation of the patented articles). No evidence contradicts evidence from Brother that its refurbishing business is directly related to its exploitation of the patented cartridge technology. I therefore find that the relevant domestic industry activities include both activities related to remanufacturing patented toner cartridges and activities related to refurbishing the printers, fax machines, MFCs, and drum units compatible with the patented toner cartridges.

The relevant domestic industry activities for the ’460 and ’093 patents include activities related to the Brother TN-221/225 and TN-223/227 toner cartridges, as well as activities related to the Brother printers, fax machines, and MFCs compatible with those cartridges, as shown in the table below. *See also supra* Part I.E.

Group 1 Domestic Industry Products

Product Line	Toner Cartridge	Compatible Brother Printers	Compatible Brother MFCs
DCL	Brother TN-221/225	HL-3140CW HL-3170CDW	HL-3180CDW MFC-9130CW MFC-9330CDW MFC-9340CDW

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Product Line	Toner Cartridge	Compatible Brother Printers	Compatible Brother MFCs
ECL	Brother TN-223/227	HL-L3210CW HL-L3230CDW HL-L3270CDW	HL-L3290CDW MFC-L3710CW MFC-L3750CDW MFC-L3770CDW

See Cummins Decl. at ¶¶ 81, 84-87, 89-90, 97-98, 103. The toner cartridges are collectively referred to as “Covered Group 1 Cartridges” and the printers/MFCs are referred to as “Related Group 1 Printers” (collectively “Group 1 Domestic Industry Products”).

The relevant domestic industry activities for the ’456 and ’856 patents include activities related to the Brother TN-420/450, TN-630/660, and TN-730/760/770 cartridges, and activities related to products relying upon those toner cartridges, as shown in the table below:

Group 2 Domestic Industry Products

Product Line	Toner Cartridge	Compatible Brother Printers	Compatible Brother Faxes	Compatible Brother MFCs
BLL	Brother TN-420/450	HL-2220 HL-2230 HL-2240 HL-2240D HL-2270DW HL-2275DW	FAX-2840 FAX-2940	HL-2280DW DCP-7060D DCP-7065DN MFC-7240 MFC-7360N MFC-7365DN MFC-7460DN MFC-7860DW
DLL	Brother TN-630/660	HL-L3210CW HL-L3230CDW HL-L3270CDW	N/A	HL-L2380DW DCP-L2520DW DCP-L2540DW MFC-L2680W MFC-L2685DW

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				MFC-L2700DW MFC-L2705DW MFC-L2707DW MFC-L2720DW MFC-L2740DW
ELL	Brother TN-730/760/770	HL-L2350DW HL-L2370DW HL-L2370DWXL	N/A	HL-L2390DW HL-L2395DW DCP-L2550DW MFC-L2710DW MFC-L2750DW MFC-L2750DWXL

See Cummins Decl. at ¶¶ 82, 88, 91-93, 99-101, 104-106. The toner cartridges are collectively referred to as “Covered Group 2 Cartridges” and the printers/Faxes/MFCs are referred to as “Related Group 2 Printers” (collectively “Group 2 Domestic Industry Products”).

The relevant domestic industry activities for the ’398 patents include activities related to the Brother TN-221/225, TN-223/227 and TN-730/760/770 cartridges, and activities related to the compatible products, as shown in the table below.

Group 3 Domestic Industry Products

Product Line	Toner Cartridge	Compatible Brother Printers	Compatible Brother MFCs
DCL	Brother TN-221/225	HL-3140CW HL-3170CDW	HL-3180CDW MFC-9130CW MFC-9330CDW

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Product Line	Toner Cartridge	Compatible Brother Printers	Compatible Brother MFCs
			MFC-9340CDW
ECL	Brother TN-223/227	HL-L3210CW HL-L3230CDW HL-L3270CDW	HL-L3290CDW MFC-L3710CW MFC-L3750CDW MFC-L3770CDW
ELL	Brother TN-730/760/770	HL-L2350DW HL-L2370DW HL-L2370DWXL	HL-L2390DW HL-L2395DW DCP-L2550DW MFC-L2710DW MFC-L2750DW MFC-L2750DWXL

Cummins Decl. at ¶¶ 82, 84-87, 89-90, 93, 97, 98, 101-103, 106. The toner cartridges are collectively referred to as “Covered Group 3 Cartridges”²⁴ and the printers/MFCs are referred to as “Related Group 3 Printers”²⁵ (collectively “Group 3 Domestic Industry Products”).²⁶

²⁴ Collectively, Covered Group 1 Cartridges, Covered Group 2 Cartridges, and Covered Group 3 Cartridges are referred to as “Covered Cartridges.”

²⁵ Collectively, Group 1 Printers, Group 2 Printers, and Group 3 Printers are referred to as “Related Products.”

²⁶ Collectively, Group 1 Domestic Industry Products, Group 2 Domestic Industry Products, and Group 3 Domestic Industry Products are referred to as “Domestic Industry Products.”

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2. Allocation Methods

Brother has two main domestic facilities: one in Bartlett, Tennessee, and one in Bridgewater, New Jersey. See Cummins Decl. at ¶¶11, 36. The Bartlett, Tennessee facility serves as a manufacturing, distribution, and service hub for both BIUS and BIC. See Cummins Decl. ¶¶22, 24. The Bridgewater, New Jersey, facility serves as BIC's principle place of business. Cummins Decl. ¶ 19. Because only some of the products produced and serviced at these facilities are claimed domestic industry products, Brother utilized several methods to allocate costs to the claimed domestic industry products.

Brother relies on five different calculations to allocate its domestic investments between the different groups of Domestic Industry Products. Two calculations relate to Brother's investments in plant space and three relate to Brother's labor investments.

With respect to its plant investments, Brother used a calculation it called the "Support Allocation" to identify facilities used in the remanufacture of Covered Cartridges. See MSD at 179; Cummins Decl. at ¶ 118; Ex. 6-AV. Brother also used a method it called the "Remanufacture Allocation" to allocate space in its facilities to the Covered Cartridges. MSD at 179-180; Cummins Decl. at ¶ 250.

Turning to labor investments, Brother's first method, which it called the "Standard Time Allocation," identified the amount of time an employee was employed in the remanufacture of Covered Cartridges by BIUS. MSD at 178, Cummins Decl. at ¶ 152. Next, Brother allocated labor costs based on the total units of Related Products that BIUS refurbished compared to all other printers, fax machines, and MFCs that BIUS refurbished, a method Brother calls "Refurbishment Allocation." MSD at 179; Cummins Decl. at ¶ 218. And finally, Brother calculated the compensation of BIC employees responsible for selling Domestic Industry Products using a

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method it called the “Compensation Allocation.” MSD at 180, Cummins Decl. at ¶ 119. I briefly describe each methodology below.

(1) Support Allocation

Brother’s “Support Allocation” is a comparison of the total revenue generated by Covered Cartridges remanufactured in the United States to the revenue generated by all products using the same labor, capital, plant, and equipment. *See* Cummins Decl. at ¶ 118. The results for the “Support Allocation” are shown in the table below:

Support Allocation

Covered Cartridges	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019 ²⁷
221/225								
420/450								
630/660								
Total								

Cummins Decl. at ¶ 118; Exs. 6-L, 6-M, 6-AR, 6-AU, 6-AV.

(2) Remanufacture Allocation

Brother used the Remanufacture Allocation to allocate space in its facilities to the Covered Cartridges by comparing the space within Brother’s domestic manufacturing facilities used to remanufacture toner cartridges to the total space in those facilities, then assigning costs for the facilities based on this ratio. MSD at 179-181; Cummins Decl. at ¶¶ 250-257; Exs. 6-W (BIUS Data) at “BIUS_FY2012”–“BIUS_FY2019” Tabs, 6-Q (Facility Costs), 6-T (Tennessee Square Footage), 6-Y (Tennessee Cost Breakdown) at 1, 6-AH (BIUS Manufacturing Space Breakdown), 6-AI (BIUS Remanufacture Percentages), 6-AJ (BIUS Warehouse Space Breakdown), 6-AK (BIUS Office and Other Space Breakdown), 6-AL (BIUS Manufacturing Cost Breakdown) at 2,

²⁷ FY2019 was measured up to the end of Q3, the end of fact discovery. *See* MSD at 176.

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6-AM (BIUS Warehouse Cost Breakdown), 6-AN (BIUS Office and Other Cost Breakdown), 6-AO (Fixed Assets), 6-BZ (Standard Times), 6-CF (Fixed Asset Breakdown).

(3) Standard Time Allocation

Brother's "Standard Time Allocation" is a measure of the percent of time employees spent remanufacturing Covered Cartridges compared to the total time spent remanufacturing all cartridges (*i.e.* Covered Cartridges & non-Covered Cartridges). Cummins Decl. at ¶ 152. The results for the "Standard Time Allocation" are shown in the table below.

Standard Time Allocation

Covered Cartridges	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019 ²⁸
221/225								
420/450								
630/660								
Total								

Cummins Decl. at ¶ 152; Ex. 6-BZ.

(4) Refurbishment Allocation

Brother's "Refurbishment Allocation" is a measure of the time employees spent refurbishing Related Products compared to the total time spent refurbishing all printers. *See* Cummins Decl. at ¶ 218. The results for the "Refurbishment Allocation" are shown in the table below:

Refurbishment Allocation

Covered Cartridges	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019 ²⁹
221/225								

²⁸ FY2019 was measured up to the end of Q3, the end of fact discovery in this investigation. *See* MSD at 176.

²⁹ FY2019 was measured up to the end of Q3, the end of fact discovery. *See* MSD at 176.

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223/227	
420/450	
630/660	
730/760/770	
Total	

Cummins Decl. at ¶ 218; Ex. 6-CE.

(5) Compensation Allocation

Brother's "Compensation Allocation" is a proportion of the total compensation paid to BIC employees in the relevant employment units (*i.e.*, those responsible for the domestic industry products) to the total compensation paid to all BIC employees. *See* Cummins Decl. ¶¶ 119-122; Ex. 6-O (showing portion of total BIC compensation paid to BMG employees was [REDACTED] in FY2012, FY2013, FY2014, FY2015, FY2016, FY2017, FY2018, and Q3 FY2019, respectively).

3. Plant and Equipment

The evidence shows that Brother has invested in significant domestic plant and equipment that practice the asserted patent.

Based on the undisputed facts, Brother has made significant investments in plant and equipment attributable to the Domestic Industry Products since it started remanufacturing toner cartridges in FY2012, as shown in the following table:

Total Investment in Plant & Equipment Since FY2012

Investment	Asserted Group 1 patents ('093 and '460 patents)	Asserted Group 2 patents ('456 and '856 patents)	Asserted Group 3 patent ('387 patent)
Total TN Facility Expenses (BIUS)	[REDACTED]		
Total TN Facility Expenses (BIC)			
NJ Facility Expenses			

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Investment	Asserted Group 1 patents ('093 and '460 patents)	Asserted Group 2 patents ('456 and '856 patents)	Asserted Group 3 patent ('387 patent)
Total Fixed Assets			
Total			

See Cummins Decl. ¶¶ 247–59.

Upon review of the undisputed evidence, I find Brother is entitled to summary determination that it has made a significant investment in plant and equipment for an industry related to articles protected by the Asserted Patents within the meaning of section 35 U.S.C. § 1337(a)(3)(A).

4. Labor and Capital

The undisputed evidence shows that between FY2012 and Q3 FY2019 Brother's subsidiaries BIU and BIC invested significantly in domestic labor related to an industry in articles protected by the Asserted Patents and made significant expenditures of capital related to that industry. During that period, Brother paid significant amounts to its manufacturing and its sales, general, and administrative ("SG&A") employees, purchased significant quantities of used Covered Cartridges Related Products for remanufacturing, and provided significant repair and support services related to the Related Products.

Domestic investments by BIUS in domestic labor and capital for remanufacturing the Covered Cartridges are shown in the table below:

Domestic Investments by BIUS in Labor & Capital for Covered Cartridges

BIUS	Time Period	TN-221/225 Cartridges Allocation	TN-420/450 Cartridges Allocation	TN-630/660 Cartridges Allocation
Direct Employees ³⁰	FY2012–			

³⁰ Brother provided a range for the number of employees due to differences in employee headcount from FY 2012-Q3 FY2019. See Cummins Decl. at ¶¶ 38, 154.

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BIUS	Time Period	TN-221/225 Cartridges Allocation	TN-420/450 Cartridges Allocation	TN-630/660 Cartridges Allocation
	Q3 FY2019			
Indirect Employees	FY2012– Q3 FY2019			
SG&A Employees	FY2012– Q3 FY2019			
Compensation	FY2012– Q3 FY2019			
Domestically sourced packaging	FY2012– FY2018			

See Cummins Decl. ¶¶ 38, 154–55, 202.

Domestic investments by BIC in labor and capital for the Covered Cartridges are shown in the table below:

Domestic Investments by BIC in Labor & Capital for Covered Cartridges

BIC	Time Period	TN-221/225 Cartridges Allocation	TN-420/450 Cartridges Allocation	TN-630/660 Cartridges Allocation
BMG³¹ - Number of Employees	FY 2013– FY2018			
BMG – Employee Compensation	FY2012– Q3 FY2019			
Used Toner Cartridge Collection	FY2013– FY2018			
Cartridge Disposal Costs	FY2013– FY2018			
Toner Powder Disposal Costs	FY2013– FY2018			

³¹ BMG stands for “Business Machines Group,” which is responsible for marketing and sales of the Domestic Industry Products. See, e.g., Cummins Decl. at ¶ 14. I find that Brother’s marketing and sales expenditures are appropriately considered as part of its domestic industry in light of their relationship to Brother’s significant investment in manufacturing and servicing products. See *Certain Television Sets, Television Receivers, Television Tuners, & Components Thereof*, Inv. No. 337-TA-910, 2015 WL 6755093, at *38–9, Comm’n Op. at 73 (Oct. 30, 2015). Brother is not a mere importer. Cf. *Certain Male Prophylactic Devices*, 337-TA-546, Comm’n Op. at 16, USITC Pub. No. 4005 (May 2008) (citing *Certain Prod. with Gremlin Character Depictions*, Inv. No. 337-TA-201, Comm’n Op. at 6, USITC Pub. No. 1815 (Mar. 1986)).

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See Cummins Decl. ¶¶ 16, 120, 122, 144–48.

Domestic investments by BIC in labor and capital for the Related Products are shown below.

Domestic Investments by BIC in Labor & Capital for Related Products

BIC	Time Period	Brother TN-221/225 Printers	Brother TN-223/227 Printers	Brother TN-420/450 Printers	Brother TN-630/660 Printers	Brother TN-730/760/770 Printers
Number of Employees	FY2012–Q1 FY2019					
Employees Compensation	FY2012–Q1 FY2019					
Service Costs	FY2012–FY2018					
Replacement Costs	FY2012–Q1 FY2019					

See Cummins Decl. ¶¶ 137, 216, 219–20.

Domestic investments by BIC in repairs and service calls for the Domestic Industry Products are shown below:

PUBLIC VERSION

Domestic Investments by BIC in Repairs & Service Calls for Related Products

BIC	Time Period	TN-221/225 Products	TN-223/227 Products	TN-420/450 Products	TN-630/660 Products	TN-730/760/770 Products
Customer support and warranty calls ³²	Sept. 3, 2015–March 22, 2019					
Costs related to customer support and warranty calls ³³	Sept. 3, 2015–March 22, 2019					

See Cummins Decl. ¶ 134.

5. Brother's Domestic Industry Investments Are Significant and Substantial

The following chart totals Brother's domestic labor and capital investments for all Covered Products and Related Products and compares those investments to Brother's total domestic investments (*i.e.*, domestic investments in activities related to the patented articles as well as domestic investments for products not related to the Asserted Patents):

³³ Cummins Decl. at ¶ 134.

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Summary of Brother's Labor & Capital Investments for All Covered Products and Related Products

Investment	Total Activities (Related and Not Related to the Asserted Patents)	Group 1 Covered Cartridges & Related Products ³⁴	Group 2 Covered Cartridges & Related Products ³⁵	Group 3 Covered Cartridges & Related Products ³⁶
Toner Remanufacture				
Employee Compensation				
Printer Refurbishment				
Employee Compensation				
BMG				
Employee Compensation				
Cartridge Collection				
Cartridge Disposal				
Toner Disposal				
Cartridge Packaging				
Printer Replacement				
Customer Support Costs				
Printer Service Costs				
Total				

As shown above, Brother has invested [REDACTED] million in labor and capital related to the Covered Cartridges, which directly practice the Asserted Patents. This expenditure is significant,

³⁴ The Group 1 Domestic Industry Products are the domestic industry products for the '093 and '460 patents.

³⁵ The Covered 420/450, 630/660 and 730/760/770 Cartridges and Printers are the domestic industry products for the '456 and '856 patents.

³⁶ The Covered 221/225, 223/227, and 730/760/770 Cartridges and Printers are the domestic industry products for the '387 patent.

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particularly as a percentage of Brother's total domestic expenditure of [REDACTED] million for these types of services for all products. This finding alone is sufficient to conclude that Brother has proven a domestic industry under section 337(a)(3)(A) and (B).

In addition to its Covered Cartridge investments, Brother has invested [REDACTED] million in the labor and capital for the Related Products, which rely upon the Covered Cartridges to operate. This total expenditure of [REDACTED] million in Covered Cartridges and Related Products is significant, as it is an even greater percentage of Brother's total domestic expenditure of [REDACTED] million for these types of services for all products.

I find, based on the undisputed, substantive, reliable, and probative evidence explained above, that Brother has met its burden of showing that a domestic industry exists related to articles protected by the Asserted Patents, as defined in both section 337(a)(3)(A) and (B).

V. INFRINGEMENT

Brother has shown undisputed evidence that the Defaulting Respondents and Aster each infringe various Asserted Claims of the Asserted Patents, as described below.

A. Representative Products

As discussed in Section I.F.4 above, Brother's experts examined each accused product model individually. The experts then organized the Accused Products into three groups based on the Asserted Patents they allegedly infringe. The experts created subgroups for similar model types and selected a representative product for each model type. The tables below summarize this information, discussed in Section I.F.4. above.

PUBLIC VERSION

Accused Group 1 Products (accused of infringing the Asserted Group 1 Patents ('093 and '460 Patents))			
Respondents	Brands	Model	Type & Representative Product
AMI Do It Wiser Eco Imaging Ecoolmart Globest Greencycle I8 Ikong & Solong Intercon & Aster IPrint LD Products Smartjet Super Warehouse Xiaohui	Arthur Imaging Do It Wiser Cool Toner Hi-Vision Hi-Yields InkeSale Greencycle Ink4work IKONG Arcon Toner Bank LD and SpeedyInks MIROO Inktoneram JARBO	TN-225	Type-A: Arthur Imaging-branded Type-B: Arcon-branded Type-C: V4ink-branded Type-D: Greencycle-branded Type-E: Linkyo-branded
AMI Eco Imaging Globest Greencycle Intercon & Aster	Arthur Imaging Cool Toner InkeSale Greencycle Arcon	TN-227	Type-A: Arthur Imaging-branded Type-B: Arcon-branded Type-C: EZInk-branded

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Accused Group 2 Products (accused of infringing the Asserted Group 2 Patents ('456 and '856 Patents))			
Respondents	Brands	Model	Type & Representative Product
An An Beauty Aztech Billiontree Do It Wiser Eco Imaging Ecoolmart Globest Greencycle Hongkong Boze I8 Ikong & Solong Intercon & Aster LD Products Mangoket Smartjet Super Warehouse Xiaohui	CMYBabee Aztech Toner Kingdom Do It Wiser Cool Toner Hi-Vision Hi-Yields InkeSale Greencycle Greensky Ink4work IKONG Arcon LD and SpeedyInks EPS MIROO Inktoneram JARBO	TN-450	Type-1: InkeSale-branded Type-2: Arcon-branded Type-3: Linkyo-branded Type-4: EPS-branded
An An Beauty AMI Aztech Billiontree Do It Wiser Eco Imaging Ecoolmart Globest Greencycle Hongkong Boze I8 Ikong & Solong Intercon & Aster IPrint LD Products Mangoket Super Warehouse Xiaohui	CMYBabee Arthur Imaging Aztech Toner Kingdom Do It Wiser Cool Toner Hi-Vision Hi-Yields InkeSale Greencycle Greensky Ink4work IKONG Arcon Toner Bank LD and SpeedyInks EPS Inktoneram JARBO	TN-660	Type-1: InkeSale-branded Type-2: Arcon-branded Type-3: Linkyo-branded Type-4: JARBO-branded Type-5: IKONG-branded Type-6: EZink-branded
An An Beauty AMI Aztech Carlos Imaging Do It Wiser Eco Imaging Ecoolmart Globest Greencycle Hongkong Boze I8 Ikong & Solong Intercon & Aster IPrint LD Products Super Warehouse Xiaohui	CMYBabee Arthur Imaging Aztech Green Toner Supply Do It Wiser Cool Toner Hi-Vision Hi-Yields InkeSale Greencycle Greensky Ink4work IKONG Arcon Toner Bank LD and SpeedyInks Inktoneram JARBO	TN-760	Type-1: InkeSale-branded Type-2: Arcon-branded Type-3: Linkyo-branded Type-4: JARBO-branded

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Accused Group 3 Products (accused of infringing the Asserted Group 3 Patent ('387 Patent))			
Respondents	Brands	Model	Type & Representative Product
AMI Do It Wiser Eco Imaging Ecoolmart Globest Greencycle I8 Ikong & Solong Intercon & Aster IPrint LD Products Smartjet Super Warehouse Xiaohui	Arthur Imaging Do It Wiser Cool Toner Hi-Vision Hi-Yields InkeSale Greencycle Ink4work IKONG Arcon Toner Bank LD and SpeedyInks MIROO Inktoneram JARBO	TN-225	Type-A: Arthur Imaging-branded Type-B: Arcon-branded Type-C: V4ink-branded Type-D: Greencycle-branded Type-E: Linkyo-branded
AMI Eco Imaging Globest Greencycle Intercon & Aster	Arthur Imaging Cool Toner InkeSale Greencycle Arcon	TN-227	Type-A: Arthur Imaging-branded Type-B: Arcon-branded Type-C: EZink-branded
An An Beauty AMI Aztech Carlos Imaging Do It Wiser Eco Imaging Ecoolmart Globest Greencycle Hongkong Boze I8 Ikong & Solong Intercon & Aster IPrint LD Products Super Warehouse Xiaohui	CMYBabee Arthur Imaging Aztech Green Toner Supply Do It Wiser Cool Toner Hi-Vision Hi-Yields InkeSale Greencycle Greensky Ink4work IKONG Arcon Toner Bank LD and SpeedyInks Inktoneram JARBO	TN-760	Type-A: Arthur Imaging-branded Type-B: EZink-branded Type-C: Arcon-branded Type-D: V4ink-branded

Brother's experts examined each toner cartridge by, for example, photographing the accused product and its packaging, disassembling the accused product, testing the conductivity of certain components, and reassembling the accused product. Grune Decl. at ¶ 64, Gayne Decl. at ¶ 102.

Based on his analysis, Mr. Gayne concluded that the Accused Group 1 and Group 3 Products are "identical in relevant respects with respect to my infringement analysis." Gayne Decl.

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at ¶ 105. Because of this, he concluded that “the infringement analysis for each of the Accused Group 1 Products is substantively the same” and chose AMI’s Arthur Imaging-branded TN-225 and TN-227 compatible products as representative examples of the Accused Group 1 Products. *Id.* at ¶ 108. For the same reasons, Mr. Gayne chose to use AMI’s Arthur Imaging-branded TN-225, TN-227, and TN-760 compatible products as representative examples of the Accused Group 3 Products. *Id.* at ¶ 111. Mr. Gayne also included a separate analysis of the Type-B Accused Group 1 and Group 3 Products where those products differed from the other Accused Group 1 and 3 Products. *See, e.g., id.* at ¶¶ 109, 112.

Similarly, Dr. Grune concluded that “there are very few differences between the Accused Group 2 Products” and that where differences exist, they “are insignificant for purposes of determining infringement.” Grune Decl. at ¶ 68. Accordingly, Dr. Grune chose to use the Type 1 InkeSale-branded TN-450, TN-660, and TN-760 Accused Products for his exemplary infringement analysis. *Id.* at ¶ 69.

Staff calls attention to the differing ways the two experts grouped the TN-760 Accused Products. Staff notes that each expert chose different representative products for each “type” of TN-760 Accused Product “despite the fact that those products are allegedly identical to one another in all respects.” Staff Reply at 93 (citing Grune Decl. at ¶ 40; Gayne Decl. at ¶ 8). But as Brother explains, the experts each “focused on different features of the Accused Cartridges when identifying variations” between models because the experts were considering the models’ features with respect to different patent claims. MSD at 21, fn 3. Upon review, I find each expert’s selection of representative products to be reasonable in the relevant context. Each expert carefully analyzed every Accused Product model and categorized each model in a manner consistent with the relevant patent claims. No evidence contradicts either expert’s categorizations.

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B. Asserted Group 1 Patents

The Asserted Group 1 Patents are the '093 and '460 patents. Brother contends various products of respondents AMI, Do It Wiser, Eco Imaging, Ecoolmart, Globest, Greencycle, I8, Ikong, Solong, Intercon, Aster, IPrint, LD Products, Smartjet, Super Warehouse, and Xiaohui infringe the Asserted Group 1 patent claims. As noted in the Introduction, Brother calls this set of products the Accused Group 1 Products.

Brother's expert Mr. Gayne divided the Accused Group 1 Products into five different types (*i.e.*, Type-A, Type-B, Type-C, Type-D, Type-E) and selected a representative product for each type. Gayne Decl. at ¶¶ 8-9. From these, Mr. Gayne selected two products, one TN-225 model and one TN-227 model, as "Representative Group 1 Products." *Id.* at ¶ 108. Mr. Gayne then compared the Representative Group 1 Products to each limitation of the asserted claims of the Asserted Group 1 patents. Mr. Gayne also included a separate analysis of the Type-B Accused Group 1 Products with respect to some Asserted Group 1 Patent claims. As discussed below, I find that the Accused Group 1 Products infringe the asserted claims of the Asserted Group 1 Patents.

1. '093 patent

Brother contends the Accused Group 1 Products infringe claims 1-5, 10, and 12-15 the '093 patent.

Mr. Gayne provided a detailed, limitation-by-limitation analysis showing how, in his opinion, the Representative Group 1 Products and the Type-B Accused Group 1 Products meet the limitations of the asserted claims of the '093 patent. Gayne Decl. at ¶¶ 114-202. Mr. Gayne also provided detailed claim charts showing how, in his opinion, the representative product for each

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type of Accused Group 1 Product satisfies each limitation of the asserted claims of the '093 patent.

The organization of Mr. Gavne's analysis is summarized below.

Accused Group 1 Products – '093 patent				
Respondents	Brother Compatible Model	Type	Representative Product	Claim Chart
AMI, Do It Wiser, Ecoolmart, Smartjet, Super Warehouse	TN-225	Type-A	Arthur Imaging-branded TN-225	Gayne Decl. Ex. H
Aster, Intercon, IPrint, Eco Imaging	TN-225	Type-B	Arcon-branded TN-225	Gayne Decl. Ex. K
Globest	TN-225	Type-C	V4ink-branded TN-225	Gayne Decl. Ex. L
Greencycle, I8, Ikong, Solong, Xiaohui	TN-225	Type-D	Greencycle-branded TN-225	Gayne Decl. Ex. N
LD Products	TN-225	Type-E	Linkyo-branded TN-225	Gayne Decl. Ex. P
AMI, Globest, Greencycle	TN-227	Type-A	Arthur Imaging-branded TN-227	Gayne Decl. Ex. S
Aster, Intercon, Eco Imaging	TN-227	Type-B	Arcon-branded TN-227	Gayne Decl. Ex. T
No remaining respondents	TN-227	Type-C	E-Z Ink-branded TN-227	Gayne Decl. Ex. V

As detailed in this record, the Accused Group 1 Products sold by respondents AMI, Do It Wiser, Ecoolmart, Globest, Greencycle, I8, Ikong, Solong, LD Products, Smartjet, Super Warehouse, and Xiaohui meet every limitation of claims 1-5, 10, and 12-15 of the '093 patent. Gayne Decl. at ¶¶ 114-202, Exs. H, K, L, N, P, S, T, V. Accordingly, Brother has presented substantial, reliable, and undisputed evidence that those respondents infringe claims 1-5, 10, and 12-15 of the '093 patent.

Additionally, the record demonstrates that the Accused Group 1 Products sold by respondents Intercon, Aster, IPrint, and Eco Imaging meet every limitation of claims 1-5 and 14-15

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of the '093 patent. *Id.* Accordingly, Brother has presented substantial, reliable, and undisputed evidence that those respondents infringe claims 1-5 and 14-15 of the '093 patent.

Based on the undisputed record evidence, I conclude Brother is entitled to summary determination of the infringement findings above with respect to the '093 patent.

2. '460 patent

Brother contends the Accused Group 1 Products infringe claims 1, 7-11, 15, and 16 of the '460 patent.

Mr. Gayne provided a detailed, limitation-by-limitation analysis showing how, in his opinion, the Representative Group 1 Products and the Type-B Accused Group 1 Products meet the limitations of the asserted claims of the '460 patent. Gayne Decl. at ¶¶ 203-280. Mr. Gayne also provided detailed, annotated claim charts showing how, in his opinion, the representative product for each type of Accused Group 1 Product satisfies each limitation of the asserted claims of the '460 patent. The organization of Mr. Gavne's analysis is summarized below.

Accused Group 1 Products – '460 patent				
Respondents	Brother Compatible Model	Type	Representative Product	Claim Chart
AMI, Do It Wiser, Ecoolmart, Smartjet, Super Warehouse	TN-225	Type-A	Arthur Imaging-branded TN-225	Gayne Decl. Ex. I
Aster, Intercon, IPrint, Eco Imaging	TN-225	Type-B	Arcon-branded TN-225	Gayne Decl. Ex. J
Globest	TN-225	Type-C	V4ink-branded TN-225	Gayne Decl. Ex. M
Greencycle, I8, Ikong, Solong, Xiaohui	TN-225	Type-D	Greencycle-branded TN-225	Gayne Decl. Ex. O
LD Products	TN-225	Type-E	Linkyo-branded TN-225	Gayne Decl. Ex. Q
AMI, Globest, Greencycle	TN-227	Type-A	Arthur Imaging-branded TN-227	Gayne Decl. Ex. R

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Accused Group 1 Products – '460 patent				
Respondents	Brother Compatible Model	Type	Representative Product	Claim Chart
Aster, Intercon, Eco Imaging	TN-227	Type-B	Arcon-branded TN-227	Gayne Decl. Ex. U
No remaining respondents	TN-227	Type-C	E-Z Ink-branded TN-227	Gayne Decl. Ex. W

As detailed in this record, the Accused Group 1 Products sold by respondents AMI, Do It Wiser, Eco Imaging, Ecoolmart, Globest, Greencycle, I8, Ikong, Solong, Intercon, Aster, IPrint, LD Products, Smartjet, Super Warehouse, and Xiaohui meet every limitation of claims 1, 7-11, 15, and 16 of the '460 patent. *See* Gayne Decl. at ¶¶ 203-280, Exs. I, J, M, O, Q, R, U, W. Accordingly, Brother has presented substantial, reliable, and undisputed evidence that those respondents infringe claims 1, 7-11, 15, and 16 of the '460 patent. Based on the undisputed record evidence, I conclude that Brother is entitled to summary determination to that effect.

C. Asserted Group 2 Patents

The Asserted Group 2 Patents are the '856 and '456 patents. Brother contends various products of respondents An An Beauty, Aztech, AMI, Billiontree, Carlos Imaging, Do It Wiser, Eco Imaging, Ecoolmart, Globest, Greencycle, Hongkong Boze, I8, Ikong, Solong, Intercon, Aster, IPrint, LD Products, Mangoket, Smartjet, Super Warehouse, and Xiaohui infringe the Asserted Group 2 patent claims. As noted in the Introduction, Brother calls this set of products the Accused Group 2 Products.

Brother's expert Dr. Grune divided the Accused Group 2 Products into six different types (*i.e.*, Type-1, Type-2, Type-3, Type-4, Type-5, Type-6) and selected a representative product for each type. Grune Decl. at ¶¶ 40-41. Dr. Grune compared the representative product for each type to each limitation of the asserted claims of the Asserted Group 2 Patents. *Id.* at ¶ 43.

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As discussed below, I find that the Accused Group 2 Products infringe the asserted claims of the Asserted Group 2 Patents.

1. '856 patent

Brother contends the Accused Group 2 Products infringe claims 1-7 and 9 of the '856 patent.

Dr. Grune provided a detailed, limitation-by-limitation analysis, including model specific analyses where appropriate, showing how, in his opinion, the Accused Group 2 Products meet the limitations of the asserted claims of the '856 patent. Grune Decl. at ¶¶ 72-217. Dr. Grune also provided detailed, annotated claim charts showing how, in his opinion, the representative product for each type of Accused Group 2 Product satisfies each limitation of the asserted claims of the '856 patent. The organization of Dr. Grune's analysis is summarized below.

Accused Group 2 Products – '856 patent				
Respondents	Brother Compatible Model	Type	Representative Product	Claim Chart
Globest, An An Beauty, Do It Wiser, Greencycle, Hongkong Boze, Ecoolmart, Ikong, Solong, I8, Super Warehouse, Xiaohui, Billiontree, Smartjet	TN-450	Type-1	InkeSale-branded TN-450	Grune Decl. Ex. A
Aster, Intercon, Aztech, Eco Imaging	TN-450	Type-2	Arcon-branded TN-450	Grune Decl. Ex. B
LD Products	TN-450	Type-3	Linkyo-branded TN-450	Grune Decl. Ex. C
Mangoket	TN-450	Type-4	EPS-branded TN-450	Grune Decl. Ex. D

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Accused Group 2 Products – '856 patent				
Respondents	Brother Compatible Model	Type	Representative Product	Claim Chart
Globest, AMI, An An Beauty, Do It Wiser, Greencycle, I8, Billiontree	TN-660	Type-1	InkeSale-branded TN-660	Grune Decl. Ex. E
Aster, Intercon, Aztech, Eco Imaging, Hongkong Boze, IPrint	TN-660	Type-2	Arcon-branded TN-660	Grune Decl. Ex. F
LD Products	TN-660	Type-3	Linkyo-branded TN-660	Grune Decl. Ex. G
Xiaohui, Ecoolmart	TN-660	Type-4	Jarbo-branded TN-660	Grune Decl. Ex. H
Ikong, Solong, Super Warehouse	TN-660	Type-5	Ikong-branded TN-660	Grune Decl. Ex. I
No remaining respondents	TN-660	Type-6	E-Z Ink-branded TN-660	Grune Decl. Ex. J
Globest	TN-760	Type-1	InkeSale-branded TN-760	Grune Decl. Ex. K
Aster, Intercon, Aztech, An An Beauty, I8, IPrint	TN-760	Type-2	Arcon-branded TN-760	Grune Decl. Ex. L
AMI, Carlos Imaging, Eco Imaging, Do It Wiser, Greencycle, Super Warehouse, LD Products	TN-760	Type-3	Linkyo-branded TN-760	Grune Decl. Ex. M
Xiaohui, Ikong, Solong, Ecoolmart	TN-760	Type-4	Jarbo-branded TN-760	Grune Decl. Ex. N

As detailed in this record, the Accused Group 2 Products sold by respondents An An Beauty, Aztech, AMI, Billiontree, Carlos Imaging, Do It Wiser, Eco Imaging, Ecoolmart, Globest, Greencycle, Hongkong Boze, I8, Ikong, Solong, Intercon, Aster, IPrint, LD Products, Mangoket,

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Smartjet, Super Warehouse, and Xiaohui meet every limitation of claims 1-7 and 9 of the '856 patent. Grune Decl. at ¶¶ 72-217, Exs. A-N. Accordingly, Brother has presented substantial, reliable, and undisputed evidence that those respondents infringe claims 1-7 and 9 of the '856 patent. Based on the undisputed record evidence, I conclude Brother is entitled to summary determination to that effect.

2. '456 patent

Brother contends the Accused Group 2 Products infringe claims 1, 4, 5, and 9 of the '456 patent.

Dr. Grune provided a detailed, limitation-by-limitation analysis, including model specific analyses, showing how, in his opinion, the Accused Group 2 Products meet the limitations of the asserted claims of the '456 patent. Grune Decl. at ¶¶ 218-319. Dr. Grune also provided detailed, annotated claim charts showing how the representative product for each type of Accused Group 2 Product satisfies each limitation of the asserted claims of the '456 patent. The organization of Dr. Grune's analysis is summarized below.

Accused Group 2 Products – '456 patent				
Respondents	Brother Compatible Model	Type	Representative Product	Claim Chart
Globest, An An Beauty, Do It Wiser, Greencycle, Hongkong Boze, Ecoolmart, Ikong, Solong, I8, Super Warehouse, Xiaohui, Billiontree, Smartjet	TN-450	Type-1	InkeSale-branded TN-450	Grune Decl. Ex. O

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Accused Group 2 Products – '456 patent				
Respondents	Brother Compatible Model	Type	Representative Product	Claim Chart
Aster, Intercon, Aztech, Eco Imaging	TN-450	Type-2	Arcon-branded TN-450	Grune Decl. Ex. P
LD Products	TN-450	Type-3	Linkyo-branded TN-450	Grune Decl. Ex. Q
Mangoket	TN-450	Type-4	EPS-branded TN-450	Grune Decl. Ex. R
Globest, AMI, An An Beauty, Do It Wiser, Greencycle, I8, Billiontree	TN-660	Type-1	InkeSale-branded TN-660	Grune Decl. Ex. S
Aster, Intercon, Aztech, Eco Imaging, Hongkong Boze, IPrint	TN-660	Type-2	Arcon-branded TN-660	Grune Decl. Ex. T
LD Products	TN-660	Type-3	Linkyo-branded TN-660	Grune Decl. Ex. U
Xiaohui, Ecoolmart	TN-660	Type-4	Jarbo-branded TN-660	Grune Decl. Ex. V
Ikong, Solong, Super Warehouse	TN-660	Type-5	Ikong-branded TN-660	Grune Decl. Ex. W
No remaining respondents	TN-660	Type-6	E-Z Ink-branded TN-660	Grune Decl. Ex. X
Globest	TN-760	Type-1	InkeSale-branded TN-760	Grune Decl. Ex. Y
Aster, Intercon, Aztech, An An Beauty, I8, IPrint	TN-760	Type-2	Arcon-branded TN-760	Grune Decl. Ex. Z
AMI, Carlos Imaging, Eco Imaging, Do It Wiser, Greencycle, Super Warehouse, LD Products	TN-760	Type-3	Linkyo-branded TN-760	Grune Decl. Ex. AA
Xiaohui, Ikong, Solong, Ecoolmart	TN-760	Type-4	Jarbo-branded TN-760	Grune Decl. Ex. AB

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As detailed in this record, the Accused Group 2 Products sold by respondents An An Beauty, Aztech, AMI, Billiontree, Carlos Imaging, Do It Wiser, Eco Imaging, Ecoalmart, Globest, Greencycle, Hongkong Boze, I8, Ikong, Solong, Intercon, Aster, IPrint, LD Products, Mangoket, Smartjet, Super Warehouse, and Xiaohui meet every limitation of claims 1, 4, 5, and 9 of the '456 patent. Grune Decl. at ¶¶ 218-319, Exs. O-AB. Accordingly, Brother has presented substantial, reliable, and undisputed evidence that those respondents infringe 1, 4, 5, and 9 of the '456 patent. Based on the undisputed record evidence, I conclude Brother is entitled to summary determination to that effect.

D. Asserted Group 3 Patent

Brother contends the Accused Group 3 Products of respondents An An Beauty, Aztech, AMI, Carlos Imaging, Do It Wiser, Eco Imaging, Ecoalmart, Globest, Greencycle, Hongkong Boze, I8, Ikong, Solong, Intercon, Aster, IPrint, LD Products, Smartjet, Super Warehouse, and Xiaohui infringe various claims of the '387 patent, the only Asserted Patent in Group 3. The claims at issue are claims 1, 3, 5, 7-12, and 18.

As discussed above, Mr. Gayne grouped the Accused Group 3 Products into five different types (*i.e.*, Type-A, Type-B, Type-C, Type-D, Type-E) and selected a representative product for each type. Gayne Decl. at ¶¶ 8-9. From that set, Mr. Gayne selected three Representative Group 3 Products: one TN-225 model, one TN-227 model, and one TN-760 model. *Id.* at ¶ 111. Mr. Gayne compared the Representative Group 3 Products to various asserted claims of the '387 patent.

Mr. Gayne provided a detailed, limitation-by-limitation analysis showing how, in his opinion, the Representative Group 3 Products meet the limitations of various asserted claims of the '387 patent. Gayne Decl. at ¶¶ 282-386. Mr. Gayne also provided detailed, annotated claim charts illustrating his analysis. The organization of Mr. Gayne's analysis is summarized below.

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Accused Group 3 Products – '387 patent				
Respondents	Model	Type	Representative Product	Claim Chart
AMI, Do It Wiser, Ecoolmart, Smartjet, Super Warehouse	TN-225	Type-A	Arthur Imaging-branded TN-225	Gayne Decl. Ex. X
Aster, Intercon, IPrint, Eco Imaging	TN-225	Type-B	Arcon-branded TN-225	Gayne Decl. Ex. AA
Globest	TN-225	Type-C	V4ink-branded TN-225	Gayne Decl. Ex. AD
Greencycle, I8, Ikong, Solong, Xiaohui	TN-225	Type-D	Greencycle-branded TN-225	Gayne Decl. Ex. AG
LD Products	TN-225	Type-E	Linkyo-branded TN-225	Gayne Decl. Ex. AI
AMI, Globest, Greencycle	TN-227	Type-A	Arthur Imaging-branded TN-227	Gayne Decl. Ex. Y
Aster, Intercon, Eco Imaging	TN-227	Type-B	Arcon-branded TN-227	Gayne Decl. Ex. AB
No remaining respondents	TN-227	Type-C	E-Z Ink-branded TN-227	Gayne Decl. Ex. AE
AMI, Xiaohui, Ikong, Ecoolmart, Globest	TN-760	Type-A	Arthur Imaging branded TN-760	Gayne Decl. Ex. Z
Carlos Imaging, Eco Imaging, Hongkong Boze, ³⁷ Super Warehouse, LD Products, Greencycle, Do It Wiser	TN-760	Type-B	E-Z Ink-branded TN-760	Gayne Decl. Ex. AC
Aster, Intercon, IPrint, I8, Aztech, An An Beauty	TN-760	Type-C	Arcon-branded TN-760	Gayne Decl. Ex. AF
No remaining respondents	TN-760	Type-D	V4ink-branded TN-760	Gayne Decl. Ex. AH

³⁷ Mr. Gayne included Greensky-branded toner cartridges, sold by Hongkong Boze, in the Type-B Accused TN-760 Products. Gayne Decl. at ¶¶ 2, 9; Ex. 34-AC.

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As detailed in this record, the accused TN-225 and TN-227 products meet each limitation of claims 1, 3, 5, 7-12, and 18 of the '387 patent. Gayne Decl. at ¶¶ 282-386, Exs. X, Y, Z, AA, AB, AC, AD, AE, AF, AG, AH, AI. The accused TN-225 and TN-227 products are sold by the respondents indicated above in the chart in section V.A., titled Accused Group 3 Products. The record additionally shows the accused TN-760 products meet each limitation of claims 1, 3, 5, 7-8, and 10 of the '387 Patent. *Id.* The accused TN-760 products are sold by the respondents indicated in the Accused Group 3 Products chart in section V.A. above.

Accordingly, Brother has presented substantial, reliable, and undisputed evidence that respondents An An Beauty, Aztech, AMI, Carlos Imaging, Do It Wiser, Eco Imaging, Ecoolmart, Globest, Greencycle, Hongkong Boze, I8, Ikong, Solong, Intercon, Aster, IPrint, LD Products, Smartjet, Super Warehouse, and Xiaohui infringe the claims of the '387 patent asserted by Brother against their respective products. Based on the undisputed record evidence, I conclude Brother is entitled to summary determination to that effect.

VI. CONCLUSIONS OF LAW

1. The Commission has personal jurisdiction over the parties, subject-matter jurisdiction over the investigation, and *in rem* jurisdiction over the accused products.
2. The importation requirement of section 337 is satisfied with respect to the Accused Products.
3. The Accused Products of respondents AMI, Aster, Do It Wiser, Eco Imaging, Ecoolmart, Globest, Greencycle, I8, Ikong, Intercon, IPrint, LD Products, Solong, Smartjet, Super Warehouse, and Xiaohui infringe the claims of U.S. Patent No. 9,785,093 asserted against those respective products.
4. The Accused Products of respondents AMI, Aster, Do It Wiser, Eco Imaging, Ecoolmart, Globest, Greencycle, I8, Ikong, Intercon, IPrint, LD Products, Solong, Smartjet, Super Warehouse, and Xiaohui infringe the claims of U.S. Patent No. 9,575,460 asserted against those respective products.
5. The Accused Products of respondents An An Beauty, Aztech, AMI, Billiontree, Carlos Imaging, Do It Wiser, Eco Imaging, Ecoolmart, Globest, Greencycle, Hongkong Boze, I8,

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Ikong, Solong, Intercon, Aster, IPrint, LD Products, Mangoket, Smartjet, Super Warehouse, and Xiaohui infringe the claims of U.S. Patent No. 9,568,856 asserted against those respective products.

6. The Accused Products of respondents An An Beauty, Aztech, AMI, Billiontree, Carlos Imaging, Do It Wiser, Eco Imaging, Ecoolmart, Globest, Greencycle, Hongkong Boze, I8, Ikong, Solong, Intercon, Aster, IPrint, LD Products, Mangoket, Smartjet, Super Warehouse, and Xiaohui infringe the claims of U.S. Patent No. 9,632,456 asserted against those respective products.
7. The Accused Products of respondents An An Beauty, Aztech, AMI, Carlos Imaging, Do It Wiser, Eco Imaging, Ecoolmart, Globest, Greencycle, Hongkong Boze, I8, Ikong, Solong, Intercon, Aster, IPrint, LD Products, Smartjet, Super Warehouse, and Xiaohui infringe the claims of U.S. Patent No. 9,846,387 asserted against those respective products.
8. A domestic industry exists within the United States related to articles protected by U.S. Patent No. 9,785,093.
9. A domestic industry exists within the United States related to articles protected by U.S. Patent No. 9,568,856.
10. A domestic industry exists within the United States related to articles protected by U.S. Patent No. 9,632,456.
11. A domestic industry exists within the United States related to articles protected by U.S. Patent No. 9,846,387.
12. A violation of section 337 has occurred based on the importation or sale of articles that infringe the asserted claims of U.S. Patent No. 9,785,093.
13. A violation of section 337 has occurred based on the importation or sale of articles that infringe the asserted claims of U.S. Patent No. 9,575,460.
14. A violation of section 337 has occurred based on the importation or sale of articles that infringe the asserted claims of U.S. Patent No. 9,568,856.
15. A violation of section 337 has occurred based on the importation or sale of articles that infringe the asserted claims of U.S. Patent No. 9,632,456.
16. A violation of section 337 has occurred based on the importation or sale of articles alleged to infringe the asserted claims of U.S. Patent No. 9,846,387.

VII. RECOMMENDED DETERMINATION ON REMEDY & BOND

I must issue a recommended determination concerning the appropriate remedy in the event that the Commission finds a violation of section 337 and I must recommend the amount of bond

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to be posted for importation during any Presidential review of the Commission's action. *See* 19 C.F.R. § 210.42(a)(1)(ii).

A. General Exclusion Order

The Commission “focus[es] principally on the statutory language itself” when determining whether to issue a general exclusion order. *Certain Ground Fault Cir. Interrupters & Prod. Containing Same*, Inv. No. 337-TA-615, Comm’n Op. at 25 (Mar. 26, 2009) (“*Ground Fault Cir. Interrupters I*”). Under section 337(d)(2), a general exclusion order is warranted in either of two circumstances: (1) when “an exclusion order limited to products of named persons” would be circumvented, or (2) when “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)(A) and (B). *Certain Cigarettes and Packaging Thereof*, Inv. No. 337 TA-643, Comm’n Op. at 24 (Oct. 1, 2009) (“*Cigarettes*”).

When some respondents default without appearing but other respondents appear and contest the complaint, section 337(d)(2) specifies additional conditions for issuing a general exclusion order. *Pocket Lighters*, Inv. No. 337-TA-1142, Initial Determination at 40 (Public Vers.) (Feb. 12, 2020) (EDIS Doc. ID 706458), *not reviewed in pertinent part*, EDIS Doc. ID 708631. A general exclusion order under section 337(d)(2) must rest upon a violation established by substantial, reliable, and probative evidence. *Id.*

In the present investigation, some of the respondents appeared in, and contested, the investigation, while other respondents failed to appear. *See supra* part I.B.2. Under these circumstances, issuance of a general exclusion order under section 337(d)(2) is appropriate. *See Certain Toner Cartridges, & Components Thereof*, 337-TA-918 (“*Toner Cartridges IV*”), Comm’n Opinion at 5 (finding that the issuance of a general exclusion order under section 337(d)(2) was appropriate when not all respondents failed to appear to contest the investigation).

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1. Circumvention of Limited Exclusion Orders

A limited exclusion order restricts the activities of named respondents but not others. *Kyocera Wireless Corp. v. Int’l Trade Comm’n*, 545 F.3d 1340, 1356-57 (Fed. Cir. 2008). If the evidence shows that named respondents would circumvent a limited exclusion order, a general exclusion order is appropriate. See *Certain Ground Fault Cir. Interrupters & Prod. Containing Same*, Inv. No. 337-TA-739, Comm’n Op. at 88-89, 2012 WL 2394435 at 56 (June 8, 2012) (“*Ground Fault Cir. Interrupters II*”) (finding a general exclusion order was appropriate based on evidence that named respondents would circumvent a limited exclusion order by changing their corporate identity). Here, there is substantial evidence that a general exclusion order is necessary to prevent Respondents named in this investigation from circumventing a limited exclusion order.

The undisputed record in this investigation closely tracks the facts of prior Commission investigations into the same industry. For instance, in Investigation No. 337-TA-829 (“*Toner Cartridges III*”), the administrative law judge determined, and the Commission affirmed, that “[is] common for manufacturers and sellers of aftermarket toner cartridges to do business under more than one name,” and that “foreign aftermarket toner cartridge manufacturers have the capacity to replicate their operations so as to appear to be a new business in a matter of months.” *Toner Cartridges III*, Inv. No. 337-TA-829, Initial Determination at 120 (EDIS Doc. ID 505712). The record here bears out such a capacity: the parent company of the sole remaining respondent in this investigation, the Aster Group, was set up in March 2011 by management of a company that entered into a consent order stipulation in investigation 337-TA-731. *Toner Cartridges V*, Joint Stipulation Regarding Remedy at ¶ 12-18 (EDIS Doc. ID 656538) and Initial Determination at 120 (Feb. 28, 2013) (EDIS Doc. ID 505712). The new entity was mass producing infringing toner cartridges in its factory within a month. *Id.* This is evidence that “th[e] same sort of scenario could repeat itself if another limited exclusion order issued.” *Toner Cartridges III*, Initial

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Determination at 120 (Feb. 28, 2013) (relying on these same facts as to Aster); *see also Certain Ink Cartridges & Components Thereof*, Inv. No. 337-TA-946 (“946 Investigation”), Comm’n Op. at 7 (June 29, 2016) (EDIS Doc ID 584864) (relying on previous efforts to circumvent a general exclusion order as evidence of likelihood of circumvention in subsequent section 337 investigation).

As in prior investigations in this industry, such as *Toner Cartridges IV*, Inv. No. 337-TA-918, Comm’n Op. at 7 (Oct. 1, 2015), several of the Respondents here sell Accused Products under multiple names on Amazon.com. *See, e.g.*, Ex. 5 at ¶¶ 3.34, 3.39, 3.53, 3.62, 3.69, 3.78, 3.148; Exs. 5-36, 5-41, 5-66, 5-77, 5-87, 5-99, 5-186 (examples of Amazon storefronts of respondents); Globest Import. Stip. at ¶¶ 6, 7 (Globest admission of importation through Amazon.com). If limited exclusion orders were directed to the entities named as Respondents in this investigation, it is likely that the same entities would continue online sales and importation using different names.

In addition, based on unrebutted evidence, I find that many of the Respondents have engaged in business practices deliberately designed to mask their identities, which makes enforcement of a limited exclusion order difficult. For example, Respondents Carlos Imaging, Eco Imaging, Ikong, and Intercon operate their businesses from rented personal mailboxes at mail and shipping stores (*e.g.*, UPS Stores). *See* Ex. 5 at ¶ 3.41 (Carlos imaging is registered to a PMB); Ex. 5-42 (Carlos Imaging California Statement of Information) (Nov. 4, 2016)); Ex. 5-43 (Google Maps Street View of Carlos Imaging showing UPS store (Mar. 2018)); Ex. 5 at ¶ 3.50 (Eco Imaging is registered to a PMB); Ex. 5-60 (Eco Imaging corporate registration); Ex. 5-63 (Google Maps Street View of Eco Imaging showing UPS store); Ex. 5 at ¶ 3.77 (Ikong is registered to a PMB); Ex. 5-96 (Ikong registration); Ex. 5-98 (Google Maps Street View of Ikong showing ‘Mail

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and More’ store); Ex. 5 at ¶ 3.82 (Intercon is registered to a PMB); Ex. 5-101 (Intercon registration); Ex. 5-103 (Google Maps Street View of Intercon showing UPS store); *see supra* part I.B.2.c). The use of rented personal mailboxes obviates the cost of setting up a brick-and-mortar storefront or warehouse, thereby making it easier to set up a new business with a different name and circumvent a limited exclusion order. Many of the Respondents also “do business under multiple names, and create an array of subsidiaries and changing corporate profiles, activities which make it difficult to enforce intellectual property rights against them.” *Toner Cartridges III*, Comm’n Op. at 6-7 (Jul. 29, 2013). There is substantial, un rebutted evidence such practices are widespread in the industry:

- Mangoket shares executives with EPS, and both sell EPS-branded products. Ex. 5 at ¶ 3.92, 3.95, 3.98; Exs. 5-112 (EPS corporate registration), 5-113 (Mangoket corporate registration), 5-115 (Mangoket storefront on eprintersolution.com).
- Do It Wiser is a single registered entity that conducts business through multiple websites with differing names like doitwiser.com and imagetoner.com. Ex. 5 at ¶ 3.46-3.48 (Do It Wiser operates through several websites); Exs. 5-51 (trademark registration for “Do It Wiser” Mark), 5-52 (Accused Products with EPS brand on doitwiser.com), 5-54 (Accused Products with EPS Brand on imagetoner.com), 5-55 (FAQ from imagetoner.com listing “help@doitwiser.com” as the contact email).
- LD Products is a single registered entity that sells functionally identical infringing products under more than one brand name. Ex. 5 at ¶ 3.97-3.101, 7.80, 7.82; Ex. 5-121 (trademark registration for “LD” mark listing owner as “LD Products, Inc.”), 5-125 (trademark registration for “Speedyinks” mark listing owner as “LD Products, Inc.”).

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- Certain of An An Beauty's and Billiontree's Accused Products shipped from different unregistered California entities (*i.e.*, An An Mei and Palmtree) at the same address. Ex. 5 at ¶ 3.16, 3.40, 12.27; Ex. 5-23 (photo of Shipping Label for CMYBabee branded product), 5-24 (photo of shipping label for "Toner Kingdom" branded product). The operations are so intermingled that on at least one occasion, products purchased from An An Beauty arrived in "Toner Kingdom" brand box, but the box contained a "CMYBabee"-branded product. Ex. 5 at ¶ 12.27; Ex. 5-305 ("Toner Kingdom" branded box in which "CMYBabee" branded Accused Product was shipped).
- A single person—Wang Zhidong—is the registrant on the U.S. trademarks used on the Accused Products of Ikong, Smartjet, Solong, and Xiaohui. Ex. 5-92 (registration for Office World mark), 5-95 (registration for IKONG mark), 5-147 (registration for MIROO mark), 5-183 (registration for "JARBO" mark).

These facts show a widespread pattern within the industry generally, and among the Defaulting Respondents particularly, of operating practices that hinder or defeat the efficacy of limited exclusion orders directed only to named respondents. *See Toner Cartridges III*, Comm'n Op. at 6-7 (entering a general exclusion order where "defaulting respondents typically do business under multiple names, and create an array of subsidiaries and changing corporation profiles.").

In sum, I find based on the record evidence of the past and present business practices of the Respondents that a limited exclusion order would be easily circumvented. *See Certain Indus. Automation Sys. & Components Thereof Including Control Sys., Controllers, Visualization Hardware, Motion & Motor Control Sys., Networking Equip., Safety Devices, & Power Supplies*, Inv. No. 337-TA-1074, Comm'n Op. at 7 (Apr. 23, 2019) ("Respondents' use of multiple different

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entities to sell and import products supports a finding that a limited exclusion order would be easily circumvented.”).

2. Pattern of Violation of Section 337

Additionally and independently, I find the record shows an undisputed a pattern of violation of section 337. This investigation initially named 32 respondents, and all of those that were successfully served were found in violation or stipulated to a consent order. *Toner Cartridges III*, Initial Determination at 121 (Feb. 28, 2013) (“Given the number of respondents involved, the activities of the defaulting respondents and their suppliers alone would be sufficient to demonstrate a pattern of violation.”). That alone demonstrates a widespread pattern of violation of section 337.

But the Respondents here do not reflect the full scope of the infringing industry. The record shows many Respondents purchased their accused products from non-parties. *See, e.g.*, Ex. 52 (“Linkyo purchases the products ... from [REDACTED] as finished goods.”). There also are numerous “reseller” customers in the business of distributing infringing toner cartridges in the United States. Non-party [REDACTED] identifies over 460 U.S. customers of Accused Products in the United States, including Respondents [REDACTED]. Ex. 59 ([REDACTED] Customer List), at 1, 3, 4, 6. [REDACTED] another non-party supplier, identifies nineteen customers of Accused Products in the United States, including Respondents [REDACTED]. Ex. 57 at ¶ 6 (Jan. 17, 2020) (EDIS Doc. ID 699551). And infringing respondent Aster acknowledges that it supplies Accused Products to at least eight of the Defaulting Respondents—An An Beauty, Aztech, Eco Imaging, Hongkong Boze, I8, Intercon, IPrint, and Mangoket. Ex. 38, Response of Aster Graphics, Inc. to Complaint and Notice of Investigation at ¶ 3.26 (Oct. 18, 2019) (EDIS Doc ID 691633).

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This multiplicity of suppliers and distributors of infringing toner cartridges qualitatively demonstrates a widespread pattern of violation. The record also quantifies the extent of the infringement: according to data furnished by Brother, Brother's authentic branded products command [REDACTED] Ex. 58 (Raw [REDACTED] Sales Data); Ex. 60 (Analysis of Raw [REDACTED] Sales Data). Indeed, the Accused Products sold [REDACTED] [REDACTED] comparable cartridges in both fiscal years 2017 and 2018. *See* Ex. 60. Respondent E-Z Ink's Accused 221/225 Products alone [REDACTED] [REDACTED] in the United States during that period. *Id.*

The record also contains substantial evidence that the source of these infringing products is difficult to identify. As found in previous investigations of this industry, "in the toner cartridge market, it is difficult to trace the origin of a particular import even when all of the players involved are operating honestly." *Toner Cartridges III*, Inv. No. 337-TA-829, Initial Determination at 123 (EDIS Doc. ID 505712). The record in this investigation shows that statement is still true.

Aster, for example, offers private labeling and custom packaging to its customers. Ex. 5-31 (Aster website). As Aster describes it, "[p]rivate label service provides you the opportunity to stick your own label, which contains your logo, company name, reorder number and contact information." *Id.* "This legitimate practice inevitably obscures the identity of the cartridges' original manufacturer, making enforcement of a limited exclusion order difficult at best." *Toner Cartridges III*, Inv. No. 337-TA-829, Initial Determination at 124 (EDIS Doc. ID 505712). Adding to the confusion, respondents An An Beauty, Aztech, Billiontree, Eco Imaging, Globest, Hongkong Boze, I8, IPrint, and Super Warehouse each package their Accused Products in generic boxes marked only as "toner," "toner cartridge," "premium toner cartridge," "laser toner cartridge," or "laser printer toner cartridge," omitting any identifiable branding tying their products

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to their origins. *See* Ex. 5, Amended Complaint of Brother at ¶ 12.16; Ex. 5-299 (images of exemplary generic packaging).



Ex 5-299 (excerpted). And as Aster’s website offers custom packaging bearing whatever information the seller chooses to use, enabling resellers to deliberately disguise the true manufacturer. *See, e.g.*, Ex. 5-31. Such practice “mak[es] it easier” for the manufacturer “to evade enforcement of an LEO.” *Toner Cartridges II*, Comm’n Op. at 5 (Oct. 5, 2011) (EDIS Doc ID 460756). That Aster prominently offers such a service implies that it is commonly requested and used, indicating a pattern of evasion.

The channels of commerce Respondents use also help conceal the identity of infringers. As discussed above, the Defaulting Respondents sell the Accused Products through popular e-commerce sites like Amazon.com, eBay.com, and Alibaba.com. *See, e.g.*, Ex. 5 at ¶ 3.11,

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Exs. 5-18, 5-222, Ex. 35 at ¶ 3.11, AMI Import. Stip. at ¶ 7, 8 (Arthur Imaging branded accused products sold through Amazon.com); Ex. 5-22, 5-224 (CMYBabee branded accused products sold through Amazon.com); Ex. 5 at ¶ 12.11, Ex. 5-298 (Alibaba.com listings for Accused Products); Ex. 5 at ¶ 12.10, Ex. 5-296 (eBay.com listing of Accused Products). As the Commission has previously found, “Major Internet websites such as Amazon.com, Craigslist.org, and Alibaba.com provide retailers of aftermarket toner cartridges with dedicated, flexible infrastructure to sell directly to U.S. consumers without revealing the true source of such cartridges.” *Toner Cartridges IV*, Inv. No. 337-TA-918, Comm’n Op. at 11 (Oct. 1, 2015). The record here bears that out: AMI, Do It Wiser, Eco Imaging, Ecoolmart, Globest, Greencycle, Hongkong Boze, Ikong, Inercon, IPrint, Mangoket, Solong, Smartjet, SuperWarehouse, and Xiahui all shipped Accused Products through an Amazon fulfillment center, with only the address of the fulfillment center appearing on the shipping materials. AMI Import. Stip. at ¶ 7; Globest Import. Stip. at ¶ 6; Exs. 5-300, 5-301 (packaging labels for Accused Products shipped from Amazon fulfillment centers).

In sum, Brother has established by substantial, reliable, and probative evidence a pattern of violation of section 337 by sources that are difficult to identify. *See* 19 U.S.C. § 1337(d)(2)(B); *see also Certain Lighters*, Inv. No. 337-TA-575, Comm’n Op. at 7-9 (Public Vers.) (Aug. 30, 2007) (EDIS Doc. ID 281618) (finding a general exclusion order is appropriate based on widespread unauthorized online sales and difficulty in identifying the source of infringing products). I therefore recommend the Commission issue a general exclusion order in this investigation should it find a violation of section 337.

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B. Limited Exclusion Orders

Section 337(d) provides that “[i]f the Commission determines, as a result of an investigation under this section, that there is a violation of this section, it shall direct that the articles concerned, imported by any person violating the provision of this section, be excluded from entry into the United States. . . .” 19 U.S.C. § 1337(d). The undisputed evidence supports a determination that Respondents have violated section 337, so the condition precedent for limited exclusion orders has been satisfied. Should the Commission find a violation and determine not to issue a general exclusion order, I recommend that the Commission issue limited exclusion orders directed to respondents Aster, An An Beauty, AMI, Aztech, Billiontree, Carlos Imaging, Do It Wiser, Eco Imaging, Ecoolmart, Globest, Greencycle, Hongkong Boze, I8, Ikong, Intercon, IPrint, LD Products, Mangoket, Smartjet, Solong, Super Warehouse, and Xiaohui. All other Respondents are subject to consent orders entered earlier in this investigation.

C. Cease and Desist Order

In addition to an exclusion order, section 337(f) authorizes the Commission to order those found violating section 337 “to cease and desist from engaging in the unfair methods or acts involved.” 19 U.S.C. § 1337(f). A cease and desist order is warranted when a respondent maintains a commercially significant inventory of the infringing products in the United States. *See Certain Elec. Skin Care Devices, Brushes & Chargers Therefor, & Kits Containing the Same*, 337-TA-959, Comm’n Op. at 26 (Feb. 13, 2017).

Brother seeks cease and desist orders against the respondents with addresses or operations based in the United States, namely Aster, AMI, Billiontree, Carlos Imaging, Do It Wiser, Eco Imaging, Ecoolmart, Globest, Greencycle, Hongkong Boze, I8, Ikong, Intercon, IPrint, LD Products, Mangoket, Smartjet, Solong, Super Warehouse, and Xiaohui.

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Aster, the sole remaining respondent, stipulated to having the following domestic inventories of Accused Products:

Accused Aster Product	Domestic Inventory
221/225	
223/227	
420/450	
630/660	
730/760/770	
Total	

See Aster Stip. at Exhibit A. I find that this inventory is significant and could be used to circumvent an exclusion order, particularly in view of the pattern of violation set forth above with respect to Aster and its resellers. *See supra* part VII.A.2.

With respect to respondents AMI, Billiontree, Carlos Imaging, Do It Wiser, Eco Imaging, Ecoolmart, Globest, Greencycle, I8, Ikong, Intercon, IPrint, LD Products, Mangoket, and Super Warehouse, Brother has adduced substantial, undisputed evidence that each operates from addresses within the United States. *See supra* part I.B.2.c). Given that each of those respondents defaulted, the commercial significance of their domestic inventories may be inferred, and a cease and desist order is appropriate. *See Certain Arrowheads with Deploying Blades & Components Thereof & Packaging Therefor*, Inv. No. 337-TA-977, Comm’n Op. at 18 (Apr. 6, 2017).

And with respect to respondents AMI, Do It Wiser, Eco Imaging, Ecoolmart, Globest, Greencycle, Hongkong Boze, I8, Ikong, Inercon, IPrint, Mangoket, Solong, Smartjet, Super Warehouse, and Xiahui, Brother has adduced substantial, undisputed evidence that each fulfills orders through Amazon.com fulfillment centers located in the United States. AMI Import. Stip. at ¶ 7; Globest Import. Stip. at ¶ 6; Exs. 5-300, 5-301 (packaging labels for Accused Products shipped from Amazon fulfillment centers). Because each of these respondents defaulted, their use of Amazon fulfillment centers in the United States allows an inference of commercially significant

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domestic inventory. *See Certain Hand Dryers & Housing for Hand Dryers*, Inv. No. 337-TA-1015, Comm’n Op. at 11 (Oct. 30, 2017) (“evidence that infringing . . . products sold on Amazon.com are fulfilled from an Amazon.com facility in Kentucky . . . supports the inference that [foreign defaulting respondents] maintain a commercially significant inventory of infringing articles in the United States” and that issuance of a cease and desist order is appropriate).

Accordingly, should the commission find a violation and determine, I recommend that the Commission issue cease and desist orders to respondents Aster, AMI, Billiontree, Carlos Imaging, Do It Wiser, Eco Imaging, Ecoolmart, Globest, Greencycle, Hongkong Boze, I8, Ikong, Intercon, IPrint, LD Products, Mangoket, Smartjet, Solong, Super Warehouse, and Xiaohui.

D. Bond During Presidential Review

In the event that the Commission determines to issue a remedy, the Commission must determine the amount of bond to be required of a respondent during the 60-day Presidential review period. *See* 19 U.S.C. §1337(j)(3). The purpose of the bond is to protect the complainant from any injury. *See* 19 C.F.R. §§ 210.42(a)(1)(ii), 210.50(a)(3).

When reliable price information is available, the Commission has often set the bond by eliminating the differential between the domestic product and the imported, infringing product. *See Microsphere Adhesives, Processes for Making Same, & Prods. Containing Same, Including Self-Stick Repositionable Notes*, Inv. No. 337-TA-366, USITC Pub. 2949 (Dec. 8, 1995), Comm’n Op. at 24. However, where it is difficult or impossible to calculate a bond based upon price differentials, and particularly where the respondents fail to provide discovery, the Commission has set the bond at 100 percent of the entered value of the infringing imported product. *See, e.g., Video Game Sys.*, Comm’n Op. at 5; *Certain Oscillating Sprinklers, Sprinkler Components, & Nozzles*, Inv. No. 337-TA-448, Limited Exclusion Order at 4-6, USITC Pub. No. 3498 (Mar. 2002) (EDIS

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Doc. ID 60448) (setting bond at 100% of entered value for products of defaulting respondent). Further, the Commission may also set a bond rate of over 100% where necessary “to ensure it would completely offset any competitive advantage” enjoyed by the infringing goods. *See, e.g., Certain Two-Handled Centerset Faucets & Escutcheons, & Components Thereof*, Inv. No. 337-TA-422, Comm’n Op. at 10-11 (June 26, 2000) (EDIS Doc. ID 52315) (setting 264% bond rate); *Certain Devices for Connecting Computers Via Telephone Lines*, Inv. No. 337-TA-360, Comm’n Op. at 12, USITC Pub. No. 2843 (Dec. 1994) (EDIS Doc. ID 216950) (setting 346% bond rate); *Certain Cube Puzzles*, Inv. No. 337-TA-112, Comm’n Op. at 35, USITC Pub. 1334 (Jan. 1983) (EDIS Doc. ID 217890) (setting 600% bond rate).

In appropriate circumstances, the Commission sets different bond rates for different respondents. *See, e.g., Certain Foam Footwear*, Inv. No. 337-TA-567, Comm’n Op. at 9 (Aug. 2, 2011) (EDIS Doc. ID 455852); *Certain Coaxial Cable Connectors & Components Thereof & Prod. Containing Same*, 337-TA-650, Comm’n Notice at 2 (Sept. 13, 2011) (EDIS Doc ID 459059). The Commission may also set different bond rates for different products of the same respondent. *See Certain Magnetic Data Storage & Tape Cartridges Containing the Same (II)*, Inv. No. 337-TA-1076, Comm’n Op. at 67 (June 20, 2019) (EDIS Doc. ID 679042).

Brother, AMI, Aster, and Globest stipulated to different bond rates for different Accused Products, as shown below, based on the calculated price differentials for those products. AMI Import. Stip., Ex. A; Aster Import. Stip., Ex. A; Globest Import. Stip., Ex. A.

Accused Product	AMI	Aster	Globest
Accused 221/225 Products	568%	1463%	900%
Accused 223/227 Products	274%	336%	372%
Accused 420/450 Products	-	623%	682%
Accused 630/660 Products	575%	886%	635%
Accused 730/760/770 Products	589%	354%	369%

As these bond rates were calculated using reliable data and the parties agreed to the percentages, I

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recommend entry of bond at the above-referenced bond rates.

Given that the remaining respondents defaulted and failed to provide discovery into their pricing, a bond of 100% of the entered value of infringing toner cartridges and components thereof is appropriate. *See, e.g., Video Game Sys., Comm'n Op.* at 5. This amount should be enough to prevent any harm to Brother during the period of Presidential review.

VIII. INITIAL DETERMINATION

I hereby certify to the Commission this Initial Determination and the Recommended Determination.

The Secretary shall serve the confidential version of this Initial Determination upon counsel who are signatories to the Protective Order (Order No. 1) issued in this investigation. A public version will be served at a later date upon all parties of record.

Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review pursuant to 19 C.F.R. § 210.43(a) or the Commission, pursuant to 19 C.F.R. § 210.44, orders on its own motion a review of the Initial Determination or certain issues therein.

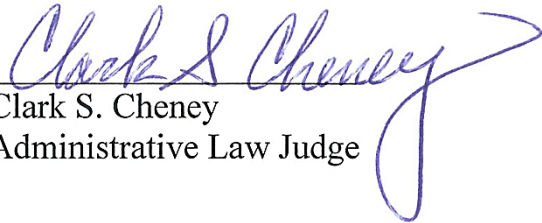
Within seven days of the date of this document, the parties must jointly submit a statement to Cheney337@ustic.gov stating whether or not each seeks to have any portion of this document redacted from the public version. Should either or both parties seek to have any portion of this document redacted from the public version thereof, the parties shall attach a copy of a **joint** proposed public version of this document indicating with red brackets any portion asserted to contain confidential business information.³⁸ To the extent possible, the proposed redactions

³⁸ If the parties submit excessive redactions, they may be required to provide an additional written statement, supported by declarations from individuals with personal knowledge,

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should be made electronically, in a PDF of the issued order, using the “Redact Tool” within Adobe Acrobat, wherein the proposed redactions are submitted as “marked” but not yet “applied.” The parties’ submission concerning the public version of this document should not be filed with the Commission Secretary.

SO ORDERED.


Clark S. Cheney
Administrative Law Judge

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).

**CERTAIN TONER CARTRIDGES, COMPONENTS
THEREOF, AND SYSTEMS CONTAINING SAME**

Inv. No. 337-TA-1174

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **INITIAL DETERMINATION** has been served via EDIS upon the Commission Investigative Attorney, **Jennifer Dienes, Esq.**, and the following parties as indicated, on **August 10, 2020**.



Lisa R. Barton, Secretary
U.S. International Trade Commission
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Washington, DC 20436

**On Behalf of Complainants Brother Industries, Ltd.,
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Industries (U.S.A.), Inc.:**

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