

**UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C. 20436**

In the Matter of

**CERTAIN MICROLITHOGRAPHIC  
MACHINES AND COMPONENTS  
THEREOF**

**Inv. No. 337-TA-468**

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW A FINAL  
INITIAL DETERMINATION FINDING NO VIOLATION OF SECTION 337  
TERMINATION OF THE INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the final initial determination (“ID”) issued by the presiding administrative law judge (“ALJ”) on January 29, 2003, finding no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, in the above-captioned investigation. Accordingly, the Commission has terminated the investigation with a finding of no violation of section 337.

FOR FURTHER INFORMATION CONTACT: Timothy P. Monaghan, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-3152. Copies of the public version of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on this matter can be

obtained by contacting the Commission's TDD terminal on 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at <http://dockets.usitc.gov/eol/public>.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this patent-based section 337 investigation on January 24, 2002, based on a complaint filed by the Nikon Corporation of Tokyo, Japan, and Nikon Precision Inc. and Nikon Research Corporation of America of Belmont, California (collectively, "Nikon"). The respondents named in the investigation were ASM Lithography Holding N.V. and ASM Lithography B.V. of the Netherlands and ASM Lithography, Inc. of Tempe, Arizona (collectively, "ASML"). The complaint alleged that ASML has violated section 337 of the Tariff Act of 1930 by importing into the United States, selling for importation, and/or selling within the United States after importation certain microlithographic machines and components thereof by reason of infringement of certain claims of seven U.S. patents: U.S. Patents Nos. 6,008,500 (the '500 patent), 6,271,640 (the '640 patent), 6,255,796 ("the '796 patent"), 6,323,935 ("the '935 patent"), 5,473,410 ("the '410 patent"), 5,638,211 ("the '211 Patent"), and 6,233,041("the '041 patent).

On January 29, 2003, the ALJ issued his final ID finding no violation of section 337 based on his finding that claims 1 and 7 of the '500 patent and claim 1 of the '640 patent are anticipated by the Micrascan machine; claim 30 of the '640 is anticipated by the Doran '242 patent and is not enabled; ASML's Twinscan machine does not infringe claims 1 and 16 of the '796 patent or claims 1, 78, and 84 of the '935 patent, nor do Nikon's domestic machines practice claims 1 of the '796 patent or claim 1 of the '935 patent; claim 1 of the '935 patent is invalid for failure to satisfy the written description requirement and is not enabled under 35 U.S.C. § 112, ¶ 1, and is invalid for indefiniteness under 35 U.S.C. § 112, ¶ 2; claim 19 of the '410 patent is invalid as obvious and is unenforceable by reason of inequitable conduct; and ASML's Twinscan machine does not infringe any claim at issue of the '211 and '041 patents, nor do Nikon's domestic machines practice any claim of the '211 or '041 patents.

On February 10, 2003, Nikon, ASML, and the Commission investigative attorneys filed petitions for review of the final ID. On February 19, 2003, the parties filed responses to each other's petitions for review.

Having reviewed the record in this investigation, including the parties' written submissions, the Commission determined not to review (*i.e.*, to adopt) the ID in its entirety, except that it determined to take no position on the ALJ's finding that claim 30 of the '640 patent is anticipated by the Doran '242 patent and his findings on criteria (A) and (B) of the economic prong of the domestic industry requirement under section 337(a)(3) when a domestic product is made partly or wholly abroad.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, and section 210.42 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.42.

By order of the Commission.

---

Marilyn R. Abbott  
Secretary to the Commission

Issued: March 18, 2003