

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

**NOTICE OF COMMISSION FINAL DETERMINATION OF VIOLATION
OF SECTION 337; TERMINATION OF INVESTIGATION;
ISSUANCE OF GENERAL EXCLUSION ORDER AND CEASE AND DESIST ORDERS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has found a violation of Section 337 in the above-captioned investigation. The Commission has determined to issue a general exclusion order and cease and desist orders. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2301. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on October 12, 2010, based on a complaint filed by Lexmark International, Inc. of Lexington, Kentucky ("Lexmark"). 75 *Fed. Reg.* 62564-65 (Oct. 12, 2010). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("Section 337"), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain toner cartridges and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 5,337,032 ("the '032 patent"); 5,634,169 ("the '169 patent"); 5,758,233 ("the '233 patent"); 5,768,661 ("the '661 patent"); 5,802,432 ("the '432 patent"); 5,875,378 ("the '378 patent"); 6,009,291 ("the '291 patent"); 6,078,771 ("the '771 patent"); 6,397,015 ("the '015 patent"); 6,459,876 ("the '876 patent"); 6,816,692 ("the '692 patent"); 6,871,031 ("the '031 patent"); 7,139,510 ("the '510 patent"); 7,233,760 ("the '760 patent"); and 7,305,204 ("the '204 patent"). The complaint further alleges the existence of a domestic industry.

The Commission's notice of investigation named as respondents Ninestar Image Co. Ltd., (a/k/a Ninestar Technology Co., Ltd.) of Guangdong, China ("Ninestar"); Ninestar Image Int'l, Ltd. of Guangdong, China ("Ninestar Image Int'l"); Seine Image International Co. Ltd. of New Territories, Hong Kong ("Seine Image"); Ninestar Technology Company, Ltd. of Piscataway, New Jersey ("Ninestar Tech"); Ziprint Image Corporation of Walnut, California ("Ziprint"); Nano Pacific Corporation of South San Francisco, California ("Nano Pacific"); IJSS Inc. (d/b/a TonerZone.com Inc. and Inkjet Superstore) of Los Angeles, California ("IJSS"); Chung Pal Shin (d/b/a Ink Master) of Cerritos, California ("Ink Master"); Nectron International, Inc. of Sugarland, Texas ("Nectron"); Quality Cartridges Inc. of Brooklyn, New York ("QCI"); Direct Billing International Incorporated (d/b/a Office Supply Outfitter and d/b/a The Ribbon Connection) of Carlsbad, California ("Direct Billing"); E-Toner Mart, Inc. of South El Monte, California ("E-Toner"); Alpha Image Tech of South El Monte, California ("Alpha Image"); ACM Technologies, Inc. of Corona, California ("ACM"); Virtual Imaging Products Inc. of North York, Ontario; Acecom Inc. – San Antonio (d/b/a Inksell.com) of San Antonio, Texas ("Acom"); Ink Technologies Printer Supplies, LLC (d/b/a Ink Technologies LLC) of Dayton, Ohio ("Ink Tech"); Jahwa Electronics Co., Ltd of Chungchongbuk-do, South Korea; Huizhou Jahwa Electronics Co., Ltd. of Guangdong Province, China; Copy Technologies, Inc. of Atlanta, Georgia ("Copy Tech"); Laser Toner Technology, Inc. of Atlanta, Georgia ("LTT"); C&R Service, Incorporated of Corinth, Texas ("C&R"); Print-Rite Holdings Ltd., of Chai Wan, Hong Kong ("Print-Rite"); and Union Technology Int'l (M.C.O.) Co., Ltd. of Rodrigo Rodrigues, Macao.

The Commission determined not to review an initial determination terminating the investigation as to Print-Rite based on a settlement agreement. Commission Notice (Jan. 10, 2011) (Order No. 11). The Commission determined to review and affirm several initial determinations finding several respondents in default under Commission Rules 210.16(a)(2) and (b)(2) based on those respondents' elections to default. Commission Notice (Mar. 3, 2011) (Order Nos. 15-16); Commission Notice (Mar. 11, 2011) (Order Nos. 17-18); Commission Notice (Mar. 11, 2011) (Order No. 19). The Commission determined not to review two other initial determinations finding the remaining respondents in default. Commission Notice (Mar. 23, 2011) (Order No. 23); Commission Notice (April 6, 2011) (Order No. 24).

On April 25, 2011, Lexmark filed a motion pursuant to Commission Rule 210.18 (19 C.F.R. § 210.18) for summary determination of violation of Section 337 and requesting issuance of a general exclusion order and cease and desist orders against defaulting respondents. On May 5, 2011, the Commission investigative attorney ("IA") filed a response supporting the motion, on the condition that Lexmark submit the following: (1) a declaration from its expert, Charles Reinholtz, averring that the statements in his expert report are true and correct, and (2) a declaration from Andrew Gardner that the accused products do not have any substantial non-infringing uses. Lexmark filed the submissions per the IA's request.

On June 1, 2011, the ALJ issued an initial determination (Order No. 26) ("ID") granting Lexmark's motion for summary determination of violation of Section 337. The ID also contained the ALJ's recommended determination on remedy and bonding. Specifically, the ALJ recommended issuance of a general exclusion order ("GEO") and cease and desist orders

("CDOs") against the defaulting respondents. The ALJ further recommended that the Commission set a bond of 100 percent during the period of Presidential review.

On July 12, 2011, the Commission determined not to review the ID and called for briefing on remedy, the public interest, and bonding. 76 *Fed. Reg.* 41822-24 (July 15, 2011). On August 1, 2011, Lexmark submitted an initial brief on remedy, the public interest, and bonding, requesting that the Commission issue a GEO and CDOs and set a bond of 100 percent during the period of Presidential review. The brief included a proposed GEO and a proposed CDO. Also on August 1, 2011, the IA submitted an initial brief on remedy, the public interest, and bonding, supporting Lexmark's request for a GEO and CDOs, as well as a bond of 100 percent. The IA's brief also included a proposed GEO and a proposed CDO.

The Commission has determined that the appropriate form of relief is the following: (1) a GEO under 19 U.S.C. § 1337(d)(2), prohibiting the unlicensed entry of toner cartridges and components thereof that infringe one or more of claim 1 of the '032 patent; claims 1-3, 32, 33, 36, and 42 of the '169 patent; claims 1 and 2 of the '233 patent; claims 1 and 2 of the '661 patent; claims 1-3 of the '432 patent; claims 1, 2, and 14 of the '378 patent; claims 1 and 2 of the '291 patent; claims 1, 2, 5, 6, 10, and 15 of the '771 patent; claims 1, 2, 7, 10, 11, 14, 15, 17, 22, and 24 of the '015 patent; claims 1-3 and 28 of the '876 patent; claim 1 of the '692 patent; claims 1, 3, 5, 8, and 10 of the '031 patent; claims 1 and 6 of the '510 patent; claims 11, 12, and 14 of the '760 patent; and claims 1, 7, 14, and 15 of the '204 patent; and (2) CDOs directed to defaulting domestic respondents E-Toner, Alpha Image, Copy Tech, LTT, C&R, ACM, Ink Master, Direct Billing, Ink Tech, QCI, IJSS, Acecom, Ninestar Tech, Ziprint, Nano Pacific, and Nectron and defaulting foreign respondents Ninestar, Ninestar Image Int'l, and Seine Image.

The Commission has further determined that the public interest factors enumerated in Section 337(d) and (f) (19 U.S.C. § 1337(d), (f)) do not preclude issuance of the GEO and the CDOs. The Commission has determined that the bond for temporary importation during the period of Presidential review (19 U.S.C. § 1337(j)) shall be in the amount of 100 percent of the value of the imported articles that are subject to the order. The Commission's orders were delivered to the President and the United States Trade Representative on the day of their issuance.

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 sections 210.42-50 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42-50).

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

GENERAL EXCLUSION ORDER

The Commission has determined that there is a violation of Section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the unlawful importation and sale of certain toner cartridges and components thereof that infringe claim 1 of U.S. Patent No. 5,337,032 (“the ‘032 patent”); claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”).

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

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

Accordingly, the Commission hereby ORDERS that:

1. Laser toner cartridges and components thereof covered by one or more of claims 1-3, 32-33, 36 and 42 of the '169 patent; claims 1 and 2 of the '233 patent; claims 1 and 2 of the '661 patent; claims 1-3 of the '432 patent; claims 1, 2 and 14 of the '378 patent; claims 1 and 2 of the '291 patent; claims 1, 2, 5, 6, 10 and 15 of the '771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the '015 patent; claims 1-3 and 28 of the '876 patent; claim 1 of the '692 patent; claims 1, 3, 5, 8 and 10 of the '031 patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent are excluded from entry into the United States for consumption, entry for consumption from a foreign-trade zone, or withdrawal from a

warehouse for consumption, for the remaining terms of the patents, except under license of the patent owner or as provided by law.

2. Notwithstanding paragraph 1 of this Order, the aforesaid laser toner cartridges and components thereof are entitled to entry into the United States for consumption, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption, under bond in the amount of 100 percent of the entered value of the products pursuant to subsection (j) of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(j), and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (70 *Fed. Reg.* 43251), from the day after this Order is received by the United States Trade Representative and 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.

3. At the discretion of U.S. Customs and Border Protection (“CBP”) and pursuant to procedures it establishes, persons seeking to import toner cartridges and components thereof that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under paragraph 1 of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.

4. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to toner cartridges and components thereof 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.

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

6. The Commission Secretary shall serve copies of this Order upon each party of record in this investigation and upon the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and CBP.

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

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Acecom Inc. – San Antonio (d/b/a inksell.com) of 14833 Bulverde Road, San Antonio, TX 78251 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”);

and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Acecom Inc. – San Antonio (d/b/a inksell.com) of 14833 Bulverde Road, San Antonio, TX 78251.

(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 laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

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

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

(A) import or sell for importation into the United States covered products;

(B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;

(C) advertise imported covered products; or

(D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have 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 Respondent 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. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

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, 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 purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, 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, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

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 their 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 date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 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 in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent 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.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. 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 general 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* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless 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 unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

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

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT E-Toner Mart, Inc. of 1718 Potrero Avenue, Suite #A, South El Monte, CA 91733 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) "Commission" shall mean the United States International Trade Commission.

(B) "Complainant" shall mean Lexmark International, Inc.

(C) "Respondent" means E-Toner Mart, Inc. of 1718 Potrero Avenue, Suite #A, South El Monte, CA 91733.

(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 laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the '169 patent; claims 1 and 2 of the '233 patent; claims 1 and 2 of the '661 patent; claims 1-3 of the '432 patent; claims 1, 2 and 14 of the '378 patent; claims 1 and 2 of the '291 patent; claims 1, 2, 5, 6, 10 and 15 of the '771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the '015 patent; claims 1-3 and 28 of the '876 patent; claim 1 of the '692 patent; claims 1, 3, 5, 8 and 10 of the '031 patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

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

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

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

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432

patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have 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 Respondent 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. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. 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, 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 purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, 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, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

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 their 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 date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 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 in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In

determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent 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.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. 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 general exclusion order issued by the Commission, and are not subject to this bond provision.

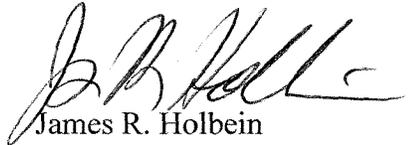
The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary

will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless 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 unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

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

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Chung Pal Shin (d/b/a Ink Master) of 16635 Valley View, Cerritos, CA 90703 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No.

7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Chung Pal Shin (d/b/a Ink Master) of 16635 Valley View, Cerritos, CA 90703.

(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 laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

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

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

(A) import or sell for importation into the United States covered products;

(B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;

(C) advertise imported covered products; or

(D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have 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 Respondent 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. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

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, 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 purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, 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, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

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 their 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 date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 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 in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent 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.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. 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 general 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* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless 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 unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

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

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT IJSS Inc. (d/b/a TonerZone.com Inc. and Inkjet Superstore) of 1880 Century Park East, #200, Los Angeles, CA 90067 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760

patent”); and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means IJSS Inc. (d/b/a TonerZone.com Inc. and Inkjet Superstore) of 1880 Century Park East, #200, Los Angeles, CA 90067.

(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 laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

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

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

(A) import or sell for importation into the United States covered products;

(B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;

(C) advertise imported covered products; or

(D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have 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 Respondent 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. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

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, 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 purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, 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, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

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 their 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 date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 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 in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent 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.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. 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 general 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* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless 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 unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

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

By order of the Commission.



James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Ziprint Image Corporation of 19805 Harrison Avenue, Walnut, CA 91789 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No.

7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Ziprint Image Corporation of 19805 Harrison Avenue, Walnut, CA 91789.

(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 laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

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

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

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

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have 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 Respondent 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. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

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, 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 purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, 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, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

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 their 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 date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 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 in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent 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.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. 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 general 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* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless 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 unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

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

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Direct Billing International Incorporated (d/b/a Office Supply Outfitter and d/b/a The Ribbon Connection) of 5910 Sea Lion Place, Suite 100, Carlsbad, CA 92010 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No.

7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Direct Billing International Incorporated (d/b/a Office Supply Outfitter and d/b/a The Ribbon Connection) of 5910 Sea Lion Place, Suite 100, Carlsbad, CA 92010.

(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 laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

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

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

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

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have 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 Respondent 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. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

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, 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 purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, 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, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

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 their 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 date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 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 in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent 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.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. 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 general 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* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless 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 unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

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

By order of the Commission.



James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Copy Technologies, Inc. of 130 James Aldredge Blvd SW, Atlanta, GA 30336 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”);

and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Copy Technologies, Inc. of 130 James Aldredge Blvd SW, Atlanta, GA 30336.

(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 laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

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

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

(A) import or sell for importation into the United States covered products;

(B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;

(C) advertise imported covered products; or

(D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have 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 Respondent 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. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

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, 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 purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, 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, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

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 their 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 date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 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 in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent 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.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. 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 general 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* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless 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 unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

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

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT C & R Services, Incorporated of 2035 Fair Oaks Circle, Corinth, TX 76210 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No.

7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means C & R Services, Incorporated of 2035 Fair Oaks Circle, Corinth, TX 76210.

(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 laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

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

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

(A) import or sell for importation into the United States covered products;

(B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;

(C) advertise imported covered products; or

(D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have 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 Respondent 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. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

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, 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 purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, 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, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

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 their 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 date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 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 in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent 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.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. 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 general 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* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless 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 unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

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

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Alpha Image Tech of 1718 Potrero Avenue Suite #A, South El Monte, CA 91733 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”);

and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Alpha Image Tech of 1718 Potrero Avenue Suite #A, South El Monte, CA 91733.

(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 laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

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

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

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

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have 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 Respondent 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. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

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, 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 purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, 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, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

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 their 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 date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 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 in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent 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.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. 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 general 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* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless 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 unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

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

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Seine Image International Co. Ltd. of Rm. 18, 9/F New Commercial Ctr., 9 on Lai St., Sha Tin, New Territories, Hong Kong cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760

patent”); and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Seine Image International Co. Ltd. of Rm. 18, 9/F New Commercial Ctr., 9 on Lai St., Sha Tin, New Territories, Hong Kong.

(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 laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

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

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

(A) import or sell for importation into the United States covered products;

(B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;

(C) advertise imported covered products; or

(D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have 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 Respondent 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. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

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, 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 purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, 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, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

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 their 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 date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 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 in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent 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.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. 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 general 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* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless 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 unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

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

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT ACM Technologies, Inc. of 2535 Research Drive, Corona, CA 92882 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No.

7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means ACM Technologies, Inc. of 2535 Research Drive, Corona, CA 92882.

(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 laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

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

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

(A) import or sell for importation into the United States covered products;

(B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;

(C) advertise imported covered products; or

(D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have 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 Respondent 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. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

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, 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 purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, 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, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

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 their 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 date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 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 in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent 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.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. 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 general 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* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless 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 unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

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

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Quality Cartridges Inc. of 162 44th Street, Brooklyn, NY 11232 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204

("the '204 patent") in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) "Commission" shall mean the United States International Trade Commission.

(B) "Complainant" shall mean Lexmark International, Inc.

(C) "Respondent" means Quality Cartridges Inc. of 162 44th Street, Brooklyn, NY 11232.

(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 laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the '169 patent; claims 1 and 2 of the '233 patent; claims 1 and 2 of the '661 patent; claims 1-3 of the '432 patent; claims 1, 2 and 14 of the '378 patent; claims 1 and 2 of the '291 patent; claims 1, 2, 5, 6, 10 and 15 of the '771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the '015 patent; claims 1-3 and 28 of the '876 patent; claim 1 of the '692 patent; claims 1, 3, 5, 8 and 10 of the '031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

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

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

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

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have 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 Respondent 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. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

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, 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 purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, 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, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

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 their 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 date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 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 in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent 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.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. 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 general 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* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless 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 unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

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

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Ninestar Image Co. Ltd. (a/k/a Ninestar Technology Co., Ltd.) of No. 63 Mingzhubei Road, Zhuhai 519075, Guangdong, China cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204

patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Ninestar Image Co. Ltd. (a/k/a Ninestar Technology Co., Ltd.) of No. 63 Mingzhubei Road, Zhuhai 519075, Guangdong, China.

(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 laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

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

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

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

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have 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 Respondent 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. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

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, 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 purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, 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, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

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 their 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 date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 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 in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent 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.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. 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 general 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* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless 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 unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

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

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Ninestar Technology Company, Ltd. of 150 Abbott Court, Piscataway, NJ 08854 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”);

and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Ninestar Technology Company, Ltd. of
150 Abbott Court, Piscataway, NJ 08854.

(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 laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

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

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

(A) import or sell for importation into the United States covered products;

(B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;

(C) advertise imported covered products; or

(D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have 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 Respondent 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. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

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, 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 purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, 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, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

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 their 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 date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 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 in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent 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.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. 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 general 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* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless 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 unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

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

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Ninestar Image Int'l, Ltd. of No. 63 Mingzhubei Road, Zhuhai 519075, Guangdong, China cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 ("the '169 patent"); claims 1 and 2 of U.S. Patent No. 5,758,233 ("the '233 patent"); claims 1 and 2 of U.S. Patent No. 5,768,661 ("the '661 patent"); claims 1-3 of U.S. Patent No. 5,802,432 ("the '432 patent"); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 ("the '378 patent"); claims 1 and 2 of U.S. Patent No. 6,009,291 ("the '291 patent"); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 ("the '771 patent"); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 ("the '015 patent"); claims 1-3 and 28 of U.S. Patent No. 6,459,876 ("the '876 patent"); claim 1 of U.S. Patent No. 6,816,692 ("the '692 patent"); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 ("the '031 patent"); claims 1 and 6 of U.S. Patent No. 7,139,510 ("the '510 patent"); claims 11, 12 and 14 of U.S. Patent 7,233,760 ("the '760 patent");

and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Ninestar Image Int’l, Ltd. of No. 63 Mingzhubei Road, Zhuhai 519075, Guangdong, China.

(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.

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(G) The term “covered products” shall mean laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

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

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The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

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

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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 Respondent 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. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

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VI. Record-Keeping and Inspection

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(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, 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, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

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 their 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 date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 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 in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent 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.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. 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 general 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* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless 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 unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

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

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Nectron International, Inc. of 725 Park Two Drive, Sugarland, TX 77478 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No.

7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Nectron International, Inc. of 725 Park Two Drive, Sugarland, TX 77478.

(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 laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

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

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

(A) import or sell for importation into the United States covered products;

(B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;

(C) advertise imported covered products; or

(D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have 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 Respondent 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. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

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, 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 purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, 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, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

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 their 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 date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 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 in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent 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.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. 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 general 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* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless 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 unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

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

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Nano Pacific Corporation of 377 Swift Avenue, South San Francisco, CA 94080 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”);

and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Nano Pacific Corporation of 377 Swift Avenue, South San Francisco, CA 94080.

(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 laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

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

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

(A) import or sell for importation into the United States covered products;

(B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;

(C) advertise imported covered products; or

(D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have 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 Respondent 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. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

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, 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 purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, 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, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

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 their 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 date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 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 in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent 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.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. 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 general exclusion order issued by the Commission, and are not subject to this bond provision.

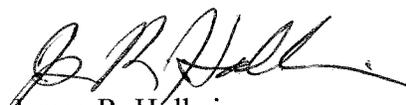
The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless 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 unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

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

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Laser Toner Technology, Inc. of 515 Wharton Circle SW, Atlanta, GA 30336 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No.

7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Laser Toner Technology, Inc. of 515 Wharton Circle SW, Atlanta, GA 30336.

(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 laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

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

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

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

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have 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 Respondent 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. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

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, 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 purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, 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, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

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 their 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 date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 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 in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent 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.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. 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 general 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* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless 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 unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

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

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Ink Technologies Printer Supplies, LLC (d/b/a Ink Technologies LLC) of 7600 McEwen Road, Dayton, OH 45459 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760

patent”); and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Ink Technologies Printer Supplies, LLC (d/b/a Ink Technologies LLC) of 7600 McEwen Road, Dayton, OH 45459.

(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 laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

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

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

(A) import or sell for importation into the United States covered products;

(B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;

(C) advertise imported covered products; or

(D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

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(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the 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 purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, 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, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

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 their 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.

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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.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. 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 general 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* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless 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 unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

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

By order of the Commission.


James R. Holbein
Secretary to the Commission

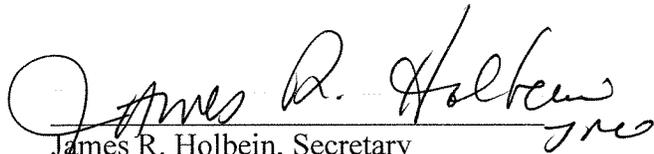
Issued: September 27, 2011

**CERTAIN TONER CARTRIDGES AND COMPONENTS
THEREOF**

337-TA-740

Certificate of Service

I, James R. Holbein, hereby certify that the attached **NOTICE OF COMMISSION'S FINAL DETERMINATION OF VIOLATION OF SECTION 337; TERMINATION OF INVESTIGATION; ISSUANCE OF GENERAL EXCLUSION ORDER AND CEASE AND DESIST ORDER** has been served by hand upon the Commission Investigative Attorney, Rett Snotherly, Esq., and the following parties as indicated, on **September 27, 2011**.


James R. Holbein, Secretary
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

On Behalf of Complainant Lexmark International, Inc.:

V. James Adduci, II, Esq.

ADDUCI, MASTRIANI & SCHAUMBERG LLP

1200 17th Street, NW, 5th Floor

Washington, DC 20036

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____