

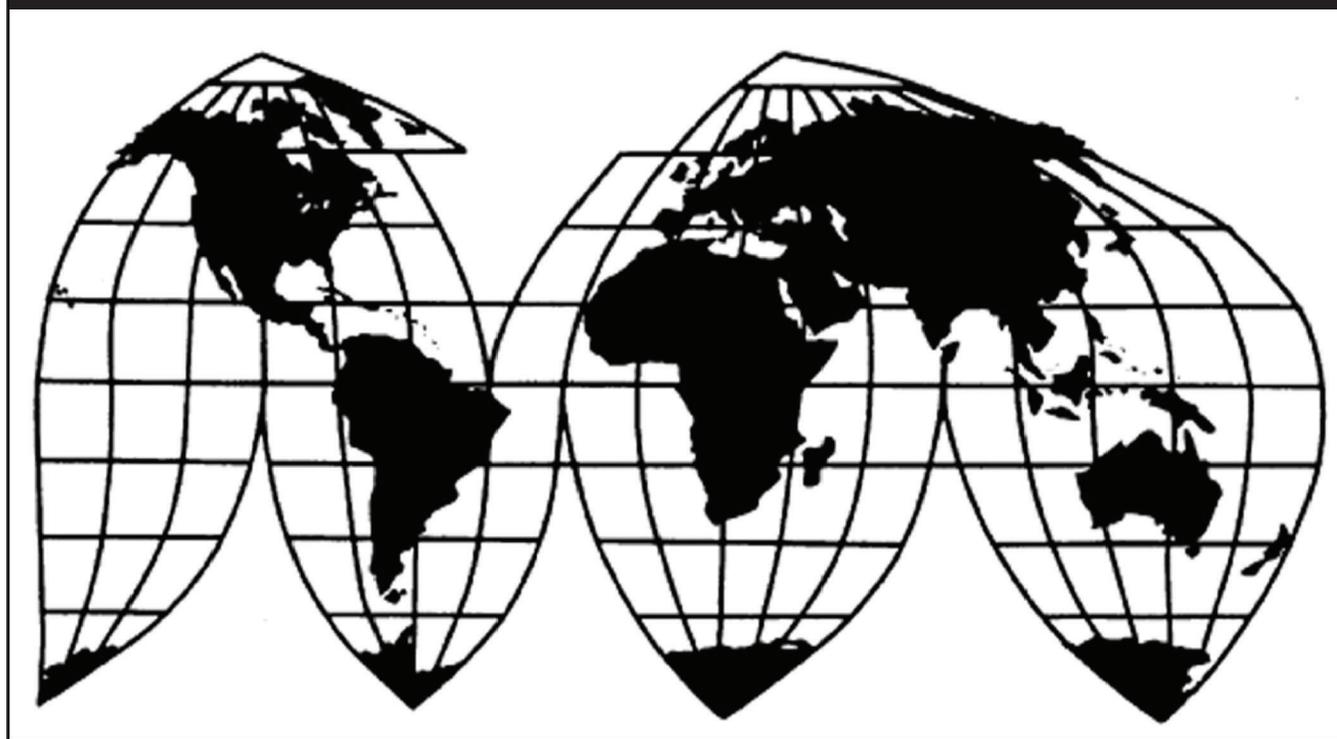
In the Matter of
**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

337-TA-918

Publication 4870

February 2019

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

COMMISSIONERS

Meredith Broadbent, Chairman
Dean Pinkert, Commissioner
Irving Williamson, Commissioner
David Johanson, Commissioner
Scott Kieff, Commissioner
Rhonda Schmidlein, Commissioner

**Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436**

U.S. International Trade Commission

Washington, DC 20436
www.usitc.gov

In the Matter of

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

337-TA-918



UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-918

**ISSUANCE OF A GENERAL EXCLUSION ORDER AND CEASE AND DESIST
ORDERS; TERMINATION OF INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to issue: (1) a general exclusion order barring entry of certain toner cartridges and components thereof that infringe certain patents asserted in this investigation; and (2) cease and desist orders directed against certain domestic defaulting respondents. The Commission has terminated this investigation.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3115. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("Section 337"), on June 12, 2014, based on a complaint filed by Canon Inc. of Japan; Canon U.S.A., Inc. of Melville, New York; and Canon Virginia, Inc. of Newport News, Virginia (collectively, "Canon"). 79 *Fed. Reg.* 33777-78 (Jun. 12, 2014). The complaint alleges a violation of section 337 by reason of infringement of certain claims of U.S. Patent Nos. 8,280,278 ("the '278 patent"); 8,630,564 ("the '564 patent"); 8,682,215 ("the '215 patent"); 8,676,090 ("the '090 patent"); 8,369,744 ("the '744 patent"); 8,565,640 ("the '640 patent"); 8,676,085 ("the '085 patent"); 8,135,304 ("the '304 patent"); and 8,688,008 ("the '008 patent"). *Id.* The notice of investigation named thirty-three companies as respondents. *Id.* The Commission's Office of Unfair Import Investigations was

also named as a party. Subsequently, the investigation was partially terminated based on withdrawal of the complaint as to all asserted claims of the following patents: (1) the '744 patent; (2) the '640 patent; (3) the '085 patent; and (4) the '304 patent.

During the investigation, the ALJ issued initial determinations (“IDs”) terminating the investigation based on consent orders as to fifteen respondents: Print-Rite Holdings Ltd.; Print-Rite N.A., Inc.; Union Technology Int’l (M.C.O.) Co. Ltd.; Print-Rite Unicorn Image Products Co. Ltd.; Innotex Precision Ltd.; Ninestar Image Tech Limited; Zhuhai Seine Technology Co., Ltd.; Ninestar Technology Company, Ltd.; Seine Tech (USA) Co., Ltd.; Nano Pacific Corporation; International Laser Group, Inc.; Ink Technologies Printer Supplies, LLC; LD Products, Inc.; Linkyo Corporation; and Katun Corporation. *See* ALJ Order Nos. 13 (*not reviewed* Nov. 4, 2014), 16 (*not reviewed* Nov. 24, 2014), 28 (*not reviewed* Apr. 3, 2015), 29 (*not reviewed* Apr. 3, 2015), 30 (*not reviewed* Apr. 3, 2015), 31 (*not reviewed* Apr. 3, 2015), and 32 (*not reviewed* Apr. 3, 2015). The ALJ also issued an ID terminating the investigation based on Canon’s withdrawal of allegations as to two respondents, Seine Image Int’l Co., Ltd. and Ninestar Image Tech, Ltd. *See* ALJ Order No. 4 (*not reviewed* Aug. 1, 2014). Likewise, the ALJ issued another ID terminating the investigation as to respondent Seine Image (USA) Co., Ltd. due to the corporate dissolution of the respondent. *See* ALJ Order No. 27 (*not reviewed* Apr. 1, 2015).

The ALJ also issued IDs finding the following ten respondents in default: Acecom, Inc. -San Antonio of San Antonio, Texas; ACM Technologies, Inc. of Corona, California; Shenzhen ASTA Official Consumable Co., Ltd. of Longgang District, Shenzhen, China; Do It Wiser LLC of Alpharetta, Georgia; Grand Image Inc. of City of Industry, California; Green Project, Inc. of Hacienda Heights, California; Nectron International, Inc. of Sugar Land, Texas; Online Tech Stores, LLC of Reno, Nevada; Printronic Corporation of Santa Ana, California; and Zinyaw LLC of Houston, Texas. *See* Order Nos. 6 (*not reviewed* Aug. 25, 2014), 12 (*not reviewed* Oct. 1, 2014), 15 (*not reviewed* Nov. 17, 2014).

The remaining five named respondents are Aster Graphics, Inc. of Placentia, California; Jiangxi Yibo E-Tech Co., Ltd. of Xinyu City, Jiangxi, China; Aster Graphics Co., Ltd. of Zhongshan, Guangdong, China; The Supplies Guys, LLC of Midland Park, New Jersey; and American Internet Holdings, LLC of Midland Park, New Jersey. Each of them has acknowledged and stipulated that it has failed to act within the meaning of Commission Rule 210.17, at least because it failed to file a prehearing statement and brief in accordance with the Procedural Schedule (Order No. 9), and that it therefore has no standing to contest Canon’s evidence and arguments that it has violated section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337. *See* Stipulation Regarding the Status of the Aster and Supplies Guys Respondents (Feb. 26, 2015).

On May 12, 2015, the ALJ issued an ID (Order No. 34) granting Canon's motion for summary determination of violation and recommending the issuance of a general exclusion order and several cease and desist orders. No party petitioned for review of the ID.

The Commission determined to affirm the ALJ's finding of a violation of section 337. The Commission also determined to review, and on review, to strike or modify certain portions of the ID. Furthermore, the Commission requested briefing on the issues of remedy, the public interest and bonding. *See 80 Fed. Reg. 37299-301* (Jun. 30, 2015). Canon and the Commission investigative attorney filed timely submissions pursuant to the Commission's Notice. No other parties filed any submissions in response to the Commission's Notice.

Having reviewed the submissions filed in response to the Commission's Notice and the evidentiary record, the Commission has determined that the appropriate form of relief in this investigation is a general exclusion order barring entry of certain toner cartridges and components thereof covered by one or more of claims 160, 165, and 166 of the '278 patent; claims 171, 176, 179, 181, 189, 192, and 200 of the '564 patent; claims 23, 26, 27, and 29 of the '215 patent; claims 1-4 of the '090 patent; and claims 1, 7-9, 11, 12, and 34 of the '008 patent. The Commission has also determined to issue cease and desist orders directed against Acecom, Inc.-San Antonio; Do It Wiser LLC; Grand Image Inc.; Green Project, Inc.; Nectron International, Inc.; Online Tech Stores, LLC; Printronic Corporation; and Zinyaw LLC. The Commission has further determined that the public interest factors enumerated in subsections (d)(1), (f)(1), and (g)(1) (19 U.S.C. §§ 1337(d)(1), (f)(1), (g)(1)) do not preclude issuance of the general exclusion order and cease and desist orders. Additionally, the Commission has determined that a bond in the amount of one hundred (100) percent of the entered value is required to permit temporary importation of the articles in question during the period of Presidential review (19 U.S.C. § 1337(j)). The Commission has also issued an opinion explaining the basis for the remedy. The investigation is terminated.

The Commission's orders and the record upon which it based its determination were delivered to the President and to the United States Trade Representative on the day of their issuance. The Commission has also notified the Secretary of the Treasury of the orders.

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

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: August 31, 2015

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served by hand upon the Commission Investigative Attorney, James F. Wiley, Esq., and the following parties as indicated, on **August 31, 2015**.



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

On Behalf of Complainants:

Edmund J. Haughey, Esq.
FITZPATRICK, CELLA, HARPER & SCINTO
975 F. Street, N.W.
Washington, D.C. 20004

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

**On Behalf of Respondents American Internet Holdings, LLC,
Aster Graphics Co.. Ltd.. Aster Graphics. Inc.,Jiangxi Yibo
E-tech Co.. Ltd.. and The Supply Guvs:**

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1899 L Street, NW, Suite 1150
Washington, DC 20036

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

On Behalf of Respondent ACM Technologies, Inc.:

Merritt R. Blakeslee, Esq.
THE BLAKESLEE LAW FIRM
1250 Connecticut Ave., NW, Suite 700
Washington, DC 20036

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

**On Behalf of Respondent Do it Wiser LLC d/b/a Image
Toner:**

Kenneth M. Motolenich-Salas, Esq.
GALLAGHER & KENNEDY, P.A.
2575 East Camelback Road
Phoenix, AZ 85016-9225

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

**CERTAIN TONER CARTRIDGES AND COMPONENTS
THEREOF**

Inv. No. 337-TA-918

Certificate of Service – Page 2

On Behalf of Respondent Nectron International, Inc.:

Mario G. Ceste, Esq.
LAW OFFICE OF MARIO G. CESTE LLC
4 South Main Street
Wallingford, CT 06492

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

Respondents:

Shenzhen ASTA Official Consumable Co., Ltd.
E Building, Huilongpu Industrial Area
Al'xin Road, Longgang District,
Shenzhen, China

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

Acecom, Inc. – San Antonio d/b/a InkSell.com
14034 Nacogdoches Road
San Antonio, Texas 78247
78247

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

Grand Image Inc. d/b/a Grand Image USA
d/b/a INK4S.com
19909 Harrison Avenue
City of Industry, California, 91789

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

Green Projects, Inc.
15335 Don Julian Road
Hacienda Heights, California
91745

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

Online Tech Stores, LLC d/b/a SuppliesOutlet.com
d/b/a SuppliesWholesalers.com d/b/a Online Tech Stores.com
500 Damonte Ranch Parkway, Suite 944
Reno, Nevada 89521

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

Printronic Corporation d/b/a Printronic.com d/b/a
InkSmile.com
1621 East Saint Andrew Place
Santa Ana, California 92705

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

**CERTAIN TONER CARTRIDGES AND COMPONENTS
THEREOF**

Inv. No. 337-TA-918

Certificate of Service – Page 3

Zinyaw LLC d/b/a TonerPirate.com
14781 Memorial Drive, Suite 1359
Houston, TX 77079

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

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-918

GENERAL EXCLUSION ORDER

The Commission has determined that there is a violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), in the unlawful importation and sale of certain toner cartridges and components thereof covered by one or more of claims 160, 165, and 166 of U.S. Patent No. 8,280,278 (“the ‘278 patent”); claims 171, 176, 179, 181, 189, 192, and 200 of U.S. Patent No. 8,630,564 (“the ‘564 patent”); claims 23, 26, 27, and 29 of U.S. Patent No. 8,682,215 (“the ‘215 patent”); claims 1-4 of U.S. Patent No. 8,676,090 (“the ‘090 patent”); and claims 1, 7-9, 11, 12, and 34 of U.S. Patent No. 8,688,008 (“the ‘008 patent”), asserted in this investigation.

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

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. § 1337(d) do not preclude the issuance of the general exclusion order, and that the

bond during the Presidential review period shall be in the amount of one hundred (100) percent of the entered value for all covered products in question.

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

1. Toner cartridges and components thereof that are covered by one or more of claims 160, 165, and 166 of the '278 patent, claims 171, 176, 179, 181, 189, 192, and 200 of the '564 patent, claims 23, 26, 27, and 29 of the '215 patent, claims 1-4 of the '090 patent, and claims 1, 7-9, 11, 12, and 34 of the '008 patent are excluded from entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, for the remaining terms of the patents, except under license of the patent owner or as provided by law.

2. Notwithstanding paragraph 1 of this Order, the aforesaid 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 one hundred (100) percent of the entered value of the products, pursuant to subsection (j) of Section 337 (19 U.S.C. § 1337(j)) and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (*70 Fed. Reg.* 43251), from the day after this Order is received by the United States Trade Representative until such time as the United States Trade Representative notifies the Commission that this Order is approved or disapproved but, in any event, not later than sixty days after the date of receipt of this Order.

3. At the discretion of U.S. Customs and Border Protection ("CBP") and pursuant to procedures that it establishes, persons seeking to import 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 imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.

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

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

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

By order of the Commission.



Lisa R. Barton
Office of the Secretary

Issued: August 31, 2015

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-918

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Do It Wiser LLC, d/b/a Image Toner of Alpharetta, Georgia, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, transferring (except for exportation), and soliciting U.S. agents or distributors for, toner cartridges and components thereof covered by one or more of claims 160, 165, and 166 of U.S. Patent No. 8,280,278 (“the ‘278 patent”); claims 171, 176, 179, 181, 189, 192, and 200 of U.S. Patent No. 8,630,564 (“the ‘564 patent”); claims 23, 26, 27, and 29 of U.S. Patent No. 8,682,215 (“the ‘215 patent”); claims 1-4 of U.S. Patent No. 8,676,090 (“the ‘090 patent”); and claims 1, 7-9, 11, 12, and 34 of U.S. Patent No. 8,688,008 (“the ‘008 patent”) (collectively, “the Asserted Patents”), in violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

**I.
Definitions**

As used in this order:

- (A) “Commission” shall mean the United States International Trade Commission.
- (B) “Complainants” shall mean Canon Inc. of Tokyo, Japan; Canon U.S.A., Inc. of Melville, New York; and Canon Virginia, Inc. of Newport News, Virginia.
- (C) “Respondent” shall mean Do It Wiser LLC, d/b/a Image Toner of Alpharetta, Georgia.

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

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

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

(G) The term "covered products" shall mean toner cartridges and components thereof covered by one or more of claims 160, 165, and 166 of the '278 patent, claims 171, 176, 179, 181, 189, 192, and 200 of the '564 patent, claims 23, 26, 27, and 29 of the '215 patent, claims 1-4 of the '090 patent, and claims 1, 7-9, 11, 12, and 34 of the '008 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 terms of the Asserted Patent, the Respondent shall not:

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

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

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the relevant Asserted Patent authorizes or licenses 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 requirement, the reporting periods shall commence on January 1 of each year and shall end on the subsequent December 31. The first report required under this section shall cover the period from the date of issuance of this order through December 31, 2015. This reporting requirement shall continue in force until such time as Respondent has truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission: (a) the quantity in units and the value in dollars of covered products that it has (i) imported and/or (ii) sold in the United States after importation during the reporting period,

and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period.

When filing written submissions, Respondent must file the original document electronically on or before the deadlines stated above and submit eight (8) true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-918") in a prominent place on the cover pages and/or the first page. (See Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000). If Respondent desires to submit a document to the Commission in confidence, it must file the original and a public version of the original with the Office of the Secretary and must serve a copy of the confidential version on Complainants' 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, offer for sale, marketing, or distribution in the United States of covered products, made or received in the usual and ordinary course of business,

¹ Complainants must file a letter with the Secretary identifying the attorney to receive reports and bond information associated with this Order. The designated attorney must have signed on to the protective order entered in the investigation.

whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

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

VII. Service of Cease and Desist Order

Respondent is ordered and directed to:

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

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

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

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the last expiration date of the Asserted Patents.

VIII.
Confidentiality

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

IX.
Enforcement

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

X.
Modification

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

XI.
Bonding

The conduct prohibited by section III of this Order may be continued during the sixty-day period in which this Order is under review by the United States Trade Representative, as delegated by the President (70 *Fed. Reg.* 43251 (Jul. 21, 2005)), subject to Respondent posting a

bond in the amount of one hundred percent (100%) of the entered value of each covered product. 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* 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) Respondent must serve a copy of the bond and any accompanying documentation on Complainant's counsel.²

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 or destroys the products subject to this bond 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

²See Footnote 1.

order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.

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

Lisa R. Barton
Secretary to the Commission

Issued: August 31, 2015

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-918

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Grand Image Inc., d/b/a Grand Image USA, d/b/a INK4S.com of City of Industry, California, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, transferring (except for exportation), and soliciting U.S. agents or distributors for, toner cartridges and components thereof covered by one or more of claims 160, 165, and 166 of U.S. Patent No. 8,280,278 (“the ‘278 patent”); claims 171, 176, 179, 181, 189,192, and 200 of U.S. Patent No. 8,630,564 (“the ‘564 patent”); claims 23, 26, 27, and 29 of U.S. Patent No. 8,682,215 (“the ‘215 patent”); claims 1-4 of U.S. Patent No. 8,676,090 (“the ‘090 patent”); and claims 1, 7-9, 11, 12, and 34 of U.S. Patent No. 8,688,008 (“the ‘008 patent”) (collectively, “the Asserted Patents”), in violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

**I.
Definitions**

As used in this order:

- (A) “Commission” shall mean the United States International Trade Commission.
- (B) “Complainants” shall mean Canon Inc. of Tokyo, Japan; Canon U.S.A., Inc. of

Melville, New York; and Canon Virginia, Inc. of Newport News, Virginia.

- (C) “Respondent” shall mean Grand Image Inc., d/b/a Grand Image USA, d/b/a INK4S.com of City of Industry, California.

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

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

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

(G) The term “covered products” shall mean toner cartridges and components thereof covered by one or more of claims 160, 165, and 166 of the ‘278 patent, claims 171, 176, 179, 181, 189, 192, and 200 of the ‘564 patent, claims 23, 26, 27, and 29 of the ‘215 patent, claims 1-4 of the ‘090 patent, and claims 1, 7-9, 11, 12, and 34 of the ‘008 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 terms of the Asserted Patent, the Respondent shall not:

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

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

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the relevant Asserted Patent authorizes or licenses 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 requirement, the reporting periods shall commence on January 1 of each year and shall end on the subsequent December 31. The first report required under this section shall cover the period from the date of issuance of this order through December 31, 2015. This reporting requirement shall continue in force until such time as Respondent has truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission: (a) the quantity in units and the value in dollars of covered products that it has (i) imported and/or (ii) sold in the United States after importation during the reporting period,

and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period.

When filing written submissions, Respondent must file the original document electronically on or before the deadlines stated above and submit eight (8) true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-918") in a prominent place on the cover pages and/or the first page. (See Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000). If Respondent desires to submit a document to the Commission in confidence, it must file the original and a public version of the original with the Office of the Secretary and must serve a copy of the confidential version on Complainants' 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, offer for sale, marketing, or distribution in the United States of covered products, made or received in the usual and ordinary course of business,

¹ Complainants must file a letter with the Secretary identifying the attorney to receive reports and bond information associated with this Order. The designated attorney must have signed on to the protective order entered in the investigation.

whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

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

VII. Service of Cease and Desist Order

Respondent is ordered and directed to:

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

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

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

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the last expiration date of the Asserted Patents.

VIII.
Confidentiality

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

IX.
Enforcement

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

X.
Modification

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

XI.
Bonding

The conduct prohibited by section III of this Order may be continued during the sixty-day period in which this Order is under review by the United States Trade Representative, as delegated by the President (70 *Fed. Reg.* 43251 (Jul. 21, 2005)), subject to Respondent posting a

bond in the amount of one hundred percent (100%) of the entered value of each covered product. 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* 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) Respondent must serve a copy of the bond and any accompanying documentation on Complainant's counsel.²

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 or destroys the products subject to this bond 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

² *See* Footnote 1.

order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.

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

Lisa R. Barton
Office of the Secretary

Issued: August 31, 2015

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-918

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Green Project, Inc. of Hacienda Heights, California, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, transferring (except for exportation), and soliciting U.S. agents or distributors for, toner cartridges and components thereof covered by one or more of claims 160, 165, and 166 of U.S. Patent No. 8,280,278 (“the ‘278 patent”); claims 171, 176, 179, 181, 189, 192, and 200 of U.S. Patent No. 8,630,564 (“the ‘564 patent”); claims 23, 26, 27, and 29 of U.S. Patent No. 8,682,215 (“the ‘215 patent”); claims 1-4 of U.S. Patent No. 8,676,090 (“the ‘090 patent”); and claims 1, 7-9, 11, 12, and 34 of U.S. Patent No. 8,688,008 (“the ‘008 patent”) (collectively, “the Asserted Patents”), in violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

**I.
Definitions**

As used in this order:

- (A) “Commission” shall mean the United States International Trade Commission.
- (B) “Complainants” shall mean Canon Inc. of Tokyo, Japan; Canon U.S.A., Inc. of Melville, New York; and Canon Virginia, Inc. of Newport News, Virginia.
- (C) “Respondent” shall mean Green Project, Inc. of Hacienda Heights, California.

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

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

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

(G) The term “covered products” shall mean toner cartridges and components thereof covered by one or more of claims 160, 165, and 166 of the ‘278 patent, claims 171, 176, 179, 181, 189, 192, and 200 of the ‘564 patent, claims 23, 26, 27, and 29 of the ‘215 patent, claims 1-4 of the ‘090 patent, and claims 1, 7-9, 11, 12, and 34 of the ‘008 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 terms of the Asserted Patent, the Respondent shall not:

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

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

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the relevant Asserted Patent authorizes or licenses 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 requirement, the reporting periods shall commence on January 1 of each year and shall end on the subsequent December 31. The first report required under this section shall cover the period from the date of issuance of this order through December 31, 2015. This reporting requirement shall continue in force until such time as Respondent has truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission: (a) the quantity in units and the value in dollars of covered products that it has (i) imported and/or (ii) sold in the United States after importation during the reporting period,

and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period.

When filing written submissions, Respondent must file the original document electronically on or before the deadlines stated above and submit eight (8) true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-918") in a prominent place on the cover pages and/or the first page. (*See Handbook for Electronic Filing Procedures*, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000). If Respondent desires to submit a document to the Commission in confidence, it must file the original and a public version of the original with the Office of the Secretary and must serve a copy of the confidential version on Complainants' 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, offer for sale, marketing, or distribution in the United States of covered products, made or received in the usual and ordinary course of business,

¹ Complainants must file a letter with the Secretary identifying the attorney to receive reports and bond information associated with this Order. The designated attorney must have signed on to the protective order entered in the investigation.

whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

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

VII. Service of Cease and Desist Order

Respondent is ordered and directed to:

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

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

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

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the last expiration date of the Asserted Patents.

VIII.
Confidentiality

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

IX.
Enforcement

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

X.
Modification

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

XI.
Bonding

The conduct prohibited by section III of this Order may be continued during the sixty-day period in which this Order is under review by the United States Trade Representative, as delegated by the President (70 *Fed. Reg.* 43251 (Jul. 21, 2005)), subject to Respondent posting a

bond in the amount of one hundred percent (100%) of the entered value of each covered product. 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* 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) Respondent must serve a copy of the bond and any accompanying documentation on Complainant's counsel.²

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 or destroys the products subject to this bond 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

² *See* Footnote 1.

order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', written in a cursive style.

Lisa R. Barton
Office of the Secretary

Issued: August 31, 2015

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-918

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Nectron International, Inc. of Sugar Land, Texas, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, transferring (except for exportation), and soliciting U.S. agents or distributors for, toner cartridges and components thereof covered by one or more of claims 160, 165, and 166 of U.S. Patent No. 8,280,278 (“the ‘278 patent”); claims 171, 176, 179, 181, 189,192, and 200 of U.S. Patent No. 8,630,564 (“the ‘564 patent”); claims 23, 26, 27, and 29 of U.S. Patent No. 8,682,215 (“the ‘215 patent”); claims 1-4 of U.S. Patent No. 8,676,090 (“the ‘090 patent”); and claims 1, 7-9, 11, 12, and 34 of U.S. Patent No. 8,688,008 (“the ‘008 patent”) (collectively, “the Asserted Patents”), in violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

**I.
Definitions**

As used in this order:

- (A) “Commission” shall mean the United States International Trade Commission.
- (B) “Complainants” shall mean Canon Inc. of Tokyo, Japan; Canon U.S.A., Inc. of Melville, New York; and Canon Virginia, Inc. of Newport News, Virginia.
- (C) “Respondent” shall mean Nectron International, Inc. of Sugar Land, Texas.

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

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

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

(G) The term "covered products" shall mean toner cartridges and components thereof covered by one or more of claims 160, 165, and 166 of the '278 patent, claims 171, 176, 179, 181, 189, 192, and 200 of the '564 patent, claims 23, 26, 27, and 29 of the '215 patent, claims 1-4 of the '090 patent, and claims 1, 7-9, 11, 12, and 34 of the '008 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 terms of the Asserted Patent, the Respondent shall not:

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

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

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the relevant Asserted Patent authorizes or licenses 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 requirement, the reporting periods shall commence on January 1 of each year and shall end on the subsequent December 31. The first report required under this section shall cover the period from the date of issuance of this order through December 31, 2015. This reporting requirement shall continue in force until such time as Respondent has truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission: (a) the quantity in units and the value in dollars of covered products that it has (i) imported and/or (ii) sold in the United States after importation during the reporting period,

and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period.

When filing written submissions, Respondent must file the original document electronically on or before the deadlines stated above and submit eight (8) true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-918") in a prominent place on the cover pages and/or the first page. (*See Handbook for Electronic Filing Procedures*, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000). If Respondent desires to submit a document to the Commission in confidence, it must file the original and a public version of the original with the Office of the Secretary and must serve a copy of the confidential version on Complainants' 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, offer for sale, marketing, or distribution in the United States of covered products, made or received in the usual and ordinary course of business,

¹ Complainants must file a letter with the Secretary identifying the attorney to receive reports and bond information associated with this Order. The designated attorney have signed on to the protective order entered in the investigation.

whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

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

VII.

Service of Cease and Desist Order

Respondent is ordered and directed to:

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

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

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

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the last expiration date of the Asserted Patents.

VIII.
Confidentiality

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

IX.
Enforcement

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

X.
Modification

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

XI.
Bonding

The conduct prohibited by section III of this Order may be continued during the sixty-day period in which this Order is under review by the United States Trade Representative, as delegated by the President (70 *Fed. Reg.* 43251 (Jul. 21, 2005)), subject to Respondent posting a

bond in the amount of one hundred percent (100%) of the entered value of each covered product. 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* 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) Respondent must serve a copy of the bond and any accompanying documentation on Complainant's counsel.²

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 or destroys the products subject to this bond 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

²See Footnote 1.

order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.

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

Lisa R. Barton
Secretary to the Commission

Issued: August 31, 2015

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-918

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Online Tech Stores, LLC, d/b/a SuppliesOutlet.com, d/b/a SuppliesWholesalers.com, d/b/a OnlineTechStores.com of Reno, Nevada, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, transferring (except for exportation), and soliciting U.S. agents or distributors for, toner cartridges and components thereof covered by one or more of claims 160, 165, and 166 of U.S. Patent No. 8,280,278 (“the ‘278 patent”); claims 171, 176, 179, 181, 189,192, and 200 of U.S. Patent No. 8,630,564 (“the ‘564 patent”); claims 23, 26, 27, and 29 of U.S. Patent No. 8,682,215 (“the ‘215 patent”); claims 1-4 of U.S. Patent No. 8,676,090 (“the ‘090 patent”); and claims 1, 7-9, 11, 12, and 34 of U.S. Patent No. 8,688,008 (“the ‘008 patent”) (collectively, “the Asserted Patents”), in violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

**I.
Definitions**

As used in this order:

- (A) “Commission” shall mean the United States International Trade Commission.
- (B) “Complainants” shall mean Canon Inc. of Tokyo, Japan; Canon U.S.A., Inc. of

Melville, New York; and Canon Virginia, Inc. of Newport News, Virginia.

- (C) “Respondent” shall mean Online Tech Stores, LLC, d/b/a SuppliesOutlet.com, d/b/a SuppliesWholesalers.com, d/b/a OnlineTechStores.com of Reno, Nevada.

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

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

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

(G) The term "covered products" shall mean toner cartridges and components thereof covered by one or more of claims 160, 165, and 166 of the '278 patent, claims 171, 176, 179, 181, 189, 192, and 200 of the '564 patent, claims 23, 26, 27, and 29 of the '215 patent, claims 1-4 of the '090 patent, and claims 1, 7-9, 11, 12, and 34 of the '008 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 terms of the Asserted Patent, the Respondent shall not:

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

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

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the relevant Asserted Patent authorizes or licenses 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 requirement, the reporting periods shall commence on January 1 of each year and shall end on the subsequent December 31. The first report required under this section shall cover the period from the date of issuance of this order through December 31, 2015. This reporting requirement shall continue in force until such time as Respondent has truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission: (a) the quantity in units and the value in dollars of covered products that it has (i) imported and/or (ii) sold in the United States after importation during the reporting period,

and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period.

When filing written submissions, Respondent must file the original document electronically on or before the deadlines stated above and submit eight (8) true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-918") in a prominent place on the cover pages and/or the first page. (See Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000). If Respondent desires to submit a document to the Commission in confidence, it must file the original and a public version of the original with the Office of the Secretary and must serve a copy of the confidential version on Complainants' 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, offer for sale, marketing, or distribution in the United States of covered products, made or received in the usual and ordinary course of business,

¹ Complainants must file a letter with the Secretary identifying the attorney to receive reports and bond information associated with this Order. The designated attorney must have signed on to the protective order entered in the investigation.

whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

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

VII. Service of Cease and Desist Order

Respondent is ordered and directed to:

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

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

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

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the last expiration date of the Asserted Patents.

VIII.
Confidentiality

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

IX.
Enforcement

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

X.
Modification

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

XI.
Bonding

The conduct prohibited by section III of this Order may be continued during the sixty-day period in which this Order is under review by the United States Trade Representative, as delegated by the President (70 *Fed. Reg.* 43251 (Jul. 21, 2005)), subject to Respondent posting a

bond in the amount of one hundred percent (100%) of the entered value of each covered product. 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* 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) Respondent must serve a copy of the bond and any accompanying documentation on Complainant's counsel.²

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 or destroys the products subject to this bond 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

² *See* Footnote 1.

order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', written in a cursive style.

Lisa R. Barton
Secretary to the Commission

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-918

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Printronic Corporation, d/b/a Printronic.com, d/b/a InkSmile.com of Santa Ana, California, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, transferring (except for exportation), and soliciting U.S. agents or distributors for, toner cartridges and components thereof covered by one or more of claims 160, 165, and 166 of U.S. Patent No. 8,280,278 (“the ‘278 patent”); claims 171, 176, 179, 181, 189,192, and 200 of U.S. Patent No. 8,630,564 (“the ‘564 patent”); claims 23, 26, 27, and 29 of U.S. Patent No. 8,682,215 (“the ‘215 patent”); claims 1-4 of U.S. Patent No. 8,676,090 (“the ‘090 patent”); and claims 1, 7-9, 11, 12, and 34 of U.S. Patent No. 8,688,008 (“the ‘008 patent”) (collectively, “the Asserted Patents”), in violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

**I.
Definitions**

As used in this order:

- (A) “Commission” shall mean the United States International Trade Commission.
- (B) “Complainants” shall mean Canon Inc. of Tokyo, Japan; Canon U.S.A., Inc. of

Melville, New York; and Canon Virginia, Inc. of Newport News, Virginia.

- (C) “Respondent” shall mean Printronic Corporation, d/b/a Printronic.com, d/b/a InkSmile.com of Santa Ana, California.

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

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

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

(G) The term "covered products" shall mean toner cartridges and components thereof covered by one or more of claims 160, 165, and 166 of the '278 patent, claims 171, 176, 179, 181, 189, 192, and 200 of the '564 patent, claims 23, 26, 27, and 29 of the '215 patent, claims 1-4 of the '090 patent, and claims 1, 7-9, 11, 12, and 34 of the '008 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 terms of the Asserted Patent, the Respondent shall not:

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

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

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the relevant Asserted Patent authorizes or licenses 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 requirement, the reporting periods shall commence on January 1 of each year and shall end on the subsequent December 31. The first report required under this section shall cover the period from the date of issuance of this order through December 31, 2015. This reporting requirement shall continue in force until such time as Respondent has truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission: (a) the quantity in units and the value in dollars of covered products that it has (i) imported and/or (ii) sold in the United States after importation during the reporting period,

and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period.

When filing written submissions, Respondent must file the original document electronically on or before the deadlines stated above and submit eight (8) true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-918") in a prominent place on the cover pages and/or the first page. (*See Handbook for Electronic Filing Procedures*, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000). If Respondent desires to submit a document to the Commission in confidence, it must file the original and a public version of the original with the Office of the Secretary and must serve a copy of the confidential version on Complainants' 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, offer for sale, marketing, or distribution in the United States of covered products, made or received in the usual and ordinary course of business,

¹ Complainants must file a letter with the Secretary identifying the attorney to receive reports and bond information associated with this Order. The designated attorney must have signed on to the protective order entered in the investigation.

whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

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

VII. Service of Cease and Desist Order

Respondent is ordered and directed to:

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

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

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

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the last expiration date of the Asserted Patents.

VIII.
Confidentiality

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

IX.
Enforcement

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

X.
Modification

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

XI.
Bonding

The conduct prohibited by section III of this Order may be continued during the sixty-day period in which this Order is under review by the United States Trade Representative, as delegated by the President (70 *Fed. Reg.* 43251 (Jul. 21, 2005)), subject to Respondent posting a

bond in the amount of one hundred percent (100%) of the entered value of each covered product. 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 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) Respondent must serve a copy of the bond and any accompanying documentation on Complainant's counsel.²

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 or destroys the products subject to this bond 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

² See Footnote 1.

order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', written in a cursive style.

Lisa R. Barton
Secretary to the Commission

Issued: August 31, 2015

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-918

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Zinyaw LLC, d/b/a TonerPirate.com of Houston, Texas, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, transferring (except for exportation), and soliciting U.S. agents or distributors for, toner cartridges and components thereof covered by one or more of claims 160, 165, and 166 of U.S. Patent No. 8,280,278 (“the ‘278 patent”); claims 171, 176, 179, 181, 189,192, and 200 of U.S. Patent No. 8,630,564 (“the ‘564 patent”); claims 23, 26, 27, and 29 of U.S. Patent No. 8,682,215 (“the ‘215 patent”); claims 1-4 of U.S. Patent No. 8,676,090 (“the ‘090 patent”); and claims 1, 7-9, 11, 12, and 34 of U.S. Patent No. 8,688,008 (“the ‘008 patent”) (collectively, “the Asserted Patents”), in violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

**I.
Definitions**

As used in this order:

- (A) “Commission” shall mean the United States International Trade Commission.
- (B) “Complainants” shall mean Canon Inc. of Tokyo, Japan; Canon U.S.A., Inc. of Melville, New York; and Canon Virginia, Inc. of Newport News, Virginia.
- (C) “Respondent” shall mean Zinyaw LLC, d/b/a TonerPirate.com of Houston, Texas.

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

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

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

(G) The term "covered products" shall mean toner cartridges and components thereof covered by one or more of claims 160, 165, and 166 of the '278 patent, claims 171, 176, 179, 181, 189, 192, and 200 of the '564 patent, claims 23, 26, 27, and 29 of the '215 patent, claims 1-4 of the '090 patent, and claims 1, 7-9, 11, 12, and 34 of the '008 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 terms of the Asserted Patent, the Respondent shall not:

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

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

(C) advertise imported covered products;

(D) solicit U.S. agents or distributors for imported covered products; or

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

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the relevant Asserted Patent authorizes or licenses 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 requirement, the reporting periods shall commence on January 1 of each year and shall end on the subsequent December 31. The first report required under this section shall cover the period from the date of issuance of this order through December 31, 2015. This reporting requirement shall continue in force until such time as Respondent has truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission: (a) the quantity in units and the value in dollars of covered products that it has (i) imported and/or (ii) sold in the United States after importation during the reporting period,

and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period.

When filing written submissions, Respondent must file the original document electronically on or before the deadlines stated above and submit eight (8) true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-918") in a prominent place on the cover pages and/or the first page. (See Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000). If Respondent desires to submit a document to the Commission in confidence, it must file the original and a public version of the original with the Office of the Secretary and must serve a copy of the confidential version on Complainants' 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, offer for sale, marketing, or distribution in the United States of covered products, made or received in the usual and ordinary course of business,

¹ Complainants must file a letter with the Secretary identifying the attorney to receive reports and bond information associated with this Order. The designated attorney must have signed on to the protective order entered in the investigation.

whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

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

VII. Service of Cease and Desist Order

Respondent is ordered and directed to:

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

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

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

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the last expiration date of the Asserted Patents.

VIII.
Confidentiality

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

IX.
Enforcement

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

X.
Modification

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

XI.
Bonding

The conduct prohibited by section III of this Order may be continued during the sixty-day period in which this Order is under review by the United States Trade Representative, as delegated by the President (70 *Fed. Reg.* 43251 (Jul. 21, 2005)), subject to Respondent posting a

bond in the amount of one hundred percent (100%) of the entered value of each covered product. 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 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) Respondent must serve a copy of the bond and any accompanying documentation on Complainant's counsel.²

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 or destroys the products subject to this bond 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

² See Footnote 1.

order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.

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

Lisa R. Barton
Secretary to the Commission

Issued: August 31, 2015

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-918

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Acecom, Inc.-San Antonio, d/b/a InkSell.com of San Antonio, Texas, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, transferring (except for exportation), and soliciting U.S. agents or distributors for, toner cartridges and components thereof covered by one or more of claims 160, 165, and 166 of U.S. Patent No. 8,280,278 (“the ‘278 patent”); claims 171, 176, 179, 181, 189, 192, and 200 of U.S. Patent No. 8,630,564 (“the ‘564 patent”); claims 23, 26, 27, and 29 of U.S. Patent No. 8,682,215 (“the ‘215 patent”); claims 1-4 of U.S. Patent No. 8,676,090 (“the ‘090 patent”); and claims 1, 7-9, 11, 12, and 34 of U.S. Patent No. 8,688,008 (“the ‘008 patent”) (collectively, “the Asserted Patents”), in violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

**I.
Definitions**

As used in this order:

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

(B) “Complainants” shall mean Canon Inc. of Tokyo, Japan; Canon U.S.A., Inc. of Melville, New York; and Canon Virginia, Inc. of Newport News, Virginia.

(C) “Respondent” shall mean Acecom, Inc.-San Antonio, d/b/a InkSell.com of San Antonio, Texas.

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

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

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

(G) The term "covered products" shall mean toner cartridges and components thereof covered by one or more of claims 160, 165, and 166 of the '278 patent, claims 171, 176, 179, 181, 189, 192, and 200 of the '564 patent, claims 23, 26, 27, and 29 of the '215 patent, claims 1-4 of the '090 patent, and claims 1, 7-9, 11, 12, and 34 of the '008 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 terms of the Asserted Patent, the Respondent shall not:

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

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

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the relevant Asserted Patent authorizes or licenses 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 requirement, the reporting periods shall commence on January 1 of each year and shall end on the subsequent December 31. The first report required under this section shall cover the period from the date of issuance of this order through December 31, 2015. This reporting requirement shall continue in force until such time as Respondent has truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission: (a) the quantity in units and the value in dollars of covered products that it has (i) imported and/or (ii) sold in the United States after importation during the reporting period,

and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period.

When filing written submissions, Respondent must file the original document electronically on or before the deadlines stated above and submit eight (8) true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-918") in a prominent place on the cover pages and/or the first page. (See Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000). If Respondent desires to submit a document to the Commission in confidence, it must file the original and a public version of the original with the Office of the Secretary and must serve a copy of the confidential version on Complainants' 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, offer for sale, marketing, or distribution in the United States of covered products, made or received in the usual and ordinary course of business,

¹ Complainants must file a letter with the Secretary identifying the attorney to receive reports and bond information associated with this Order. The designated attorney must have signed on to the protective order entered in the investigation.

whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

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

VII. Service of Cease and Desist Order

Respondent is ordered and directed to:

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

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

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

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the last expiration date of the Asserted Patents.

VIII.
Confidentiality

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

IX.
Enforcement

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

X.
Modification

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

XI.
Bonding

The conduct prohibited by section III of this Order may be continued during the sixty-day period in which this Order is under review by the United States Trade Representative, as delegated by the President (70 *Fed. Reg.* 43251 (Jul. 21, 2005)), subject to Respondent posting a

bond in the amount of one hundred percent (100%) of the entered value of each covered product. 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* 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) Respondent must serve a copy of the bond and any accompanying documentation on Complainant's counsel.²

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 or destroys the products subject to this bond 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

² *See* Footnote 1.

order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', written in a cursive style.

Lisa R. Barton
Secretary to the Commission

Issued: August 31, 2015

PUBLIC VERSION

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

In the Matter of

**CERTAIN TONER CARTRIDGES, AND
COMPONENTS THEREOF**

Investigation No. 337-TA-918

COMMISSION OPINION

I. INTRODUCTION

The Commission instituted this investigation on June 12, 2014, based on a complaint filed by Canon Inc. of Tokyo, Japan; Canon U.S.A., Inc. of Melville, New York; and Canon Virginia, Inc. of Newport News, Virginia (collectively, “Canon,” “Complainant,” or “Complainants”), alleging a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain toner cartridges and components thereof by reason of infringement of one or more of claims 160, 165, and 166 of U.S. Patent No. 8,280,278 (“the ‘278 patent”); claims 171, 176, 179, 181, 189, 192, and 200 of U.S. Patent No. 8,630,564 (“the ‘564 patent”); claims 23, 26, 27, and 29 of U.S. Patent No. 8,682,215 (“the ‘215 patent”); claims 1-4 of U.S. Patent No. 8,676,090 (“the ‘090 patent”); claim 1 of U.S. Patent No. 8,369,744 (“the ‘744 patent”); claim 1 of U.S. Patent No. 8,565,640 (“the ‘640 patent”); claims 1-4 of U.S. Patent No. 8,676,085 (“the ‘085 patent”); claim 1 of U.S. Patent No. 8,135,304 (“the ‘304 patent”); and claims 1, 7-9, 11, 12, and 34 of U.S. Patent No. 8,688,008 (“the ‘008 patent”). 79 *Fed. Reg.* 33777 (Jun. 12, 2014). Canon subsequently withdrew the ‘744, ‘640, ‘085, and ‘304 patents, and the presiding administrative law judge (“ALJ”) partially terminated this investigation as to these four patents. *See* ALJ Order No. 11 (Aug. 14, 2014) (*not reviewed*

PUBLIC VERSION

September 11, 2014). The remaining patents at issue are, therefore, the '278, '564, '215, '090, and '008 patents (the "Asserted Patents" with respective "Asserted Claims").

The notice of investigation named thirty-three companies as respondents. *Id.* A Commission investigative attorney ("IA") also participated in this investigation. *Id.* During the investigation, the ALJ issued initial determinations ("IDs") terminating the investigation based on consent orders as to fifteen respondents: Print-Rite Holdings Ltd.; Print-Rite N.A., Inc.; Union Technology Int'l (M.C.O.) Co. Ltd.; Print-Rite Unicorn Image Products Co. Ltd.; and Innotex Precision Ltd. (collectively, the "Print-Rite Respondents"); Ninestar Image Tech Limited; Zhuhai Seine Technology Co., Ltd.; Ninestar Technology Company, Ltd.; Seine Tech (USA) Co., Ltd.; and Nano Pacific Corporation (collectively, the "Ninestar Respondents"); International Laser Group, Inc. ("ILG"); Ink Technologies Printer Supplies, LLC; LD Products, Inc.; Linkyo Corporation; and Katun Corporation.¹ The ALJ also issued an ID terminating the investigation based on Canon's withdrawal of allegations as to two respondents, Seine Image Int'l Co., Ltd. and Ninestar Image Tech, Ltd. *See* ALJ Order No. 4 (July 9, 2014) (*not reviewed* Aug. 1, 2014). Likewise, the ALJ issued an ID terminating the investigation as to respondent Seine Image (USA) Co., Ltd. due to the corporate dissolution of the respondent. *See* ALJ Order No. 27 (Mar. 3, 2015) (*not reviewed* Apr. 1, 2015). These eighteen respondents are collectively referred to as the "Terminated Respondents."

The ALJ also issued IDs finding the following ten respondents in default pursuant to

¹*See* ALJ Order Nos. 13 (Oct. 9, 2014) (*not reviewed* Nov. 4, 2014), 16 (Nov. 3, 2014) (*not reviewed* Nov. 24, 2014), 28 (Mar. 3, 2015) (*not reviewed* Apr. 3, 2015), 29 (Mar. 4, 2015) (*not reviewed* Apr. 3, 2015), 30 (Mar. 4, 2015) (*not reviewed* Apr. 3, 2015), 31 (Mar. 4, 2015) (*not reviewed* Apr. 3, 2015), and 32 (Mar. 4, 2015) (*not reviewed* Apr. 3, 2015).

PUBLIC VERSION

Commission rule 210.16, 19 C.F.R. § 210.16: Acecom, Inc.-San Antonio of San Antonio, Texas; ACM Technologies, Inc. of Corona, California (“ACM”); Shenzhen ASTA Official Consumable Co., Ltd. of Longgang District, Shenzhen, China; Do It Wiser LLC of Alpharetta, Georgia; Grand Image Inc. of City of Industry, California; Green Project, Inc. of Hacienda Heights, California; Nectron International, Inc. of Sugar Land, Texas; Online Tech Stores, LLC of Reno, Nevada; Printronic Corporation of Santa Ana, California; and Zinyaw LLC of Houston, Texas.² See Order Nos. 6 (July 29, 2014) (*not reviewed* Aug. 25, 2014), 12 (Sept. 5, 2014) (*not reviewed* Oct. 1, 2014), 15 (Oct. 28, 2014) (*not reviewed* Nov. 17, 2014). These ten respondents are collectively referred to as the “Defaulting Respondents.”

Finally, the remaining five named respondents, *i.e.*, Aster Graphics, Inc. of Placentia, California; Jiangxi Yibo E-Tech Co., Ltd. of Xinyu City, Jiangxi, China; Aster Graphics Co., Ltd. of Zhongshan, Guangdong, China; The Supplies Guys, LLC of Midland Park, New Jersey; and American Internet Holdings, LLC of Midland Park, New Jersey, responded to the complaint and notice of investigation but ceased actively participating in the investigation. Each of them has acknowledged and stipulated that it has failed to act within the meaning of Commission Rule 210.17, 19 C.F.R. § 210.17,³ at least because it failed to file a prehearing statement and brief in

² Commission Rule 210.16 provides that a party shall be found in default if it fails to respond to the complaint and notice of investigation in the manner prescribed by applicable Commission rules, or otherwise fails to answer the complaint and notice, and fails to show cause why it should not be found in default. See 19 C.F.R. § 210.16.

³ Commission Rule 210.17 provides that “[f]ailures to act other than the defaults listed in § 210.16 may provide a basis for the presiding administrative law judge or the Commission to draw adverse inferences and to issue findings of fact, conclusions of law, determinations (including a determination on violation of section 337 of the Tariff Act of 1930), and orders that are adverse to the party who fails to act.” 19 C.F.R. § 210.17.

PUBLIC VERSION

accordance with the Procedural Schedule (Order No. 9), and that it therefore has no standing to contest Canon's evidence and arguments that it has violated section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337. *See* Stipulation Regarding the Status of the Aster and Supplies Guys Respondents (Feb. 26, 2015). These five respondents are collectively referred to as the "Non-Participating Respondents."

On March 10, 2015, Canon filed a motion pursuant to Commission Rule 210.18 (19 C.F.R. § 210.18) for summary determination of violation of Section 337 and requested issuance of a general exclusion order ("GEO"). Canon also requested issuance of cease and desist orders ("CDOs") against certain Defaulting Respondents. On May 12, 2015, the ALJ issued an ID (ALJ Order No. 34) granting Canon's motion for summary determination of violations by the Defaulting Respondents and Non-Participating Respondents. On June 24, 2015, the Commission issued a Notice determining to review the ID in part and, on review, to modify certain portions of the ID. *See* 80 *Fed. Reg.* 37299-301 (Jun. 30, 2015). The modifications did not disturb the ALJ's finding of violation as to the Defaulting and Non-Participating Respondents. The Commission also requested written submissions on remedy, public interest, and bonding. *Id.* Canon and the IA timely filed their submissions pursuant to the Commission Notice. No other parties filed any submissions in response to the Commission Notice.

II. REMEDY

In a Section 337 proceeding, the Commission has "broad discretion in selecting the form, scope, and extent of the remedy." *Viscofan, S.A. v. United States Int'l Trade Comm'n*, 787 F.2d 544, 548 (Fed. Cir. 1986). Both Canon and the IA argue that the appropriate remedy in this investigation is a GEO and eight CDOs directed to all but one of the domestic defaulting

PUBLIC VERSION

respondents.⁴ Based on the record in this investigation, and for the reasons detailed below, we decide to issue the requested remedial orders. We also find that issuing these remedial orders is not contrary to the public interest.

A. General Exclusion Order

For the reasons that follow, we have decided to issue a GEO pursuant to 19 U.S.C. § 1337(d)(2), forbidding entry into the United States of all toner cartridges and components thereof that infringe any of the Asserted Claims of the Asserted Patents.

Under the statute, the Commission is authorized to issue a GEO excluding all infringing goods regardless of the source when the conditions of section 337(d)(2) or (g)(2) are met. *See* 19 U.S.C. § 1337(d)(2), (g)(2). In the present investigation, some of the respondents appeared in, and contested, the investigation, while other respondents failed to appear. *See* ID at 1-12.⁵ Under these circumstances, issuance of a GEO under section 337(d)(2) is appropriate. *See Certain Sildenafil or Any Pharmaceutically Acceptable Salt Thereof, such as Sildenafil Citrate, and Products Containing Same*, Inv. No. 337-TA-489, Comm'n Op. at 4 (July 23, 2004) (finding that the issuance of a GEO under section 337(d)(2) was appropriate when not all respondents failed to appear to contest the investigation); *see also Certain Energy Drink Products*, Inv. No.

⁴ Canon notes that “ACM, another Defaulting Respondent located in the United States, represented prior to defaulting that [[]]. *See* JOINT STIPULATION BETWEEN COMPLAINANTS AND RESPONDENT ACM TECHNOLOGIES, INC. at ¶ 5. Based on that representation, Canon is not seeking a CDO as to ACM.” CanonRemedyOpen at 53 n. 20.

⁵ *See also* ALJ Order No. 26 (Feb. 18, 2015) at 2 (“The active respondents remaining in this investigation are Aster Graphics, Inc., Jiangxi Yibo E-Tech Co., Ltd., and Aster Graphics Co., Ltd. (collectively, ‘Aster’) and The Supplies Guys, LLC and American Internet Holdings, LLC (collectively, ‘Supplies Guys’)”) (citations omitted).

PUBLIC VERSION

337-TA-678, USITC Pub. No. 4286, Comm'n Op. at 4-7 (Nov. 2011); *Certain Toner Cartridges and Components Thereof*, Inv. No. 337-TA-740, USITC Pub. No. 4376, Comm'n Op. at 24 (Feb. 2013).

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

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

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

19 U.S.C. § 1337(d)(2).

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

1. Subparagraph (A) – Circumvention Of An Exclusion Order Limited To Products Of Named Persons

The record shows a high likelihood that manufacturers and resellers of accused products could circumvent a limited exclusion order (“LEO”) directed only to the named respondents by employing various practices including the following: (i) replication of operations; (ii) sourcing imported accused products from domestic suppliers outside the reach of an LEO; (iii) facilitating circumvention through Internet operations; (iv) masking of identities and product sources; and (v) use of unmarked, generic, and/or reseller-branded packaging. *See* RD at 260-77.

Undisputed record evidence indicates that if only LEOs are issued, operations could be easily replicated. The evidence shows that a new business can quickly spring to life and carry on

PUBLIC VERSION

the same infringing activities as a company named in an LEO, and that key management personnel of a named company could circumvent an exclusion order limited to the products of that company by leaving to start a new company. *See* RD at 265. *See also* IARemedyOpen at 5; CanonRemedyOpen at 16-22.

With respect to sourcing imported accused products from domestic suppliers outside the reach of an LEO, the evidence indicates that even though an LEO would stop the named respondents from importing accused products themselves, it would not stop them from obtaining and selling imported accused products from domestic suppliers outside the reach of the LEO. The evidence shows that many of the named respondents, including respondents [[
]] already source (or have sourced) imported accused products from such domestic suppliers, and that an LEO is not likely to prevent any domestic suppliers from continuing to import and supply accused products to the named respondents and others. *See* RD at 266-67; CanonRemedyOpen at 22-24.

With respect to facilitating circumvention through Internet operations, the evidence shows that many of the Retailer Respondents (*i.e.*, respondents that are sellers and distributors of accused products, and which include certain of the Non-Participating, Defaulting, and Terminated Respondents) in this investigation conduct their operations via one or more Internet websites, thereby facilitating circumvention of an exclusion order limited to products of named respondents. *See* Puglisi Decl. ¶ 39.⁶ Undisputed evidence shows that if an exclusion order is

⁶ “Puglisi Decl.” refers to the declaration of Mr. Robert Puglisi submitted by Canon in support of its Motion for Summary Determination, together with Exhibits 1 to 72 thereto. *See* RD at 262 n. 11. Mr. Puglisi is a private investigator employed by MMCA Group, Ltd. *See* Puglisi Decl. ¶ 1.

PUBLIC VERSION

limited to the named respondents, and even if the exclusion order listed the website(s) through which the respondents were known to conduct their operations, it would be simple for those respondents to set up new website(s) and continue their operations. *See* RD at 267-69.

Therefore, this factor further supports the issuance of a GEO.

With respect to masking of identities and product source, the record evidence shows that manufacturers and sellers of re-manufactured and/or cloned toner cartridges often take steps to remain unknown and unidentifiable, and frequently hide or otherwise refuse to reveal the sources of their products. *See, e.g.*, RD at 270-74, CanonRemedyOpen 26-32. Business practices employed to achieve such masking would facilitate circumvention of an LEO, thus further supporting the issuance of a GEO.

With respect to use of unmarked, generic, and/or reseller-branded packaging, the record evidence shows that manufacturers and sellers of aftermarket toner cartridges often package the products in unmarked, generic, and/or reseller-branded packaging without any origin markings, and that the packaging information does not identify the true source (*e.g.*, manufacturer name) of the products. *See* RD at 274-77; CanonRemedyOpen at 32-35. By using combinations of different overseas shipping/logistics providers, freight forwarders, and shipping routes, and/or by packaging infringing cartridges in unmarked, generic, and/or reseller-branded packaging without any origin markings, foreign manufacturers and sellers of aftermarket toner cartridges could circumvent an LEO imposed by the Commission. In sum, the record shows that the requirement of subsection 19 U.S.C. § 1337(d)(2)(A) is satisfied in the present investigation and provides a basis for issuing a GEO in the present investigation.

PUBLIC VERSION

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

a. A Pattern Of Violation Of Section 337

Undisputed record evidence shows that there is a pattern of importation and sale of infringing toner cartridges throughout the United States. The record shows that the Defaulting and Non-Participating Respondents and their suppliers have imported and sold within the United States after importation various accused products that infringe the Asserted Claims of the Asserted Patents. *See, e.g.,* Joint Stipulation Between Complainants and Respondents Jiangxi Yibo E-Tech Co., Ltd., Aster Graphics Co., Ltd., and Aster Graphics, Inc. ¶ 9 (Dec. 23, 2014) (showing the importation and sale of over [[]] units of accused products); Joint Stipulation Between Complainants and Respondent ACM Technologies, Inc. ¶ 4 (Oct. 1, 2014) (showing the importation of over [[]] units of Accused Products); Joint Stipulation Between Complainants and Respondents The Supplies Guys, LLC and American Internet Holdings, LLC ¶ 6 (Feb. 11, 2015) (showing the sale of over [[]] units of accused products); RD at 266-67, 278.

Furthermore, in determining whether a GEO is warranted, the Commission looks not only to the activities of active respondents, but also to those of respondents that have been terminated from an investigation as well as non-respondents. *See Certain Electronic Paper Towel Dispensing Devices and Components Thereof*, Inv. No. 337-TA-718, Comm'n Op. at 15-16 (Dec. 1, 2011); *Certain Coaxial Cable Connectors and Components Thereof and Products Containing Same*, Inv. No. 337-TA-650, Comm'n Op. at 59 (Apr. 14, 2010). The undisputed evidence in the present investigation demonstrates that, in addition to the violations by the Defaulting and Non-Participating Respondents, the Terminated Respondents and certain

PUBLIC VERSION

non-respondents have also imported and/or sold after importation accused products that infringe the Asserted Claims of the Asserted Patents. *See* RD at 278-88; CanonRemedyOpen at 36-43; IARemedyOpen at 6.

Moreover, the undisputed evidence shows that the manufacture and sale of aftermarket toner cartridges for importation into the United States is a significant and fast growing business in many countries including China, Mexico, Vietnam, South Korea, and other countries. *See* Puglisi Decl. ¶¶ 69, 77-80; *see also* RD at 292-93; CanonRemedyOpen at 47-48. The evidence shows that importation into the United States of accused products is substantial and widespread. *See* RD at 288-89; CanonRemedyOpen at 43-44.

The record evidence also shows that manufacturers of aftermarket toner cartridges overseas, and Chinese manufacturers in particular, have substantial toner cartridge production capacity, as well as the resources to quickly expand that capacity. *See* RD at 289-90; CanonRemedyOpen at 44-45. The evidence shows that several manufacturers of photosensitive drums used in aftermarket toner cartridges are located in South Korea, and that they have shipped significant quantities of those drums to the United States. *See* Puglisi Decl. ¶ 80; Exs. 55-59 (Panjiva import records); RD at 292; CanonRemedyOpen at 47.

Furthermore, the evidence shows that the barriers for entry into the aftermarket toner cartridge industry are low, for both retailers and manufacturers. *See* Puglisi Decl. ¶¶ 71-76. The evidence indicates that many of the imaging supplies companies have, or could quickly acquire or develop the industrial expertise and marketing connections to enter into, or expand their presence in, the toner cartridge aftermarket and quickly fill any void left by companies subject to an LEO. *See also* RD at 291-92; CanonRemedyOpen at 45-46.

PUBLIC VERSION

In sum, the undisputed evidence supports a finding of pattern of violation of section 337 and thus supports the issuance of a GEO in the present investigation.

b. Difficulty In Identifying The Source Of Infringing Products

The undisputed evidence shows that identifying the sources of infringing aftermarket toner cartridges is often difficult. *See e.g.* Puglisi Decl. ¶¶ 81-82. Major Internet websites such as Amazon.com, eBay.com, Craigslist.org, and Alibaba.com provide retailers of aftermarket toner cartridges with dedicated, flexible infrastructure to sell directly to U.S. consumers without revealing the true source of such cartridges. *See id.* ¶ 83. Additionally, an entity wanting to sell aftermarket toner cartridges over the Internet could establish a website with the ability to process online purchases in a short amount of time and for little cost. *Id.* ¶ 84. *See also id.* ¶¶ 85-85. The evidence also shows that the counterfeiting of Canon and HP brand toner cartridges around the world is another means by which the source of infringing products is masked. Generally, counterfeit Canon and HP brand toner cartridges do not have any markings or features on the cartridges that would allow consumers or Customs to distinguish them from OEM cartridges, and thus it is difficult for consumers or Customs to determine their true factory of origin. *See id.* ¶¶ 89-90. Moreover, the record evidence shows that it is often difficult to trace the origin of a particular import. *See e.g.* Puglisi Decl. ¶ 85, exh. 60 (Aster Group web site). *See also* RD at 293-94; CanonRemedyOpen at 48-50; IARemedyOpen at 6-7.

In sum, undisputed evidence shows that identifying the source of infringing aftermarket toner cartridges is often difficult, which further supports the conclusion that a GEO is an appropriate remedy in this investigation. The record thus shows that a pattern of violation exists and that it is difficult to identify the source of infringing products, thus satisfying the requirement

PUBLIC VERSION

of 19 U.S.C. § 1337(d)(2)(B).

B. Cease and Desist Order (“CDO”)

The ALJ recommended that the Commission issue CDOs directed to each of the following domestic Defaulting Respondents: Acecom, Do It Wiser, Grand Image, Green Project, Nectron, Online Tech Stores, Printronic, and Zinyaw. RD at 295-96. The ALJ did not recommend a CDO directed against the only foreign Defaulting Respondent Shenzhen ASTA Official Consumable Co., Ltd. (“ASTA”). *Id.* at 297.

Canon argues that “[a]s the ALJ recommended, the Commission should issue CDOs directed to Defaulting Respondents Acecom, Do It Wiser, Grand Image, Green Project, Nectron, Online Tech Stores, Printronic, and Zinyaw.” CanonRemedyOpen at 53 (citing RD at 295-296). Canon specifically submits that Canon “is no longer seeking a CDO as to foreign Defaulting Respondent ASTA, in accordance with the ALJ’s recommended determination.” CanonRemedyOpen at 53 n. 20 (citing RD at 296-297). The IA likewise agrees with the ALJ’s recommendation. IARemedyOpen at 8-9; IARemedyReply at 1.

We find that the record in this investigation supports the issuance of the CDOs against domestic Defaulting Respondents Acecom, Do It Wiser, Grand Image, Green Project, Nectron, Online Tech Stores, Printronic, and Zinyaw. In cases of default, the Commission presumes that domestic respondents maintain commercially significant U.S. inventories of the infringing imported products, and will issue cease and desist orders accordingly. *See, e.g., Certain Video Game Systems, Accessories, and Components Thereof*, Inv. No. 337-TA-473, Comm’n Op. at 2 (Dec. 24, 2002); *Certain Agricultural Tractors Under 50 Power Take-Off Horsepower*, Inv. No. 337-TA-380, USITC Pub. No. 3026, Comm’n Op. at 44 n.124 (Mar. 1997). *See also* RD at 295;

PUBLIC VERSION

IARemedyOpen at 7-8; CanonRemedyOpen at 53-54.

In regard to defaulting respondents, section 337(g)(1) provides that upon satisfaction of certain conditions, when the complainant seeks relief limited solely to [a defaulting respondent], “the Commission shall presume the facts alleged in the complaint to be true and shall, upon request, issue an exclusion from entry or a cease and desist order, or both, limited to [the defaulting respondent] unless, after considering the effect of such exclusion or order upon [the public interest factors], the Commission finds that such exclusion or order should not be issued.” 19 U.S. § 1337(g)(1). We note that Canon decided not to seek a CDO against the only foreign Defaulting Respondent ASTA. *See* CanonRemedyOpen at 53 n. 20. For that reason, we do not issue a CDO against ASTA.

III. PUBLIC INTEREST

Before issuing a remedy for a violation of Section 337, the Commission must consider the effect of the remedy on certain public interest considerations: (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles that are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers. 19 U.S.C. §§ 1337(d), (f), (g); *Certain Ink Jet Print Cartridges and Components Thereof*, Inv. No. 337-TA-446, Comm’n Op. at 14 (October 2002). Both Canon and the IA submit that the public interest factors do not weigh against the proposed remedy in this investigation.

Based on the record, the Commission finds that none of the above-referenced factors raises public interest concerns that would preclude issuance of the remedial orders in this investigation. There is no evidence in the record that would indicate that exclusion of the

PUBLIC VERSION

replaceable toner cartridges at issue in this investigation would have an effect on the public health or welfare. *See also Certain Toner Cartridges and Components Thereof*, Inv. No. 337-TA-829, Comm'n Op. at 11-12 (Jul. 2013) (prohibiting entry of toner cartridges would not be "unduly burdensome on the public health and welfare").

Likewise, the remedy issued in this investigation will not impact competitive conditions in the U.S. economy or negatively affect production of like or directly competitive articles in the United States. The record indicates that Canon has the capacity to replace the volume of infringing products that would be subject to the remedial orders in a commercially reasonable time in the United States. Canon produces millions of toner cartridges each year that utilize the technology of the Asserted Patents that are directly competitive with, and could replace, the Accused Products. In 2009, Canon opened a new, approximately \$650 million, 700,000 square foot advanced cartridge manufacturing plant in Virginia, which Canon uses to manufacture millions of toner cartridges that utilize the technology of the Asserted Patents and are directly competitive with the infringing products, and which Canon plans to use to produce even more cartridges in the near future. CanonRemedyOpen at 56 (citations omitted). Canon also manufactures overseas millions more toner cartridges that utilize the technology of the Asserted Patents and are directly competitive with the accused products. *Id.* Furthermore, the record indicates that there are many other competitors in the market such as Brother, Dell, Epson, Lexmark, Ricoh, Samsung, and Xerox that all sell toner cartridges and would be able to meet domestic demand. IARemedyOpen at 11 (citing Canon's Public Interest Statement at 4).

As noted, Canon manufactures toner cartridges and photosensitive drum units protected by the Asserted Patents in facilities located in the United States, while the evidence shows that

PUBLIC VERSION

respondents have foreign suppliers or are foreign manufacturers themselves. IAREmedyOpen at 11 (citations omitted). Therefore, the remedial orders would not adversely impact U.S. manufacturing. *See, e.g., Certain Optical Disk Controller Chips and Chipsets and Products Containing Same, Including DVD Players and PC Optical Storage Devices*, Inv. No. 337-TA-506, Comm'n Op. at 61 (Sept. 28, 2005) (issuing exclusion order where “there is no evidence that the U.S. demand for the covered products cannot be met by other entities, including the Complainants”).

Furthermore, under Commission precedent, there is no indication in the record that a remedy relating to replaceable toner cartridges would adversely affect U.S. consumers. We note that the Commission previously issued a GEO based on a different complaint by Canon in *Certain Toner Cartridges and Components Thereof*, Inv. No. 337-TA-829, which involved the same category of products at issue now in the present investigation, *i.e.*, toner cartridges (and photosensitive drum units for use therein). There is no evidence that the GEO issued in the 829 investigation has adversely affected the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers. *See Certain Toner Cartridges and Components Thereof*, Inv. No. 337-TA-829, Comm'n Op. at 14 (Jul. 2013) (issuing a general exclusion order in the investigation involving similar products).

Based on the foregoing, we find that issuance of a GEO and CDOs would not be contrary to the public interest in this investigation.

IV. BONDING

Upon the entry of the remedial orders, a respondent may continue to import and sell its

PUBLIC VERSION

products during the sixty (60) day Presidential review period subject to posting a bond. 19 U.S.C. § 1337(j)(3). The amount of the bond is determined by the Commission and must be sufficient to protect a complainant from any injury. 19 C.F.R. § 210.50(a)(3).

The ALJ noted that when reliable price information is available, the Commission has often set the bond at the price differential between the domestic product and the imported infringing product, but when the record lacks such information, the Commission has required a 100 percent bond. RD at 298 (citing *Certain Toner Cartridges and Components Thereof*, Inv. No. 337-TA-740, Comm'n Op. at 11 (Oct. 5, 2011) (citing *Certain Cigarettes and Packaging Thereof*, Inv. No. 337-TA- 643, Comm'n Op. at 30 (Oct. 1, 2009))).

The ALJ further noted that under the circumstances of this investigation, it is not possible to determine a reliable price differential. He found that accused products are sold for a wide range of selling prices, and that the pricing of the accused products varies significantly from one respondent to another and from OEM pricing within the same cartridge models. RD at 298-299. Accordingly, he recommended that the bond amount should be set at 100 percent of the entered value of the accused products during the Presidential review period in the event a violation of section 337 is found. RD at 299-300.

Both Canon and the IA agree that given the state of the evidentiary record, the bond amount should be set at 100 percent of the entered value of the infringing products as no reliable price differential can be determined. *See* CanonRemedyOpen at 57-59, IARemedyOpen at 9-10.

Based on the record, we find that accused products are sold for a wide range of selling prices. In particular, the pricing of the accused products varies significantly from one respondent to another and from OEM pricing within the same cartridge models. *See, e.g.*, RD at 298-300.

PUBLIC VERSION

Accordingly, we set the bond at 100 percent of the entered value of the accused products during the Presidential review period.

V. CONCLUSION

Having reviewed the ALJ's Recommended Determination, the parties' submissions filed in response to the Commission's Notice, and the evidentiary record, the Commission has determined to issue a GEO barring entry of certain toner cartridges and components thereof covered by one or more of claims 160, 165, and 166 of the '278 patent; claims 171, 176, 179, 181, 189, 192, and 200 of the '564 patent; claims 23, 26, 27, and 29 of the '215 patent; claims 1-4 of the '090 patent; and claims 1, 7-9, 11, 12, and 34 of the '008 patent. The Commission has also determined to issue CDOs directed against the domestic Defaulting Respondents Acecom, Inc.-San Antonio; Do It Wiser LLC; Grand Image Inc.; Green Project, Inc.; Nectron International, Inc.; Online Tech Stores, LLC; Printronic Corporation; and Zinyaw LLC. The Commission has further determined that the public interest factors enumerated in subsections (d)(1), (f)(1), (g)(1) (19 U.S.C. §§ 1337(d)(1), (f)(1), (g)(1)) do not preclude the issuance of the GEO or CDOs. Finally, the Commission has determined that a bond in the amount of one hundred (100) percent of the entered value of the infringing products is required to permit temporary importation of the articles in question during the period of Presidential review (19 U.S.C. § 1337(j)).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: October 1, 2015

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **COMMISSION OPINION** has been served by hand upon the Commission Investigative Attorney, James F. Wiley, Esq., and the following parties as indicated, on **October 1, 2015**.



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

**On Behalf of Complainants Canon Inc., Canon U.S.A., Inc.,
and Canon Virginia, Inc.:**

Edmund J. Haughey, Esq.
FITZPATRICK, CELLA, HARPER & SCINTO
975 F Street, NW
Washington, DC 20004

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

**On Behalf of Respondents American Internet Holdings, LLC,
Aster Graphics Co., Ltd., Aster Graphics, Inc., Jiangxi Yibo
E-tech Co., Ltd., and The Supply Guys:**

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1899 L Street, NW, Suite 1150
Washington, DC 20036

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

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-918

**NOTICE OF A COMMISSION DETERMINATION TO REVIEW IN PART AN INITIAL
DETERMINATION GRANTING COMPLAINANTS' MOTION FOR SUMMARY
DETERMINATION OF VIOLATION OF SECTION 337 AND, ON REVIEW, TO
MODIFY CERTAIN PORTIONS OF THE INITIAL DETERMINATION; REQUEST
FOR WRITTEN SUBMISSIONS ON REMEDY, THE PUBLIC INTEREST, AND
BONDING**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part an initial determination ("ID") (Order No. 34) of the presiding administrative law judge ("ALJ") granting complainants' motion for summary determination of violation of section 337 and, on review, to modify certain portions of the ID. The Commission also requests written submissions on remedy, public interest, and bonding in accordance with the schedule provided below.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3115. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("Section 337"), on June 12, 2014, based on a complaint filed by Canon Inc. of Tokyo, Japan; Canon U.S.A., Inc. of Melville, New York; and Canon Virginia, Inc. of Newport News, Virginia (collectively, "Canon"). 79 *Fed. Reg.* 33777-78 (Jun. 12, 2014). The complaint alleges a violation of section 337 by reason of infringement of certain claims of U.S. Patent Nos. 8,280,278 ("the '278 patent"); 8,630,564 ("the '564 patent"); 8,682,215 ("the '215 patent"); 8,676,090 ("the '090 patent"); 8,369,744 ("the '744

patent”); 8,565,640 (“the ‘640 patent”); 8,676,085 (“the ‘085 patent”); 8,135,304 (“the ‘304 patent”); and 8,688,008 (“the ‘008 patent”). *Id.* The notice of investigation named thirty-three companies as respondents. *Id.* The Commission’s Office of Unfair Import Investigations was also named as a party. Subsequently, the investigation was partially terminated based on withdrawal of the complaint as to all asserted claims of four patents, specifically: (1) claim 1 of the ‘744 patent; (2) claim 1 of the ‘640 patent; (3) claims 1, 2, 3, and 4 of the ‘085 patent; and (4) claim 1 of the ‘304 patent.

The ALJ issued initial determinations terminating the investigation based on consent orders as to fifteen respondents: Print-Rite Holdings Ltd.; Print-Rite N.A., Inc.; Union Technology Int’l (M.C.O.) Co. Ltd.; Print-Rite Unicorn Image Products Co. Ltd.; Innotex Precision Ltd.; Ninestar Image Tech Limited; Zhuhai Seine Technology Co., Ltd.; Ninestar Technology Company, Ltd.; Seine Tech (USA) Co., Ltd.; Nano Pacific Corporation; International Laser Group, Inc.; Ink Technologies Printer Supplies, LLC; LD Products, Inc.; Linkyo Corporation; and Katun Corporation. *See* ALJ Order Nos. 13 (*not reviewed* Nov. 4, 2014), 16 (*not reviewed* Nov. 24, 2014), 28 (*not reviewed* Apr. 3, 2015), 29 (*not reviewed* Apr. 3, 2015), 30 (*not reviewed* Apr. 3, 2015), 31 (*not reviewed* Apr. 3, 2015), and 32 (*not reviewed* Apr. 3, 2015). The ALJ also issued an ID terminating the investigation based on Canon’s withdrawal of allegations as to two respondents, Seine Image Int’l Co., Ltd. and Ninestar Image Tech, Ltd. *See* ALJ Order No. 4 (*not reviewed* Aug. 1, 2014). Likewise, the ALJ issued an ID terminating the investigation as to respondent Seine Image (USA) Co., Ltd. due to the corporate dissolution of the respondent. *See* ALJ Order No. 27 (*not reviewed* Apr. 1, 2015). These eighteen respondents are collectively referred to as the “Terminated Respondents.”

The ALJ also issued IDs finding the following ten respondents in default: Acecom, Inc. -San Antonio; ACM Technologies, Inc.; Shenzhen ASTA Official Consumable Co., Ltd.; Do It Wiser LLC; Grand Image Inc.; Green Project, Inc.; Nectron International, Inc.; Online Tech Stores, LLC; Printronic Corporation; and Zinyaw LLC. *See* Order Nos. 6 (*not reviewed* Aug. 25, 2014), 12 (*not reviewed* Oct. 1, 2014), 15 (*not reviewed* Nov. 17, 2014). These ten respondents are collectively referred to as the “Defaulting Respondents.”

The remaining five named respondents are Aster Graphics, Inc.; Jiangxi Yibo E-Tech Co., Ltd.; Aster Graphics Co., Ltd.; The Supplies Guys, LLC; and American Internet Holdings, LLC. These respondents are no longer actively participating in the investigation, but have neither been terminated from the investigation nor found to be in default. Each of them has acknowledged and stipulated that it has failed to act within the meaning of Commission Rule 210.17, at least because it failed to file a prehearing statement and brief in accordance with the Procedural Schedule (Order No. 9), and that it therefore has no standing to contest Canon’s evidence and arguments that it has violated section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337. *See* Stipulation Regarding the Status of the Aster and Supplies Guys Respondents (Feb. 26, 2015). These five respondents are collectively referred to as the “Non-Participating Respondents.”

On March 10, 2015, Canon filed a Motion for Summary Determination of Violations by the Defaulting Respondents and Non-Participating Respondents and Recommended Determination on Remedy and Bonding. The Commission investigative attorney filed a response in support of the motion. The Non-Participating Respondents filed a response (“Aster Resp.”) to the motion in which they state, *inter alia*, that they “do not oppose the motion for summary determination.” Aster Resp. at 1.

On May 12, 2015, the ALJ issued an ID (Order No. 34) granting Canon’s motion for summary determination of violation and recommending the issuance of a general exclusion order and several cease and desist orders. No party petitioned for review of the ID.

The Commission has determined to review the portion of the ID titled “Establishing Violations Of Section 337 Through Uncontested Allegations” on pages 46-50 of the ID and, on review, to strike the above-referenced portion of the ID, as well as any language referring to that stricken portion (e.g., “The uncontested allegations and adverse inferences aside,” in the first sentence of the last paragraph on page 50), as irrelevant in reaching the ALJ’s violation determination. *See* ID at 46-50. The Commission has also determined to strike any references to uncontested allegations as submitted evidence on violation (e.g., “; *see also* Complaint ¶¶ 160-161 (uncontested allegations)” in the third line of page 56). The finding of violation as to these respondents is based on substantial, reliable, and probative evidence. *See* 19 U.S.C. § 1337(g)(2). The Commission has also determined to correct a typographical error in the second sentence on page 33 of the ID by substituting “four” instead of “three” in the above-referenced sentence. The Commission has further determined to modify the citation in the first full paragraph on page 42 of the ID by striking an incorrect citation to *Certain Flooring Products*, Inv. No. 337-TA-443, Comm’n Notice of Final Determination of No Violation of Section 337, 2002 WL 448690, at*59, (Mar. 22, 2002). This document has only three pages. The Commission has also determined to supplement an incomplete citation to *Enercon GmbH v. Int’l Trade Comm’n*, 151 F.3d 1376 (Fed. Cir. 1998) with the relevant page number, *i.e.*, *Enercon GmbH v. Int’l Trade Comm’n*, 151 F.3d 1376, 1384 (Fed. Cir. 1998). The Commission has determined not to review the remainder of the ID.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (Dec. 1994) (Commission Opinion).

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

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

WRITTEN SUBMISSIONS: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Canon and the IA are also requested to submit proposed remedial orders for the Commission's consideration. Canon is further requested to provide the expiration dates of the '278 patent, the '564 patent, the '215 patent, the '090 patent, and the '008 patent, and state the HTSUS subheadings under which the accused articles are imported. Canon is also requested to supply the names of known importers. The written submissions and proposed remedial orders must be filed no later than the close of business on July 13, 2015. Reply submissions must be filed no later than the close of business on July 20, 2015. Such submissions should address the ALJ's recommended determinations on remedy and bonding which were made in Order No. 34. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 C.F.R. 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-918") in a prominent place on the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures*, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000).

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

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

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', written in a cursive style.

Lisa R. Barton
Secretary to the Commission

Issued: June 24, 2015

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served by hand upon the Commission Investigative Attorney, James F. Wiley, Esq., and the following parties as indicated, on **June 25, 2015**.



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

**On Behalf of Complainants Canon Inc., Canon U.S.A., Inc.,
and Canon Virginia, Inc.:**

Edmund J. Haughey, Esq.
FITZPATRICK, CELLA, HARPER & SCINTO
975 F Street, NW
Washington, DC 20004

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

**On Behalf of Respondents American Internet Holdings, LLC,
Aster Graphics Co., Ltd., Aster Graphics, Inc., Jiangxi Yibo
E-tech Co., Ltd., and The Supply Guys:**

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1899 L Street, NW, Suite 1150
Washington, DC 20036

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

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-918

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW TWO INITIAL
DETERMINATIONS, ONE GRANTING IN PART SUMMARY DETERMINATION
THAT THE IMPORTATION REQUIREMENT IS SATISFIED, AND THE OTHER
GRANTING SUMMARY DETERMINATION THAT COMPLAINANT SATISFIES THE
ECONOMIC PRONG OF THE DOMESTIC INDUSTRY REQUIREMENT**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review two initial determinations (“IDs”) (Order Nos. 20 and 22) of the presiding administrative law judge (“ALJ”), granting in part summary determination that the importation requirement is satisfied, and granting summary determination that complainant satisfies the economic prong of the domestic industry requirement, respectively.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3115. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”), on June 12, 2014, based on a complaint filed by Canon Inc. of Japan; Canon U.S.A., Inc. of Melville, New York; and Canon Virginia, Inc. of Newport News, Virginia (collectively, “Canon”). 79 *Fed. Reg.* 33777-78 (Jun. 12, 2014). The complaint alleges a violation of section 337 by reason of infringement of certain claims of U.S. Patent Nos. 8,280,278; 8,630,564; 8,682,215; 8,676,090; 8,369,744 (“the ‘744 patent’”); 8,565,640 (“the ‘640 patent’”); 8,676,085 (“the ‘085 patent’”); 8,135,304 (“the ‘304 patent’”); and 8,688,008 by numerous respondents. *Id.* Subsequently, the

investigation was partially terminated based on withdrawal of the complaint as to the following asserted claims: (1) claim 1 of the '744 patent (*i.e.*, all asserted claims); (2) claim 1 of the '640 patent (*i.e.*, all asserted claims); (3) claims 1, 2, 3, and 4 of the '085 patent (*i.e.*, all asserted claims); and (4) claim 1 of the '304 patent (*i.e.*, all asserted claims). The investigation was likewise terminated with respect to various respondents based on default or consent order stipulation.

Pursuant to 19 C.F.R § 210.18, complainant Canon moved for summary determination that the importation requirement of Section 337 is satisfied. Specifically, Canon sought a summary determination that the importation requirement is satisfied with respect to the accused products of the following respondents: Jiangxi Yibo E-Tech Co., Ltd., Aster Graphics Co., Ltd., and Aster Graphics, Inc. (collectively, "Aster"); American Internet Holdings, LLC and The Supplies Guys, LLC (collectively, "Supplies Guys"); Shenzhen ASTA Official Consumable Co., Ltd., Acecom, Inc. - San Antonio, Do It Wiser LLC, Grand Image Inc., Green Project, Inc., Nectron International, Inc., Online Tech Stores, LLC, Printronic Corporation, and Zinyaw LLC (collectively, the "Defaulting Respondents"). The Commission investigative attorney ("IA") filed a response supporting Canon's motion for summary determination. No other party responded to the motion. On January 15, 2015, the ALJ issued an ID (Order No. 20) granting Canon's motion in part. Based on the record, the ALJ found that the importation requirement of Section 337 is satisfied with respect to the accused products of the Aster and Supplies Guys respondents. The ALJ declined to grant summary determination as to the Defaulting Respondents. No party petitioned for review of ALJ Order No. 20, and the Commission has determined not to review it.

Complainant also moved for summary determination that it satisfies the economic prong of the domestic industry requirement. The IA filed a response supporting complainant's motion. No other party responded to the motion. On January 16, 2015, the ALJ issued an ID (Order No. 22) granting complainant's motion. Based on the evidence submitted with the motion, the ALJ determined that complainant satisfies the economic prong of the domestic industry requirement. No party petitioned for review of the ALJ Order No. 22, and the Commission has determined not to review it.

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

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: February 18, 2015

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served by hand upon the Commission Investigative Attorney, James F. Wiley, Esq., and the following parties as indicated, on **February 19, 2015**.



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

**On Behalf of Complainants Canon Inc., Canon U.S.A., Inc.,
and Canon Virginia, Inc.:**

Edmund J. Haughey, Esq.
FITZPATRICK, CELLA, HARPER & SCINTO
975 F Street, NW
Washington, DC 20004

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

On Behalf of Respondent Katun Corporation:

Bryan J. Vogel, Esq.
ROBINS, KAPLAN, MILLER & CIRESI LLP
601 Lexington Avenue, 34th Floor
New York, NY 10022

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

On Behalf of Respondent International Laser Group, Inc.:

Charles S. Barquist, Esq.
MORRISON & FOERSTER LLP
707 Wilshire Boulevard, Suite 6000
Los Angeles, CA 90017-3543

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

**On Behalf of Respondents American Internet Holdings, LLC,
Aster Graphics Co., Ltd., Aster Graphics, Inc., Jiangxi Yibo
E-tech Co., Ltd., and The Supply Guys:**

Barbara A. Murphy, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1899 L Street, NW, Suite 1150
Washington, DC 20036

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

**CERTAIN TONER CARTRIDGES AND COMPONENTS
THEREOF**

Inv. No. 337-TA-918

Certificate of Service – Page 2

**On Behalf of Respondents Ink Technologies Printer Supplies,
LLC, Linkyo Corp., Nano Pacific Corporation, Ninestar
Image Tech Limited, Ninestar Technology Company, Ltd.,
Seine Image (USA) Co., Ltd., Seine Tech (USA) Co., Ltd., and
Zhuhai Seine Technology Co., Ltd.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006

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

PUBLIC VERSION

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Inv. No. 337-TA-918

Order No. 20: INITIAL DETERMINATION

Granting Summary Determination That the Importation Requirement Is Satisfied

Pursuant to 19 C.F.R. § 210.19, complainant Canon¹ moved for summary determination that the importation requirement of Section 337 is satisfied, and a memorandum in support thereof. Motion Docket No. 918-27. Specifically, Canon seeks a summary determination that the importation requirement is satisfied with respect to the accused products of the following respondents: Jiangxi Yibo E-Tech Co., Ltd., Aster Graphics Co., Ltd., Aster Graphics, Inc., American Internet Holdings, LLC, The Supplies Guys, LLC, Shenzhen ASTA Official Consumable Co., Ltd., Acecom, Inc. – San Antonio, Do It Wiser LLC, Grand Image Inc., Green Project, Inc., Nectron International, Inc., Online Tech Stores, LLC, Printronic Corporation, and

¹ “Canon” refers collectively to Canon Inc., Canon U.S.A., Inc., and Canon Virginia, Inc.

Zinyaw LLC. Mot. at 1.² The Commission Investigative Staff filed a response supporting Canon's motion for summary determination. No other party responded to the motion.³

As indicated in the notice of investigation, this investigation was instituted to determine whether a violation of section 337 has occurred in "the importation into the United States, the sale for importation, or the sale within the United States after importation" of certain products. *See* 79 Fed. Reg. 33777 (June 12, 2014); 19 U.S.C. § 1337(a)(1)(B) (making unlawful, in certain circumstances, the "importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that . . . infringe a valid and enforceable United States patent . . ."). It has long been recognized that an importation of even one accused product can satisfy the importation requirement of section 337. *See Certain Trolley Wheel Assemblies*, Inv. No. 337-TA-161, Comm'n Op. at 7-8, USITC Pub. No. 1605 (Nov. 1984) (deeming the importation requirement satisfied by the importation of a single product of no commercial value).

The Commission Rules provide that "[a]ny party may move with any necessary supporting affidavits for a summary determination in its favor upon all or part of the issues to be determined in the investigation." 19 C.F.R. § 210.18(a). Summary determination "shall be rendered if pleadings and any depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and

² Canon also moved for summary determination that the importation requirement is satisfied with respect to the accused products of respondent International Laser Group, Inc. ("ILG"), but later withdrew the motion as to ILG. *See* Notice of Partial Withdrawal of Canon's Motion for Summary Determination That the Importation Requirement of Section 337 Is Satisfied (Dec. 18, 2014) (EDIS Doc. No. 548062).

³ Pursuant to Commission Rule 210.15, if a nonmoving party does not respond to a motion, "he may be deemed to have consented to the granting of the relief asked for in the motion." 19 C.F.R. § 210.15(c).

that the moving party is entitled to a summary determination as a matter of law.” 19 C.F.R. § 210.18(b).

With the pending motion, Canon seeks summary determination that the accused products of certain respondents have been imported into the United States, thereby satisfying the importation requirements of 19 U.S.C. § 1337(a)(1)(B). *See Mem.* at 10-30. Each group of related respondents will be addressed separately below.

Aster

Respondents Jiangxi Yibo E-Tech Co., Ltd., Aster Graphics Co., Ltd., and Aster Graphics, Inc. (collectively, “Aster”) have stipulated that the following ink cartridges are representative of their MONO1A, MONO2A, and COLOR⁴ accused products:

Cartridge Type	Model Designation	Physical Sample(s)
MONO1A with one-piece coupling member	PT120	CAN P0111 A-D Complaint Physical Exhibit S
MONO1A with two-piece coupling member	AC-H0280AC	CAN P0137 A-F
MONO2A	PTCE255A	CAN P0120 A-D Complaint Physical Exhibit T
COLOR	CHCE311A	CAN P0124 A-D Complaint Physical Exhibit U

See Mem. at 10; Joint Stipulation Regarding Representative Accused Products at 8.

The evidence submitted with Canon’s motion demonstrates that Aster [

]

⁴ For purposes of this investigation, the parties have stipulated that the ink cartridges accused in this investigation can be separated into six representative categories: “MONO1A,” “MONO1C,” “MONO1D,” “MONO2A,” “MONO2B,” and “COLOR.” *See Mem.* at 1-2; Joint Stipulation Regarding Representative Accused Products (Oct. 8, 2014) (EDIS Doc. No. 543811).

[]. *See* Mem. at 10-11 (citing F34, F35).⁵ The evidence therefore demonstrates that the importation requirement of Section 337 is satisfied with respect to the Aster accused products.

Supplies Guys

Respondents American Internet Holdings, LLC and The Supplies Guys, LLC (collectively, “Supplies Guys”) have stipulated that the following cartridges are representative of their MONO1A (with one- or two-piece coupling members), MONO2A (with one- or two-piece coupling members), and COLOR accused products:

Cartridge Type	Model Designation	Physical Sample(s)
MONO1A with one-piece coupling member	CE505A-C	CAN P0139 A-B Complaint Physical Exhibit X
MONO1A with two-piece coupling member	AC-H0280AC	CAN P0137 A-F
MONO2A with one-piece coupling member	AC-H0255AC	CAN P0140 A-B
MONO2A with two-piece coupling member	NT-C0255C	CAN P0141 A-D
COLOR	AC-H0312Y	CAN P0144 A-E Complaint Physical Exhibit Y

See Mem. at 14-15; Joint Statement Regarding Representative Accused Products at 14.

The evidence submitted with the pending motion shows that Supplies Guys sold the representative AC-H0280AC, AC-H0255AC, and AC-H0312Y products to Canon’s investigator in the United States between August 2013 and May 2014. *See* Mem. at 15 (citing F59).

Although the box of each product does not indicate a country of origin, [

]

⁵ Citations to “F[]” refer to the Statement of Material Facts in Support of Canon’s Motion for Summary Determination That the Importation Requirement of Section 337 Is Satisfied (EDIS Doc. No. 975420), which was submitted with the pending motion.

[]. *See* Mem. at 15 (citing F34, F60). Moreover, Supplies Guys [], and the evidence shows that []. *See id.* (citing F62).

Canon also submitted evidence showing that Supplies Guys sold the representative CE505A-C products to Canon's investigator in the United States in November 2013. *See* Mem. at 16 (citing F63). Aster has stated that the representative CE505A-C products are manufactured by Jiangxi Yibo E-Tech Co., Ltd. in China and imported into the United States. *See id.* (citing F65). The evidence also shows that, as recently as July 2014, Supplies Guys []. *See id.* (citing F66).

The submitted evidence also shows that Supplies Guys sold the representative NT-C0255C products to Canon's investigator in the United States in November 2013. *See* Mem. at 16 (citing F67). The box of each product indicates that it was made in China. *See id.* (citing F68). The evidence further demonstrates that the NT-C0255C cartridges [],⁶ and that, as recently as July 2014, Supplies Guys []. *See id.* (citing F17, F69).

The evidence therefore demonstrates that the importation requirement of Section 337 is satisfied with respect to the Supplies Guys accused products.

⁶ [

]

Defaulting Respondents

Respondents Shenzhen ASTA Official Consumable Co., Ltd., Acecom, Inc. – San Antonio, Do It Wiser LLC, Grand Image Inc., Green Project, Inc., Nectron International, Inc., Online Tech Stores, LLC, Printronic Corporation, and Zinyaw LLC (collectively, the “defaulting respondent”) have been found in default. *See* Order No. 6 (July 29, 2014) (not reviewed); Order No. 12 (Sept. 5, 2014) (not reviewed). Canon argues that these defaulting respondents have waived their right to contest the allegations in Canon’s complaint, including allegations that the importation requirement of Section 337 has been satisfied with respect to the accused products of the defaulting respondents. *See* Mem. at 16-18 (citing 19 C.F.R. §§ 210.16(b)(4) and (c)).

Inasmuch as Canon may seek immediate relief from the Commission with respect to the defaulting respondents, the administrative law judge declines to grant summary determination as to the defaulting respondents at this time.

* * *

Therefore, it is the initial determination of the administrative law judge that the importation requirement of Section 337 is satisfied as to respondents Jiangxi Yibo E-Tech Co., Ltd., Aster Graphics Co., Ltd., Aster Graphics, Inc., American Internet Holdings, LLC, and The Supplies Guys, LLC. Motion No. 918-27 is granted in part.

Pursuant to 19 C.F.R. § 210.42(h), this initial determination shall become the determination of the Commission unless a party files a petition for review of the initial determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders on its own motion a review of the initial determination or certain issues contained herein.



David P. Shaw
Administrative Law Judge

Issued: January 15, 2014

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-918

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **INITIAL DETERMINATION (ORDER NO. 20)** has been served by hand upon the Commission Investigative Attorney, **James Wiley, Esq.**, and the following parties as indicated, on JAN 15 2015



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

FOR COMPLAINANTS CANON INC., CANON U.S.A., INC., AND CANON VIRGINIA, INC.:	
Edmund J. Haughey, Esq. FITZPATRICK, CELLA, HARPER & SCINTO 975 F Street NW Washington, DC 20004	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
FOR RESPONDENTS NINESTAR IMAGE TECH LIMITED, ZHUHAI SEINE TECHNOLOGY CO., LTD., NINESTAR TECHNOLOGY COMPANY, LTD., SEINE TECH (USA) CO., LTD., SEINE IMAGE INT'L CO., LTD., NINESTAR IMAGE TECH, LTD., SEINE IMAGE (USA) CO., LTD., NANO PACIFIC CORPORATION, LINKYO CORP., AND INK TECHNOLOGIES PRINTER SUPPLIES, LLC:	
Gary M. Hnath, Esq. MAYER BROWN LLP 1999 K Street NW Washington, DC 20006	<input checked="" type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
FOR RESPONDENTS JIANGXI YIBO E-TECH CO., LTD., ASTER GRAPHICS CO., LTD., ASTER GRAPHICS, INC., THE SUPPLIES GUYS, LLC, AND AMERICAN INTERNET HOLDINGS, LLC:	
Barbara A. Murphy, Esq. FOSTER, MURPHY, ALTMAN & NICKEL, PC 1899 L Street NW, Suite 1150 Washington, DC 20036	<input checked="" type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-918

FOR RESPONDENT INTERNATIONAL LASER GROUP, INC.:	
Charles S. Barquist, Esq. MORRISON & FOERSTER LLP 707 Wilshire Blvd., Suite 6000 Los Angeles, CA 90017-3543	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
FOR RESPONDENT KATUN CORPORATION:	
Bryan J. Vogel, Esq. ROBINS, KAPLAN, MILLER & CIRESI L.L.P. 601 Lexington Avenue 34th Floor New York, NY 10022	<input checked="" type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____

PUBLIC VERSION

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Inv. No. 337-TA-918

Order No. 22: INITIAL DETERMINATION
Granting Summary Determination That Canon Satisfies the Economic Prong

Pursuant to 19 C.F.R. § 210.21(c), complainant Canon¹ moved for summary determination that it satisfies the economic prong of the domestic industry requirement, and a memorandum in support thereof. Motion Docket No. 918-24. The Commission Investigative Staff filed a response supporting Canon's motion for summary determination. No other party responded to the motion.²

The Commission Rules provide that "[a]ny party may move with any necessary supporting affidavits for a summary determination in its favor upon all or part of the issues to be determined in the investigation." 19 C.F.R. § 210.18(a). Summary determination "shall be rendered if pleadings and any depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a summary determination as a matter of law." 19 C.F.R. § 210.18(b).

¹ "Canon" refers collectively to Canon Inc., Canon U.S.A., Inc., and Canon Virginia, Inc. ("CVI").

² Pursuant to Commission Rule 210.15, if a nonmoving party does not respond to a motion, "he may be deemed to have consented to the granting of the relief asked for in the motion." 19 C.F.R. § 210.15(c).

In patent-based proceedings under section 337, a complainant bears the burden of establishing that an industry “relating to the articles protected by the patent . . . exists or is in the process of being established” in the United States. 19 U.S.C. § 1337(a)(2); *see also Certain Network Controllers and Products Containing Same*, Inv. No. 337-TA-531, Order No. 13 at 3-4 (July 6, 2005). Under Commission precedent, this requirement of section 337 is known as the “domestic industry requirement” and consists of a “technical prong” and an “economic prong.”

The technical prong, which is not at issue in the pending motion, requires that the complainant practice the patents-in-suit in the United States. *Crocs, Inc. v. Int’l Trade Comm’n*, 598 F.3d 1294, 1306-07 (Fed. Cir. 2010). The test for determining whether the technical prong is met through the practice of the patents “is essentially same as that for infringement, i.e., a comparison of domestic products to the asserted claims.” *Alloc, Inc. v. Int’l Trade Comm’n*, 342 F.3d 1361, 1375 (Fed. Cir. 2003).

The economic prong requires that the complainant have, with respect to the products protected by the patents: (a) significant investment in plant and equipment, (b) significant employment of labor or capital, or (c) substantial investment in exploitation of the patents, including engineering, research and development, or licensing activities. 19 U.S.C. § 1337(a)(3). The satisfaction of any one of these criteria will satisfy the economic prong. *See Certain Agricultural Vehicles and Components Thereof*, Inv. No. 337-TA-487, Final Initial and Recommended Determinations at 76 (Jan. 13, 2004). A “liberal and flexible” standard is applied by the Commission in determining the existence of an economic domestic industry. *See Certain Semiconductor Integrated Circuits and Products Containing Same*, Inv. No. 337-TA-665, Initial Determination and Recommended Determination at 231 (Oct. 14, 2009). Thus, “[t]he domestic industry determination should not be made according to any rigid formula, but by ‘an

examination of the facts in each investigation, the articles of commerce, and the realities of the marketplace.” *Certain Adjustable Keyboard Support Systems and Components Thereof*, Inv. No. 337-TA-670, Order No. 27 at 4 (Nov. 4, 2009) (quoting *Certain Double-Sided Floppy Disk Drives and Components Thereof*, Inv. No. 337-TA-215, Comm’n Op., 227 U.S.P.Q. 982, 989 (Oct. 15, 1985)).

The evidence submitted with the pending motion demonstrates that Canon satisfies the economic prong of the domestic industry requirement as a matter of law. Canon has shown that its activities in the United States related to the asserted patents satisfy each of the three prongs of 19 U.S.C. § 1137(a)(3). As discussed above, establishing that the economic prong is satisfied requires only that one prong be satisfied.

Plant and Equipment

Canon relies on three different facilities to establish that it has made a “significant investment in plant and equipment” in the United States: the CVI main campus, its main campus inventory and warehousing facilities, and its Workforce Development Center. *See Mem.* at 15-17.

The submitted evidence shows that CVI’s main campus has three primary facilities located on 165 acres of land in Newport News, Virginia: (1) a Main Plant with [] square feet, (2) an Advanced Cartridge Manufacturing Plant (“ACM Plant”) with [] square feet, and (3) a Toner Plant with [] square feet. *See Mem.* at 15 (citing F18).³ In these facilities, approximately [] square feet are dedicated to toner cartridges and, of that area, about [] square feet are apportionable to the asserted domestic industry products when using a

³ Citations to “F[]” refer to the Statement of Material Facts in support of Canon’s Motion for Summary Determination That Canon Satisfies the Economic Prong of the Domestic Industry Requirement (EDIS Doc. No. 959303), which was submitted with the pending motion.

sales volume-based allocation method. *See id.* at 15-16 (citing F25, F26). CVI’s main campus facilities are valued at about []. *See id.* at 15 (citing F19). Canon has invested in an additional [] in equipment at these facilities, of which approximately [] is attributable to the asserted domestic industry products. *See id.* (citing F21). This equipment includes “[

].” *See id.* at 16 (citing F29). There are also [

]. *See id.* (citing F31). CVI expends about [] annually on maintenance and repair of its main campus facilities. *See id.* at 15 (citing F36).

The evidence demonstrates that CVI maintains warehouse space in conjunction with its main campus facilities. *See Mem.* at 17 (citing F39). CVI’s ACM Plant has [] square feet of finished goods and parts storage space, with [] square feet apportionable to the asserted products. *See id.* (citing F39).

The evidence also shows that CVI operates a Workforce Development Center located in Newport News, Virginia, where it conducts “[

].” *See Mem.*

at 17 (citing F43). The facility occupies [] square feet, and is [

]. *See id.* (citing F41,

F42).

Labor and Capital

Canon also argues that it has engaged in “significant employment of labor or capital” in the United States. *See Mem.* at 17. Canon submitted evidence showing that CVI employs a total

of [] personnel and [] in the United States. *See id.* (citing F44). Of this total, [] personnel and [] are apportionable to the asserted domestic industry products. *See id.* (citing F45). CVI invests about [] annually in labor costs attributable to the labor pool associated with the asserted domestic industry products. *See id.* at 18 (citing F52).

Exploitation of the Asserted Patents

Canon further argues that it has made a “substantial investment in its exploitation” of the asserted patents, in the form of “CVI’s product engineering, manufacturing engineering, and quality assurance activities” in the United States. *See Mem.* at 18.

The submitted evidence shows that CVI invests [] annually in its engineering operations in the United States, of which about [] per year is apportionable to the asserted domestic industry products. *See Mem.* at 18-19 (citing F53, F56). In particular, CVI’s Product Engineering department is responsible for “[

].” *See id.* at 19 (citing F54). CVI’s Manufacturing Engineering department is responsible for “[

].” *See id.* (citing F55).

CVI's Quality Assurance Division also invests [] annually to perform quality assurance activities related to toner cartridges, of which about [] per year is apportionable to the asserted domestic industry products. *See* Mem. at 19 (citing F60); *see also* F59. These activities include “[].” *See id.* (citing F58).

* * *

Accordingly, it is the initial determination of the undersigned that Canon satisfies the economic prong of the domestic industry requirement. Motion No. 918-24 is granted.

Pursuant to 19 C.F.R. § 210.42(h), this initial determination shall become the determination of the Commission unless a party files a petition for review of the initial determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders on its own motion a review of the initial determination or certain issues contained herein.



David P. Shaw
Administrative Law Judge

Issued: January 16, 2015

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-918

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER NO. 22** has been served by hand upon the Commission Investigative Attorney, **James Wiley, Esq.**, and the following parties as indicated, on JAN 16 2015.



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

FOR COMPLAINANTS CANON INC., CANON U.S.A., INC., AND CANON VIRGINIA, INC.:	
Edmund J. Haughey, Esq. FITZPATRICK, CELLA, HARPER & SCINTO 975 F Street NW Washington, DC 20004	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
FOR RESPONDENTS NINESTAR IMAGE TECH LIMITED, ZHUHAI SEINE TECHNOLOGY CO., LTD., NINESTAR TECHNOLOGY COMPANY, LTD., SEINE TECH (USA) CO., LTD., SEINE IMAGE INT'L CO., LTD., NINESTAR IMAGE TECH, LTD., SEINE IMAGE (USA) CO., LTD., NANO PACIFIC CORPORATION, LINKYO CORP., AND INK TECHNOLOGIES PRINTER SUPPLIES, LLC:	
Gary M. Hnath, Esq. MAYER BROWN LLP 1999 K Street NW Washington, DC 20006	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
FOR RESPONDENTS JIANGXI YIBO E-TECH CO., LTD., ASTER GRAPHICS CO., LTD., ASTER GRAPHICS, INC., THE SUPPLIES GUYS, LLC, AND AMERICAN INTERNET HOLDINGS, LLC:	
Barbara A. Murphy, Esq. FOSTER, MURPHY, ALTMAN & NICKEL, PC 1899 L Street NW, Suite 1150 Washington, DC 20036	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-918

FOR RESPONDENT INTERNATIONAL LASER GROUP, INC.:	
Charles S. Barquist, Esq. MORRISON & FOERSTER LLP 707 Wilshire Blvd., Suite 6000 Los Angeles, CA 90017-3543	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
FOR RESPONDENT KATUN CORPORATION:	
Bryan J. Vogel, Esq. ROBINS, KAPLAN, MILLER & CIRESI L.L.P. 601 Lexington Avenue 34th Floor New York, NY 10022	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Express Delivery <input checked="" type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____