

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

In the Matter of

**CERTAIN LASER BAR CODE
SCANNERS AND SCAN ENGINES,
COMPONENTS THEREOF, AND
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-551

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

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined that there is a violation of 19 U.S.C. § 1337 by Metrologic Instruments, Inc. and Metro (Suzhou) Technologies Co., Ltd. in the above-captioned investigation. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Paul M. Bartkowski, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5432. 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: This investigation was instituted on October 26, 2005, based on a complaint filed by Symbol Technologies Inc. ("Symbol") of Holtsville, New York. The complaint, as amended, alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain laser bar code scanners or scan engines, components thereof, or products containing the same, by reason of infringement of various claims of United States Patent Nos. 5,457,308 ("the '308 patent"); 5,545,889 ("the '889 patent"); 6,220,514 ("the '514 patent"); 5,262,627 ("the '627 patent"); and 5,917,173 ("the '173 patent").

The complaint named two respondents: Metro Technologies Co., Ltd. of Suzhou, China; and Metrologic Instruments, Inc. of Blackwood, New Jersey (collectively, “Metrologic”).

On January 29, 2007, the ALJ issued an initial determination (“ID”) finding a violation of Section 337 in the importation of certain laser bar code scanners and scan engines, components thereof, and products containing the same, in connection with certain asserted claims. The ID also issued monetary sanctions against Respondents for discovery abuses. Complainant, Respondents, and the Commission investigative attorney (IA) each filed petitions for review of the ID on February 8, 2007. They each filed responses to each other’s petitions on February 16, 2007.

On February 21, 2007, the Commission extended the deadline for determining whether to review the subject ID by fifteen (15) days, to March 30, 2007. On March 30, 2007, the Commission determined to review the final ID in part. Specifically, the Commission determined to review: (1) the construction of “single, unitary, flexural component” in the ‘173 patent, and related issues of infringement, domestic industry, and validity; (2) the construction of “oscillatory support means” in the ‘627 patent, and related issues of infringement, domestic industry, and validity; (3) the construction of claims containing the so-called “central area” limitations in the ‘889 patent, and related issues of infringement, domestic industry, and validity; (4) the construction of the “scan fragment” limitation in the ‘308 patent; and (5) the construction of the term “plurality” in the ‘308 patent.

Having examined the record of this investigation, including the ALJ’s final ID, the Commission has determined to make the following modifications to the claim constructions set forth in the final ID: (1) the “single, unitary, flexural component” in the ‘173 patent must include “portions integral with each other;” (2) in the ‘627 patent, the “oscillatory support means” must oscillate; (3) limitations in the ‘889 patent containing requirements that the folding mirror be “near” or “adjacent” the central area of the collecting mirror allow for the folding mirror to be positioned close to, and either in front of or behind, the central area of the collecting mirror, but not mounted to the collecting mirror outside of the central area.; (4) “scan fragment,” as used in the ‘308 patent, means “a scan that reads less than all of a bar code symbol and that would have been discarded before the advent of scan-stitching techniques;” and (5) the term “plurality” in the ‘308 patent means “two or more.” These changes do not affect the ALJ’s findings on validity, infringement, or domestic industry. The Commission therefore affirms those findings, as well as the finding of a violation of section 337 by Metrologic with regard to certain asserted claims of the ‘627 and ‘173 patents.

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 section 210.45 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.45).

By order of the Commission.

/s/
Marilyn R. Abbott
Secretary to the Commission

Issued: May 30, 2007