

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER SUPPLY
CONTAINERS AND COMPONENTS
THEREOF (I)**

Investigation No. 337-TA-1259

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW
TWO INITIAL DETERMINATIONS TERMINATING THE INVESTIGATION AS TO
CERTAIN PATENT CLAIMS AND A RESPONDENT BASED ON PARTIAL
WITHDRAWAL OF THE COMPLAINT**

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. 11 and 13) of the presiding administrative law judge (“ALJ”). The first subject ID (Order No. 11) grants the complainants’ motion to terminate certain patent claims based on partial withdrawal of the complaint. The second subject ID (Order No. 13) grants the complainants’ motion to terminate respondent Shenzhenshi Keluodeng Kejiyouxiangognsi of Guangdong, China (“KenoGen”) based on partial withdrawal of the complaint. Certain patent claims, identified below, and respondent KenoGen are terminated from the investigation.

FOR FURTHER INFORMATION CONTACT: Lynde Herzbach, Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 205-3228. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: On April 13, 2021, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), 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, “Complainants”). See 86 FR 19284-86. The complaint, as supplemented, alleges a violation of

section 337 based upon the importation into the United States, sale for importation, or sale after importation into the United States of certain toner supply containers and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 10,209,667 (“the ’667 patent”); 10,289,060 (“the ’060 patent”); 10,289,061 (“the ’061 patent”); 10,295,957 (“the ’957 patent”); 10,488,814 (“the ’814 patent”); 10,496,032 (“the ’032 patent”); 10,496,033 (“the ’033 patent”); 10,514,654 (“the ’654 patent”); 10,520,881 (“the ’881 patent”); 10,520,882 (“the ’882 patent”); 8,565,649; 9,354,551; and 9,753,402. *Id.* The complaint further alleges that a domestic industry exists. *Id.* The notice of investigation names twenty-six respondents, including KenoGen. *Id.* At institution, the Commission severed the investigation into two investigations. The present investigation was instituted to determine whether there is a violation of section 337 in the importation, sale for importation, or sale within the United States after importation of toner supply containers and components thereof by reason of infringement of claims 1, 3, 6-8, and 11 of the ’667 patent; claims 1, 2, and 6-8 of the ’060 patent; claims 1-3, 6-8, and 11 of the ’061 patent; claims 1, 2, 4, 7-9 and 12 of the ’957 patent; claims 1, 4, 7-9, and 12 of the ’814 patent; claims 1, 4, 7-9, 12, 50, 53, 56-58, and 61 of the ’032 patent; claims 1, 5, 8-10, 13, 14, 18, 21-23, and 26 of the ’033 patent; claims 1, 3-5, 46, and 48-50 of the ’654 patent; claims 1, 5, 8-10, and 13 of the ’881 patent; and claims 1 and 6-8 of the ’882 patent. *Id.* The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. *Id.*

On July 15, 2021, Complainants filed a motion to terminate this investigation with respect to respondent KenoGen based on partial withdrawal of the complaint. On July 26, 2021, OUII filed a response in support of the motion.

On August 4, 2021, Complainants filed a motion to terminate the investigation, based on partial withdrawal of the complaint, as to the following claims: claims 3, 6, 7, 8, and 11 of the ’667 patent; claims 2, 6, 7, and 8 of the ’060 patent; claims 2, 3, 6, 7, 8, and 11 of the ’061 patent; claims 2, 4, 7, 8, 9, and 12 of the ’957 patent; claims 4, 7, 8, and 9 of the ’814 patent; claims 1, 4, 7, 8, 9, 12, 53, 56, and 57 of the ’032 patent; claims 5, 8, 9, 10, 14, 18, 21, 22, 23, and 26 of the ’033 patent; claims 1, 3, 4, 5, 48, and 49 of the ’654 patent; claims 5, 8, and 9 of the ’881 patent; and claims 6 and 7 of the ’882 patent. That same day, OUII filed a response in support of the motion.

On August 12, 2021, the ALJ issued the first subject ID granting Complainants’ motion to terminate certain patent claims. *See* Order No. 11 (Aug. 12, 2021). The first subject ID finds that Complainants meet the requirements of Commission Rule 210.21(a) (19 CFR 210.21(a)) and there are no extraordinary circumstances that would prevent the requested partial termination of the investigation. The ID further finds no prejudice if the motion is granted. No party petitioned for review of the first subject ID.

On August 13, 2021, the ALJ issued the second subject ID granting Complainants’ motion to terminate KenoGen. *See* Order No. 13 (Aug. 13, 2021). The second subject ID finds that the motion complies with Commission Rule 210.21(a) (19 CFR 210.21(a)), and was made before the issuance of any ID on violation of section 337, and that there are no extraordinary

circumstances that warrant denying the motion. No party petitioned for review of the second subject ID.

The Commission has determined not to review the two subject IDs. Claims 3, 6, 7, 8, and 11 of the '667 patent; claims 2, 6, 7, and 8 of the '060 patent; claims 2, 3, 6, 7, 8, and 11 of the '061 patent; claims 2, 4, 7, 8, 9, and 12 of the '957 patent; claims 4, 7, 8, and 9 of the '814 patent; claims 1, 4, 7, 8, 9, 12, 53, 56, and 57 of the '032 patent; claims 5, 8, 9, 10, 14, 18, 21, 22, 23, and 26 of the '033 patent; claims 1, 3, 4, 5, 48, and 49 of the '654 patent; claims 5, 8, and 9 of the '881 patent; and claims 6 and 7 of the '882 patent are terminated from the investigation. Respondent KenoGen is terminated from the investigation.

The Commission vote for this determination took place on August 25, 2021.

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

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

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: August 25, 2021