

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

In the Matter of				Inv. No. 337-TA-406)
				Consolidated
				Enforcement and Advisory
CERTAIN LENS-FITTED FILM PACKAGES				Opinion Proceedings)(Remand)

**NOTICE OF COMMISSION DECISION TO REVIEW AND REVERSE, IN PART,
AN INITIAL DETERMINATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review and reverse, in part, an initial determination (“ID”) issued by the presiding administrative law judge (“ALJ”) granting complainant’s motion for summary determination as to four respondents in the above-captioned investigation and deeming the motion moot as to Highway Holdings Ltd. (“Highway Holdings”). The Commission has determined to grant Fuji’s motion for summary determination as to Highway Holdings and to review and reverse the ALJ’s contrary finding. The Commission has also determined not to review the remainder of the ID.

FOR FURTHER INFORMATION CONTACT: Rodney Maze, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3065. 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 (<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: In *Fuji Photo Film Co., Ltd. v. Int’l Trade Comm’n*, 386 F.3d 1095 (Fed. Cir. 2004), the Federal Circuit reversed the Commission with regard to its construction of claim 1 of U.S. Patent No. 4,972,649 (“the ‘649 patent”), vacated the Commission decision with respect to claim 1 of the ‘649 patent, and remanded the case to the Commission for a new determination as to infringement of claim 1 of the ‘649 patent using the

Federal Circuit's claim construction. *See Fuji Photo*, 385 F.3d at 1108.

On December 21, 2004, in accordance with the Federal Circuit's decision, the Commission ordered the presiding ALJ to conduct remand proceedings consistent with the Federal Circuit's decision. At issue is whether any of the respondents' disposable cameras imported into or sold in the U.S. infringe claim 1 of the '649 patent under the Federal Circuit's claim construction. 69 *Fed. Reg.* 77776 (December 28, 2004). On March 4, 2005, Fuji filed a motion for summary determination as to respondents Achiever Industries, Ltd. ("Achiever"), Charles Randolph Company ("Charles Randolph"), Camera Custom Design a/k/a Title the Moment ("CCD"), CS Industries a/k/a PLF Inc. ("CSI"), and Highway Holdings with respect to infringement of claim 1 of the '649 patent. On March 28, 2005, the Commission investigative attorney ("IA") filed a response in support of Fuji's motion as to Achiever, Charles Randolph, CCD, and CSI, but opposed Fuji's motion with respect to Highway Holdings because Highway Holdings had not been served with the Commission order instituting the remand proceedings. Shortly thereafter, Fuji obtained permission from the ALJ to serve Highway Holdings with the Commission order and Fuji's motion for summary determination. On April 12, 2005, Highway Holdings' counsel informed Fuji that Highway Holdings would not oppose Fuji's summary determination motion.

On May 6, 2005, the ALJ issued an ID (Order No. 139) granting Fuji's motion for summary determination of infringement as to four of the respondents. However, the ALJ did not make a determination as to Highway Holdings, finding the issue as to Highway Holdings moot. On May 13, 2005, both Fuji and the IA filed separate petitions for review of the ID as to Highway Holdings. On May 13, 2005, Fuji also filed a motion for reconsideration of Order No. 139 regarding the same issue. On May 24, 2005, the ALJ issued Order No. 140 denying Fuji's motion for reconsideration of Order No. 139.

The Commission finds that service to Highway Holdings was perfected and that Highway Holdings did not oppose Fuji's motion for summary determination that Highway Holdings Type HH cameras infringe claim 1 of the '649 patent. Accordingly, the Commission has determined to grant Fuji's motion for summary determination of infringement of the '649 patent by Highway Holdings and to review and reverse the ALJ's contrary determination.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, and Commission Rules 210.42 and 210.45, 19 C.F.R. §§ 210.42 and 210.45.

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: June 7, 2005