

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN MAGNIFYING LOUPE
PRODUCTS AND COMPONENTS
THEREOF**

Investigation No. 337-TA-611

**NOTICE OF COMMISSION ISSUANCE OF A LIMITED EXCLUSION ORDER
AGAINST THE INFRINGING PRODUCTS OF RESPONDENT FOUND IN DEFAULT;
TERMINATION OF INVESTIGATION**

RECEIVED
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U.S. INTERNATIONAL TRADE COMMISSION
2007 JUL 23 PM 1:30

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued a limited exclusion order against the infringing products of a respondent found in default, and has terminated the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Jonathan J. Engler, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3112. 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: This investigation was initiated on August 1, 2007, based on a complaint filed by General Scientific Corporation ("GSC") of Ann Arbor, Michigan. 72 *Fed. Reg.* 42111 (Aug. 1, 2007). The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337), as amended, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain magnifying loupe products and components thereof by reason of infringement of claim 8 of U.S. Patent No. 5,446,507, claim 1 of U.S. Patent No. 6,513,929, or claims 1-5 or 10 of U.S. Patent No. 6,704,141. The complaint further alleges that an industry in the United States exists as required

by subsection (a)(2) of section 337. The complainant requested that the Commission issue an exclusion order and cease and desist orders. The complaint named SheerVision, Inc. ("SheerVision"), of Rolling Hills Estates, California, as well as Nanjing JinJiahe I/E Co. ("Nanjing"), of Jiangsu, China, as respondents.

On January 28, 2008, GSC and respondent SheerVision jointly moved to terminate this investigation with respect to SheerVision based on a settlement agreement and a proposed consent order. On February 8, 2008, the ALJ issued an ID (Order No. 8) granting the motion to terminate. The Commission determined not to review the ID.

On March 10, 2008, GSC filed a motion requesting an order directing respondent Nanjing to show cause why it should not be found in default for failure to respond to the complaint and Notice of Investigation. On March 21, 2008, the ALJ issued Order No. 9, which ordered Nanjing to show cause by April 4, 2008 why it should not be found in default. No response to Order No. 9 was filed. On April 25, 2008, the ALJ issued an ID, Order No. 10, finding Nanjing in default. The Commission determined not to review that ID. Because Nanjing was found to be in default, the Commission issued notice of its consideration of a default remedy, and requested briefing from interested parties on remedy, the public interest, and bonding on May 16, 2008.

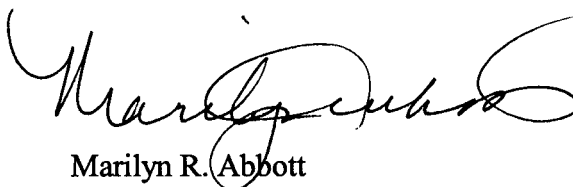
The Commission investigative attorney and GSC submitted briefing responsive to the Commission's request on May 30 and May 29, 2008, respectively, and each proposed a limited exclusion order directed to Nanjing's accused products, and recommended allowing entry under bond of 100 percent of entered value during the period of Presidential review.

The Commission found that each of the statutory requirements of section 337(g)(1)(A)-(E), 19 U.S.C. § 1337(g)(1)(A)-(E), has been met with respect to the defaulting respondents. Accordingly, pursuant to section 337(g)(1), 19 U.S.C. § 1337(g)(1), and Commission rule 210.16(c), 19 CFR § 210.16(c), the Commission presumed the facts alleged in the complaint to be true.

The Commission has determined that the appropriate form of relief in this investigation is a limited exclusion order prohibiting the unlicensed entry of certain magnifying loupe products and components thereof, by reason of infringement of one or more of claim 8 of U.S. Patent No. 5,446,507, claim 1 of U.S. Patent No. 6,513,929, and claims 1-5 and 10 of U.S. Patent No. 6,704,141 that are manufactured abroad by or on behalf of, or imported by or on behalf of, Nanjing JinJiahe I/E Co. of Jiangsu, China, or any of its affiliated companies, parents, subsidiaries, or other related business entities, or any of their successors or assigns. The Commission further determined that the public interest factors enumerated in section 337(g)(1), 19 U.S.C. § 1337(g)(1), do not preclude issuance of the limited exclusion order. Finally, the Commission determined that the bond under the limited exclusion order during the Presidential review period shall be in the amount of 100 percent of the entered value of the imported articles. The Commission's order was delivered to the President and the United States Trade Representative on the day of its issuance.

The Commission has terminated this investigation. 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 sections 210.16(c) and 210.41 of the Commission's Rules of Practice and Procedure (19 CFR § 210.16(c) and § 210.41).

By order of the Commission.

A handwritten signature in black ink, appearing to read "Marilyn R. Abbott", with a large, stylized flourish at the end.

Marilyn R. Abbott
Secretary

Issued: July 24, 2008

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

In the Matter of

**CERTAIN MAGNIFYING LOUPE
PRODUCTS AND COMPONENTS
THEREOF**

Inv. No. 337-TA-611

LIMITED EXCLUSION ORDER

The Commission has previously found Nanjing JinJiahe I/E Co. (“Nanging”), of Jiangsu, China, in default for failing to respond to the Notice of Investigation and the Complaint that alleged a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the unlawful importation and sale of certain magnifying loupe products and components thereof by reason of infringement of three asserted patents, including claim 8 of U.S. Patent No. 5,446,507 (“the ‘507 patent”), claim 1 of U.S. Patent No. 6,513,929 (“the ‘929 patent”), and claims 1-5 and 10 of U.S. Patent No. 6,704,141 (“the ‘141 patent”).

Having reviewed the record in 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 the appropriate form of relief as to the defaulting respondent is a limited exclusion order prohibiting the unlicensed entry of magnifying loupe products and components thereof that are covered by one or more of claim 8 of the ‘507

patent, claim 1 of the '929 patent, and claims 1-5 and 10 of the '141 patent, and that are manufactured abroad by or on behalf of, or imported by or on behalf of, Nanjing.

The Commission has further determined that the public interest factors enumerated in 19 U.S.C. § 1337(d) do not preclude issuance of the limited exclusion order, and that the bond during the Presidential review period shall be in the amount of 100 percent of the entered value of the infringing imported magnifying loupe products and components thereof that are subject to this Order.

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

1. Magnifying loupe products and components thereof that are covered by one or more of claim 8 of U.S. Patent No. 5,446,507, claim 1 of U.S. Patent No. 6,513,929, and claims 1-5 and 10 of U.S. Patent No. 6,704,141 that are manufactured abroad by or on behalf of, or imported by or on behalf of, Nanjing or any of its affiliated companies, parents, subsidiaries, or other related business entities, or any of their successors or assigns, shall be 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 term of the patents, except under license of the patent owner or as provided by law.

2. Magnifying loupe products and components thereof that are excluded by paragraph 1 of this Order are entitled to entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, under bond in the amount of 100 percent of the entered value of the infringing imported magnifying

loupe products and components pursuant to subsection (j) of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(j), and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (70 *Fed. Reg.* 43251), from the day after this Order is received by the United States Trade Representative until such time as the United States Trade Representative notifies the Commission that this action is approved or disapproved but, in any event, not later than 60 days after the date of receipt of this action.

3. At the discretion of U.S. Customs and Border Protection ("CBP") and pursuant to procedures it establishes, persons seeking to import magnifying loupes 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 paragraphs 1 through 7 of this Order. At its discretion, Customs 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.

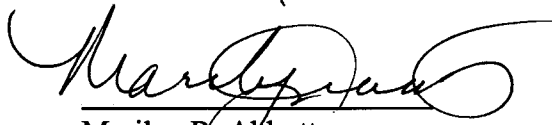
4. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to magnifying loupe products or components thereof that are imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.

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

6. The Secretary shall serve copies of this Order upon each party of record in this investigation and upon the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and the U.S. Bureau of Customs and Border Protection.

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

By Order of the Commission.

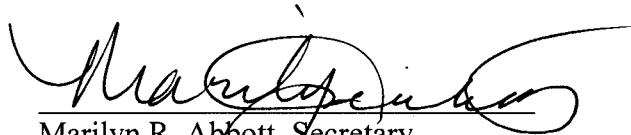


Marilyn R. Abbott
Secretary

Issued: July 24, 2008

PUBLIC CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **NOTICE OF COMMISSION
ISSUANCE OF A LIMITED EXCLUSION ORDER AGAINST THE
INFRINGEMENT PRODUCTS OF RESPONDENT FOUND IN DEFAULT;
TERMINATION OF INVESTIGATION** has been served by hand upon the
Commission Investigative Attorney, Heidi E. Strain, Esq., and the following parties as
indicated, on July 24, 2008.



Marilyn R. Abbott, Secretary
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