

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

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<b>In the Matter of</b>	)	
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<b>CERTAIN LENS-FITTED FILM PACKAGES</b>	)	<b>Investigation No. 337-TA-406 Bond Forfeiture Proceeding</b>
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**NOTICE OF COMMISSION DETERMINATION TO REVIEW-IN-PART  
AN INITIAL DETERMINATION ON BOND FORFEITURE;  
SCHEDULE FOR WRITTEN SUBMISSIONS**

**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 the initial determination (ID) on bond forfeiture issued by the presiding administrative law judge (ALJ) on May 29, 2003. Specifically, the Commission has determined to review on its own motion the issue of the ALJ's inclusion of offers of sale as an element of injury compensable under the bond.

**FOR FURTHER INFORMATION CONTACT:** Mark B. Rees, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3116. Copies of the public version of the ALJ's ID and all other nonconfidential 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:** On March 25, 1998, the Commission instituted an investigation into a complaint of Fuji Photo Film Co., Ltd. (Fuji) that Jazz Photo Corporation (Jazz) and others were engaged in the importation and sale of certain lens-fitted film packages (*i.e.*, disposable cameras) in violation of section 337. At the conclusion of the investigation, the Commission issued a general exclusion order as well as, *inter alia*, a cease and desist order

against Jazz that required Jazz to post bonds in order to continue prohibited conduct during the 60 day period in which the remedial orders would be under review by the President pursuant to section 337(j). Jazz appealed the Commission's orders to the U.S. Court of Appeals for the Federal Circuit and the Federal Circuit issued a stay of the Commission's remedial orders pending the appeal, but required Jazz to post a bond with the Commission at the same rate set by the Commission during the period of Presidential review (a supersedeas bond). Jazz subsequently posted a bond. In August 2001, the Federal Circuit affirmed the Commission's orders as they related to Jazz and lifted the stay.

Fuji subsequently moved the Commission for forfeiture of the bond. On December 10, 2002, the Commission issued an order that referred the motion to the ALJ for adjudication, in accordance with Commission rule 210.50(d)(3), of the "precise amount due and owing" by Jazz to Fuji for "imports" and/or "sales" during the Presidential review period. The ALJ conducted an evidentiary hearing on the motion on February 27 and 28, 2003, and issued his ID on May 29, 2003, in which he determined, based on, *inter alia*, his calculation of Jazz sales and offers of sale during the Presidential review period, that the precise amount due and owing by Jazz to Fuji under the bond is \$667,312.

Fuji filed a late petition along with a request for leave to file late that was, upon supplementation, granted by the Chairman. Jazz and the Commission investigative attorney filed oppositions to Fuji's petition. Jazz also opposed Fuji's request for leave to file late.

Having examined the record in this bond forfeiture, including the ALJ's ID, the petition for review, and the responses thereto, the Commission has determined to review the issue of the ALJ's inclusion of offers of sale as an element of injury compensable under the bond. The Commission has determined not to review the remainder of the ID.

On review, the Commission requests briefing on the evidentiary record of the issue under review and is particularly interested in receiving responses from the parties to the following questions:

1. Whether the orders of the United States Court of Appeals for the Federal Circuit, cited in the Commission's December 10, 2002, order, operate to limit recovery under the bond to imports or sales during the Presidential review period.
2. Whether the amount of the bond to be forfeited is limited to actual damages sustained by Fuji during the Presidential review period or whether the Presidential review period simply defines the period during which otherwise proscribed conduct may be engaged in by Jazz, which conduct may cause compensable injury after the Presidential review period ends.

3. What is the rationale for including offers of sale (as distinct from sales) as a factor in the computation of compensable injury? In other words, how does an offer for sale by Jazz cause injury to Fuji?

**WRITTEN SUBMISSIONS:** The parties to the investigation are requested to file written submissions on the issue under review. The written submissions must be filed no later than close of business on July 28, 2003. Reply submissions must be filed no later than the close of business on August 4, 2003. No further submissions will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file with the Office of the Secretary the original document and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* section 201.6 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

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 sections 210.42 through 210.45 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42-210.45).

By order of the Commission.

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Marilyn R. Abbott  
Secretary to the Commission

Issued: July 15, 2003