

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN INKJET INK SUPPLIES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-730

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN
INITIAL DETERMINATION GRANTING COMPLAINANT'S MOTION FOR
SUMMARY DETERMINATION THAT THERE HAS BEEN A VIOLATION OF
SECTION 337**

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 an initial determination ("ID") (Order No. 14) of the presiding administrative law judge ("ALJ") granting complainant's motion for summary determination that there has been a violation of section 337 in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3106. 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: The Commission instituted this investigation on August 3, 2010, based on a complaint filed by Hewlett-Packard Company of Palo Alto, California and Hewlett-Packard Development Company, L.P. of Houston, Texas (collectively, "HP") alleging a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain inkjet ink supplies and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 6,959,985 and 7,104,630. *75 Fed. Reg.* 45663 (Aug. 3, 2010).

Complainant named Mipo International, Ltd. of Atlanta, Georgia ("Mipo"); Mextec Group Inc. of Miami, Florida ("Mextec"); Shanghai Angel Printer Supplies Co., Ltd. of Shanghai, China ("Shanghai Angel"); Shenzhen Print Media Co., Ltd. of Guangdong, China ("Shenzhen"); Zhuhai

National Resources & Jingjie Imaging Products Co., Ltd. of Guangdong, China (“Zhuhai National”); Tatrix International of Guangdong, China (“Tatrix”); and Ourway Image Co. Ltd. of Guangdong, China (“Ourway”) as respondents. Subsequently, Mipo, Mextec, and Shenzhen were terminated from the investigation based on either a settlement agreement with HP or because HP withdrew its allegations against them. The remaining respondents, *i.e.*, Shanghai Angel; Zhuhai National; Tatrix; and Ourway (collectively, “Defaulting Respondents”), failed to answer the Complaint and Notice of Investigation and default judgments were granted against all the Defaulting Respondents.

On March 7, 2011, complainant HP filed a paper “Motion for Summary Determination That a Domestic Industry Exists and That There Have Been Violations of Section 337 of the Tariff Act of 1930 (Amended) By the Defaulting Respondents and Complainants' Request for a General Exclusion Order.” Complainant sought a determination that a domestic industry exists and that there has been a violation of Section 337 and entry of a general exclusion order. Subsequently, HP filed a supplemental submission in support of its motion for summary determination. The IA supports HP’s motion as supplemented.

On August 3, 2011, the ALJ issued an ID (Order No. 14) granting complainant’s motion. No party petitioned for review of the ID. The ID contained, *inter alia*, the ALJ’s recommended determination on remedy and bonding. The ALJ recommended issuance of a general exclusion order and cease and desist orders against the defaulting respondents. The ALJ also recommended that the Commission set a bond of 100 percent during the period of Presidential review.

Having examined the record in this investigation, including the subject ID, the Commission has determined not to review the ID.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background, see *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (Dec. 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. See Presidential Memorandum of July 21, 2005. 70 *Fed. Reg.* 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

WRITTEN SUBMISSIONS: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding. Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. Complainant is further requested to provide the respective expiration dates of the patents-in-suit and state the HTSUS numbers under which the accused articles are imported. The written submissions and proposed remedial orders must be filed no later than the close of business on September 14, 2011. Reply submissions must be filed no later than the close of business on September 21, 2011. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. 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 this action is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in sections 210.42-.46 and 210.50 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42-.46, 210.50).

By order of the Commission.

/s/
James R. Holbein
Secretary to the Commission

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