

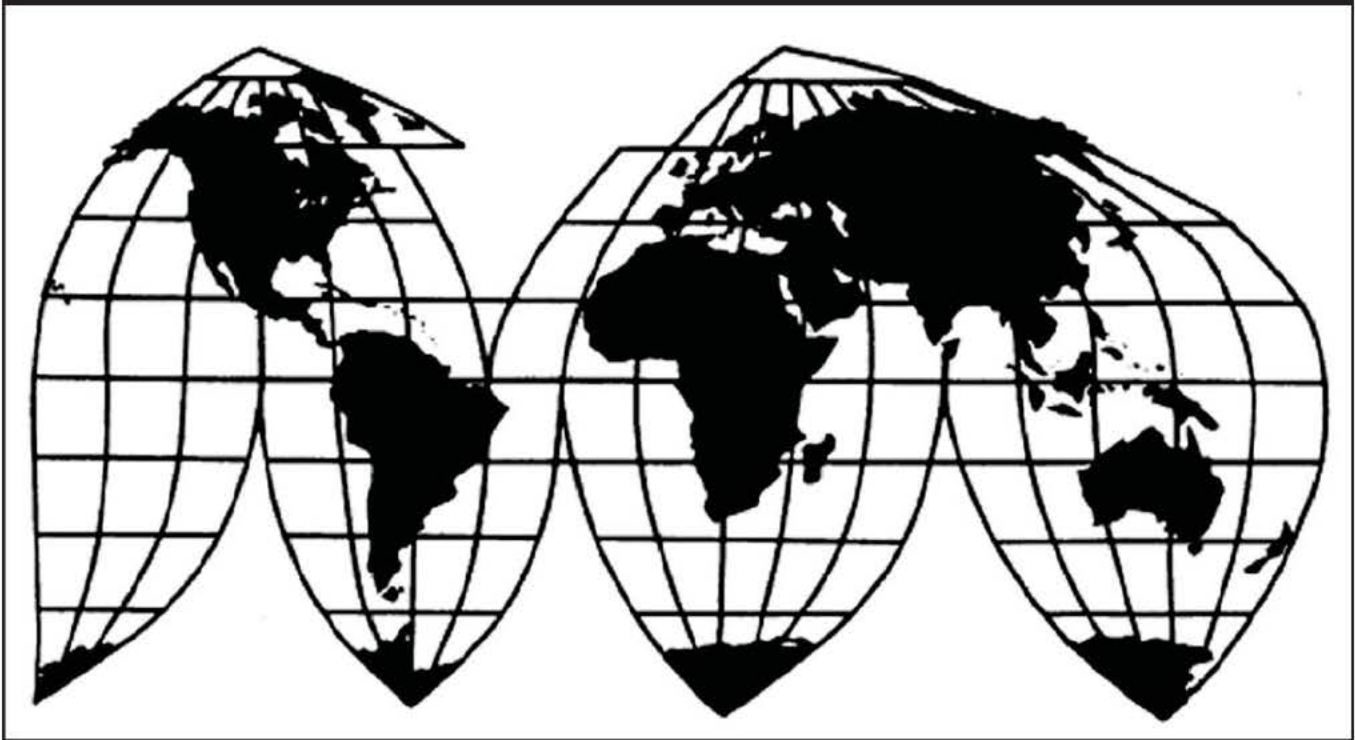
In the Matter of
**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

Publication 4376

February 2013

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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In the Matter of

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

Investigation No. 337-TA-740



UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF

Investigation No. 337-TA-740

**NOTICE OF COMMISSION FINAL DETERMINATION OF VIOLATION
OF SECTION 337; TERMINATION OF INVESTIGATION;
ISSUANCE OF GENERAL EXCLUSION ORDER AND CEASE AND DESIST ORDERS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has found a violation of Section 337 in the above-captioned investigation. The Commission has determined to issue a general exclusion order and cease and desist orders. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2301. 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 October 12, 2010, based on a complaint filed by Lexmark International, Inc. of Lexington, Kentucky ("Lexmark"). 75 *Fed. Reg.* 62564-65 (Oct. 12, 2010). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("Section 337"), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain toner cartridges and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 5,337,032 ("the '032 patent"); 5,634,169 ("the '169 patent"); 5,758,233 ("the '233 patent"); 5,768,661 ("the '661 patent"); 5,802,432 ("the '432 patent"); 5,875,378 ("the '378 patent"); 6,009,291 ("the '291 patent"); 6,078,771 ("the '771 patent"); 6,397,015 ("the '015 patent"); 6,459,876 ("the '876 patent"); 6,816,692 ("the '692 patent"); 6,871,031 ("the '031 patent"); 7,139,510 ("the '510 patent"); 7,233,760 ("the '760 patent"); and 7,305,204 ("the '204 patent"). The complaint further alleges the existence of a domestic industry.

The Commission's notice of investigation named as respondents Ninestar Image Co. Ltd., (a/k/a Ninestar Technology Co., Ltd.) of Guangdong, China ("Ninestar"); Ninestar Image Int'l, Ltd. of Guangdong, China ("Ninestar Image Int'l"); Seine Image International Co. Ltd. of New Territories, Hong Kong ("Seine Image"); Ninestar Technology Company, Ltd. of Piscataway, New Jersey ("Ninestar Tech"); Ziprint Image Corporation of Walnut, California ("Ziprint"); Nano Pacific Corporation of South San Francisco, California ("Nano Pacific"); IJSS Inc. (d/b/a TonerZone.com Inc. and Inkjet Superstore) of Los Angeles, California ("IJSS"); Chung Pal Shin (d/b/a Ink Master) of Cerritos, California ("Ink Master"); Nectron International, Inc. of Sugarland, Texas ("Nectron"); Quality Cartridges Inc. of Brooklyn, New York ("QCI"); Direct Billing International Incorporated (d/b/a Office Supply Outfitter and d/b/a The Ribbon Connection) of Carlsbad, California ("Direct Billing"); E-Toner Mart, Inc. of South El Monte, California ("E-Toner"); Alpha Image Tech of South El Monte, California ("Alpha Image"); ACM Technologies, Inc. of Corona, California ("ACM"); Virtual Imaging Products Inc. of North York, Ontario; Acecom Inc. – San Antonio (d/b/a Inksell.com) of San Antonio, Texas ("Acom"); Ink Technologies Printer Supplies, LLC (d/b/a Ink Technologies LLC) of Dayton, Ohio ("Ink Tech"); Jahwa Electronics Co., Ltd of Chungchongbuk-do, South Korea; Huizhou Jahwa Electronics Co., Ltd. of Guangdong Province, China; Copy Technologies, Inc. of Atlanta, Georgia ("Copy Tech"); Laser Toner Technology, Inc. of Atlanta, Georgia ("LTT"); C&R Service, Incorporated of Corinth, Texas ("C&R"); Print-Rite Holdings Ltd., of Chai Wan, Hong Kong ("Print-Rite"); and Union Technology Int'l (M.C.O.) Co., Ltd. of Rodrigo Rodrigues, Macao.

The Commission determined not to review an initial determination terminating the investigation as to Print-Rite based on a settlement agreement. Commission Notice (Jan. 10, 2011) (Order No. 11). The Commission determined to review and affirm several initial determinations finding several respondents in default under Commission Rules 210.16(a)(2) and (b)(2) based on those respondents' elections to default. Commission Notice (Mar. 3, 2011) (Order Nos. 15-16); Commission Notice (Mar. 11, 2011) (Order Nos. 17-18); Commission Notice (Mar. 11, 2011) (Order No. 19). The Commission determined not to review two other initial determinations finding the remaining respondents in default. Commission Notice (Mar. 23, 2011) (Order No. 23); Commission Notice (April 6, 2011) (Order No. 24).

On April 25, 2011, Lexmark filed a motion pursuant to Commission Rule 210.18 (19 C.F.R. § 210.18) for summary determination of violation of Section 337 and requesting issuance of a general exclusion order and cease and desist orders against defaulting respondents. On May 5, 2011, the Commission investigative attorney ("IA") filed a response supporting the motion, on the condition that Lexmark submit the following: (1) a declaration from its expert, Charles Reinholtz, averring that the statements in his expert report are true and correct, and (2) a declaration from Andrew Gardner that the accused products do not have any substantial non-infringing uses. Lexmark filed the submissions per the IA's request.

On June 1, 2011, the ALJ issued an initial determination (Order No. 26) ("ID") granting Lexmark's motion for summary determination of violation of Section 337. The ID also contained the ALJ's recommended determination on remedy and bonding. Specifically, the ALJ recommended issuance of a general exclusion order ("GEO") and cease and desist orders

("CDOs") against the defaulting respondents. The ALJ further recommended that the Commission set a bond of 100 percent during the period of Presidential review.

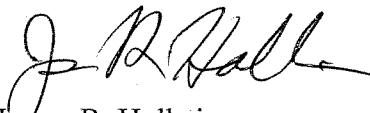
On July 12, 2011, the Commission determined not to review the ID and called for briefing on remedy, the public interest, and bonding. 76 *Fed. Reg.* 41822-24 (July 15, 2011). On August 1, 2011, Lexmark submitted an initial brief on remedy, the public interest, and bonding, requesting that the Commission issue a GEO and CDOs and set a bond of 100 percent during the period of Presidential review. The brief included a proposed GEO and a proposed CDO. Also on August 1, 2011, the IA submitted an initial brief on remedy, the public interest, and bonding, supporting Lexmark's request for a GEO and CDOs, as well as a bond of 100 percent. The IA's brief also included a proposed GEO and a proposed CDO.

The Commission has determined that the appropriate form of relief is the following: (1) a GEO under 19 U.S.C. § 1337(d)(2), prohibiting the unlicensed entry of toner cartridges and components thereof that infringe one or more of claim 1 of the '032 patent; claims 1-3, 32, 33, 36, and 42 of the '169 patent; claims 1 and 2 of the '233 patent; claims 1 and 2 of the '661 patent; claims 1-3 of the '432 patent; claims 1, 2, and 14 of the '378 patent; claims 1 and 2 of the '291 patent; claims 1, 2, 5, 6, 10, and 15 of the '771 patent; claims 1, 2, 7, 10, 11, 14, 15, 17, 22, and 24 of the '015 patent; claims 1-3 and 28 of the '876 patent; claim 1 of the '692 patent; claims 1, 3, 5, 8, and 10 of the '031 patent; claims 1 and 6 of the '510 patent; claims 11, 12, and 14 of the '760 patent; and claims 1, 7, 14, and 15 of the '204 patent; and (2) CDOs directed to defaulting domestic respondents E-Toner, Alpha Image, Copy Tech, LTT, C&R, ACM, Ink Master, Direct Billing, Ink Tech, QCI, IJSS; Acecom, Ninestar Tech, Ziprint, Nano Pacific, and Nectron and defaulting foreign respondents Ninestar, Ninestar Image Int'l, and Seine Image.

The Commission has further determined that the public interest factors enumerated in Section 337(d) and (f) (19 U.S.C. § 1337(d), (f)) do not preclude issuance of the GEO and the CDOs. The Commission has determined that the bond for temporary importation during the period of Presidential review (19 U.S.C. § 1337(j)) shall be in the amount of 100 percent of the value of the imported articles that are subject to the order. The Commission's orders were delivered to the President and the United States Trade Representative on the day of their issuance.

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 210.42-50 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42-50).

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

GENERAL EXCLUSION ORDER

The Commission has determined that there is a violation of Section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the unlawful importation and sale of certain toner cartridges and components thereof that infringe claim 1 of U.S. Patent No. 5,337,032 (“the ‘032 patent”); claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”).

Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determinations on the issues of remedy, the public interest, and bonding. The Commission has determined that a general exclusion from entry for consumption is necessary to prevent circumvention of an exclusion order limited to products of named persons and because there is a pattern of violation of Section 337 and it is difficult to identify the source of infringing products. Accordingly, the Commission has determined to issue a general exclusion order prohibiting the unlicensed importation of toner cartridges and components thereof.

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. § 1337(d) do not preclude issuance of the general exclusion order, and that there shall be a bond during the period of Presidential review in the amount of 100 percent of the entered value of the articles in question.

Accordingly, the Commission hereby ORDERS that:

1. Laser toner cartridges and components thereof covered by one or more of claims 1-3, 32-33, 36 and 42 of the '169 patent; claims 1 and 2 of the '233 patent; claims 1 and 2 of the '661 patent; claims 1-3 of the '432 patent; claims 1, 2 and 14 of the '378 patent; claims 1 and 2 of the '291 patent; claims 1, 2, 5, 6, 10 and 15 of the '771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the '015 patent; claims 1-3 and 28 of the '876 patent; claim 1 of the '692 patent; claims 1, 3, 5, 8 and 10 of the '031 patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent are excluded from entry into the United States for consumption, entry for consumption from a foreign-trade zone, or withdrawal from a

warehouse for consumption, for the remaining terms of the patents, except under license of the patent owner or as provided by law.

2. Notwithstanding paragraph 1 of this Order, the aforesaid laser toner cartridges and components thereof are entitled to entry into the United States for consumption, 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 products 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 and until such time as the United States Trade Representative notifies the Commission that this Order is approved or disapproved but, in any event, not later than sixty (60) days after the date of receipt of this Order.

3. At the discretion of U.S. Customs and Border Protection (“CBP”) and pursuant to procedures it establishes, persons seeking to import toner cartridges 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 paragraph 1 of this Order. At its discretion, CBP 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 toner cartridges and 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 Commission 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 CBP.

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

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Acecom Inc. – San Antonio (d/b/a inksell.com) of 14833 Bulverde Road, San Antonio, TX 78251 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”);

and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Acecom Inc. – San Antonio (d/b/a inksell.com) of 14833 Bulverde Road, San Antonio, TX 78251.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, successors, or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products; or
- (D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of their respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

XI. Bonding

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed. Reg.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the general exclusion order issued by the Commission, and are not subject to this bond provision.

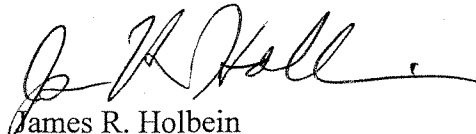
The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT E-Toner Mart, Inc. of 1718 Potrero Avenue, Suite #A, South El Monte, CA 91733 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) "Commission" shall mean the United States International Trade Commission.

(B) "Complainant" shall mean Lexmark International, Inc.

(C) "Respondent" means E-Toner Mart, Inc. of 1718 Potrero Avenue, Suite #A, South El Monte, CA 91733.

(D) "Person" shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, successors, or assigns.

(E) "United States" shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms "import" and "importation" refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term "covered products" shall mean laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the '169 patent; claims 1 and 2 of the '233 patent; claims 1 and 2 of the '661 patent; claims 1-3 of the '432 patent; claims 1, 2 and 14 of the '378 patent; claims 1 and 2 of the '291 patent; claims 1, 2, 5, 6, 10 and 15 of the '771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the '015 patent; claims 1-3 and 28 of the '876 patent; claim 1 of the '692 patent; claims 1, 3, 5, 8 and 10 of the '031 patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products; or
- (D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432

patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of their respective officers, directors, managing agents, agents, and

employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In

determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

XI. Bonding

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed. Reg.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the general exclusion order issued by the Commission, and are not subject to this bond provision.

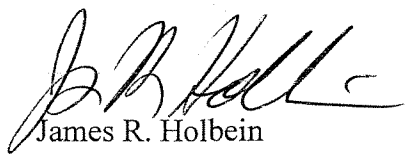
The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary

will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Chung Pal Shin (d/b/a Ink Master) of 16635 Valley View, Cerritos, CA 90703 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No.

7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Chung Pal Shin (d/b/a Ink Master) of 16635 Valley View, Cerritos, CA 90703.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, successors, or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products; or
- (D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of their respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

XI. Bonding

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed. Reg.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the general exclusion order issued by the Commission, and are not subject to this bond provision.

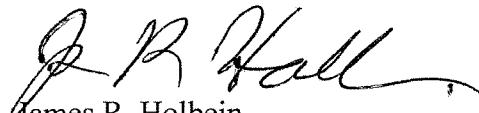
The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT IJSS Inc. (d/b/a TonerZone.com Inc. and Inkjet Superstore) of 1880 Century Park East, #200, Los Angeles, CA 90067 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760

patent”); and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means IJSS Inc. (d/b/a TonerZone.com Inc. and Inkjet Superstore) of 1880 Century Park East, #200, Los Angeles, CA 90067.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, successors, or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products; or
- (D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of their respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

XI. Bonding

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed. Reg.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the general exclusion order issued by the Commission, and are not subject to this bond provision.

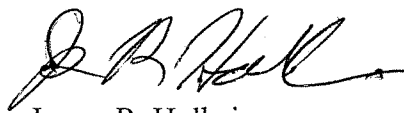
The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.



James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Ziprint Image Corporation of 19805 Harrison Avenue, Walnut, CA 91789 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No.

7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Ziprint Image Corporation of 19805 Harrison Avenue, Walnut, CA 91789.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, successors, or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products; or
- (D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of their respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

XI. Bonding

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed. Reg.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the general exclusion order issued by the Commission, and are not subject to this bond provision.

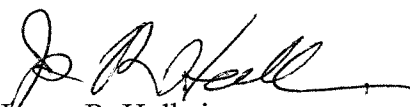
The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Direct Billing International Incorporated (d/b/a Office Supply Outfitter and d/b/a The Ribbon Connection) of 5910 Sea Lion Place, Suite 100, Carlsbad, CA 92010 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No.

7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Direct Billing International Incorporated (d/b/a Office Supply Outfitter and d/b/a The Ribbon Connection) of 5910 Sea Lion Place, Suite 100, Carlsbad, CA 92010.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, successors, or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products; or
- (D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of their respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

XI. Bonding

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed. Reg.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the general exclusion order issued by the Commission, and are not subject to this bond provision.

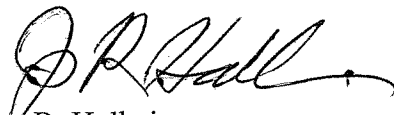
The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.



James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Copy Technologies, Inc. of 130 James Aldredge Blvd SW, Atlanta, GA 30336 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”);

and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Copy Technologies, Inc. of 130 James Aldredge Blvd SW, Atlanta, GA 30336.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, successors, or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order: For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

(A) import or sell for importation into the United States covered products;

(B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;

(C) advertise imported covered products; or

(D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of their respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

XI. Bonding

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed. Reg.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the general exclusion order issued by the Commission, and are not subject to this bond provision.


The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT C & R Services, Incorporated of 2035 Fair Oaks Circle, Corinth, TX 76210 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No.

7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means C & R Services, Incorporated of 2035 Fair Oaks Circle, Corinth, TX 76210.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, successors, or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products; or
- (D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of their respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

XI. Bonding

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed. Reg.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the general exclusion order issued by the Commission, and are not subject to this bond provision.

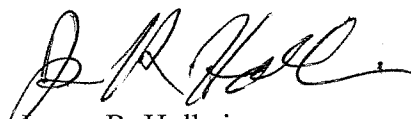
The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Alpha Image Tech of 1718 Potrero Avenue Suite #A, South El Monte, CA 91733 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”);

and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Alpha Image Tech of 1718 Potrero Avenue Suite #A, South El Monte, CA 91733.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, successors, or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products; or
- (D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of their respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

XI. Bonding

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed. Reg.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the general exclusion order issued by the Commission, and are not subject to this bond provision.

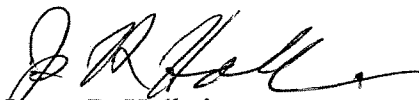
The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Seine Image International Co. Ltd. of Rm. 18, 9/F New Commercial Ctr., 9 on Lai St., Sha Tin, New Territories, Hong Kong cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 ("the '169 patent"); claims 1 and 2 of U.S. Patent No. 5,758,233 ("the '233 patent"); claims 1 and 2 of U.S. Patent No. 5,768,661 ("the '661 patent"); claims 1-3 of U.S. Patent No. 5,802,432 ("the '432 patent"); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 ("the '378 patent"); claims 1 and 2 of U.S. Patent No. 6,009,291 ("the '291 patent"); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 ("the '771 patent"); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 ("the '015 patent"); claims 1-3 and 28 of U.S. Patent No. 6,459,876 ("the '876 patent"); claim 1 of U.S. Patent No. 6,816,692 ("the '692 patent"); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 ("the '031 patent"); claims 1 and 6 of U.S. Patent No. 7,139,510 ("the '510 patent"); claims 11, 12 and 14 of U.S. Patent 7,233,760 ("the '760

patent”); and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Seine Image International Co. Ltd. of Rm. 18, 9/F New Commercial Ctr., 9 on Lai St., Sha Tin, New Territories, Hong Kong.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, successors, or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

(A) import or sell for importation into the United States covered products;

(B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;

(C) advertise imported covered products; or

(D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of their respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

XI. Bonding

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed. Reg.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the general exclusion order issued by the Commission, and are not subject to this bond provision.


The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT ACM Technologies, Inc. of 2535 Research Drive, Corona, CA 92882 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No.

7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means ACM Technologies, Inc. of 2535 Research Drive, Corona, CA 92882.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, successors, or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

(A) import or sell for importation into the United States covered products;

(B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;

(C) advertise imported covered products; or

(D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of their respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

XI. Bonding

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed. Reg.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the general exclusion order issued by the Commission, and are not subject to this bond provision.


The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Quality Cartridges Inc. of 162 44th Street, Brooklyn, NY 11232 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204

(“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Quality Cartridges Inc. of 162 44th Street, Brooklyn, NY 11232.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, successors, or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products; or
- (D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of their respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

XI. Bonding

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed. Reg.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the general exclusion order issued by the Commission, and are not subject to this bond provision.


The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Ninestar Image Co. Ltd. (a/k/a Ninestar Technology Co., Ltd.) of No. 63 Mingzhubei Road, Zhuhai 519075, Guangdong, China cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204

patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Ninestar Image Co. Ltd. (a/k/a Ninestar Technology Co., Ltd.) of No. 63 Mingzhubei Road, Zhuhai 519075, Guangdong, China.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, successors, or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products; or
- (D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of their respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

XI. Bonding

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed. Reg.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the general exclusion order issued by the Commission, and are not subject to this bond provision.


The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Ninestar Technology Company, Ltd. of 150 Abbott Court, Piscataway, NJ 08854 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”);

and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Ninestar Technology Company, Ltd. of
150 Abbott Court, Piscataway, NJ 08854.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, successors, or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

(A) import or sell for importation into the United States covered products;

(B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;

(C) advertise imported covered products; or

(D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of their respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

XI. Bonding

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed. Reg.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the general exclusion order issued by the Commission, and are not subject to this bond provision.

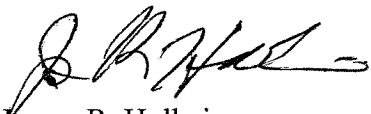
The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Ninestar Image Int'l, Ltd. of No. 63 Mingzhubei Road, Zhuhai 519075, Guangdong, China cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 ("the '169 patent"); claims 1 and 2 of U.S. Patent No. 5,758,233 ("the '233 patent"); claims 1 and 2 of U.S. Patent No. 5,768,661 ("the '661 patent"); claims 1-3 of U.S. Patent No. 5,802,432 ("the '432 patent"); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 ("the '378 patent"); claims 1 and 2 of U.S. Patent No. 6,009,291 ("the '291 patent"); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 ("the '771 patent"); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 ("the '015 patent"); claims 1-3 and 28 of U.S. Patent No. 6,459,876 ("the '876 patent"); claim 1 of U.S. Patent No. 6,816,692 ("the '692 patent"); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 ("the '031 patent"); claims 1 and 6 of U.S. Patent No. 7,139,510 ("the '510 patent"); claims 11, 12 and 14 of U.S. Patent 7,233,760 ("the '760 patent");

and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Ninestar Image Int’l, Ltd. of No. 63 Mingzhubei Road, Zhuhai 519075, Guangdong, China.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, successors, or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products; or
- (D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of their respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

XI. Bonding

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed. Reg.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the general exclusion order issued by the Commission, and are not subject to this bond provision.

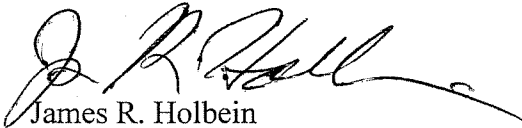
The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Nectron International, Inc. of 725 Park Two Drive, Sugarland, TX 77478 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No.

7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Nectron International, Inc. of 725 Park Two Drive, Sugarland, TX 77478.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, successors, or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products; or
- (D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of their respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

XI. Bonding

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed. Reg.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the general exclusion order issued by the Commission, and are not subject to this bond provision.


The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Nano Pacific Corporation of 377 Swift Avenue, South San Francisco, CA 94080 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”);

and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Nano Pacific Corporation of 377 Swift Avenue, South San Francisco, CA 94080.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, successors, or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products; or
- (D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of their respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

XI. Bonding

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed. Reg.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the general exclusion order issued by the Commission, and are not subject to this bond provision.


The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Laser Toner Technology, Inc. of 515 Wharton Circle SW, Atlanta, GA 30336 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760 patent”); and claims 1, 7, 14 and 15 of U.S. Patent No.

7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Laser Toner Technology, Inc. of 515 Wharton Circle SW, Atlanta, GA 30336.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, successors, or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

(A) import or sell for importation into the United States covered products;

(B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;

(C) advertise imported covered products; or

(D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of their respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

XI. Bonding

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed. Reg.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the general exclusion order issued by the Commission, and are not subject to this bond provision.


The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.


James R. Holbein
Secretary to the Commission

Issued: September 27, 2011

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Ink Technologies Printer Supplies, LLC (d/b/a Ink Technologies LLC) of 7600 McEwen Road, Dayton, OH 45459 cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, and transferring (except for exportation), for toner cartridges and components thereof that are covered by one or more of claims 1-3, 32-33, 36 and 42 of U.S. Patent No. 5,634,169 (“the ‘169 patent”); claims 1 and 2 of U.S. Patent No. 5,758,233 (“the ‘233 patent”); claims 1 and 2 of U.S. Patent No. 5,768,661 (“the ‘661 patent”); claims 1-3 of U.S. Patent No. 5,802,432 (“the ‘432 patent”); claims 1, 2 and 14 of U.S. Patent No. 5,875,378 (“the ‘378 patent”); claims 1 and 2 of U.S. Patent No. 6,009,291 (“the ‘291 patent”); claims 1, 2, 5, 6, 10 and 15 of 6,078,771 (“the ‘771 patent”); claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of U.S. Patent No. 6,397,015 (“the ‘015 patent”); claims 1-3 and 28 of U.S. Patent No. 6,459,876 (“the ‘876 patent”); claim 1 of U.S. Patent No. 6,816,692 (“the ‘692 patent”); claims 1, 3, 5, 8 and 10 of U.S. Patent No. 6,871,031 (“the ‘031 patent”); claims 1 and 6 of U.S. Patent No. 7,139,510 (“the ‘510 patent”); claims 11, 12 and 14 of U.S. Patent 7,233,760 (“the ‘760

patent”); and claims 1, 7, 14 and 15 of U.S. Patent No. 7,305,204 (“the ‘204 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

I. Definitions

As used in this Order:

(A) “Commission” shall mean the United States International Trade Commission.

(B) “Complainant” shall mean Lexmark International, Inc.

(C) “Respondent” means Ink Technologies Printer Supplies, LLC (d/b/a Ink Technologies LLC) of 7600 McEwen Road, Dayton, OH 45459.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority owned or controlled subsidiaries, successors, or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean laser toner cartridges and components thereof, manufactured, imported, or sold by Respondent that infringes one or more of claims 1-3, 32-33, 36 and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2 and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10 and 15 of the ‘771 patent; claims 1, 2, 7, 10-11, 14-15, 17, 19, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8 and 10 of the ‘031

patent; claims 1 and 6 of the '510 patent; claims 11, 12 and 14 of the '760 patent; and claims 1, 7, 14 and 15 of the '204 patent.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products; or
- (D) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '032 patent, the '169 patent, the '233 patent, the '661 patent, the '432 patent, the '378 patent, the '291 patent, the '771 patent, the '015 patent, the '876 patent, the '692 patent, the '031 patent, the '510 patent, the '760 patent, and the '204 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this reporting requirement, the reporting periods shall commence on June 1 of each year and shall end on the subsequent May 31. However, the first report required under this section shall cover the period from the date of issuance of this Order through May 31, 2012. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. Respondents filing written submissions must file the original document and two copies with the Office of the Secretary. Any Respondent desiring to submit a document to the Commission in confidence must file the original and a public

version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant's counsel.¹

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

VI. Record-Keeping and Inspection

(A) For the purpose of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For the purpose of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII. Service of Cease and Desist Order

¹ Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of their respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and VII(C) shall remain in effect until the date of expiration of the '032 patent; the '169 patent; the '233 patent; the '661 patent; the '432 patent; the '378 patent; the '291 patent; the '771 patent; the '015 patent; the '876 patent; the '692 patent; the '031 patent; the '510 patent; the '760 patent; and the '204 patent.

VIII. Confidentiality

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX. Enforcement

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action as the Commission may deem appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X. Modification

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

XI. Bonding

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed. Reg.* 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of one hundred (100) percent of entered value of the articles in question. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the general exclusion order issued by the Commission, and are not subject to this bond provision.

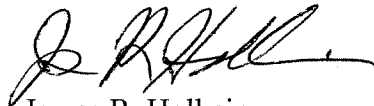
The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The

bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.


James R. Holbein
Secretary to the Commission

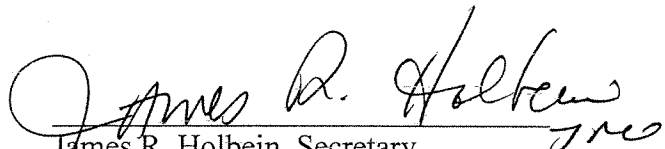
Issued: September 27, 2011

**CERTAIN TONER CARTRIDGES AND COMPONENTS
THEREOF**

337-TA-740

Certificate of Service

I, James R. Holbein, hereby certify that the attached **NOTICE OF COMMISSION'S FINAL DETERMINATION OF VIOLATION OF SECTION 337; TERMINATION OF INVESTIGATION; ISSUANCE OF GENERAL EXCLUSION ORDER AND CEASE AND DESIST ORDER** has been served by hand upon the Commission Investigative Attorney, Rett Snotherly, Esq., and the following parties as indicated, on September 27, 2011.


James R. Holbein, Secretary
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

On Behalf of Complainant Lexmark International, Inc.:

V. James Adduci, II, Esq.

ADDUCI, MASTRIANI & SCHAUMBERG LLP

1200 17th Street, NW, 5th Floor

Washington, DC 20036

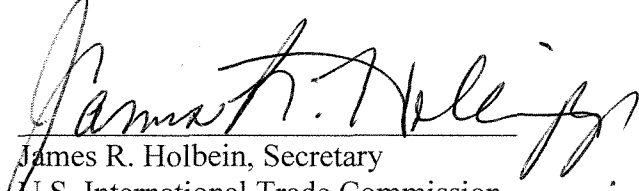
- Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

**CERTAIN TONER CARTRIDGES AND COMPONENTS
THEREOF**

337-TA-740

Corrected Certificate of Service

I, James R. Holbein, hereby certify that the attached **NOTICE OF COMMISSION'S FINAL DETERMINATION OF VIOLATION OF SECTION 337; TERMINATION OF INVESTIGATION; ISSUANCE OF GENERAL EXCLUSION ORDER AND CEASE AND DESIST ORDER** has been served by hand upon the Commission Investigative Attorney, Rett Snotherly, Esq., and the following parties as indicated, on **September 29, 2011**.


James R. Holbein, Secretary
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

OTHER:

Acecom Inc. – San Antonio (d/b/a inksell.com)
14833 Bulverde Road
San Antonio, TX 78251

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

E-Toner Mart, Inc.
1718 Potrero Avenue
Suite #A
South El Monte, CA 91733

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Chung Pal Shin (d/b/a Ink Master)
16635 Valley View
Cerritos, CA 90703

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

IJSS Inc. (d/b/a TonerZone.com Inc. and Inkjet Superstore)
1880 Century Park East
#200
Los Angeles, CA 90067

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Ziprint Image Corporation
19805 Harrison Avenue
Walnut, CA 91789

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Direct Billing International Incorporated
(d/b/a Office Supply Outfitter and d/b/a The Ribbon
Connection)
5910 Sea Lion Place, Suite 100
Carlsbad, CA 92010

- Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

Copy Technologies, Inc.
130 James Aldredge Blvd. SW
Atlanta, GA 30336

- Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

C & R Services, Incorporated
2035 Fair Oaks Circle
Corinth, TX 76210

- Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

Alpha Image Tech
1718 Potrero Avenue
Suite #A
South El Monte, CA 91733

- Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

Seine Image International Co. Ltd.
Rm. 18, 9/F New Commercial Ctr.
9 Lai St., Sha Tin
New Territories, Hong Kong

- Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: **International**

ACM Technologies, Inc.
2535 Research Drive
Corona, CA 92882

- Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

Quality Cartridges Inc.
162 44th Street
Brooklyn, NY 11232

- Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

Ninestar Image Co. Ltd.
No. 63 Mingzhubei Road
Zhuhai 519075
Guangdong, China

- Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: **International**

Ninestar Technology Company, Ltd.
150 Abbott Court
Piscataway, NJ 08854

- Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

Ninestar Image Int'l, Ltd.
No. 63 Mingzhubei Road
Zhuhai 519075
Guangdong, China

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: **International**

Nectron International, Inc.
725 Park Two Drive
Sugarland, TX 77478

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Nano Pacific Corporation
377 Swift Avenue
South San Francisco, CA 94080

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Laser Toner Technology, Inc.
515 Wharton Circle SW
Atlanta, GA 30336

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

On Behalf of Complainant Lexmark International, Inc.:

V. James Adduci, II, Esq.
ADDUCI, MASTRIANI & SCHAUMBERG LLP
1200 17th Street, NW, 5th Floor
Washington, DC 20036

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: **SERVICE**
LIST ONLY

PUBLIC VERSION

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Inv. No. 337-TA-740

COMMISSION OPINION

I. BACKGROUND

The Commission instituted this investigation on October 12, 2010, based on a complaint filed by Lexmark International, Inc. of Lexington, Kentucky (“Lexmark”). 75 *Fed. Reg.* 62564-65 (Oct. 12, 2010). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain toner cartridges and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 5,337,032 (“the ‘032 patent”); 5,634,169 (“the ‘169 patent”); 5,758,233 (“the ‘233 patent”); 5,768,661 (“the ‘661 patent”); 5,802,432 (“the ‘432 patent”); 5,875,378 (“the ‘378 patent”); 6,009,291 (“the ‘291 patent”); 6,078,771 (“the ‘771 patent”); 6,397,015 (“the ‘015 patent”); 6,459,876 (“the ‘876 patent”); 6,816,692 (“the ‘692 patent”); 6,871,031 (“the ‘031 patent”); 7,139,510 (“the ‘510 patent”); 7,233,760 (“the ‘760 patent”); and 7,305,204 (“the ‘204 patent”). The complaint further alleges the existence of a domestic industry.

The Commission’s notice of investigation named as respondents Ninestar Image Co. Ltd., (a/k/a Ninestar Technology Co., Ltd.) of Guangdong, China (“Ninestar”);

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Ninestar Image Int'l, Ltd. of Guangdong, China ("Ninestar Image Int'l"); Seine Image International Co. Ltd. of New Territories, Hong Kong ("Seine Image"); Ninestar Technology Company, Ltd. of Piscataway, New Jersey ("Ninestar Tech"); Ziprint Image Corporation of Walnut, California ("Ziprint"); Nano Pacific Corporation of South San Francisco, California ("Nano Pacific"); IJSS Inc. (d/b/a TonerZone.com Inc. and Inkjet Superstore) of Los Angeles, California ("IJSS"); Chung Pal Shin (d/b/a Ink Master) of Cerritos, California ("Ink Master"); Nectron International, Inc. of Sugarland, Texas ("Nectron"); Quality Cartridges Inc. of Brooklyn, New York ("QCI"); Direct Billing International Incorporated (d/b/a Office Supply Outfitter and d/b/a The Ribbon Connection) of Carlsbad, California ("Direct Billing"); E-Toner Mart, Inc. of South El Monte, California ("E-Toner"); Alpha Image Tech of South El Monte, California ("Alpha Image"); ACM Technologies, Inc. of Corona, California ("ACM"); Virtual Imaging Products Inc. of North York, Ontario, Canada; Acecom Inc. – San Antonio (d/b/a Inksell.com) of San Antonio, Texas ("Acecom"); Ink Technologies Printer Supplied, LLC (d/b/a Ink Technologies LLC) of Dayton, Ohio ("Ink Tech"); Jahwa Electronics Co., Ltd. of Chungchongbuk-do, South Korea; Huizhou Jahwa Electronics Co., Ltd. of Guangdong Province, China; Copy Technologies, Inc. of Atlanta, Georgia ("Copy Tech"); Laser Toner Technology, Inc. of Atlanta, Georgia ("LTT"); C&R Service, Incorporated of Corinth, Texas ("C&R"); Print-Rite Holdings Ltd., of Chai Wan, Hong Kong ("Print-Rite"); and Union Technology Int'l (M.C.O.) Co., Ltd. of Rodrigo Rodrigues, Macao.

The Commission determined not to review an initial determination ("ID") terminating the investigation as to Print-Rite based on a settlement agreement. Commission Notice (Jan. 10, 2011) (Order No. 11). The Commission determined to

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review and affirm several IDs finding several respondents in default under Commission Rules 210.16(a)(2) and (b)(2) based on those respondents' elections to default.

Commission Notice (Mar. 3, 2011) (Order Nos. 15-16); Commission Notice (Mar. 11, 2011) (Order Nos. 17-18); Commission Notice (Mar. 11, 2011) (Order No. 19). The Commission determined not to review two other initial determinations finding the remaining respondents in default. Commission Notice (Mar. 23, 2011) (Order No. 23); Commission Notice (April 6, 2011) (Order No. 24).¹

On April 25, 2011, Lexmark filed a motion pursuant to Commission Rule 210.18 (19 C.F.R. § 210.18) for summary determination of violation of Section 337 and requested issuance of a general exclusion order ("GEO") and cease and desist orders ("CDOs") against defaulting respondents. On May 5, 2011, the Commission investigative attorney ("IA") filed a response supporting the motion, on the condition that Lexmark submit (1) a declaration from its expert, Dr. Charles Reinholtz, averring that the statements in his expert report are true and correct, and (2) a declaration from Andrew Gardner that the accused products do not have any substantial non-infringing uses. Lexmark filed the submissions per the IA's request.

On June 1, 2011, the ALJ issued Order No. 26, granting Lexmark's motion for summary determination of violation of Section 337 in an initial determination ("ID") and containing the ALJ's recommended determination ("RD") on remedy and bonding. On July 12, 2011, the Commission determined not to review the ID and called for briefing on remedy, the public interest, and bonding. 76 *Fed. Reg.* 41822-24 (July 15, 2011).

¹ The full procedural history concerning the defaulting respondents may be found in Order No. 26 at 3-4.

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On August 1, 2011, Lexmark submitted an initial brief on remedy, the public interest, and bonding, requesting that the Commission issue a GEO and CDOs and set a bond of 100 percent during the period of Presidential review. The brief included a proposed GEO and a proposed CDO. Also on August 1, 2011, the IA submitted an initial brief on remedy, the public interest, and bonding, supporting Lexmark's request for a GEO and CDOs, as well as a bond of 100 percent. The IA's brief included a proposed GEO and a proposed CDO. Lexmark and the IA filed reply submissions on August 8, 2011.

II. REMEDY

The Commission finds that the facts in evidence support the ALJ's recommendation that the Commission issue a GEO. The Commission also finds that the ALJ's recommendation that the Commission issue CDOs against the domestic respondents and the foreign Ninestar respondents – Ninestar, Ninestar Image Int'l, and Seine Image – is appropriate. Finally, we find that issuing these remedial orders in this investigation would not be contrary to the public interest.

The statutory authority of the Commission to issue a general exclusion order is codified in 19 U.S.C. § 1337(d)(2), which recites in relevant part:

- (d) Exclusion of articles from entry . . .
 - (2) The authority of the Commission to order an exclusion from entry of articles shall be limited to persons determined by the Commission to be violating this section unless the Commission determines that -
 - (A) a general exclusion from entry of articles is necessary to prevent circumvention of an exclusion order limited to products of named persons; or
 - (B) there is a pattern of violation of this section and it is difficult to identify the source of infringing products.

As the ALJ found in Order No. 26 ("ID/RD"), both prongs (A) and (B) are met in this

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case.²

With respect to prong (A), which concerns “prevent[ing] circumvention” of a limited exclusion order (“LEO”), the evidence shows that circumvention of any LEO would be likely because the defaulting respondents engage in various business practices that would likely result in circumvention. Specifically, as the ALJ found in this investigation, various respondents do business under multiple names. ID/RD at 25-26. Moreover, as the ALJ noted, the evidence shows that an LEO could be circumvented because Lexmark-compatible laser toner cartridges are often labeled under other original equipment manufacturer brand names, making it easier for an unauthorized importer to evade enforcement of an LEO by U.S. Customs and Border Protection. *Id.* Furthermore, we give weight to Lexmark’s contentions that the defaulting respondents have engaged in various forms of “legal sidestepping,” such as avoiding formal service of the complaint in this investigation and denying publicly available information concerning the relationship between various defaulting respondents.

With respect to prong (B), the evidence shows that issuance of a GEO is appropriate because there is a pattern of violation of Section 337 and it is difficult to identify the source of infringing products. Concerning “a pattern of violation,” the market for unauthorized printer cartridges is very lucrative, with a multitude of existing participants and a low barrier to entry for future participants. *See* ID/RD at 27-31. Specifically, the ALJ found that Lexmark provided evidence that: (a) toner cartridges constitute a “booming business” with high profit margins; (b) the 23 respondents in this

² Because some of the respondents appeared before electing to default, Lexmark properly moved for a GEO under Section 337(d)(2) rather than Section 337(g)(2) (19 U.S.C. § 1337(g)(2)). ID/RD at 22, n.12.

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investigation have sold infringing cartridges for importation to, or after importation into, the United States; and (c) there are 1,283 toner cartridge manufacturers in China, in addition to 5,000 remanufacturers worldwide. ID/RD at 27. The ALJ also found that “there are no significant technical and financial barriers to entry” and that remanufacturers do not limit their purchase of empty cartridges to those first purchased in the United States (for which patent rights may be exhausted) but procure them from foreign sources, as well. *Id.* See ID/RD at 27-31 (detailing extent of worldwide manufacturing capability for accused printer cartridges).

Furthermore, the evidence shows that there is “difficult[y] [in] identify the source of infringing products.” Specifically, the sale of accused cartridges over the Internet allows for anonymity of source and ease of domestic market penetration. ID/RD at 32-33. The ALJ also credited Lexmark’s contention regarding the ease by which infringing entities use Internet sales to “obfuscate their identities and change business.” *Id.* Additionally, the ALJ noted evidence of “the availability of specialized packaging [which] makes it difficult to identify the source of accused cartridges.” ID/RD at 33-34. Furthermore, Lexmark presented evidence concerning the ease with which many Asian remanufacturers use counterfeit “Lexmark-style” packaging, as well as counterfeit standards certifications. ID/RD at 35.

While a GEO may issue on satisfaction of either prong of Section 337(d)(2), the Commission finds both are satisfied here, and it has determined to issue a GEO prohibiting unauthorized importation of the articles at issue in this investigation regardless of manufacturer or importer.

The ALJ also recommended that the Commission issue CDOs against the

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defaulting domestic respondents and the defaulting foreign Ninestar respondents – Ninestar, Ninestar Image Int’l, and Seine Image. ID/RD at 37. The Commission has previously determined it appropriate to presume that defaulting domestic respondents have a commercially significant inventory. *Certain Video Game Systems, Accessories, and Components Thereof*, Inv. No. 337-TA-473, Comm’n Op. at 2 (Dec. 24, 2002) (“*Video Game Systems*”). The Commission has, therefore, determined to issue CDOs against the defaulting domestic respondents E-Toner, Alpha Image, Copy Tech, LTT, C&R, ACM, Ink Master, Direct Billing, Ink Tech, QCI, IJSS, Acecom, Ninestar Tech, Ziprint, Nano Pacific, and Nectron.

Regarding the foreign Ninestar respondents, as the ALJ noted, the Commission has issued a CDO against a foreign respondent where that respondent’s domestic distributor has maintained a commercially significant inventory in the United States. ID/RD at 37 (citing *Certain Abrasive Products Made Using a Process for Powder Preforms, and Products Containing Same*, Inv. No. 337-TA-449, Comm’n Op. at 7-8 (May 9, 2002)). The ALJ found that foreign Ninestar respondent, Seine Image, has sent significant amounts of toner cartridges to domestic respondent Ziprint, and therefore, that “Ziprint maintained these cartridges as commercially significant inventory.” ID/RD at 37. While the ALJ found only that domestic respondent Ziprint was a distributor for Seine Image, the evidence shows that both domestic respondents Nano Pacific and Ziprint were distributors for all of the foreign Ninestar respondents, and hence maintain commercially significant inventories for these foreign respondents in the United States. Specifically, Ms. Yuexia Wang, and employee of Zhuhai Seine Technology, Ltd. (“Zhuhai Seine”), the parent company of Seine Image, testified that both Ziprint and Nano Pacific are

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agents of Seine Image in the United States. *See* Deposition of Yuexia Wang (“Wang Dep.”), 113:1-14; *see also id.* at 2:17-3:6 (admitting that Seine Image is a wholly owned subsidiary of Zhuhai Seine). Furthermore, Ngo Kit Wan, an employee of a wholly owned subsidiary of respondent Print Rite testified that Zhuhai Seine is a subsidiary of respondent Ninestar. *See* Deposition of Ngo Kit Wan, 12:14-18, 80:25-81:14. Moreover, the evidence shows that Ninestar Image Int’l and Ninestar share a headquarters and that Ninestar Tech is a subsidiary of Ninestar Image Int’l. *See* Wang Dep., at Ex. 19. Furthermore, the evidence shows that Ninestar Tech and Ziprint are the same company. *See* Declaration of Edward Puglisi at ¶ 7. Based on this evidence, it is clear that both Ziprint and Nano Pacific are distributors for all of the foreign Ninestar respondents. The Commission has therefore determined to issue CDOs against each of the foreign Ninestar respondents.

III. PUBLIC INTEREST

Sections 337(d)(1) and (f)(1) require the Commission to consider the effect upon the public interest of any remedial order that it determines to issue. 19 U.S.C. §§ 1337(d)(1), (f)(1). Both Lexmark and the IA assert that there is no evidence that would weigh against issuance of a GEO and CDOs in this case. We agree.

Before issuing any remedial order, sub-sections (d) and (f) of Section 337 direct the Commission to consider the effect of such exclusion on: (1) the public health and welfare; (2) competitive conditions in the U.S. economy; (3) the production of like or directly competitive products in the United States; and (4) U.S. consumers. 19 U.S.C. §§ 1337(d), (f); *Certain High-Brightness Light Emitting Diodes & Prods. Containing Same*, Inv. No. 337-TA-556, Comm’n Op. at 31-32 (May 31, 2007). These public interests are

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Mr. Gardner further testified that Lexmark would be capable of increasing its production of the toner cartridges at issue up to []. *Id.*

Moreover, the evidence shows that not excluding infringing toner cartridges could harm competitive conditions in the United States. In particular, Patricia Judge of the International Imagine Technology Council testified that, due at least in part to the presence of infringing clone cartridges, the number of domestic remanufacturers has dropped from approximately 5,000 to around 1,200 to 1,500. Jones, Tr. at 36:12-37:3 (Mar. 3, 2011).

Based on the foregoing analysis, we find that there are no public interest concerns that would preclude the Commission from issuing a GEO and CDOs in this investigation.

IV. BONDING

Section 337(j) provides for entry of infringing articles during the sixty (60) day period of Presidential review by posting of a bond and states that the bond is to be set at a level “sufficient to protect the complainant from any injury.” 19 U.S.C. § 1337(j)(3); *see also* 19 C.F.R. § 210.50(a)(3).

With respect to bonding, Lexmark and the IA requested a bond set at 100 percent during the period of Presidential review. ID/RD at 38. The ALJ noted that the Commission has set a 100 percent bond when the differential between the domestic product and the imported infringing product cannot be readily determined. *Id.* The ALJ found that, although the prices of the accused products are available, there is a “‘broad range’ of differences in the prices between new or properly remanufactured cartridges and improperly cloned or remanufactured cartridges.” ID/RD at 39. Given the variation in pricing, the ALJ recommended that the Commission set a 100 percent bond. *Id.* In its

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filing before the Commission, Lexmark requested that, if the Commission determines that a 100 percent bond is inappropriate, that it set the bond at the largest price differential. It is not clear, however, whether Lexmark advocates for a different bond to be set for each individual printer cartridge type or whether it seeks the largest total differential.

At any rate, we find that a 100 percent bond is appropriate in this case given the significant differences in the various price differentials between respondents and between product types. As the Commission has previously determined, a 100 percent bond is appropriate where “a reliable price differential cannot be obtained[.]” *Certain Cigarettes & Packaging Thereof*, Inv. No. 337-TA-643, Comm’n Op., 2009 WL 6751505, at *12 (Oct. 1, 2009), *see also Certain Digital Multimeters, And Products With Multimeter Functionality*, Inv. No. 337-TA-588, Comm’n Op., 2008 WL 2336518, at *5-6 (June 3, 2009) (finding 100 percent bond where each respondent set its price differently, preventing clear differentials between the complainant’s products and the infringing imports).


V. CONCLUSION

For the reasons stated above, the Commission has determined to issue a GEO excluding all toner cartridges and components thereof that infringe one or more of claim 1 of the ‘032 patent; claims 1-3, 32, 33, 36, and 42 of the ‘169 patent; claims 1 and 2 of the ‘233 patent; claims 1 and 2 of the ‘661 patent; claims 1-3 of the ‘432 patent; claims 1, 2, and 14 of the ‘378 patent; claims 1 and 2 of the ‘291 patent; claims 1, 2, 5, 6, 10, and 15 of the ‘771 patent; claims 1, 2, 7, 10, 11, 14, 15, 17, 22, and 24 of the ‘015 patent; claims 1-3 and 28 of the ‘876 patent; claim 1 of the ‘692 patent; claims 1, 3, 5, 8, and 10 of the ‘031 patent; claims 1 and 6 of the ‘510 patent; claims 11, 12, and 14 of the ‘760

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patent; and claims 1, 7, 14, and 15 of the '204 patent. The Commission has also determined to issue CDOs against the defaulting domestic respondents E-Toner, Alpha Image, Copy Tech, LTT, C&R, ACM, Ink Master, Direct Billing, Ink Tech, QCI, IJSS, Acecom, Ninestar Tech, Ziprint, Nano Pacific, and Nectron and against the defaulting foreign Ninestar respondents – Ninestar, Ninestar Image Int'l, and Seine Image. Moreover, the Commission has determined to set a bond of 100 percent of the entered value of the goods imported during the period of Presidential review.

By order of the Commission.



James R. Holbein
Secretary to the Commission

Issued: October 5, 2011

**CERTAIN TONER CARTRIDGES AND COMPONENTS
THEREOF**

337-TA-740

Certificate of Service

I, James R. Holbein, hereby certify that the attached **COMMISSION OPINION** has been served by hand upon the Commission Investigative Attorney, Rett Snotherly, Esq., and the following parties as indicated, on **October 5, 2011**.



James R. Holbein, Secretary
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

OTHER:

Acecom Inc. – San Antonio (d/b/a inksell.com) 14833 Bulverde Road San Antonio, TX 78251	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Overnight Mail <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
E-Toner Mart, Inc. 1718 Potrero Avenue Suite #A South El Monte, CA 91733	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Overnight Mail <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
Chung Pal Shin (d/b/a Ink Master) 16635 Valley View Cerritos, CA 90703	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Overnight Mail <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
IJSS Inc. (d/b/a TonerZone.com Inc. and Inkjet Superstore) 1880 Century Park East #200 Los Angeles, CA 90067	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Overnight Mail <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
Ziprint Image Corporation 19805 Harrison Avenue Walnut, CA 91789	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Overnight Mail <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____

Direct Billing International Incorporated
(d/b/a Office Supply Outfitter and d/b/a The Ribbon
Connection)
5910 Sea Lion Place
Suite 100
Carlsbad, CA 92010

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Copy Technologies, Inc.
130 James Aldredge Blvd. SW
Atlanta, GA 30336

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

C & R Services, Incorporated
2035 Fair Oaks Circle
Corinth, TX 76210

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Alpha Image Tech
1718 Potrero Avenue
Suite #A
South El Monte, CA 91733

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Seine Image International Co. Ltd.
Rm. 18, 9/F New Commercial Ctr.
9 Lai St., Sha Tin
New Territories, Hong Kong

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: **International**

ACM Technologies, Inc.
2535 Research Drive
Corona, CA 92882

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Quality Cartridges Inc.
162 44th Street
Brooklyn, NY 11232

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Ninestar Image Co. Ltd.
No. 63 Mingzhubei Road
Zhuhai 519075
Guangdong, China

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: **International**

Ninestar Technology Company, Ltd.
150 Abbott Court
Piscataway, NJ 08854

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Ninestar Image Int'l, Ltd.
No. 63 Mingzhubei Road
Zhuhai 519075
Guangdong, China

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- Via Overnight Mail
- Via First Class Mail
- Other: **International**

Nectron International, Inc.
725 Park Two Drive
Sugarland, TX 77478

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Nano Pacific Corporation
191 Beacon Street
South San Francisco, CA 94080

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Laser Toner Technology, Inc.
515 Wharton Circle SW
Atlanta, GA 30336

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- Via Overnight Mail
- Via First Class Mail
- Other: _____

On Behalf of Complainant Lexmark International, Inc.:

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- Via First Class Mail
- Other: _____

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-740

**NOTICE OF COMMISSION DETERMINATION TO REVIEW INITIAL
DETERMINATIONS FINDING CERTAIN RESPONDENTS IN DEFAULT AND ON
REVIEW TO FIND RESPONDENTS IN DEFAULT UNDER COMMISSION RULES
210.16(a)(2) AND (b)(2)**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review the presiding administrative law judge's ("ALJ") initial determinations ("ID") (Order Nos. 17 and 18) finding IJSS, Inc. and Acecom Inc. - San Antonio in default. The Commission has determined on review that these respondents are properly held in default under Commission rules 210.16(a)(2) and (b)(2) (19 C.F.R. § 210.16(a)(2) and (b)(2)).

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2301. 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 October 12, 2010, based on a complaint filed by Lexmark International, Inc. of Lexington, Kentucky ("Lexmark"). *75 Fed. Reg.* 62564-65 (Oct. 12, 2010). The complaint alleges violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain toner cartridges and components thereof by reason of infringement of

certain claims of U.S. Patent Nos. 5,337,032; 5,634,169; 5,758,233; 5,768,661; 5,802,432; 5,875,378; 6,009,291; 6,078,771; 6,397,015; 6,459,876; 6,816,692; 6,871,031; 7,139,510; 7,233,760; and 7,305,204. The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named various respondents, including IJSS Inc. (d/b/a/ TonerZone.co Inc. and Inkjet Superstore) of Los Angeles, California ("IJSS") and Acecom Inc. – San Antonio of San Antonio, Texas ("Acecom").

On January 28, 2011, IJSS filed a notice electing to default. On February 9, 2011, Lexmark filed a response supporting IJSS's motion. Also on February 9, 2011, the Commission investigative attorney ("IA") filed a response supporting the motion.

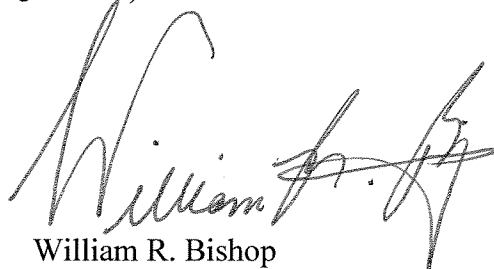
On January 31, 2011, Acecom filed a notice electing to default. On February 9, 2011, Lexmark filed a response supporting Acecom's motion. On February 10, 2011, the IA filed a response supporting the motion.

On February 18, 2011, the ALJ issued the two subject IDs (Order No. 17 and 18) granting under Commission Rule 210.16(a)(1) IJSS's and Acecom's elections to default, respectively. No petitions for review of either ID were filed.

The Commission has determined to review the ID for the sole purpose of noting that the appropriate authority for granting the respondents' elections to default is found in sections 210.16(a)(2) and (b)(2) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.16(a)(2) and (b)(2)) because these respondents filed answers to the complaint and notice of 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 in section 210.44 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.44).

By order of the Commission.



William R. Bishop
Hearings and Meetings Coordinator

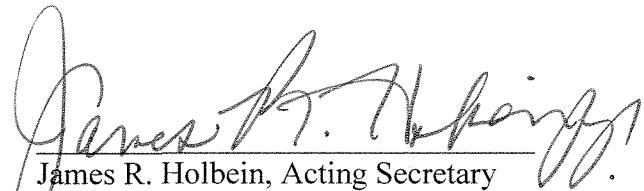
Issued: March 11, 2011

**CERTAIN TONER CARTRIDGES AND COMPONENTS
THEREOF**

337-TA-740

Certificate of Service

I, James R. Holbein, hereby certify that the attached **NOTICE OF COMMISSION DETERMINATION TO REVIEW INITIAL DETERMINATIONS FINDING CERTAIN RESPONDENTS IN DEFAULT AND ON REVIEW TO FIND RESPONDENTS IN DEFAULT UNDER COMMISSION RULES 210.16(a)(2) AND (b)(2)** has been served by hand upon the Commission Investigative Attorney, Rett Snotherly, Esq., and the following parties as indicated, on March 11, 2011.


James R. Holbein, Acting Secretary
U.S. International Trade Commission
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On Behalf of Complainant Lexmark International, Inc.:

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**On Behalf of Respondents Ninestar Image Co. Ltd. a/k/a
Ninestar Technology Co., Ltd.; Ninestar Image Int'l,
Ltd.; Seine Image International Co. Ltd.; Ninestar
Technology Company, Ltd.; Ziprint Image Corporation;
IJSS Inc., d/b/a TonerZone.com Inc. and Inkjet
Superstore; Chung Pal Shin, d/b/a Ink Master; Quality
Cartridges Inc.; Direct Billing International
Incorporated, d/b/a Office Supply Outfitter and d/b/a
The Ribbon Connection; ACM Technologies, Inc.;**

Acecom Inc-San Antonio d/b/a inksell.com; Ink Technologies Printer Supplies, LLC d/b/a Ink Technologies LLC; and Nano Pacific Corporation:

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- Other: _____

Jon E. Hokanson, Esq.
LEWIS BRISBOIS BISGAARD & SMITH LLP
221 N. Figueroa St., Suite 1200
Los Angeles, CA 90012

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Alpha Image Tech
1718 Potrero Avenue, Suite #A
South El Monte, CA 91733

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

E-Toner Mart, Inc.
1718 Potrero Avenue, Suite #A
South El Monte, CA 91733

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Jahwa Electronics Co., Ltd.

7-6 Hyunam-ri Bugi-myeon Chongwon-gun
Chungchongbuk-do, South Korea 363-920

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Huizhou Jahwa Electronics Co., Ltd.

No. 10 JiangJun Road, ZhouTian Village
Quichang Town, Huiyang District
Huizhou, Guangdong Province, China

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Copy Technologies, Inc.

130 James Aldredge Blvd. SW
Atlanta, GA 30336

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

Laser Toner Technology, Inc.

515 Wharton Circle SW
Atlanta, GA 30336

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

C & R Services, Inc.

2035 Fair Oaks Circle
Corinth, TX 76210

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

PUBLIC VERSION

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Inv. No. 337-TA-740

Order 26

**INITIAL DETERMINATION Granting Complainant Lexmark
International, Inc.'s Motion For Summary Determination On
Violations of Section 337 By Defaulting Respondents;**

And

RECOMMENDED DETERMINATION On Remedy And Bonding

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I. Background

By publication of a notice in the *Federal Register* on October 12, 2010, pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, the Commission instituted this investigation to determine:

[W]hether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain toner cartridges and components thereof that infringe one or more of claim 1 of the '032 patent; claims 1-3, 32, 33, 36, and 42 of the '169 patent; claims 1 and 2 of the '233 patent; claims 1 and 2 of the '661 patent; claims 1-3 of the '432 patent; claims 1, 2, and 14 of the '378 patent; claims 1 and 2 of the '291 patent; claims 1, 2, 5, 6, 10, and 15 of the '771 patent; claims 1, 2, 7, 10, 11, 14, 15, 17, 22, and 24 of the '015 patent; claims 1-3 and 28 of the '876 patent; claim 1 of the '692 patent; claims 1, 3, 5, 8, and 10 of the '031 patent; claims 1 and 6 of the '510 patent; claims 11, 12, and 14 of the '760 patent; and claims 1, 7, 14, and 15 of the '204 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

75 Fed. Reg. 62564 (2010).¹

The complainant is Lexmark International, Inc. ("Lexmark"). *Id.* The respondents named in the notice of investigation are: Ninestar Image Co., Ltd. (a/k/a Ninestar Technology Co., Ltd.) ("Ninestar"); Ninestar Image Int'l, Ltd. ("Ninestar Image Int'l"); Seine Image International Co., Ltd. ("Seine Image"); Ninestar Technology Company, Ltd. ("Ninestar Tech"); Ziprint Image Corporation ("Ziprint"); Nano Pacific Corporation ("Nano Pacific"); IJSS Inc. (d/b/a TonerZone.com Inc. and Inkjet Superstore)

¹ The patents that are the subject of this investigation are U.S. Patent Nos. 5,337,032; 5,634,169; 5,758,233; 5,768,661; 5,802,432; 5,875,378; 6,009,291; 6,078,771; 6,397,015; 6,459,876; 6,816,692; 6,871,031; 7,139,510; 7,233,760; and 7,305,204.

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("IJSS"); Chung Pal Shin (d/b/a Ink Master) ("Ink Master"); Nectron International, Inc. ("Nectron"); Quality Cartridges Inc. ("QCI"); Direct Billing International Incorporated (d/b/a Office Supply Outfitter and d/b/a The Ribbon Connection) ("Direct Billing"); E-Toner Mart, Inc. ("E-Toner"); Alpha Image Tech ("Alpha Image"); ACM Technologies, Inc. ("ACM"); Virtual Imaging Products Inc. ("VIP"); Acecom Inc. – San Antonio (d/b/a inksell.com) ("Acom"); Ink Technologies Printer Supplies, LLC (d/b/a Ink Technologies LLC) ("Ink Tech"); Jahwa Electronics Co., Ltd. ("Jahwa"); Huizhou Jahwa Electronics Co., Ltd. ("Huizhou Jahwa"); Copy Technologies, Inc. ("Copy Tech"); Laser Toner Technology, Inc. ("LTT"); C & R Services, Incorporated ("C&R"); Print-Rite Holdings Ltd. ("Print-Rite"); and Union Technology Int'l (M.C.O.) Co., Ltd. ("U-Tech"). *Id.* The Commission Investigative Staff ("Staff") is also a party in this investigation. *Id.*

On November 2, 2010, an initial determination issued setting a 17-month target date of March 12, 2012. Order 7; Comm'n Notice Not To Review Initial Determination (Nov. 17, 2010). Thereafter, an initial determination issued terminating the investigation as to respondent Print-Rite Holdings Ltd. on the basis of a Settlement Agreement. Order 11; Comm'n Notice Not To Review Initial Determination (Jan. 10, 2011).

II. The Defaulting Respondents

Following the termination of Print-Rite Holdings Ltd. on the basis of a settlement agreement, all 23 remaining respondents subsequently were found to be in default.

19 C.F.R. 210.16. Lexmark's present motion for summary determination and request for remedy and bonding are directed at these 23 defaulting respondents. They are identified below.

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In February, 2011, initial determinations issued finding respondents Nectron International Inc.; Ninestar Image Co., Ltd. (a/k/a Ninestar Technology Co., Ltd.); Ninestar Image Int'l Ltd.; Seine Image International Co., Ltd.; Ninestar Technology Company, Ltd.; Ziprint Image Corporation; Nano Pacific Corporation; IJSS, Inc. (d/b/a/ TonerZone.com, Inc. and Inkjet Superstore); Acecom Inc. – San Antonio (d/b/a/ inksell.com); ACM Technologies, Inc.; Chung Pal Shin (d/b/a Ink Master); Direct Billing International, Inc. (d/b/a Office Supply Outfitter and d/b/a The Ribbon Connection); Ink Technologies Printer Supplies, LLC (d/b/a Ink Technologies LLC); and Quality Cartridges, Inc. in default. Orders 15-19; Comm'n Notices to Review Initial Determinations and on Review to Find Respondents in Default (Mar. 3, 2011 and Mar. 11, 2011).

In addition, initial determinations issued finding respondents E-Toner Mart, Inc.; Alpha Image Tech; Virtual Imaging Products, Inc.; Jahwa Electronics Co., Ltd.; Copy Technologies, Inc.; Laser Toner Technology, Inc.; C&R Services, Inc.; Union Technology Int'l (M.C.O.) Co., Ltd.; and Huizhou Jahwa Electronics Co., Ltd. in default. Orders 23 and 24; Comm'n Notices Not To Review Initial Determinations (Mar. 23, 2011 and Apr. 6, 2011).

III. Relief Sought By Complainant Lexmark

As required by 19 C.F.R. 210.16(c)(2), Lexmark declared in its motion for default as to the "last remaining respondent[s]," that it would be seeking a general exclusion order ("GEO") as part of its relief for any Section 337 violation found. *See* Mem. in Support of Lexmark's Mot. for Default (Motion No. 740-13); *see also*, Preh'g Conf. Tr. at 6-11 (March 21, 2011). In addition, Lexmark also seeks the issuance of cease and

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desist orders and the setting of a 100% bond during the Presidential review period.²

As explained below, Lexmark's motion for summary determination is granted. Further, it is recommended that the Commission issue the general exclusion order sought by complainant, as well as the requested cease and desist orders and the setting of a 100% bond.

IV. Jurisdiction

In order to have standing for patent infringement, the plaintiff must demonstrate that it holds enforceable title to the patent and that it has held enforceable title to the patent since the filing of the complaint. *Tyco Healthcare Group LP v. Ethicon Endo-Surgery, Inc.*, 587 F.3d 1375, 1378 (Fed. Cir. 2009) (citation omitted). The question of standing to assert a patent is jurisdictional and the standing requirement "applies equally in ITC investigations." *SiRF Tech., Inc. v. International Trade Comm'n*, 601 F.3d 1319, 1326 & n.4 (Fed. Cir. 2010).

Here, the evidence shows that Lexmark has met these requirements. Complainant is the owner, by way of assignment of all rights, title, and interest in each of the asserted patents. Complaint, ¶¶ 45-119, Ex. 16. In addition, as discussed *infra*, Lexmark has demonstrated that, with respect to each of the defaulting respondents, the accused

² Similarly, in *Certain Hair Irons & Packaging Thereof*, Inv. No. 337-TA-637, the complainant filed a motion for summary determination of violation of section 337 as to the defaulting respondents, as well as a request for remedy that included a general exclusion order. The undersigned granted the motion and recommended a general exclusion order. See *Certain Hair Irons & Packaging Thereof* ("Hair Irons"), Inv. No. 337-TA-637, Initial Determination (Order No.14), 2009 WL 7152177 (Mar. 10, 2009); see also, *Hair Irons*, Comm'n Op. at 3-5 (June 29, 2009) (Commission issued general exclusion order).

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products were sold for importation, imported, or sold after importation into the United States. Accordingly, the Commission has subject matter jurisdiction in this investigation.

V. Discussion

Section 337(g)(2) provides for the issuance of a general exclusion order in default cases. It states:

(2) In addition to the authority of the Commission to issue a general exclusion from entry of articles when a respondent appears to contest an investigation concerning a violation of the provisions of this section, a general exclusion from entry of articles, regardless of the source or importer of the articles, may be issued if—

(A) no person appears to contest an investigation concerning a violation of the provisions of this section,

(B) such a violation is established by substantial, reliable, and probative evidence, and

(C) the requirements of subsection (d)(2) of this section are met.^{3]}

19 U.S.C. § 1337(g)(2).

³ Section 337(d)(2) states as follows:

(2) The authority of the Commission to order an exclusion from entry of articles shall be limited to persons determined by the Commission to be violating this section unless the Commission determines that —

(A) a general exclusion from entry of articles is necessary to prevent circumvention of an exclusion order limited to products of named persons; or

(B) there is a pattern of violation of this section and it is difficult to identify the source of infringing products.

19 U.S.C. § 1337(d)(2).

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In addition, Commission Rule 210.16(c)(2) implements these statutory provisions.

Rule 210.16(c)(2) provides:

In any motion requesting the entry of default or the termination of the investigation with respect to the last remaining respondent in the investigation, the complainant shall declare whether it is seeking a general exclusion order. The Commission may issue a general exclusion order pursuant to section 337(g)(2) of the Tariff Act of 1930, regardless of the source or importer of the articles concerned, provided that a violation of section 337 of the Tariff Act of 1930 is established by substantial, reliable, and probative evidence, and only after considering the aforementioned public interest factors and the requirements of § 210.50(c).^[4]

19 C.F.R. 210.16(c)(2).

As noted, Lexmark now seeks a general exclusion order. (Motion No. 740-15.)

In its motion for summary determination, Lexmark addresses the issues of validity, infringement, domestic industry, importation, and remedy.⁵ Specifically, Lexmark requests that the Commission issue a general exclusion order, cease and desist orders, and require a 100% bond for importations during the period that the Commission's remedy determination is subject to Presidential review.⁶ Mem. at 54-56, 100-108, 117.

⁴ Rule 210.50(c) contains the requirements of 19 U.S.C. § 1337(d)(2) concerning general exclusion orders. *See* 19 C.F.R. 210.50(c).

⁵ Lexmark has attached 176 documentary exhibits and one physical exhibit in support of its motion. *See* Mot., Exhibit List.

⁶ Section 337 requires that any remedy issued by the Commission be referred to the President for a 60-day review period. The statute provides for importation during the Presidential review period subject to a bond. 19 U.S.C. § 1337(j).

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The Staff is the only party to file a response to Lexmark's motion.⁷ The Staff supports the entry of summary determination that a violation of section 337 has occurred.⁸ In that regard, the Staff argues that there is no genuine issue of material fact with respect to the validity and infringement of Lexmark's asserted patents, or with respect to Lexmark's satisfaction of both the technical and economic prongs of the domestic industry requirement. The Staff also argues in favor of the Commission issuing a general exclusion order and cease and desist orders, and requiring a 100% bond during the Presidential review period. Staff Resp. at 8, 10, 12-14, 18-21.

For the reasons set forth below, Lexmark's motion for summary determination is granted. See 19 C.F.R. 210.18. It is held that the domestic industry requirement of section 337 has been satisfied, that the accused products are imported, and that Lexmark's asserted patents have been infringed in violation of section 337. Further, it is recommended that a general exclusion order issue, that cease and desist orders also issue, and that a 100% bond be established during the Presidential review period.

A. Standard for Summary Determination

The Commission's Rules provide: "Any party may move with any necessary supporting affidavits for a summary determination in its favor upon all or any part of the

⁷ The Staff's response is supported by one exhibit (Exhibit A), which is a table showing the percentage breakdown of each patent practiced by the asserted domestic products in support of the economic prong of the domestic industry requirement.

⁸ The Staff conditioned its support on Lexmark's submission of (1) a declaration from its expert, Charles Reinholtz, averring that the statements in his expert report are true and accurate, and (2) a declaration from Andrew Gardner that the accused products do not have any substantial non-infringing uses. Staff Resp. at 1 n.1. Lexmark has satisfied these conditions.

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issues to be determined in the investigation.” 19 C.F.R. § 210.18(a). “The determination sought by the moving party shall be rendered if pleadings and any depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a summary determination as a matter of law.” 19 C.F.R. § 210.18(b).

Further, with respect to the showing that must be made in order to obtain a summary determination, Rule 18 provides:

Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The administrative law judge may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary determination is made and supported as provided in this section, a party opposing the motion may not rest upon the mere allegations or denials of the opposing party’s pleading, but the opposing party’s response, by affidavits, answers to interrogatories, or as otherwise provided in this section, must set forth specific facts showing that there is a genuine issue of fact for the evidentiary hearing under § 210.36(a)(1) or (2). If the opposing party does not so respond, a summary determination, if appropriate, shall be rendered against the opposing party.

19 C.F.R. 210.18(c).

B. Importation of Accused Products

1. Relevant Nomenclature

The asserted patents in this investigation are related to monochrome toner cartridges used in Lexmark laser printers (“accused cartridges” or “accused products”).

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Lexmark submits the following key nomenclature commonly used in the printing supplies industry in conjunction with laser toner cartridges:

- An “OEM” is an original equipment manufacturer, like Lexmark. Mem., Ex. 6 at 10:16-19 (containing Guo deposition transcript); Ex. 7 at 14:2-6 (containing Judge deposition transcript); Ex. 8 at 8:23-25 (containing Ngo deposition transcript).
- The “aftermarket” describes the section of the printing supplies industry occupied by non-OEM entities that manufacture and sell replacement cartridges and components thereof for laser printers. Mem., Ex. 6 at 10:8-14; Ex. 7 at 13:20-14:1; Ex. 8 at 8:18-22; Ex. 161 at 4 (containing Lyra white paper entitled “The State of the Aftermarket Printer Supplies Industry”).
- A “remanufactured cartridge” is an aftermarket laser toner cartridge created by taking a used OEM toner cartridge, cleaning out any old toner, refilling it with new toner, and replacing any worn parts. Mem., Ex. 5 at ¶ 16 (containing Expert Report of Dr. Charles F. Reinholtz (Doc. ID No. 44674) (Mar. 15, 2011)); Ex. 7 at 14:12-19; Ex. 157 at ¶¶ 5, 16 (containing Gardner declaration from Exhibit 426 to the Complaint).
- A “cloned cartridge” is another type of aftermarket laser toner cartridge created by reverse engineering the innovations in an OEM cartridge, like those of a Lexmark cartridge. It is essentially a copy of a genuine laser toner cartridge made with new parts. Clones are also referred to as “new mold cartridges,” or “compatible cartridges.” Mem., Ex. 157 at ¶¶ 7, 21; Ex. 5 at ¶ 16; Ex. 6 at 11:11-13; Ex. 7 at 15:7-14.
- A “compatible cartridge” is a term that can be used interchangeably with “clone cartridge.” Such usage, however, can be confusing because a “compatible cartridge” also has a broader meaning and can describe any cartridge (remanufactured or clone) capable of working in a particular printer (e.g., a Lexmark-compatible cartridge). Mem., Ex. 157 at ¶ 7; Ex. 7 at 15:2-6; Ex. 8 at 10:4-12.
- A “counterfeit cartridge” is an aftermarket cartridge produced by copying outright the innovations of an OEM, like Lexmark, and then selling that cartridge as a genuine OEM product. Mem., Ex. 7 at 32:9-18; Ex. 157 at ¶ 24.
- An “empty” (or “core”) is the used, empty shell of an OEM cartridge. The remanufacturing process begins with an empty. Mem., Ex. 6 at 11:14-17, 88:7-11; Ex. 8 at 10:13-17, 34:25-35:10; Ex. 157 at ¶ 5.

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- “accused cartridges” are aftermarket remanufactured, cloned, counterfeit, and/or compatible laser toner cartridges; aftermarket remanufactured, cloned, counterfeit, and/or compatible empty cores; empty cores for OEM laser toner cartridges first sold outside the United States; OEM toner cartridges first sold outside the United States; and/or components for one or more of the foregoing for use in any of the following Lexmark laser printer series: T520, X520, T522, X522s, T610, T612, T614, T616, T620, X620e, T622, T630, T632, T634, T640, T642, T644, E120, E220, E230, E232, E234, E238, E240, E250, E320, E322, E321, E323, E330, E332, E340, E342, E350, E352, and/or E450. Mem., Ex. 5 at ¶ 16. See Compl. ¶ 42.

2. Importation

Lexmark asserts that the accused products were imported into the United States, sold for importation, or sold within the United States after importation. Mem. at 33-48. It argues that importation has been established by the fact that the subject respondents have defaulted.⁹ In addition, Lexmark offers sufficient evidence that the accused cartridges were manufactured abroad and that those cartridges were sold in the United States. *Id.* at 34-48. The Staff submits that this evidence leads to the conclusion that the accused products were in fact imported into the United States and sold within the United States after importation. Staff Resp. at 5.

For each of these 23 defaulting respondents, Lexmark identifies in the chart below the allegations in the complaint related to importation of the accused cartridges that are deemed as true. These allegations alone are sufficient to satisfy the importation requirement as to each of the defaulting respondents.

⁹ Lexmark is correct that the 23 respondents found in default by the Commission have waived their right to appear, to be served with documents, and to contest the allegations at issue in the investigation. See 19 C.F.R. 210.16(b)(3); see also, 19 C.F.R. 210.16(c)(1) (“[t]he facts alleged in the complaint will be presumed to be true with respect to the defaulting respondent.”).

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Respondent	Complaint Paragraphs Regarding Importation
Ninestar	¶¶ 588-590, 599, 602, 605, 608, 612, 616, 620
Ninestar Image Int'l	¶¶ 589-590, 617
Seine Image	¶¶ 589-596, 612-613
Ninestar Tech	¶¶ 589-593
Ziprint	¶¶ 589-595
Nano Pacific	¶¶ 589-590, 595-597
IJSS	¶¶ 599-600
Ink Master	¶¶ 602-603
Nectron	¶¶ 635-637
QCI	¶¶ 605-606
Direct Billing	¶¶ 608-610
E-Toner	¶¶ 639-640
Alpha Image	¶¶ 639-640
ACM	¶¶ 612-614
VIP	¶¶ 642-643
Acecom	¶¶ 590, 616-618
Ink Tech	¶¶ 620-621
Jahwa	¶¶ 623-625, 628-629
Huizhou Jahwa	¶¶ 623-625, 628-629
Copy Tech	¶¶ 628-631
LTT	¶¶ 624-626, 628-630
C&R	¶¶ 629-630
U-Tech	¶¶ 634-636

Additionally, on the basis of the evidentiary submissions by Lexmark, there also is substantial, reliable, and probative evidence to satisfy the importation requirement as to each defaulting respondent. *See Mem.* at 34-48.

Accordingly, based on the allegations in the complaint and the evidence presented by Lexmark, it is found that Lexmark has satisfied its burden of establishing importation.

C. Domestic Industry

As stated in the notice of investigation, a determination must be made as to whether an industry in the United States exists as required by subsection (a)(2) of section 337. Section 337 declares unlawful, among other things, the importation, the sale for importation, or the sale in the United States after importation of articles that infringe a

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valid and enforceable United States patent, if an industry in the United States, relating to articles protected by the patent concerned, exists or is in the process of being established.

19 U.S.C. § 1337(a)(2).

The domestic industry requirement consists of both an economic prong (*i.e.*, there must be an industry in the United States) and a technical prong (*i.e.*, that industry must relate to articles protected by the intellectual property at issue). *See Certain Ammonium Octamolybdate Isomers*, Inv. No. 337-TA-477, Comm'n Op. at 55, USITC Pub. 3668 (Jan. 2004). The complainant bears the burden of proving the existence of a domestic industry. *Certain Methods of Making Carbonated Candy Products*, Inv. No. 337-TA-292, Comm'n Op. at 34-35, USITC Pub. 2390 (June 1991). Thus, in this investigation, Lexmark must show that it satisfies both the economic and technical prongs of the domestic industry requirement with respect to the asserted patents.

1. Economic Prong

As to the economic prong of the domestic industry requirement, Section 337 provides, in pertinent part:

For purposes of paragraph (2), an industry in the United States shall be considered to exist if there is in the United States, with respect to the articles protected by the patent, copyright, trademark, mask work, or design concerned –

- (A) significant investment in plant and equipment;
- (B) significant employment of labor or capital; or
- (C) substantial investment in its exploitation, including engineering, research and development, or licensing.

19 U.S.C. § 1337(a)(3).

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Section 337 is drafted in the disjunctive. Therefore, satisfaction of any one of these three criteria is sufficient to prove the economic prong of the domestic industry requirement. *Certain Silicon Microphone Packages & Prods. Containing the Same*, Inv. No. 337-TA-629, Initial Determination (Non-reviewed), 2008 WL 4382666, at *2 (Sept. 8, 2008). Lexmark argues that it satisfies the domestic industry requirement under all three factors. Mem. at 22-31.

Lexmark relies on expenditures for facilities, employees, and activities that sometimes overlap with the production of non-Domestic Industry Cartridges. In order to separate those expenditures, Lexmark applies an allocation method based on available production and sales figures – a formula accepted by the Commission in past investigations. *See, e.g., Certain Laminated Floor Panels*, Inv. No. 337-TA-545, Initial Determination (non-reviewed), 2006 WL 814350, at **2-3 (Mar. 2, 2006) (granting economic prong summary determination where complainant used sales revenue to allocate expenditures on the domestic industry products from total employment expenses).

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While the Staff agrees with Lexmark on the whole, it nonetheless contends that Lexmark has not broken down these expenditures for each patent individually as is required by the statute. Staff Resp. at 12-14, citing *Certain Audio Digital-to-Analog Converters and Products Containing Same*, Inv. No. 337-TA-499, Initial Determination

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at 111 (November 15, 2004) (nonreviewed in relevant part by Commission Notice dated December 20, 2004).

In order to complete the record, the Staff has attached a table (Exhibit A) that provides such an apportionment based on the data supplied in Table 5 of Mr. Gabrano's declaration. Specifically, Exhibit A sets forth the percentage of total drums (which would equate to total cartridges) that were used for domestic products covered by each of the asserted patents. The undersigned agrees that this analysis provided by the Staff is an adequate surrogate for the percentage of the total expenditures incurred for each patent.

Accordingly, there is no genuine issue of material fact that Lexmark has satisfied the economic prong of the domestic industry requirement.

2. Technical Prong

Lexmark has submitted the declaration and expert report of Dr. Reinholtz in which he has opined that the domestic products practice at least one claim of the asserted patents. Dr. Reinholtz has supported his technical prong analysis with claim charts, drawings, and photographs identifying the components in the domestic products that meet each of the claim elements. Mem., Ex. 5 at 46-102 and exhibits cited therein.

The Staff agrees that Lexmark has carried its burden of showing the technical prong of the domestic industry requirement. Staff Resp. at 10.

Accordingly, as discussed below, the uncontroverted evidence shows that the domestic products practice at least one claim of the asserted patents.

Lexmark sells a number of laser toner cartridges that practice the asserted patents. These cartridges are collectively referred to herein as the "Domestic Industry Cartridges" and are identified in the chart below. Each of Lexmark's Domestic Industry Cartridges is

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covered by one or more of the asserted patents. Lexmark contends that its asserted patents were written specifically to cover, at least, Lexmark’s own cartridges. Mem. at 15.

Dr. Reinholtz’s report identifies which claims in each of the asserted patents cover which of Lexmark’s Domestic Industry Cartridges. The asserted claims of the asserted patents are identified in the chart below, which is an excerpt from the tables included in Dr. Reinholtz’s report.

				1		
				1-3,32,33, 36,42	32,36,42	32,36,42
				1,2		
				1,2		
				1-3		
				1,2,14		
	1,2	1,2	1,2	1,2		
	1,5,6,10, 15	1,5,6,10, 15	1,5,6,10, 15	1,2,5,6,10, 15		
				1,2,7,10,11,14,15, 17,22,24	1,2,17,19	1,2,17,19
				1-3, 28		
	1	1	1			
		1,3,5,8,10	1,3,5,8,10			
		1,6	1,6			
	11,12,14	11,12,14	11,12,14			
		1,7,14,15	1,7			

Mem., Ex. 5 at ¶ 17.

Moreover, Dr. Reinholtz interpreted each claim to determine its scope and meaning. *See e.g., id.* at ¶ 133; *see generally, id.* at pp. 43-102. Then, he compared the claims to Lexmark’s laser toner cartridges. *See, e.g., id.* ¶ 134.

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In addition, Dr. Reinholtz attached photographic claim charts to his report that: (1) identify the Lexmark part numbers that satisfy each claim element; and (2) graphically illustrate where each claim element is found in the corresponding Lexmark laser toner cartridge.¹¹

Dr. Reinholtz's opinions support Lexmark's contention that its Domestic Industry Cartridges practice the asserted patents. Further, none of the respondents has contested either Dr. Reinholtz's claim construction or the fact Lexmark's own cartridges practice the asserted patents. Consequently, there is no genuine issue of material fact regarding whether Lexmark's laser toner cartridges satisfy the technical prong of the domestic industry requirement. Moreover, Lexmark has provided substantial, reliable, and probative evidence on which a technical prong finding of the domestic industry requirement can be made.

Accordingly, the evidence shows that the domestic products practice at least one claim of the asserted patents.

D. Infringement

Lexmark asserted fifteen patents against respondents in this investigation. *See* n.1, *supra*. Lexmark has submitted the declaration and expert report of Dr. Reinholtz in which he has opined that the accused products infringe certain claims of the asserted patents. *See* Mem. at 8-15. Dr. Reinholtz has supported his infringement analysis with claim charts, drawings, and photographs identifying the components in the accused products that meet each of the claim elements. Mem., Ex. 5 at 103-230 and exhibits cited

¹¹ The engineering drawings for the relevant part numbers are attached as Exhibits 31-40 to Dr. Reinholtz's report.

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therein. In addition, the third declaration of Andrew Gardner supports Lexmark's contentions that the accused products contributorily infringe the asserted claims of U.S. Patent No. 6,871,031. The Staff agrees that the accused products infringe the asserted claims. Staff Resp. at 8.

Lexmark has grouped the accused ink cartridges into four groups: Ninestar Toner Cartridges; Jahwa Toner Cartridges; Print-Rite Toner Cartridges; and Alpha Image Tech and VIP Cartridges. Mem. at 11-13. Further, these toner cartridges imported and/or sold after importation by the respondents fall into two categories: (1) "clones" of Lexmark's genuine laser toner cartridges which are literally new cartridge copies of Lexmark products; and (2) genuine Lexmark laser toner cartridges originally first sold outside of the United States that have been refilled and worn components replaced (typically referred to in the industry as "remanufactured" cartridges).

The remanufacture of any toner cartridges that were first sold by Lexmark outside the United States and then imported into and sold within the United States constitutes patent infringement. *See Jazz Photo Corp. v. ITC*, 264 F.3d 1094, 1105 (Fed. Cir. 2001) (holding that disposable cameras originally sold overseas that were refurbished and resold in the United States constituted patent infringement); *see also, Fujifilm Corp. v. Benun*, 605 F.3d 1366, 1371 (Fed. Cir. 2010) (rejecting argument that *Quanta Computer, Inc. v. LG Elecs., Inc.*, 553 U.S. 617 (2008) eliminated the territoriality requirement for patent exhaustion).

Lexmark's technical expert, Dr. Reinholtz, opines that respondents' "cloned" and "remanufactured" cartridges infringe the asserted patents. Dr. Reinholtz provides a detailed infringement analysis in his Expert Report, filed March 15, 2011, which is

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incorporated herein by reference. *See* Mem., Ex. 5. Dr. Reinholtz analyzed respondents' cartridges and components and compared them to the asserted claims of the asserted patents. Dr. Reinholtz's report identifies which claims in each of the asserted patents cover respondents' infringing toner cartridges. *See* Mem., Ex. 5 at ¶¶ 18-21, 136; *see generally, id.* at pp. 102-232.

Accordingly, the uncontroverted evidence shows that the accused products infringe the asserted claims.

E. Validity

Each claim in each of the asserted patents is presumed valid. 35 U.S.C. § 282. A party seeking to rebut this presumption must do so by clear and convincing evidence. *N. Am. Vaccine, Inc. v. Am. Cyanamid Co.*, 7 F.3d 1571, 1579 (Fed. Cir. 1993).

Here, no respondent has contested the validity of the asserted patents. The Staff submits that it is aware of no persuasive arguments or evidence that any asserted claim of the patents at issue is invalid, or that any of the asserted patents are unenforceable. Thus, there is no genuine issue of material fact as to the validity or enforceability of the asserted patents.

F. Summary Determination of Violation of Section 337

There is no genuine issue of material fact relating to any element of a section 337 violation. Further, it is held that Lexmark is entitled to summary determination as a matter of law. 19 C.F.R. 210.18. Therefore, it is the INITIAL DETERMINATION of the undersigned that Motion No. 740-15 for summary determination of violation is granted.

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VI. Recommended Determination on Remedy and Bonding

When a violation of section 337 has been found, the Commission must consider the issues of remedy, the public interest, and bonding. *See Excavators*, Comm'n Op. at 14 (citing 19 U.S.C. § 1337 (d) and (f)). The administrative law judge is to make a recommendation to the Commission concerning remedy and bonding, but shall not address the issue of the public interest unless ordered by the Commission to do so. 19 C.F.R. 210.42, 210.50(b)(1).

A. General Exclusion Order

The Commission has broad discretion in selecting the form, scope, and extent of the remedy in a section 337 proceeding. *Viscofan, S.A. v. United States Int'l Trade Comm'n*, 787 F.2d 544, 548 (Fed. Cir. 1986). A limited exclusion order directed to respondents' infringing products is among the remedies that the Commission may impose.

In lieu of a limited exclusion order, the Commission may, in appropriate circumstances, issue a general exclusion order (GEO) that applies to all infringing products, regardless of their manufacturer, when:

- (A) a general exclusion from entry of articles is necessary to prevent circumvention of an exclusion order limited to products of named persons; or
- (B) there is a pattern of violation of this section and it is difficult to identify the source of infringing products.

19 U.S.C. § 1337(d)(2); *see Hair Irons*, Comm'n Notice, 2010 WL 5642161, at **24-25.

A violation of Section 337 under this provision must be anchored in substantial, reliable, and probative evidence. *See Multimeter*, 2010 WL 5642165, at *13 (explaining

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evidentiary standard for violations under 19 U.S.C. § 1337(d)).¹² A GEO is appropriate if *either* statutory criterion is met. *Certain Cigarettes & Packaging Thereof*, Inv. No. 337-TA-643, Comm’n Op., 2009 WL 6751505, at *9 (Oct. 1, 2009) (“*Cigarettes*”).

While the factors set forth in *Certain Airless Paint Spray Pumps & Components Thereof*, USITC Pub. 119, Inv. No. 337-TA-90, Comm’n Op., at 18-19 (Nov. 1981) (“*Spray Pumps*”) guided the GEO analysis for some time, “[t]he focus now is primarily on the statutory language [of subsection (d)(2)] itself and not an analysis of the *Spray Pump* factors.” *Inkjet*, 2010 WL 5586103, at *12 (citing *Certain Ground Fault Circuit Interrupters & Prods. Containing Same*, Inv. No. 337-TA-615, Comm’n Op., 2009 WL 852257, at *11 (Mar. 26, 2009); see *Certain Coaxial Cable Connectors & Components Thereof & Prods. Containing Same*, Inv. No. 337-TA-650, Initial Determination (Non-reviewed in Relevant Part), 2009 WL 3694421, at *71 n.42 (Oct. 13, 2009) (declining to implement *Spray Pumps* factors) (“*Coaxial Cable*”). That is, “[w]hile *Spray Pumps* factors may be considered, they cannot be viewed as ‘imposing additional requirements beyond those identified in Section 337(d)(2).’” *Hair Irons*, 2010 WL 5642161, at *13 (citing to Initial Determination incorporated into Commission opinion).

The Commission has issued GEOs under circumstances similar to those present in this investigation – namely, on summary determination where there are no active respondents due to a combination of defaults and other resolutions. See *Hair Irons*, 2010

¹² Because some respondents entered appearances in this investigation and some entered no appearances, Lexmark moves for a GEO under Section 337(d)(2) rather than Section 337(g)(2). See *Protective Purple Gloves*, Inv. No. 337-TA-500, Comm’n Op., 2004 WL 3007145, at *2 (Dec. 22, 2004). No difference exists, however, between the two standards. *Multimeter*, 2010 WL 5642165, at *14.

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WL 5642161, at **1-2 (issuing GEO in investigation where three respondents defaulted and two others entered into consent orders); *Inkjet*, 2010 WL 5586103, at **2, 13 (recommending GEO in investigation where seven respondents defaulted, three respondents settled, and one respondent was terminated on the basis of a consent order); *Certain Energy Drink Prods.*, Inv. No. 337-TA-678, Initial Determination (Non-reviewed), 2010 WL 1502174, at *15 (Mar. 30, 2010) (“*Energy Drinks*”) (“The Commission has recognized that it has the authority to issue a general exclusion order under 19 U.S.C. § 1337(d)(2)(A) and (B) upon summary determination where . . . the last respondents have failed to appear.”).

Lexmark requests that the undersigned recommend the issuance of a general exclusion order.¹³ The Staff supports Lexmark’s request. *See* Staff Resp. at 16-19.

Lexmark’s request for a general exclusion order is made in connection with a motion for summary determination against defaulting respondents, rather than following a full evidentiary hearing. “The Commission’s authority to issue a general exclusion order in a default case such as this one is found in Section 337(g)(2), which provides that the Commission may issue a general exclusion order when no one appears to contest the allegation of violation, a violation is established by substantial, reliable, and probative evidence, and the requirements of Section 337(d)(2) have been met.” *Excavators*, Comm’n Op. at 16.

As detailed, *supra*, the evidence submitted by Lexmark and the Staff includes

¹³ Pursuant to 19 C.F.R. 210.16(c)(2), Lexmark notified the undersigned that it was seeking a GEO in its motion for default which involved the last remaining respondents. *See* Lexmark’s Mot. for Default (Motion No. 740-13) (Feb. 16, 2011).

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documentary evidence and deposition testimony. Lexmark and, or, the Staff provided evidence as to each element of the alleged section 337 violation, including the existence of the requisite domestic industry. Thus, the finding of violation was based on substantial, reliable, and probative evidence. Consequently, the statutory prerequisite is met, and the analysis under section 337(d)(2) may proceed.

As discussed below, the evidence shows that a general exclusion from entry of articles is necessary to prevent circumvention of an exclusion order limited to products of named persons, that there is a pattern of violation of section 337, and it is difficult to identify the source of the infringing products. Thus, pursuant to section 337(d)(2), a general exclusion order should issue.

1. Prevent Circumvention of an LEO

In support of its assertion that the requirements of section 337(d)(2)(A), *i.e.*, a general exclusion from entry of articles is necessary to prevent circumvention of an exclusion order limited to products of named persons, Lexmark provides evidence that manufacturers and sellers of infringing cartridges have sought to mask their identities, including the use of multiple corporations and “d/b/a’s,” as well as branding cartridges under different OEM names. Mem. at 59-70.

As discussed below, the evidence demonstrates that any limited exclusion orders (LEOs) issued in this investigation would likely be circumvented.

One indicator that a GEO is necessary to prevent circumvention of an LEO is when entities “actively try to remain unknown and unidentifiable to investigating parties and/or hide the source of their products.” *Energy Drinks*, 2010 WL 1502174, at *17; *see Coaxial Cable*, 2009 WL 3694421, at *59 (“While the precise relationship among the

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Four Defaulting respondents is unclear, their demonstrated commonalities are indicative of the ease with which the individuals . . . operating these entities could establish new companies and continue to sell infringing [products] for importation if barred by a limited exclusion order”).

In this investigation, it is evident that respondents employ complex business arrangements that make enforcement of U.S. intellectual property (“IP”) rights difficult. For example, at least six respondents do business under more than one name. *See* Compl., ¶ 8 (Ninestar a/k/a Ninestar Technology Co., Ltd.), ¶ 15 (IJSS d/b/a TonerZone.com and/or Inkjet Superstore), ¶ 16 (Chung Pal d/b/a Ink Master), 18 (Direct Billing d/b/a Office Supply Outfitters and d/b/a The Ribbon Connection), ¶ 20 (Acecom d/b/a Insell.com), ¶ 21 (Ink Tech d/b/a Ink Technologies LLC). Further, Alpha Image and E-Toner are [

] *Id.* at 8:1-6, 13:8-17.

Other respondents, while perhaps technically separate entities, create an intricate array of confusingly similar subsidiaries. In that regard, Ninestar, Ninestar Image Int’l, Ninestar Tech, Seine Image, Ziprint, and Nano Pacific (collectively, “Ninestar respondents”) are all plainly in the same business syndicate, as reported by multiple independent sources. *See, e.g.*, Mem., Ex. 14 at 25:6-12 & Dep., Exs. 5-7, 17; Mem., Ex. 158 at 4 (identifying yet another Ninestar affiliated manufacturer – DM Printer Consumables).

Additionally, [

] Mem., Ex. 8 at 12:14-18; Mem., Ex. 21 at 33:8-11. []

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Another way in which LEOs issued in this investigation would be circumvented is through the existing practice of labeling and selling Lexmark-compatible laser toner cartridges under other OEM-brand names. Lexmark technology is used by other OEM brands, including Dell, IBM, Sindoh Ricoh, and Gestetner. *See* Mem., Ex. 156 at ¶¶ 30-31 & Decl., Ex. 10.

Consequently, some of the accused cartridges that respondents manufacture and/or sell are labeled as suitable for other OEM printers and mention Lexmark printer compatibility only in the fine print, if at all. *See, e.g.*, Mem., Ex. 62 (containing images from Complaint Exhibit 373 of Dell 310-5402 cartridge sold by respondent QCI); Mem., Ex. 156 at ¶¶ 30-31 & Decl., Ex. 10; Mem., Ex. 136 at 91:25-93:22 & Dep., Ex. 10 at 4-5 (showing Jet Rise remanufacturer brochure that offers for sale accused cartridges that will also work in Dell printers); Mem., Ex. 6 at 61:12-62:21, 67:15-71:6 & Dep., Ex. 4 (referencing cartridges and components offered for sale that can be used in IBM or Dell printers as well as in Lexmark printers).

Accordingly, a respondent importing accused cartridges could evade U.S. Customs and Border Protection (“Customs”) by labeling the goods as being for other OEM printers. The boxes and shipping labels used for importation need not mention Lexmark at all. Once the infringing goods have passed through Customs, it is a simple

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matter to re-box or attach a new label to the cartridges to indicate that they can also be used in a Lexmark printer. *See* Mem., Ex. 156 at ¶ 31. Indeed, several of the respondents offer custom packaging. *See infra*, Sec. VI.A.2.b.

2. Pattern of Violation of Section 337 and Difficulty in Identifying the Source of Infringing Products

a. Pattern of Violation of Section 337

In support of its assertion that there is a widespread pattern of violation of section 337, Lexmark has provided evidence that: (a) market conditions are conducive to a pattern of violations, *viz.*, toner cartridges are a “booming business” with high profit margins; (b) the 23 respondents in this investigation have sold for importation to, or sold after importation into, the United States infringing cartridges; and (c) there are 1,283 toner cartridge manufacturers in China in addition to 5,000 remanufacturers worldwide. Mem. at 71-74. In addition, Lexmark provides evidence that there are no significant technical and financial barriers to entry, including evidence that factory set up costs can be as low as \$3,500. *Id.* at 80-85. Moreover, the evidence shows that remanufacturers do not attempt to limit their procurement to empty cartridges first purchased in the United States (for which patent rights may be exhausted) but procure such empty cartridges regardless of their country of first sale. *Id.* at 85-87.

As discussed below, the evidence shows that there is a widespread pattern of violation of section 337.

Market conditions, both in the United States and globally, are conducive to a pattern of violation of section 337 involving the accused cartridges. The manufacture and sale of aftermarket laser toner cartridges is a booming business. *See* Mem., Ex. 157 at ¶ 5;

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Mem., Ex. 21 at 48:15-49:1. Aftermarket cartridges currently make up approximately

[

] *See* Mem., Ex. 14 at 16:2-7, 33:10-17 & Dep., Ex. 9. Roughly [

] of the aftermarket laser toner cartridge sales in the United States are for

Lexmark-compatible products. Mem., Ex. 157 at ¶ 29.

Respondents admitted that they sell Lexmark accused cartridges because there was, and is, a demand for them. *See, e.g.*, Mem., Ex. 6 at 37:18-38:10; *see also*, Mem., Ex. 136 at 42:8-43:9 & Dep., Exs. 3-4 (listing significant imports and sales of empties from accused cartridges). There is also a robust demand for empty laser toner cartridges for use in remanufacturing. *See, e.g.*, Mem., Ex. 156 at ¶ 5 & Decl., Ex. 2 (containing solicitation from cartridge broker for “most wanted empties” that include accused cartridges); Mem., Ex. 154 at 45:25-49:7 [

] Mem., Ex. 153 at 26:20-

28:3 & Dep., Exs. 2-3 [

]

This high demand for aftermarket laser toner cartridges, like the accused cartridges, is fueled, in part, by the fact that there is a “very nice profit margin” on such products. *See* Mem., Ex. 21 at 99:10-15; Mem., Ex. 8 at 73:18-24 (“I believe the main reason is there is good demand globally for aftermarket cartridges is there is profit in it.”).

A manufacturer or a reseller can realize up to a [] gross profit for the sale of a Lexmark-compatible aftermarket laser toner cartridge. *See* Mem., Ex. 8 at 68:22-70:19.

Even a [] price increase would still keep the prices of Chinese aftermarket cartridges far below those made by U.S. OEMs, like Lexmark. *See* Mem., Ex. 161 at 23.

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In fact, clones can be as much as [] than their OEM counterparts for a reseller to purchase. *See* Mem., Ex. 6 at 45:8-19.

In light of the high demand and healthy profit margin, it is no surprise that the aftermarket attracts a vast number of identifiable, and unidentifiable, producers and resellers. Each of the 23 defaulting respondents in this investigation has sold for importation into the United States, imported into the United States, or sold after importation into the United States the accused cartridges. *See* Compl., ¶¶ 6-37. Their combined capacity is significant. For example:

- On its website, Seine Image advertises itself as being “the largest aftermarket toner cartridge supplier in the world.” Mem., Ex. 14 at Dep., Ex. 17 at 2. It also claims to “having a monthly production capacity of 750 thousand toner cartridges.” *Id.* at Dep., Ex. 7 at 4.
- The website for Ninestar and Ninestar Image Int’l offers, inter alia, Lexmark-compatible cartridges and states that they have “the ability to produce 500,000 pieces [] [sic] toner cartridges per month replying [sic] on our strong development and production ability”). Mem., Ex. 14 at Dep., Ex. 19 at 7. In fact, the Ninestar facility “is a city in itself.” Mem., Ex. 144 at 116:6-11; *see* Mem., Ex. 157 at ¶ 13 (indicating that Ninestar manufactures clones for importation into the United States).
- [] the factory from which U-Tech obtains its accused cartridges, can produce about 800,000 aftermarket toner cartridges per month, which includes cartridges that can be used in Lexmark laser printers. Mem., Ex. 8 at 18:15-19:6 & Dep., Ex. 1 at 2, 6; *see* Mem., Ex. 144 at 108:1-12, 111:2-18

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In addition to certain respondents, there are thousands of other entities that manufacture accused cartridges and components thereof. *See* Mem., Ex. 158 at 4 (reporting that aftermarket laser toner manufacturers jumped from 165 in June 2004 to 1,283 in March 2010); Mem., Ex. 8 at 29:20-30:5 (agreeing that, “[i]n the People’s Republic of China, the total number of factories is huge”); Mem., Ex. 156 at ¶ 9 & Decl., Ex. 4 (describing offer at trade show by Jet Rise to sell accused cartridges to Lexmark personnel); Mem., Ex. 136 at 91:25-94:1 & Dep., Ex. 10 (providing information on Jet Rise a remanufacturer of, *inter alia*, Lexmark cartridges and with a factory in Zhuhai, China); Mem., Ex. 6 at 56:4-14 & Dep., Ex. 6 (describing Hanguang factory near Shanghai); Mem., Ex. 21 at 28:17-30:10, 31:12-32:18, 33:14-34:3 [

] Ms. Judge estimated that there are 5,000 remanufacturers alone (not counting separate clone producers) worldwide – any one of which does or can produce cartridges for use in Lexmark printers. *See* Mem., Ex. 7 at 20:6-14.

Further, there are countless resellers of aftermarket laser toner cartridges, including the accused cartridges and components thereof. Entities in the United States

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regularly receive solicitations from foreign resellers of aftermarket cartridges. *See, e.g.*,
Mem., Ex. 136 at 39:7-23, 95:20-96:19 [

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Mem., Ex. 21 at 71:5-72:11 [

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There is also a wide variety of suppliers of components used to manufacture and remanufacture accused cartridges. A publication from the 2010 Remax Asia Trade Show illustrates the vast choices of just Chinese companies a manufacturer has from which to choose. *See* Mem., Ex. 144 at Dep., Ex. 9. For example, Zhuhai, China, is the largest hub worldwide for the laser toner aftermarket. *See* Mem., Ex. 158 at 3 (containing ICIG Report). There are currently up to 300 aftermarket enterprises in Zhuhai alone. *See* Mem., Ex. 8 at 17:9-13. In addition to Zhuhai, there are remanufacturing facilities elsewhere in Guangdong Province, China, which includes the seaports of Guangzhou, Shenzhen, Shantou and Zhanjiang. *See* Mem., Ex. 158 at 3.

In addition to China, Lexmark submits that there is similar market growth in India and Vietnam. *See* Mem., Ex. 161 at 23; Mem., Ex. 136 at 77:9-78:2 (noting India as a source of aftermarket laser toner cartridge production); Mem., Ex. 8 at 77:15-78:6 & Dep., Ex. 13 at 26. Indonesia and Myanmar are also emerging markets for aftermarket laser toner cartridges. *See* Mem., Ex. 8 at 77:15-78:6 & Dep., Ex. 13 at 26. Korea, one of the countries from which [] sources some of its supply, is another source of industry activity. *See* Mem., Ex. 136 at 77:9-23, 78:10-23[

] Mem.,

Ex. 21 at 15:21-16:5.

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b. Difficulty in Identifying the Source of Infringing Products

Lexmark offers evidence that the source of infringing cartridges are difficult to identify, including evidence that the cartridges are easily sold over the Internet by entities that obfuscate their identities and change business. Mem. at 93-96. In that regard, Lexmark argues that some manufacturers and sellers seek to mask the source of the cartridges, including selling the cartridges in counterfeit Lexmark branded boxes (*id.* at 97); other sellers mark clone cartridges as remanufactured cartridges as the latter are typically of higher quality and receive less scrutiny from OEMs like Lexmark enforcing their IP rights (*id.*); and that manufacturers of clone cartridges offer customized labeling, which can be used to mislead OEMs as to their source. *Id.* at 97-98. Lexmark also offers evidence of counterfeiting of its cartridges. *Id.* at 99.

The Commission has found the “difficult to identify” component of section 337(d)(2)(B) satisfied where the accused products were distributed over the Internet. This is because the Internet inherently allows for anonymity. *See Hair Irons*, Inv. No. 337-TA-637, Comm’n Notice, 2010 WL 5642161, at *15 (stating that distributing products over the Internet “lends itself to anonymity and makes it difficult to determine the source of the infringing products”).

Thus, even with no physical presence in the United States, the Internet allows entities selling aftermarket cartridges to have deep reach into the U.S. market for a very low cost. *See* Mem., Ex. 136 at 39:7-40:13, 80:2-4, 83:14-84:7 & Dep., Ex. 4 [

] Lexmark estimates that an

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interactive website with dropdown menus and the ability to make online purchases costs as little as \$500 to initiate. *See* Mem., Ex. 157 at ¶ 25.

The evidence in this investigation shows that accused cartridges are advertised and sold over the Internet on a regular basis. Respondents Ninestar, Ninestar Image Int'l, Seine Image, Ziprint, E-Toner, and U-Tech, among others, all advertise on the Internet. *See* Mem., Ex. 14 at Dep., Exs. 3, 7, 17, 18; Mem., Ex. 6 at Dep., Ex. 2; Mem., Ex. 8 at Dep., Ex. 1 at 6.

Manufacturers and resellers of accused cartridges are also difficult to identify simply because they are difficult to catch in business. A remanufacturing operation, for example, can be set up in short order and just as quickly dismantled, in the event that it becomes the target of a lawsuit or a raid. *See* Mem., Ex. 157 at ¶ 20; *see also* Mem., Ex. 8 at 80:11-19.

Additionally, the availability of specialized packaging also makes it difficult to identify the source of accused cartridges. Some entities put counterfeit cartridges in Lexmark branded boxes. *See* Mem., Ex. 152 at ¶ 9. Other entities put clones into boxes that are described as containing remanufactured cartridges. *See* Mem., Ex. 156 at ¶ 20. The motivation for this practice is three-fold. First, remanufactured cartridges usually command a higher price. *Id.* Second, many clones have a lower quality standard than do remanufactured cartridges. *Id.* Third, clone cartridges draw greater scrutiny from OEMs policing the industry to enforce their IP rights. *Id.* at ¶ 21.

It is relatively easy for a seller to change the outer box packaging of laser toner cartridges. *Id.* at ¶ 23. "One manufacturer may be selling the same clone product but shipping it to different resellers in different kinds of packing unique to each reseller." *Id.*

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Manufacturers and resellers of aftermarket cartridges, including those that produce and sell cartridges for use in Lexmark printers, frequently offer private label or other types of custom packaging. *See* Mem., Ex. 156 at ¶ 23. For example:

- Ninestar Image Int'l and Ninestar Tech advertises in their product catalog that their “[i]n-house private labeling service offers our customers value-added packing solutions, from design to printing.” *See* Mem., Ex. 14 at Dep., Ex. 19 at 9.

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- Copy Tech offers a “Free Custom Product Labeling” service. *See* Mem., Ex. 156 at ¶ 31 & Mem., Ex. 5 at 31.
- A company called Sontek (HB) Int'l Co., Limited offers two different packaging options to prospective buyers. *See* Mem., Ex. 156 at ¶ 23 & Decl., Ex. 9.

The evidence demonstrates that these specialized options can be used to create packaging to disguise the origin of the product and/or to deceive the consumer into believing that the products are manufactured by OEMs when they are not. *See* Mem., Ex. 158 at 5.

Further, counterfeiting is yet another means by which to mask the source of infringing products. *Hair Irons*, Comm'n Notice, 2010 WL 5642161, at **11-12 (June 20, 2009). “[T]he counterfeiting problem is worse than it’s ever been,” according to one

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industry expert. Mem., Ex. 7 at 64:10-11. It is estimated that, as of August 2008, more than two million counterfeit cores alone enter the United States each month. *See* Mem., Ex. 161 at 24. Counterfeit cartridges carry no distinguishing marking or features on the cartridge, and it is therefore all but impossible to determine their factory of origin. Mem., Ex. 152 at ¶ 13.

According to Lexmark, the question of source is further exacerbated by the fact that many Asian remanufacturing companies double as counterfeiting operations, offering remanufactured cartridges in both generic and “brand new” Lexmark-style packaging. *See* Mem., Ex. 157 at ¶ 24; *see* Mem., Ex. 152 at ¶ 9 (noting counterfeiters’ use of Lexmark branded boxes). Some entities even provide counterfeit standards certification, still further obfuscating the origin of the cartridges. Mem., Ex. 7 at 67:14-68:1.

The evidence shows that Lexmark spends considerable resources policing the industry to try and expose counterfeit laser toner cartridges, investigating at least 120 to 130 cases of counterfeiting per year and, in conjunction with law enforcement, seizing millions of dollars worth of counterfeit cartridges. *See* Mem., Ex. 156 at ¶ 25. Yet, according to Lexmark, raids have relatively little impact, since most of the target operations that can simply close down quickly and re-open as another entity. *See* Mem., Ex. 152 at ¶¶ 10-12. Lexmark further submits that counterfeiters are savvy regarding ways to avoid IP enforcement. *Id.* at ¶¶ 10-11.

Furthermore, determining the source of infringing goods is difficult for savvy experts in the field, let alone the uneducated consumer. Andrew Gardner, “the Lexmark employee best placed to identify the source of clones of Lexmark cartridges” and who has examined hundreds of clone cartridges since 2007, finds that “more often than not I

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cannot determine the manufacturer of the cartridge” under review. Mem., Ex. 156 at ¶ 18.

Mr. Gardner explains:

[I]t is rare for a manufacturer of compatible (clone) or remanufactured cartridges to label their products with details of the company or factory that made them. I attempt to rely on small visual clues such as the packaging style and certain product code stickers sometimes attached to the cartridge, but it is easy for a manufacturer to change these. It is also difficult to identify the source of cloned cartridges simply because there are so many companies in China manufacturing compatible (clone) Lexmark cartridges.

Id. at ¶ 19.

Accordingly, it is recommended that the Commission issue a general exclusion order.

B. Cease and Desist Order

“Traditionally, the Commission has issued cease and desist orders when it has determined that a substantial volume of imports in respondents’ domestic inventory is a potential cause of substantial injury to the domestic industry.” *Certain Crystalline Cefadroxil Monohydrate*, Inv. No. 337-TA-293, Comm’n Op. at 6 (January 19, 1990). Thus, when a respondent has a commercially significant inventory of products in the United States, a cease and desist order is appropriate. Defaulting domestic respondents are presumed to have a commercially significant inventory. *Certain Video Game Systems, Accessories, and Components Thereof*, Inv. No. 337-TA-473, Comm’n Op. at 2 (December 24, 2002). Accordingly, cease and desist orders should be issued against the defaulting domestic respondents. *See* Mem. at 101-102; *see also*, Staff Resp. at 19.

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Lexmark also requests that cease and desist orders be entered against the foreign Ninestar respondents (Ninestar, Ninestar Image Int'l, & Seine Image).¹⁴ The Staff supports Lexmark's request that such cease and desist orders issue. Staff Resp. at 19-20.

Lexmark notes that in *Certain Abrasive Products Made Using a Process for Powder Prefprms, and Products Containing Same*, Inv. No. 337-TA-449, Comm'n Op. at 7-8 (May 9, 2002), the Commission issued a cease and desist order against a foreign respondent based on the fact that its distributor maintained a commercially significant inventory in the United States. Here, the evidence shows significant amounts of toner cartridges sent from the foreign Ninestar respondent, Seine Image, to respondent Ziprint in the United States. Mem., Ex. 19.¹⁵ It follows that Ziprint maintained these cartridges as commercially significant inventory. See Mem. at 107-108.

Accordingly, it is recommended that the Commission issue cease and desist orders against the defaulting domestic respondents and the defaulting foreign Ninestar respondents.

¹⁴ If a foreign entity did not participate fully in the hearing and did not litigate the substantive issues of the case, the Commission may still exercise personal jurisdiction over that entity if: (1) the foreign entity received adequate notice of the ITC action; and (2) there are minimum contacts between the foreign entity and the United States to ensure that it is fair to require the foreign entity to defend an action in federal district court. See *Certain Audible Alarm Devices for Divers*, Inv. No. 337-TA-365, Order No. 1, 1994 WL 930234, at **1-2 (July 29, 1994). The evidence shows that the foreign Ninestar respondents had adequate notice of this investigation. There is also sufficient evidence to demonstrate that the foreign Ninestar respondents have the requisite minimum contacts with the United States for the Commission and the U.S. district courts to exercise personal jurisdiction over them. See Mem. at 103-107.

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C. Bond

The administrative law judge and the Commission must determine the amount of bond to be required of a respondent, pursuant to section 337(j)(3), during the 60-day Presidential review period following the issuance of permanent relief, in the event that the Commission determines to issue a remedy. The purpose of the bond is to protect the complainant from any injury. 19 C.F.R. 210.42(a)(1)(ii), 210.50(a)(3).

When reliable price information is available, the Commission has often set the bond by eliminating the differential between the domestic product and the imported, infringing product. *See Certain Microsphere Adhesives, Processes for Making Same, and Products Containing Same, Including Self-Stick Repositionable Notes*, Inv. No. 337-TA-366, Comm'n Op. at 24 (1995). In other cases, the Commission has turned to alternative approaches, especially when the level of a reasonable royalty rate could be ascertained. *See Certain Integrated Circuit Telecommunication Chips and Products Containing Same, Including Dialing Apparatus*, Inv. No. 337-TA-337, Comm'n Op. at 41 (1995). A 100 percent bond has been required when no effective alternative existed. *See Certain Flash Memory Circuits and Products Containing Same*, Inv. No. 337-TA-382, USITC Pub. 3046, Comm'n Op. at 26-27 (July 1997) (a 100% bond imposed when price comparison was not practical because the parties sold products at different levels of commerce, and the proposed royalty rate appeared to be *de minimis* and without adequate support in the record); *cf. Excavators*, Comm'n Op. at 21 (lack of sufficiently reliable price information; a 100% bond imposed to protect complainant from any injury during the Presidential review period).

Both Lexmark and the Staff seek a 100 percent bond. *See Mem.* at 108-117; Staff

PUBLIC VERSION

Resp. at 20-21.

Lexmark's domestic industry cartridges can be directly compared to the accused products where price lists are available. However, that comparison highlights the variations in respondents' pricing. In circumstances where "a reliable price differential cannot be obtained," *i.e.*, where "there are a vast number of websites selling" the infringing article, the Commission has set a 100 percent bond. *Cigarettes*, 2009 WL 6751505, at *12; *see also Multimeter*, Comm'n Op., 2008 WL 2336518, at **5-6 (June 3, 2008) (finding 100 percent bond where each respondent set its price differently, preventing clear differentials between the complainant's products and the infringing imports).

Multiple witnesses have testified to the "broad range" of differences in the prices between new or properly remanufactured cartridges and improperly cloned or remanufactured cartridges. *See, e.g.*, Mem., Ex. 144 at 38:7-15; 40:11-14; 168:13-169:6; Mem., Ex. 21 at 105:9-17; 113:2-10; [

]; Mem., Ex. 7 at 35:20-36:11 (stating that "[t]he range [between a properly remanufactured cartridge and one of the clones that you're talking about is so dramatic couldn't really give you [one]]") and 37:4-38:4 (discussing the "huge" and changing price differentials between OEM and clone products).

Under long-standing precedent, the Commission has considerable discretion in setting an appropriate bond. Given such varied pricing, a clear differential between Lexmark's products and the accused products cannot be set.

Consequently, it is recommended that the bond for importation during the Presidential review period be set at 100 percent of entered value.

PUBLIC VERSION

D. Conclusion on Remedy

For the reasons stated above, it is recommended that the Commission issue a general exclusion order and cease and desist orders as set forth above.¹⁶ It is also recommended that the bond for importation during the Presidential review period be set at 100 percent.

VII. Order

It is the initial determination that Lexmark's Motion No. 740-15 for summary determination of violation of section 337 is granted. Pursuant to 19 C.F.R. 210.42(h), this initial determination shall become the determination of the Commission unless a party files a petition for review of the initial determination pursuant to 19 C.F.R. 210.43(a), or the Commission, pursuant to 19 C.F.R. 210.44, orders on its own motion a review of the initial determination or certain issues contained herein.

Further, it is recommended that the Commission issue a general exclusion order, as well as cease and desist orders to both the defaulting domestic respondents and to the foreign Ninestar respondents, and that a 100 percent bond be established for importation during the Presidential review period.

All issues delegated to the administrative law judge, pursuant to the notice of investigation, have been decided, with dispositions as to all respondents. Accordingly, this investigation is concluded.

¹⁶ Lexmark seeks limited exclusion orders against the defaulting respondents in the event a general exclusion order is not recommended. Mem. at 49-54. There is sufficient record evidence supporting the issuance of limited exclusion orders against the defaulting respondents. See Mem. at 48-54. Thus, in the event that the Commission does not issue a general exclusion order, it is recommended that the Commission issue limited exclusion orders against the defaulting respondents.

PUBLIC VERSION

Within seven days of the date of this document, each party shall submit to the office of the undersigned a statement as to whether or not it seeks to have any portion of the document redacted from the public version. The parties' submissions may be made by facsimile and, or, by hard copy. Any party seeking to have a portion of this document redacted from the public version must submit to this office a copy of this document with red brackets indicating the portion, or portions, asserted to contain confidential business information.

So Ordered.



Carl C. Charneski
Administrative Law Judge


Issued: June 1, 2011

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

PUBLIC CERTIFICATE OF SERVICE

I, James R. Holbein, hereby certify that the attached **ORDER NO. 26** has been served by hand upon the Commission Investigative Attorney Rett Snotherly, Esq., and the following parties as indicated, on June 20, 2011.


James R. Holbein, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112A
Washington, D.C. 20436

FOR COMPLAINANT LEXMARK INTERNATIONAL INC.:

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1200 Seventeenth St., N.W. Fifth Floor
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FOR RESPONDENT NECTRON INTERNATIONAL, INC.:

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CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

**FOR RESPONDENTS: DIRECT BILLING
INTERNATIONAL INCORP.; OFFICESUPPLY
OUTFITTERS.COM.; ACECOM, INC. d/b/a INKSELL.COM;
d/b/a Ink TECHNOLOGIES LLC; CHUNG PAL SHIN d/b/a
INK MASTER; IJSS, INC. d/b/a TONERZONE.COM INC.
AND INKJET SUPERSTORE; ACM TECHNOLOGIES, INC.;;
AND NINESTAR IMAGE CO. LTD., NINESTAR IMAGE
INT'L LTD, SEINE IMAGE INTERNATIONAL CO., LTD,
NINESTAR TECHNOLOGY CO., LTD. ZIPPRINT IMAGE
CORP.; QUALITY CARTRIDGE INC. AND NANO PACIFIC
CORP.:**

Gary M. Hnath, Esq.
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FOR RESPONDENT VIRTUAL IMAGING PRODUCTS INC.:

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**FOR RESPONDENT INK TECHNOLOGIES PRINTER
SUPPLIES, LLC.**

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CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

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JAHWA ELECTRONICS CO., LTD.:

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- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: international

COPY TECHNOLOGIES, INC.:

130 James Aldredge Blvd. SW
Atlanta, GA 30336

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

LASER TONER TECHNOLOGIES, INC.:

515 Wharton Circle SW
Atlanta, GA 30336

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

C & R SERVICES INCORP.:

2035 Fair Oaks Circle
Corinth, TX 76210

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- Via Overnight Mail
- Via First Class Mail
- Other: _____

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

PUBLIC MAILING LIST

Heather Hall

LEXIS-NEXIS

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Miamisburg, OH 45342

Kenneth Clair

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Washington, D.C. 20005

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Inv. No. 337-TA-740

Order 24: INITIAL DETERMINATION
Finding Huizhou Jahwa In Default

Complainant Lexmark International, Inc. (“Lexmark”) moved, pursuant to 19 C.F.R. 210.16, for an order to show cause why respondent Huizhou Jahwa Electronics Co., Ltd. (“Huizhou Jahwa”) should not be found in default. (Motion No. 740-11). Respondent did not file a response to the motion and the Commission Investigative Staff supported the motion.

Thereafter, on February 28, 2011, the undersigned issued Order 21, which required Huizhou Jahwa to show cause no later than March 16, 2011, as to why it should not be held in default and judgment rendered against it pursuant to 19 C.F.R. 210.16. To date, no response has been received from Huizhou Jahwa to the show cause order.

The Commission rules provide that a party shall be found in default if it fails to respond to a complaint and notice of investigation, and fails to show cause why it should not be found in default. 19 C.F.R. 210.16(a)(1). Moreover, a party found in default is deemed to have waived its right to appear, to be served with documents, and to contest the allegations at issue in the investigation. 19 C.F.R. 210.16(b)(3).

Accordingly, having failed to respond to the complaint and notice of investigation,

and having failed to respond to Order 21 to show cause, it is the INITIAL DETERMINATION of the undersigned that Huizhou Jahwa is in default. 19 C.F.R. 210.16.

Pursuant to 19 C.F.R. 210.42(h), this initial determination shall become the determination of the Commission unless a party files a petition for review of the initial determination pursuant to 19 C.F.R. 210.43(a), or the Commission, pursuant to 19 C.F.R. 210.44, orders on its own motion a review of the initial determination or certain issues contained herein.



Carl C. Charneski
Administrative Law Judge

Issued: March 22, 2011

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

PUBLIC CERTIFICATE OF SERVICE

I, James R. Holbein, hereby certify that the attached **ORDER NO. 24** has been served by hand upon the Commission Investigative Attorney Rett Snotherly, Esq., and the following parties as indicated, on March 22, 2011.



James R. Holbein, Acting Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112A
Washington, D.C. 20436

FOR COMPLAINANT LEXMARK INTERNATIONAL INC.:

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CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

**FOR RESPONDENTS: DIRECT BILLING
INTERNATIONAL INCORP.; OFFICESUPPLY
OUTFITTERS.COM.; ACECOM, INC. d/b/a INKSELL.COM;
d/b/a Ink TECHNOLOGIES LLC; CHUNG PAL SHIN d/b/a
INK MASTER; IJSS, INC. d/b/a TONERZONE.COM INC.
AND INKJET SUPERSTORE; ACM TECHNOLOGIES, INC.;;
AND NINESTAR IMAGE CO. LTD., NINESTAR IMAGE
INT'L LTD, SEINE IMAGE INTERNATIONAL CO., LTD,
NINESTAR TECHNOLOGY CO., LTD. ZIPRINT IMAGE
CORP.; QUALITY CARTRIDGE INC. AND NANO PACIFIC
CORP.:**

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**FOR RESPONDENTS IJSS, INC. d/b/a TONERZONE.COM
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CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

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CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

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Kenneth Clair

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Inv. No. 337-TA-740

Order 23: INITIAL DETERMINATION
Finding Certain Respondents In Default

Complainant Lexmark International, Inc. (“Lexmark”) moves, pursuant to 19 C.F.R. 210.16, for default as to respondents E-Toner Mart, Inc.; Alpha Image Tech; Virtual Imaging Products, Inc.; Jahwa Electronics Co., Ltd.; Copy Technologies, Inc.; Laser Toner Technology, Inc.; C&R Services, Inc.; and Union Technology Int’l (M.C.O.) Co. Ltd. (collectively, “respondents”). (Motion No. 740-13). Specifically, Lexmark asks the undersigned to (1) issue an initial determination finding the respondents in default; (2) deem as true the facts alleged in the complaint as to the respondents; and (3) ultimately, issue a permanent general exclusion order forbidding entry into the United States of all toner cartridges and components thereof that infringe one or more of Lexmark’s valid and enforceable patents at issue in this investigation. Mot. at 1-2. Respondents have not filed a response to the present motion. The Commission Investigative Staff supports the motion with respect to Lexmark’s request to find respondents in default. Staff at 1.

To date, none of the respondents has responded to the complaint and notice of investigation as required by 19 C.F.R. 210.13. Further, on December 14, 2010, the undersigned issued Order 10, which required respondents to show cause no later than

December 30, 2010, as to why they should not therefore be held in default and judgment rendered against them pursuant to 19 C.F.R. 210.16. No response was received from any of the respondents to the show cause order.

The Commission rules provide that a party shall be found in default if it fails to respond to a complaint and notice of investigation, and fails to show cause why it should not be found in default. 19 C.F.R. 210.16(a)(1). Moreover, a party found in default is deemed to have waived its right to appear, to be served with documents, and to contest the allegations at issue in the investigation. 19 C.F.R. 210.16(b)(3).

Accordingly, based on the foregoing, it is the INITIAL DETERMINATION of the undersigned that respondents E-Toner Mart, Inc.; Alpha Image Tech; Virtual Imaging Products, Inc.; Jahwa Electronics Co., Ltd.; Copy Technologies, Inc.; Laser Toner Technology, Inc.; C&R Services, Inc.; and Union Technology Int'l (M.C.O.) Co. Ltd. are in default and “[t]he facts alleged in the complaint will be presumed to be true.” 19 C.F.R. 210.16. Further, it is noted that Huizhou Jahwa Electronics Co., Ltd. (“Huizhou Jahwa”) remains a respondent.¹ *See* Order 21 (Order to show cause issued to Huizhou Jahwa, February 28, 2011).

Pursuant to 19 C.F.R. 210.42(h), this initial determination shall become the determination of the Commission unless a party files a petition for review of the initial determination pursuant to 19 C.F.R. 210.43(a), or the Commission, pursuant to

¹ Lexmark’s request for a general exclusion order pursuant to 19 U.S.C. § 1337 is premature. *See* Mot. at 2 n.1. In any event, this remedy issue may be raised during the prehearing conference scheduled to be held on March 21, 2011. *See* Order 22.

19 C.F.R. 210.44, orders on its own motion a review of the initial determination or certain issues contained herein.

Carl C. Charneski

Carl C. Charneski
Administrative Law Judge

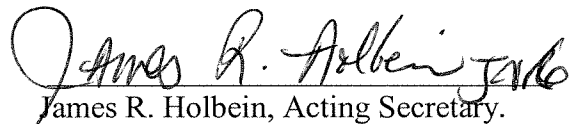
Issued: March 8, 2011

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

PUBLIC CERTIFICATE OF SERVICE

I, James R. Holbein, hereby certify that the attached **ORDER 23** has been served by hand upon the Commission Investigative Attorney Rett Snotherly, Esq., and the following parties as indicated, on MAR 08 2011.



James R. Holbein, Acting Secretary.
U.S. International Trade Commission
500 E Street, SW, Room 112A
Washington, D.C. 20436

FOR COMPLAINANT LEXMARK INTERNATIONAL INC.:

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CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

**FOR RESPONDENTS: DIRECT BILLING
INTERNATIONAL INCORP.; OFFICESUPPLY
OUTFITTERS.COM.; ACECOM, INC. d/b/a INKSELL.COM;
d/b/a Ink TECHNOLOGIES LLC; CHUNG PAL SHIN d/b/a
INK MASTER; IJSS, INC. d/b/a TONERZONE.COM INC.
AND INKJET SUPERSTORE; ACM TECHNOLOGIES, INC.;
AND NINESTAR IMAGE CO. LTD., NINESTAR IMAGE
INT'L LTD, SEINE IMAGE INTERNATIONAL CO., LTD,
NINESTAR TECHNOLOGY CO., LTD. ZIPPRINT IMAGE
CORP.; QUALITY CARTRIDGE INC. AND NANO PACIFIC
CORP.:**

Gary M. Hnath, Esq.
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**FOR RESPONDENTS IJSS, INC. d/b/a TONERZONE.COM
INC. AND INKJET SUPERSTORE:**

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FOR RESPONDENT VIRTUAL IMAGING PRODUCTS INC.:

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CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

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CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

LASER TONER TECHNOLOGIES, INC.:

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- Via Hand Delivery
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**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.**

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Inv. No. 337-TA-740

Order 19: INITIAL DETERMINATION
Finding Certain Respondents In Default

On January 28, 2011, respondents ACM Technologies, Inc., Chung Pal Shin (d/b/a Ink Master), Direct Billing International, Inc. (d/b/a Office Supply Outfitter), Ink Technologies Printer Supplies, LLC (d/b/a Ink Technologies LLC), and Quality Cartridges, Inc. (collectively, "ACM") filed a notice electing to default. (Motion No. 740-8). ACM requested that this notice be treated as a motion for default. Mot. at 1. Complainant Lexmark International, Inc. ("Lexmark") and the Commission Investigative Staff ("Staff") support Motion No. 740-8.

Thereafter, on February 14, 2011, Direct Billing International, Inc. (d/b/a Office Supply Outfitter and d/b/a The Ribbon Connection) filed a corrected notice electing to default. (Motion No. 740-12). In the notice, Direct Billing states: "This corrected Notice of Election to Default is being filed on behalf of Direct Billing to include an additional name in which Direct Billing does business, "The Ribbon Connection," consistent with the Commission's Notice of Investigation." Motion No. 740-12 at 1, n.1. Direct Billing requested that this notice be treated as a motion for default. Mot. at 1. Lexmark and the Staff support Motion No. 740-12.

A party shall be found in default if it fails to respond to a complaint and notice of investigation, and fails to show cause why it should not be found in default.¹

19 C.F.R. 210.16(a)(1). A party found in default is deemed to have waived its right to appear, to be served with documents, and to contest the allegations at issue in the investigation. 19 C.F.R. 210.16(b)(3). Here, ACM “elect to raise no further defense in this investigation and default.” Mot. at 1. Thus, ACM has waived its right to participate in this investigation as set forth in section 210.16(b)(3).

Accordingly, it is the INITIAL DETERMINATION of the undersigned that ACM is in default and “[t]he facts alleged in the complaint will be presumed to be true.” 19 C.F.R. 210.16.

Pursuant to 19 C.F.R. 210.42(h), this initial determination shall become the determination of the Commission unless a party files a petition for review of the initial determination pursuant to 19 C.F.R. 210.43(a), or the Commission, pursuant to 19 C.F.R. 210.44, orders on its own motion a review of the initial determination or certain issues contained herein.



Carl C. Charneski
Administrative Law Judge

Issued: February 22, 2011

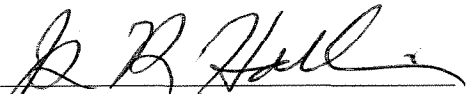
¹ In view of ACM’s clear election to default, the issuance of a show cause order would serve no purpose.

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

PUBLIC CERTIFICATE OF SERVICE

I, James R. Holbein, hereby certify that the attached **ORDER 19** has been served by hand upon the Commission Investigative Attorney Rett Snotherly, Esq., and the following parties as indicated, on February 22, 2011.


James R. Holbein, Acting Secretary.
U.S. International Trade Commission
500 E Street, SW, Room 112A
Washington, D.C. 20436

FOR COMPLAINANT LEXMARK INTERNATIONAL INC.:

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ADDUCI, MASTRIANI & SCHAUMBERG, LLP

1200 Seventeenth St., N.W. Fifth Floor

Washington, D.C. 20036

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

FOR RESPONDENT NECTRON INTERNATIONAL, INC.:

Mario G. Ceste, Esq.

LAW OFFICES OF MARIO G. CESTE, LLC

P.O. Box 82

Wallingford, CT 06492

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

**FOR RESPONDENTS: DIRECT BILLING
INTERNATIONAL INCORP.; OFFICESUPPLY
OUTFITTERS.COM.; ACECOM, INC. d/b/a INKSELL.COM;
d/b/a Ink TECHNOLOGIES LLC; CHUNG PAL SHIN d/b/a
INK MASTER; IJSS, INC. d/b/a TONERZONE.COM INC.
AND INKJET SUPERSTORE; ACM TECHNOLOGIES, INC.;
AND NINESTAR IMAGE CO. LTD., NINESTAR IMAGE
INT'L LTD, SEINE IMAGE INTERNATIONAL CO., LTD,
NINESTAR TECHNOLOGY CO., LTD. ZIPPRINT IMAGE
CORP.; QUALITY CARTRIDGE INC. AND NANO PACIFIC
CORP.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K St., N.W.
Washington, D.C. 20006

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

**FOR RESPONDENTS IJSS, INC. d/b/a TONERZONE.COM
INC. AND INKJET SUPERSTORE:**

Jon E. Hokanson, Esq.
LEWIS BRISBOIS BISGAARD & SMITH LLP
221 N. Figueroa St., Suite 1200
Los Angeles, CA 90012

Via Hand Delivery
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FOR RESPONDENT VIRTUAL IMAGING PRODUCTS INC.:

Merritt R. Blakeslee, Esq.
THE BLAKESLEE LAW FIRM
1250 Connecticut Ave., N.W.
Suite 709
Washington, D.C. 20036

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

**FOR RESPONDENT INK TECHNOLOGIES PRINTER
SUPPLIES, LLC.**

David A. Shough, Esq.
Law Office of David A. Shough
853 Dayton Oxford Road
Carlisle, OH 45005-3412

Via Hand Delivery
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 Other: _____

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

**FOR RESPONDENTS UNION
TECHNOLOGY INT'L (M.C.O) CO.:**

Wayne B. Cooper, Esq.
LAW OFFICE OF WAYNE B. COOPER
30 Oakland Ave
San Anselmo, CA 94960-1614

- Via Hand Delivery
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- Other: _____

E-TONER MART, INC. AND ALPHA IMAGE TECH
1718 Potero Ave., Suite #A
South El Monte, CA 91733

- Via Hand Delivery
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- Via First Class Mail
- Other: _____

JAHWA ELECTRONICS CO., LTD.:
7-6 Hyunam-ri Bugi-myeon Chongwongun
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- Via Hand Delivery
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- Other: _____

HUIZHOU JAHWA ELECTRONICS CO., LTD.:
No. 10 JiangJun Rd, ZhouTian Village
Quichang Town, Huiyang District, Huizhou
Guangdong Province, China

- Via Hand Delivery
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- Other: _____

COPY TECHNOLOGIES, INC.:
130 James Aldredge Blvd. SW
Atlanta, GA 30336

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

LASER TONER TECHNOLOGIES, INC.:

515 Wharton Circle SW
Atlanta, GA 30336

- Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

C & R SERVICES INCORP.:

2035 Fair Oaks Circle
Corinth, TX 76210

- Via Hand Delivery
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 Other: _____

PUBLIC MAILING LIST

Heather Hall

LEXIS-NEXIS
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Kenneth Clair

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1100 Thirteen Street, NW, Suite 200
Washington, D.C. 20005

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF

Inv. No. 337-TA-740

Order 18: INITIAL DETERMINATION
Finding Acecom Inc. – San Antonio In Default

Respondent Acecom Inc. – San Antonio (d/b/a/ inksell.com) (“Acecom”) filed a notice electing to default. (Motion No. 740-10). Acecom requested that this notice be treated as a motion for default. Mot. at 1. Complainant Lexmark International, Inc. and the Commission Investigative Staff support the motion.

A party shall be found in default if it fails to respond to a complaint and notice of investigation, and fails to show cause why it should not be found in default.¹

19 C.F.R. 210.16(a)(1). A party found in default is deemed to have waived its right to appear, to be served with documents, and to contest the allegations at issue in the investigation. 19 C.F.R. 210.16(b)(3). Here, Acecom “elects to raise no further defense in this investigation and defaults.” Mot. at 1. Thus, Acecom has waived its right to participate in this investigation as set forth in section 210.16(b)(3).

Accordingly, it is the INITIAL DETERMINATION of the undersigned that Acecom is in default and “[t]he facts alleged in the complaint will be presumed to be true.” 19 C.F.R. 210.16.

¹ In view of Acecom’s clear election to default, the issuance of a show cause order would serve no purpose.

Pursuant to 19 C.F.R. 210.42(h), this initial determination shall become the determination of the Commission unless a party files a petition for review of the initial determination pursuant to 19 C.F.R. 210.43(a), or the Commission, pursuant to 19 C.F.R. 210.44, orders on its own motion a review of the initial determination or certain issues contained herein.



Carl C. Charneski
Carl C. Charneski
Administrative Law Judge

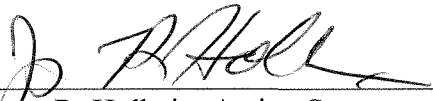
Issued: February 18, 2011

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

PUBLIC CERTIFICATE OF SERVICE

I, James R. Holbein, hereby certify that the attached **ORDER 18** has been served by hand upon the Commission Investigative Attorney Rett Snotherly, Esq., and the following parties as indicated, on FEB 18 2011.


James R. Holbein, Acting Secretary.
U.S. International Trade Commission
500 E Street, SW, Room 112A
Washington, D.C. 20436

FOR COMPLAINANT LEXMARK INTERNATIONAL INC.:

V. James Adduci, II., Esq.
ADDUCI, MASTRIANI & SCHAUMBERG, LLP
1200 Seventeenth St., N.W. Fifth Floor
Washington, D.C. 20036

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FOR RESPONDENT NECTRON INTERNATIONAL, INC.:

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P.O. Box 82
Wallingford, CT 06492

- Via Hand Delivery
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- Via First Class Mail
- Other: _____

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

**FOR RESPONDENTS: DIRECT BILLING
INTERNATIONAL INCORP.; OFFICESUPPLY
OUTFITTERS.COM.; ACECOM, INC. d/b/a INKSELL.COM;
d/b/a Ink TECHNOLOGIES LLC; CHUNG PAL SHIN d/b/a
INK MASTER; IJSS, INC. d/b/a TONERZONE.COM INC.
AND INKJET SUPERSTORE; ACM TECHNOLOGIES, INC.;
AND NINESTAR IMAGE CO. LTD., NINESTAR IMAGE
INT'L LTD, SEINE IMAGE INTERNATIONAL CO., LTD,
NINESTAR TECHNOLOGY CO., LTD. ZIPRINT IMAGE
CORP.; QUALITY CARTRIDGE INC. AND NANO PACIFIC
CORP.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K St., N.W.
Washington, D.C. 20006

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

**FOR RESPONDENTS IJSS, INC. d/b/a TONERZONE.COM
INC. AND INKJET SUPERSTORE:**

Jon E. Hokanson, Esq.
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221 N. Figueroa St., Suite 1200
Los Angeles, CA 90012

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

FOR RESPONDENT VIRTUAL IMAGING PRODUCTS INC.:

Merritt R. Blakeslee, Esq.
THE BLAKESLEE LAW FIRM
1250 Connecticut Ave., N.W.
Suite 709
Washington, D.C. 20036

Via Hand Delivery
 Via Overnight Mail
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 Other: _____

**FOR RESPONDENT INK TECHNOLOGIES PRINTER
SUPPLIES, LLC.**

David A. Shough, Esq.
Law Office of David A. Shough
853 Dayton Oxford Road
Carlisle, OH 45005-3412

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

**FOR RESPONDENTS UNION
TECHNOLOGY INT'L (M.C.O) CO.:**

Wayne B. Cooper, Esq.
LAW OFFICE OF WAYNE B. COOPER
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San Anselmo, CA 94960-1614

- Via Hand Delivery
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 Other: _____

E-TONER MART, INC. AND ALPHA IMAGE TECH
1718 Potero Ave., Suite #A
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Guangdong Province, China

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COPY TECHNOLOGIES, INC.:
130 James Aldredge Blvd. SW
Atlanta, GA 30336

- Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

LASER TONER TECHNOLOGIES, INC.:

515 Wharton Circle SW
Atlanta, GA 30336

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: _____

C & R SERVICES INCORP.:

2035 Fair Oaks Circle
Corinth, TX 76210

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Heather Hall

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Miamisburg, OH 45342

Kenneth Clair

Thomson West
1100 Thirteen Street, NW, Suite 200
Washington, D.C. 20005

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Inv. No. 337-TA-740

Order 17: INITIAL DETERMINATION
Finding IJSS, Inc. In Default

Respondent IJSS, Inc. (d/b/a/ TonerZone.com, Inc. and Inkjet Superstore) (“IJSS”) filed a notice electing to default. (Motion No. 740-9). IJSS requested that this notice be treated as a motion for default. Mot. at 1. Complainant Lexmark International, Inc. and the Commission Investigative Staff support the motion.


A party shall be found in default if it fails to respond to a complaint and notice of investigation, and fails to show cause why it should not be found in default.¹

19 C.F.R. 210.16(a)(1). A party found in default is deemed to have waived its right to appear, to be served with documents, and to contest the allegations at issue in the investigation. 19 C.F.R. 210.16(b)(3). Here, IJSS “elects to raise no further defense in this investigation and defaults.” Mot. at 1. Thus, IJSS has waived its right to participate in this investigation as set forth in section 210.16(b)(3).

Accordingly, it is the INITIAL DETERMINATION of the undersigned that IJSS is in default and “[t]he facts alleged in the complaint will be presumed to be true.” 19 C.F.R. 210.16.

¹ In view of IJSS’s clear election to default, the issuance of a show cause order would serve no purpose.

Pursuant to 19 C.F.R. 210.42(h), this initial determination shall become the determination of the Commission unless a party files a petition for review of the initial determination pursuant to 19 C.F.R. 210.43(a), or the Commission, pursuant to 19 C.F.R. 210.44, orders on its own motion a review of the initial determination or certain issues contained herein.



Carl C. Charneski
Administrative Law Judge

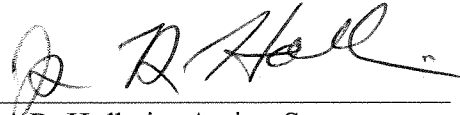
Issued: February 18, 2011

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

PUBLIC CERTIFICATE OF SERVICE

I, James R. Holbein, hereby certify that the attached **ORDER 17** has been served by hand upon the Commission Investigative Attorney Rett Snotherly, Esq., and the following parties as indicated, on FEB 18 2011.



James R. Holbein, Acting Secretary.
U.S. International Trade Commission
500 E Street, SW, Room 112A
Washington, D.C. 20436

FOR COMPLAINANT LEXMARK INTERNATIONAL INC.:

V. James Adduci, II., Esq.
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 Via Overnight Mail
 Via First Class Mail
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FOR RESPONDENT NECTRON INTERNATIONAL, INC.:

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P.O. Box 82
Wallingford, CT 06492

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

**FOR RESPONDENTS: DIRECT BILLING
INTERNATIONAL INCORP.; OFFICESUPPLY
OUTFITTERS.COM.; ACECOM, INC. d/b/a INKSELL.COM;
d/b/a Ink TECHNOLOGIES LLC; CHUNG PAL SHIN d/b/a
INK MASTER; IJSS, INC. d/b/a TONERZONE.COM INC.
AND INKJET SUPERSTORE; ACM TECHNOLOGIES, INC.;
AND NINESTAR IMAGE CO. LTD., NINESTAR IMAGE
INT'L LTD, SEINE IMAGE INTERNATIONAL CO., LTD,
NINESTAR TECHNOLOGY CO., LTD. ZIPRINT IMAGE
CORP.; QUALITY CARTRIDGE INC. AND NANO PACIFIC
CORP.:**

Gary M. Hnath, Esq.
MAYER BROWN LLP
1999 K St., N.W.
Washington, D.C. 20006

- Via Hand Delivery
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- Via First Class Mail
- Other: _____

**FOR RESPONDENTS IJSS, INC. d/b/a TONERZONE.COM
INC. AND INKJET SUPERSTORE:**

Jon E. Hokanson, Esq.
LEWIS BRISBOIS BISGAARD & SMITH LLP
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- Via First Class Mail
- Other: _____

FOR RESPONDENT VIRTUAL IMAGING PRODUCTS INC.:

Merritt R. Blakeslee, Esq.
THE BLAKESLEE LAW FIRM
1250 Connecticut Ave., N.W.
Suite 709
Washington, D.C. 20036

- Via Hand Delivery
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- Other: _____

**FOR RESPONDENT INK TECHNOLOGIES PRINTER
SUPPLIES, LLC.**

David A. Shough, Esq.
Law Office of David A. Shough
853 Dayton Oxford Road
Carlisle, OH 45005-3412

- Via Hand Delivery
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CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

**FOR RESPONDENTS UNION
TECHNOLOGY INT'L (M.C.O) CO.:**

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COPY TECHNOLOGIES, INC.:
130 James Aldredge Blvd. SW
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- Via Hand Delivery
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- Other: _____

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

LASER TONER TECHNOLOGIES, INC.:

515 Wharton Circle SW
Atlanta, GA 30336

- Via Hand Delivery
- Via Overnight Mail
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- Other: _____

C & R SERVICES INCORP.:

2035 Fair Oaks Circle
Corinth, TX 76210

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PUBLIC MAILING LIST

Heather Hall

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Kenneth Clair

Thomson West
1100 Thirteen Street, NW, Suite 200
Washington, D.C. 20005

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF

Inv. No. 337-TA-740

Order 16: INITIAL DETERMINATION
Finding Certain Respondents In Default

Respondents Ninestar Image Co. Ltd.; Ninestar Image Int'l Ltd.; Seine Image International Co. Ltd.; Ninestar Technology Company, Ltd.; Ziprint Image Corporation; and Nano Pacific Corporation (collectively, "Ninestar") filed a notice electing to default. Ninestar requested that this notice be treated as a motion for default. Mot. at 1. Complainant Lexmark International, Inc. and the Commission Investigative Staff ("Staff") support the motion.¹

A party shall be found in default if it fails to respond to a complaint and notice of investigation, and fails to show cause why it should not be found in default.

19 C.F.R. 210.16(a)(1). A party found in default is deemed to have waived its right to appear, to be served with documents, and to contest the allegations at issue in the investigation. 19 C.F.R. 210.16(b)(3). Here, Ninestar "elect to raise no further defense in this investigation and default." Mot. at 1. Thus, Ninestar has waived its right to participate in this investigation as set forth in section 210.16(b)(3).

¹ The Staff specifically requests "the issuance of an order to show cause why the Ninestar Respondents should not be found in default." Staff Resp. at 1. In view of Ninestar's clear election to default, the issuance of a show cause order would serve no purpose.

Accordingly, it is the INITIAL DETERMINATION of the undersigned that Ninestar is in default and “[t]he facts alleged in the complaint will be presumed to be true.” 19 C.F.R. 210.16.

Pursuant to 19 C.F.R. 210.42(h), this initial determination shall become the determination of the Commission unless a party files a petition for review of the initial determination pursuant to 19 C.F.R. 210.43(a), or the Commission, pursuant to 19 C.F.R. 210.44, orders on its own motion a review of the initial determination or certain issues contained herein.

Carl C. Chameski

Carl C. Chameski
Administrative Law Judge


Issued: February 2, 2011

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

PUBLIC CERTIFICATE OF SERVICE

I, James R. Holbein, hereby certify that the attached **ORDER NO. 16** has been served by hand upon the Commission Investigative Attorney Rett Snotherly, Esq., and the following parties as indicated, on February 2, 2011.


James R. Holbein, Acting Secretary.
U.S. International Trade Commission
500 E Street, SW, Room 112A
Washington, D.C. 20436

FOR COMPLAINANT LEXMARK INTERNATIONAL INC.:

V. James Adduci, II., Esq.

ADDUCI, MASTRIANI & SCHAUMBERG, LLP

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Washington, D.C. 20036

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FOR RESPONDENT NECTRON INTERNATIONAL, INC.:

Mario G. Ceste, Esq.

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Wallingford, CT 06492

Via Hand Delivery
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 Via First Class Mail
 Other: _____

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

**FOR RESPONDENTS: DIRECT BILLING
INTERNATIONAL INCORP.; OFFICESUPPLY
OUTFITTERS.COM.; ACECOM, INC. d/b/a INKSELL.COM;
d/b/a Ink TECHNOLOGIES LLC; CHUNG PAL SHIN d/b/a
INK MASTER; IJSS, INC. d/b/a TONERZONE.COM INC.
AND INKJET SUPERSTORE; ACM TECHNOLOGIES, INC.;
AND NINESTAR IMAGE CO. LTD., NINESTAR IMAGE
INT'L LTD, SEINE IMAGE INTERNATIONAL CO., LTD,
NINESTAR TECHNOLOGY CO., LTD. ZIPPRINT IMAGE
CORP.; QUALITY CARTRIDGE INC. AND NANO PACIFIC
CORP.:**

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Via Hand Delivery
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FOR RESPONDENT VIRTUAL IMAGING PRODUCTS INC.:

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**FOR RESPONDENT INK TECHNOLOGIES PRINTER
SUPPLIES, LLC.**

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CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

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**FOR RESPONDENTS UNION
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- Other: International

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Kenneth Clair

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF

Inv. No. 337-TA-740

Order 15: INITIAL DETERMINATION
Finding Nectron International Inc. In Default

Nectron International Inc. (“Nectron”) filed a notice electing to default. (Motion No. 740-7). Nectron requested that this notice be treated as a motion for default. Mot. at

1. Complainant Lexmark International, Inc. and the Commission Investigative Staff (“Staff”) support the motion.¹

A party shall be found in default if it fails to respond to a complaint and notice of investigation, and fails to show cause why it should not be found in default.

19 C.F.R. 210.16(a)(1). A party found in default is deemed to have waived its right to appear, to be served with documents, and to contest the allegations at issue in the investigation. 19 C.F.R. 210.16(b)(3). Here, Nectron “elects to raise no further defense in this investigation and defaults.” Mot. at 1. Thus, Nectron has waived its right to participate in this investigation as set forth in section 210.16(b)(3).

Accordingly, it is the INITIAL DETERMINATION of the undersigned that Nectron is in default and “[t]he facts alleged in the complaint will be presumed to be

¹ The Staff specifically requests “the issuance of an order to show cause why Nectron should not be found in default.” Staff Resp. at 1. In view of Nectron’s clear election to default, the issuance of a show cause order would serve no purpose.

true.” 19 C.F.R. 210.16.

Pursuant to 19 C.F.R. 210.42(h), this initial determination shall become the determination of the Commission unless a party files a petition for review of the initial determination pursuant to 19 C.F.R. 210.43(a), or the Commission, pursuant to 19 C.F.R. 210.44, orders on its own motion a review of the initial determination or certain issues contained herein.



Carl C. Charneski
Administrative Law Judge

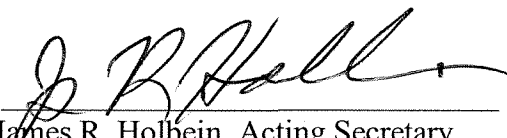
Issued: February 1, 2011

CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

PUBLIC CERTIFICATE OF SERVICE

I, James R. Holbein, hereby certify that the attached **ORDER NO. 15** has been served by hand upon the Commission Investigative Attorney Rett Snotherly, Esq., and the following parties as indicated, on FEB 02 2011.


James R. Holbein, Acting Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112A
Washington, D.C. 20436

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CERTAIN TONER CARTRIDGES AND COMPONENTS THEREOF

INV. NO. 337-TA-740

**FOR RESPONDENTS: DIRECT BILLING
INTERNATIONAL INCORP.; OFFICESUPPLY
OUTFITTERS.COM.; ACECOM, INC. d/b/a INKSELL.COM;
d/b/a Ink TECHNOLOGIES LLC; CHUNG PAL SHIN d/b/a
INK MASTER; IJSS, INC. d/b/a TONERZONE.COM INC.
AND INKJET SUPERSTORE; ACM TECHNOLOGIES, INC.;
AND NINESTAR IMAGE CO. LTD., NINESTAR IMAGE
INT'L LTD, SEINE IMAGE INTERNATIONAL CO., LTD,
NINESTAR TECHNOLOGY CO., LTD. ZIPRINT IMAGE
CORP.; QUALITY CARTRIDGE INC. AND NANO PACIFIC
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INV. NO. 337-TA-740

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