

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

IN THE MATTER OF
CERTAIN INK CARTRIDGES AND
COMPONENTS THEREOF

Investigation No. 337-TA-565
Enforcement Proceeding

**COMPLAINT FOR ENFORCEMENT
PROCEEDINGS PURSUANT TO RULE 210.75**

COMPLAINANTS:

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Hillsboro, Oregon 97124
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**PROPOSED
ENFORCEMENT RESPONDENTS:**

RIBBON TREE USA INC., DBA
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Ferndale, Washington 98248

Service of Process Address:
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2200 Rimland Dr. Ste. 220
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I. INTRODUCTION

1. Complainants Epson Portland Inc., Epson America, Inc., and Seiko Epson Corporation (collectively "Epson" or "Complainants") request that the United States International Trade Commission ("Commission") commence formal enforcement proceedings pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. Section 1337 ("Section 337"), and 19 C.F.R. Section 210.75, to remedy the continuing unfair acts of respondents Ribbon Tree USA Inc., dba Cana-Pacific Ribbons Inc. and Apex Distributing Inc. (collectively "Respondents"), in flagrant violation of the Consent Order issued by the Commission on February 12, 2007 and the General Exclusion Order issued by the Commission on October 19, 2007.

2. Epson filed a complaint with the Commission on February 17, 2006, setting forth, *inter alia*, other named respondents' and the Respondents' violation of Section 337 by infringement of Epson's U.S. Patent Nos. 5,615,957 ("the '957 patent"), 5,622,439 ("the '439 patent"), 5,158,377 ("the 377 patent"), 5,221,148 ("the '148 patent"), 5,156,472 ("the '472 patent"), 5,488,401 ("the '401 patent"), 6,502,917 ("the '917 patent"), 6,550,902 ("the '902 patent"), 6,955,422 ("the '422 patent"). Epson filed an amended complaint with the Commission on April 12, 2006, setting forth, *inter alia*, other named respondents' and Respondents' violation of Section 337 by infringement of the above listed Epson patents, as well as Epson's U.S. Patent Nos. 7,008,053 ("the '053 patent") and 7,011,397 ("the '397 patent"). The Commission instituted Investigation No. 337-TA-565 on March 17, 2006.

3. On February 12, 2007, the Commission issued a Consent Order dismissing the Respondents from the investigation provided, however, that enforcement, modification, or revocation of the Consent Order shall be carried out pursuant to Subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 211. On March 30, 2007, the presiding

administrative law judge ("ALJ") issued an Initial Determination on Violation of Section 337 and a Recommended Determination on Remedy and Bond (collectively "ID"), finding violations by other named respondents based upon infringement of the asserted Epson patents. On June 29, 2007, the Commission determined to review a number of conclusions of the ID.

4. On October 19, 2007, the Commission issued its Notice of Final Determination, Issuance of General Exclusion Order, Limited Exclusion Order and Cease and Desist Orders, setting forth the details of its determination on remedy, bonding and the public interest. A Notice of the General Exclusion Order, Limited Exclusion Order and Cease and Desist Orders was published in the Federal Register on October 25, 2007. *See, In the Matter of Certain Ink Cartridges and Components Thereof*, 72 Fed. Reg. 60692-93 (Oct. 25, 2007). The General Exclusion Order, Limited Exclusion Order and Cease and Desist Orders were thereafter made publicly available on the Commission's website. (*See Exhibit 1, Notice of Final Determination; Issuance of General Exclusion Order, Limited Exclusion Order, and Cease and Desist Orders; Termination of Investigation (October 19, 2007) ("Commission Determination").*)

5. Notwithstanding the Respondents' knowledge of the General Exclusion Order and their entry into the Consent Order, the Respondents have continued to import, sell for importation, advertise, market, distribute, offer to sell and sell ink cartridges that infringe claim 7 of the '957 patent; claims 18, 81, 93, 149, 164 and 165 of the '439 patent; claims 83 and 84 of the '377 patent; claims 19 and 20 of the '148 patent; claims 29, 31, 34, and 38 of the '472 patent; claim 1 of the '401 patent; claims 1, 2, 3, and 9 of the '917 patent; claims 1, 31, and 34 of the '902 patent; claims 1, 10, and 14 of the '422 patent; claim 1 of the '053 patent; and claims 21, 45, 53, and 54 of the '397 patent.

6. The Consent Order states, among other things that the Respondents "shall not sell for importation, import into the United States or sell in the United States after importation, or knowingly aid, abet, encourage, participate in, or induce the sale for importation, importation into the United States or sale in the United States after importation of ink cartridges that are the subject of this investigation or ink cartridges that infringe claim 7 of [the '957 patent], claims 18, 81, 93, 149, 164 and 165 of [the '439 patent], claims 83 and 84 of [the '377 patent], claims 19 and 20 of [the '148 patent], claims 29, 31, 34 and 38 of [the '472 patent], claim 1 of [the '401 patent], claims 1, 2, 3, and 9 of [the '917 patent], claims 1, 31 and 34 of [the '902 patent], claims 1, 10 and 14 of [the '422 patent], claim 1 of [the '053 patent], and/or claims 21, 45, 53 and 54 of [the '397 patent.]" (*See* Exhibit 2, Consent Order at 2.) Furthermore, the provisions of the Consent Order apply not only to the Respondents, but also, to "their officers, directors, agents, servants, employees, and all persons, firms, or corporations acting or claiming to act on their behalf or under their direction or authority, or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns." (*Id.* at 2.)

7. As set forth in detail below, the Respondents, their distributors and other entities acting in concert with them, continue to import, sell for importation, advertise, market, distribute, offer to sell and sell infringing ink cartridges. In addition, the Respondents' statements demonstrate that they have consistently engaged in the importation, sale for importation, advertising, marketing, distribution, offering for sale and sale of ink cartridges that are covered by the General Exclusion Order, as well as the Consent Order. It is apparent that the Respondents, notwithstanding their agreement to be bound by the Consent Order in the underlying investigation, and the relief issued by the Commission, refuse to curtail their ongoing unlawful activities with respect to the products covered by the Commission's remedial orders and

the Consent Order. Accordingly, in response to the Respondents' continued violation of the General Exclusion Order and the Consent Order, Epson respectfully seeks, pursuant to 19 C.F.R. Section 210.75, enforcement of the General Exclusion Order, the Consent Order, as well as the imposition of sanctions against the Respondents, including, but not limited to, appropriate penalties.

II. JURISDICTION

8. The Commission has jurisdiction over this matter and the proposed parties pursuant to Sections 333 and 337 of the Tariff Act of 1930, as amended, 19 U.S.C. Sections 1333 and 1337.

III. THE COMMISSION'S ISSUANCE OF A GENERAL EXCLUSION ORDER AND A CONSENT ORDER

9. The Commission instituted Investigation No. 337-TA-565 on March 17, 2006, pursuant to Epson's complaint alleging, *inter alia*, that the ink cartridges of the Respondents and of other named respondents infringe the above-referenced claims of the asserted Epson patents. (71 Fed. Reg. 14720 (Mar. 23, 2006).) An evidentiary hearing on the issue of violation was held on January 17-20 and 22-24, 2007.

10. On March 30, 2007, the ALJ issued an Initial Determination on violation of Section 337 and Recommended Determination on remedy and bond. The ALJ found that the asserted claims of the Epson patents were not invalid. (ID at 395, Conclusion of Law No. 143.)

11. On June 29, 2007, the Commission decided to review the ID. On October 19, 2007, the Commission issued its opinion. The Commission determined that ink cartridges imported by a number of respondents infringed claim 7 of the '957 patent; claims 18, 81, 93, 149, 164 and 165 of the 439 patent; claims 83 and 84 of the '377 patent; claims 19 and 20 of the '148 patent; claim 1 of the '401 patent; claims 1, 2, 3 and 9 of the '917 patent; claims 1, 31 and 34 of

the '902 patent; claims 1, 10 and 14 of the '422 patent; claim 1 of the '053 patent; claims 29, 31, 34 and 38 of the '472 patent; and claims 21, 45, 53 and 54 of the '397 patent. The Commission also confirmed the ALJ's findings that the asserted claims of the Epson patents were not invalid.

12. Concurrent with its opinion, the Commission issued a General Exclusion Order. The Commission's General Exclusion Order prohibits any entity, including Respondents, from importing and selling any ink cartridges that infringe claim 7 of the '957 patent; claims 18, 81, 93, 149, and 164 of the '439 patent; claims 83 and 84 of the '377 patent; claims 19 and 20 of the '148 patent; claim 1 of the '401 patent; claims 1, 2, 3, and 9 of the '917 patent; claims 1, 31 and 34 the '902 patent; claims 1, 10, and 14 of the '422 patent; claim 1 of the '053 patent; and claim 21 of the '397 patent.

13. The Commission's February 12, 2007 Consent Order directed to the Respondents, prohibits the importation and sale of ink cartridges that infringe the claims of the ten asserted patents enumerated in the General Exclusion Order, as well as claim 165 of the '439 patent; claims 29, 31, 34, and 38 of the '472 patent; and claims 45, 53, and 54 of the '397 patent.

14. In particular, the Consent Order directs, *inter alia*, that Respondents:

shall not sell for importation, import into the United States or sell in the United States after importation, or knowingly aid, abet, encourage, participate in, or induce the sale for importation, importation into the United States or sale in the United States after importation of ink cartridges that are the subject of this investigation or ink cartridges that infringe claim 7 of [the '957 patent], claims 18, 81, 93, 149, 164 and 165 of [the '439 patent], claims 83 and 84 of [the '377 patent], claims 19 and 20 of [the '148 patent], claims 29, 31, 34 and 38 of [the '472 patent], claim 1 of [the '401 patent], claims 1, 2, 3, and 9 of [the '917 patent], claims 1, 31 and 34 of [the '902 patent], claims 1, 10 and 14 of [the '422 patent], claim 1 of [the '053 patent], and/or claims 21, 45, 53 and 54 of [the '397 patent.]

(Ex. 2, Consent Order at 2.)

IV. PARTIES

A. The Epson Enforcement Complainants

15. Complainant Epson Portland, Inc. is an Oregon corporation with its principal place of business at 3950 NW Alcolek Place, Hillsboro, Oregon 97124.

16. Complainant Epson America, Inc. is a California corporation with its principal place of business at 3840 Kilroy Airport Way, Long Beach, California 90806-2469.

17. Complainant Seiko Epson is a Japanese corporation with its principal place of business at 3-3-5 Owa, Suwa-shi, Nagano-ken 399-0785, Japan.

18. Epson is one of the world's leading manufacturers of ink cartridges, which cartridges are used exclusively with Epson brand printers. Epson designs, develops, and supplies its proprietary ink cartridges to global customers, including in the United States.

19. Epson's continued success depends upon its extensive and ongoing involvement in research and development of ink cartridges for its printers. Epson relies upon the U.S. patent laws and system as an important part of its intellectual property program to protect the valuable technology and inventions resulting from this research and development.

20. Epson continues to own the patents asserted in the underlying investigation and which are the subject of the Commission's remedial orders.

B. Proposed Enforcement Respondents Ribbon Tree USA Inc., dba Cana-Pacific Ribbons Inc. and Apex Distributing Inc.

21. Ribbon Tree USA Inc., dba Cana-Pacific Ribbons Inc. and Apex Distributing Inc. are affiliates of each other. (ID at 384, Finding of Fact No. 106.) Ribbon Tree USA Inc., dba Cana-Pacific Ribbons Inc. and Apex Distributing Inc. share two United States addresses, one at 6920 Salashan Parkway, D107, Ferndale, WA 98248 and one at 16081 Flight Path Drive,

Brooksville, FL 34604. (ID at 384, Finding of Fact No. 107; *see also* Declaration of Herbert Seitz, dated March 14, 2008 ("Seitz Decl."), ¶2.)

22. Ribbon Tree USA Inc., dba Cana-Pacific Ribbons Inc. is a company organized under the laws of the State of Washington with its last known principal place of business at 6920 Salashan Parkway, D107, Ferndale, WA 98248. (ID at 383, Finding of Fact No. 103.) The service of process address according to the Washington Secretary of State is: Gene R. Moses, 2200 Rimland Dr., Ste. 220, Bellingham, WA 98226. (*See* Seitz Decl., ¶7 and Exhibits 1 and 2 thereto.) Ribbon Tree USA Inc. is doing business as Cana-Pacific Ribbons Inc. (ID at 383-84, Finding of Fact No. 105; *see also* Seitz Decl., ¶¶ 2-7.)

23. Apex Distributing Inc. is a company organized under the laws of the State of Washington, with its last known principal place of business at 6920 Salashan Parkway, D107, Ferndale, WA 98248. (ID at 383, Finding of Fact No. 99; *see also* Seitz Decl. ¶ 2.) The service of process address according to the Washington Secretary of State is: Gene R. Moses, 2200 Rimland Dr., Ste. 220, Bellingham, WA 98226. (*See* Seitz Decl., ¶7 and Exhibit 3 thereto.) Apex Distributing Inc. imports and sells after importation into the United States ink cartridges for use with Epson printers. (ID at 383, Finding of Fact No. 101.)

V. PATENTS AT ISSUE

24. The eleven Epson patents at issue in the underlying investigation encompass a variety of inventions and features that are critical to the seamless interface and functioning with Epson printers. These patents extend to Epson ink cartridges used with all Epson printers, except for off-carriage printers (*e.g.*, large format printers).

VI. PRODUCTS AT ISSUE

25. The products at issue are Respondents' ink cartridges that are compatible with Epson ink jet printers and infringe claim 7 of the '957 patent, claims 18, 81, 93, 149, 164 and 165

of the '439 patent, claims 83 and 84 of the '377 patent, claims 19 and 20 of the '148 patent, claims 29, 31, 34 and 38 of the '472 patent, claim 1 of the '401 patent, claims 1, 2, 3, and 9 of the '917 patent, claims 1, 31 and 34 of the '902 patent, claims 1, 10 and 14 of the '422 patent, claim 1 of the '053 patent, and claims 21, 45, 53 and 54 of the '397 patent. The ink cartridges at issue are not materially different than the cartridges found to infringe in the underlying Investigation. In addition, in entering the Consent Order, Respondents agreed to not sell ink cartridges that infringe any of the above identified claims and patents. As a result, the General Exclusion Order and the Consent Order prohibit Respondents' continued importation, sale for importation, advertising, marketing, distribution, offering for sale and sale of the products at issue.

VII. VIOLATION OF THE COMMISSION'S GENERAL AND LIMITED EXCLUSION ORDERS, AND CONSENT ORDER

A. Respondents' Continued Importation, Sale for Importation, Advertising, Marketing, Distribution, Offering for Sale and Sale of Infringing Ink Cartridges

26. Despite the entry of the General Exclusion Order and the Consent Order, Respondents, their distributors and other entities acting in concert with them, continue to import, sell for importation, advertise, market, distribute, offer to sell and sell ink cartridges that infringe the asserted Epson patents.

27. Respondents continue to advertise and sell the infringing products through at least the internet. On or about November 2007, Complainant's investigator, Herbert Seitz, received a marketing email from Cana-Pacific Ribbons Inc. offering to sell Epson aftermarket cartridges. (Seitz Decl., ¶ 4.) Mr. Seitz responded to the marketing email and received an email response from Michael Hui. (*Id.*, ¶ 5.) The email from Mr. Hui used "usasales@cana-pacific.com" as the email address and identified Mr. Hui as the Sales Manager of Cana-Pacific Ribbons Inc. (*Id.*, ¶¶ 4-5.) On or about November 21, 2007, Mr. Seitz purchased via email correspondence with Mr.

Hui (to usasales@cana-pacific.com) and via fax (to 1-604-821-1786) numerous BUTTERFLY-brand ink jet cartridges for Epson printers. (*Id.*, ¶ 5.) These cartridges were shipped to Mr. Seitz in February, 2008. (*Id.* ¶ 6.) An examination of the purchased cartridges reveals that they infringe Epson's patents, in violation of the General Exclusion Order and the Consent Order.

28. In addition, the majority of the purchased cartridges being advertised and sold by Respondents as "refilled" cartridges are, in fact, remanufactured cartridges first sold *outside* the United States. Accordingly, the importation and sale of these cartridges within the United States infringes Epson's patents and violates the General Exclusion Order and the Consent Order.

VIII. CONCLUSION

29. Respondents' continued importation, sale for importation, advertising, marketing, distribution, offering for sale and sale of infringing ink cartridges constitute an ongoing violation of Section 337, and flagrant violations of the General Exclusion Order and the Consent Order directed to Respondents.

IX. PRAYER FOR RELIEF

WHEREFORE, by reason of the foregoing, Complainants request that the United States International Trade Commission:

- a. Institute a formal enforcement proceeding, pursuant to 19 C.F.R. § 210.75, to confirm the violations of the General Exclusion Order and the Consent Order described herein;
- b. Promptly refer this matter to the Administrative Law Judge for issuance of an Initial and Final Determination on the issues of the enforcement violation and remedy requested;
- c. Direct the Administrative Law Judge to (a) issue a supplemental protective order to protect Respondents' confidential business information; (b) permit a necessary and expedited period for fact discovery on Respondents' continued violations of the General Exclusion Order

and/or Consent Order; (c) hold a hearing; and (d) issue a Final Determination on Enforcement within four months of initiation of the enforcement proceeding; and

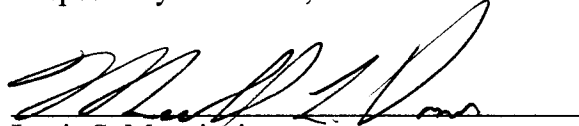
d. After the enforcement proceeding, in the event the Commission determines that there has been a violation of the Commission's General Exclusion Order and/or Consent Order, issue the following remedies:

- i. issue a permanent cease and desist order pursuant to 19 U.S.C. § 1337(f) and 19 C.F.R. § 210.75, prohibiting Respondents and parties acting in concert with them from engaging in illegal activities;
- ii. modify the Commission's Consent Order pursuant to 19 C.F.R. § 210.75(b)(4) in any manner that would assist in the prevention of the unfair practices that were originally the basis for issuing such orders or assist in the detection of violations of such orders;
- iii. impose any available civil penalties for violation of the Consent Order, and if necessary, bring a civil action in an appropriate United States District Court pursuant to 19 C.F.R. § 210.75(c) and 19 U.S.C. § 1337(f) requesting the imposition of such civil penalties or the issuance of such injunctions as the Commission deems necessary to enforce its orders and protect the public interest; and

- iv. impose such other remedies and sanctions as are appropriate and within the Commission's authority.

Dated: March 28, 2008

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Louis S. Mastriani", written over a horizontal line.

Louis S. Mastriani

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

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In the Matter of

**CERTAIN INK CARTRIDGES AND
COMPONENTS THEREOF**

Inv. No. 337-TA-565

**NOTICE OF FINAL DETERMINATION; ISSUANCE OF GENERAL EXCLUSION
ORDER, LIMITED EXCLUSION ORDER, AND CEASE AND DESIST ORDERS;
TERMINATION OF INVESTIGATION**

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 of the Tariff Act of 1930 (19 U.S.C. § 1337) based on the infringement of certain asserted claims of eleven asserted patents and has issued a general exclusion order, limited exclusion order, and cease and desist orders in the above-captioned investigation. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Michael Haldenstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3041. Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 23, 2006, based on a complaint filed by Epson Portland, Inc. of Oregon; Epson America, Inc. of California; and Seiko Epson Corporation of Japan. 71 *Fed. Reg.* 14720 (March 23, 2006). The complaint, as amended, alleged violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ink cartridges and components thereof by reason of infringement of claim 7 of U.S. Patent No.

5,615,957 (“the ‘957 patent”); claims 18, 81, 93, 149, 164, and 165 of U.S. Patent No. 5,622,439 (“the ‘439 patent”); claims 83 and 84 of U.S. Patent No. 5,158,377 (“the ‘377 patent”); claims 19 and 20 of U.S. Patent No. 5,221,148 (“the ‘148 patent”); claims 29, 31, 34, and 38 of U.S. Patent No. 5,156,472 (“the ‘472 patent”); claim 1 of U.S. Patent No. 5,488,401 (“the ‘401 patent”); claims 1-3 and 9 of U.S. Patent No. 6,502,917 (“the ‘917 patent”); claims 1, 31, and 34 of U.S. Patent No. 6,550,902 (“the ‘902 patent”); claims 1, 10, and 14 of U.S. Patent No. 6,955,422 (“the ‘422 patent”); claim 1 of U.S. Patent No. 7,008,053 (“the ‘053 patent”); and claims 21, 45, 53, and 54 of U.S. Patent No. 7,011,397 (“the ‘397 patent”). The complaint further alleged that an industry in the United States exists as required by subsection (a)(2) of section 337. The complainants requested that the Commission issue a general exclusion order and cease and desist orders. The Commission named as respondents twenty-four companies located in China, Germany, Hong Kong, Korea, and the United States. Several respondents have been found in default.

On March 30, 2007, the presiding ALJ issued a final ID in the investigation finding a violation of section 337 and recommending the issuance of a general exclusion order and cease and desist orders. Respondents and the IA filed petitions for review of the ID on April 13, 2007. Responses were filed on April 20, 2007.

The Commission determined to review those portions of the ALJ’s final ID concerning: 1) the claim construction of the terms “contacts” (claims 1, 2, 3, and 9 of the ‘917 patent; claims 1, 31, and 34 of the ‘902 patent); “overhang”(definition and location) (claims 1, 31, and 34 of the ‘902 patent); and “ink supply tank” (claim 7 of the ‘957 patent, claims 19 and 20 of the ‘148 patent, claims 83 and 84 of the ‘377 patent, and claim 164 of the ‘439 patent); 2) infringement of claims employing those terms by those products for which review was sought, viz. infringement of claims 1, 2, 3, and 9 of the ‘917 patent (representative cartridges RC-6 and RC-10); claims 1, 31, and 34 of the ‘902 patent (representative cartridges RC-2 and RC-6 to RC-10); and of claim 7 of the ‘957 patent, claims 19 and 20 of the ‘148 patent, claims 83 and 84 of the ‘377 patent, and claim 164 of the ‘439 patent (representative cartridge RC-2); 3) invalidity for obviousness of claims 1, 2, 3, and 9 of the ‘917 patent; claim 1 of the ‘053 patent; and claim 1 of the ‘422 patent. The parties filed briefs concerning the issues under review and remedy, the public interest, and bonding on July 13, 2007 and July 20, 2007.

Having examined the record in this investigation, including the submissions on review and responses thereto, the Commission has determined that there is a violation of section 337 with respect to claim 7 of the ‘957 patent; claims 18, 81, 93, 149, and 164 of the ‘439 patent, claims 83 and 84 of the ‘377 patent; claims 19 and 20 of the ‘148 patent; claim 1 of the ‘401 patent; claims 1, 2, 3, and 9 of the ‘917 patent; claims 1, 31, and 34 of the ‘902 patent; claims 1, 10, and 14 of the ‘422 patent; claim 1 of the ‘053 patent; and claim 21 of the ‘397 patent.

The Commission has also made determinations on the issues of remedy, the public interest, and bonding, as well as relief against defaulting respondents. The Commission determined that the appropriate form of relief in this investigation is a general exclusion order, limited exclusion order, and cease and desist orders.

The general exclusion order prohibits the unlicensed entry of ink cartridges for consumption covered by one or more of claim 7 of the '957 patent; claims 18, 81, 93, 149, and 164 of the '439 patent; claims 83 and 84 of the '377 patent; claims 19 and 20 of the '148 patent; claim 1 of the '401 patent; claims 1, 2, 3, and 9 of the '917 patent; claims 1, 31, and 34 of the '902 patent; claims 1, 10, and 14 of the '422 patent; claim 1 of the '053 patent; and claim 21 of the '397 patent.

The limited exclusion order prohibits the unlicensed entry for consumption of certain ink cartridges that are covered by one or more of claim 165 of the '439 patent and claims 29, 31, 34, and 38 of the '472 patent that are manufactured abroad by or on behalf of, or imported by or on behalf of defaulting respondents Glory South Software Mfg., Butterfly Image Corp., Mipo International ("Mipo"), Mipo America Ltd. ("Mipo America"), AcuJet USA, Tully Imaging Supplies, Ltd. ("Tully"), Wellink Trading Co., Ltd. ("Wellink"), and Ribbon Tree (Macao) Trading Co. ("Ribbon Tree Macao") or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns. The limited exclusion order also prohibits the unlicensed entry for consumption of certain ink cartridges that are covered by one or more of claims 45, 53, and 54 of the '397 patent that are manufactured abroad by or on behalf of, or imported by or on behalf of Mipo, Mipo America, Tully, Wellink, and Ribbon Tree Macao or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns.

The Commission has also determined to issue cease and desist orders covering claim 7 of the '957 patent; claims 18, 81, 93, 149, and 164 of the '439 patent; claims 83 and 84 of the '377 patent; claims 19 and 20 of the '148 patent; claim 1 of the '401 patent; claims 1, 2, 3 and 9 of the '917 patent; claims 1, 31 and 34 of the '902 patent; claims 1, 10 and 14 of the '422 patent; claim 1 of the '053 patent; and claim 21 of the '397 patent and directed to domestic respondents Ninestar U.S., Town Sky, Dataproducts, and MMC.

The Commission has further determined to issue cease and desist orders covering claim 7 of the '957 patent; claims 18, 81, 93, 149, 164, and 165 of the '439 patent; claims 83 and 84 of the '377 patent; claims 19 and 20 of the '148 patent; claims 29, 31, 34, and 38 of the '472 patent; claim 1 of the '401 patent; claims 1, 2, 3 and 9 of the '917 patent; claims 1, 31 and 34 of the '902 patent; claims 1, 10 and 14 of the '422 patent; claim 1 of the '053 patent; and claims 21, 45, 53, and 54 of the '397 patent (Mipo America only) and directed to defaulting domestic respondents Glory South Manufacturing, Mipo America, and AcuJet U.S.A.

The Commission has determined that the public interest factors enumerated in 19 U.S.C. § 1337(d), (f), and (g) do not preclude issuance of the aforementioned remedial orders, and that the bond during the Presidential period of review shall be set at \$13.60 per cartridge for covered ink cartridges.

The authority for the Commission's determinations is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in sections 210.45 - 210.51 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.45 - 210.51).

By order of the Commission.

A handwritten signature in black ink, appearing to read "Marilyn R. Abbott", written in a cursive style.

Marilyn R. Abbott
Secretary to the Commission

Issued: October 19, 2007

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN INK CARTRIDGES AND
COMPONENT PARTS THEREOF**

Inv. No. 337-TA-565

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 ink cartridges that infringe claim 7 of U.S. Patent No. 5,615,957 ("the '957 patent"); claims 18, 81, 93, 149, and 164 of U.S. Patent No. 5,622,439 ("the '439 patent"); claims 83 and 84 of U.S. Patent No. 5,158,377 ("the '377 patent"); claims 19 and 20 of U.S. Patent No. 5,221,148 ("the '148 patent"); claim 1 of U.S. Patent No. 5,488,401 ("the '401 patent"); claims 1, 2, 3, and 9 of U.S. Patent No. 6,502,917 ("the '917 patent"); claims 1, 31, and 34 of U.S. Patent No. 6,550,902 ("the '902 patent"); claims 1, 10, and 14 of U.S. Patent No. 6,955,422 ("the '422 patent"); claim 1 of U.S. Patent No. 7,008,053 ("the '053 patent"); and claim 21 of U.S. Patent No. 7,011,397 ("the '397 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 infringing ink cartridges.

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. §§ 1337(d) and (f) do not preclude the issuance of the general exclusion order, and that the bond during the Presidential review period shall be in the amount of \$13.60 per unit of the articles in question.

Accordingly, the Commission hereby ORDERS that:

- a. Ink cartridges covered by one or more of claim 7 of the '957 patent; claims 18, 81, 93, 149, and 164 of the '439 patent; claims 83 and 84 of the '377 patent; claims 19 and 20 of the '148 patent; claim 1 of the '401 patent; claims 1, 2, 3 and 9 of the '917 patent; claims 1, 31 and 34 of the '902 patent; claims 1, 10 and 14 of the '422 patent; claim 1 of the '053 patent; or claim 21 of the '397 patent are excluded from entry for consumption, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption, for the remaining term of the patents, except under license of the patent owner or as provided by law.
- b. Notwithstanding paragraph 1 of this Order, the aforesaid ink cartridges 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 \$13.60 per unit of such articles, from the day after this Order is received by the United States Trade Representative as delegated by the President, 70 *Fed. Reg.* 43251 (July 21, 2005), until such time as the United States Trade Representative notifies the Commission that this action is approved or disapproved but, in any event, not later than sixty (60) days after the date of

receipt of this action.

- c. At the discretion of U.S. Customs and Border Protection ("CBP") and pursuant to procedures it establishes, persons seeking to import ink cartridges that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under paragraphs 1 through 7 of this Order. At its discretion, Customs may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.
- d. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to ink cartridges 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.
- e. The Commission may modify this Order 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).
- f. 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 the Bureau of Customs and Border Protection.

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

By order of the Commission.

A handwritten signature in black ink, appearing to read "Marilyn R. Abbott", written in a cursive style.

Marilyn R. Abbott
Secretary to the Commission

Issued: OCT 19 2007

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

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

Inv. No. 337-TA-565

LIMITED EXCLUSION ORDER

The Commission has previously found Glory South Software Mfg., Butterfly Image Corp., Mipo International, Mipo America Ltd., and AcuJet USA, in default for failing to respond to the Notice of Investigation and the Complaint that alleged a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the unlawful importation and sale of certain ink cartridges by reason of infringement of eleven asserted patents, including claim 165 of U.S. Patent No. 5,622,439 ("the '439 patent"), claims 29, 31, 34, and 38 of U.S. Patent No. 5,156,472 ("the '472 patent"), and claims 45, 53, and 54 of U.S. Patent No. 7,011,397 ("the '397 patent"). In addition, pursuant to Rule 210.16(b), the Commission subsequently found Tully Imaging Supplies, Ltd., Wellink Trading Co., Ltd., and Ribbon Tree (Macao) Trading Co., Ltd. in default.

Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determination on the issues of remedy, the public interest, and bonding with respect to the above-mentioned defaulting respondents. The Commission has determined that the appropriate form of relief as to the defaulting respondents is a limited exclusion order prohibiting the unlicensed entry of ink cartridges that are covered by one or more of claim 165 of the '439 patent, claims 29, 31, 34, and 38 of the '472 patent, and claims 45, 53, and 54 of the '397 patent, and that are manufactured abroad by or on behalf of, or imported by or on behalf of, Glory South Software Mfg., Butterfly Image Corp., Mipo International, Mipo

America Ltd., AcuJet USA, Tully Imaging Supplies, Ltd., Wellink Trading Co., Ltd., and Ribbon Tree (Macao) Trading Co. as specified in paragraph 1 below.

The Commission has further determined that the public interest factors enumerated in 19 U.S.C. § 1337(d) do not preclude issuance of the limited exclusion order, and that the bond during the Presidential review period shall be in the amount of \$13.60 per ink cartridges that are subject to this Order.

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

1. Ink cartridges that are covered by one or more of claim 165 of the '439 patent and claims 29, 31, 34, and 38 of the '472 patent that are manufactured abroad by or on behalf of, or imported by or on behalf of, Glory South Software Mfg., Butterfly Image Corp., Mipo International, Mipo America Ltd., AcuJet USA, Tully Imaging Supplies, Ltd., Wellink Trading Co., Ltd., and Ribbon Tree (Macao) Trading Co., or any of their affiliated companies, parents, subsidiaries, or other related business entities, or any of their successors or assigns, shall be excluded from entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, for the remaining term of the patents, except under license of the patent owner or as provided by law. Ink cartridges that are covered by one or more of claims 45, 53, and 54 of the '397 patent that are manufactured abroad by or on behalf of, or imported by or on behalf of Mipo International, Mipo America Ltd., Tully Imaging Supplies, Ltd., Wellink Trading Co., Ltd., and Ribbon Tree (Macao) Trading Co., or any of their affiliated companies, parents, subsidiaries, or other related business entities, or any of their successors or assigns, shall be excluded from entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, for the remaining term of the patents, except under license of the patent owner or

as provided by law.

2. Ink cartridges that are excluded by paragraph 1 of this Order are entitled to entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, under bond in the amount of \$13.60 per ink cartridge pursuant to subsection (j) of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(j), and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (70 *Fed. Reg.* 43251), from the day after this Order is received by the United States Trade Representative until such time as the United States Trade Representative notifies the Commission that this action is approved or disapproved but, in any event, not later than 60 days after the date of receipt of this action.

3. At the discretion of U.S. Customs and Border Protection ("CBP") and pursuant to procedures it establishes, persons seeking to import ink cartridge that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under paragraphs 1 through 7 of this Order. At its discretion, Customs may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.

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

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

§ 210.76.

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

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

By Order of the Commission.

A handwritten signature in black ink, appearing to read 'Marilyn R. Abbott', written over a horizontal line.

Marilyn R. Abbott
Secretary to the Commission

Issued: OCT 19 2007

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN INK CARTRIDGES AND
COMPONENT PARTS THEREOF**

Inv. No. 337-TA-565

ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED THAT Mipo America Ltd., 3100 N.W. 72nd Avenue # 106, Miami, Florida 33122, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for, ink cartridges that are covered by one or more of claim 7 of U.S. Patent No. 5,615,957 ("the '957 patent"); claims 18, 81, 93, 149, 164, and 165 of U.S. Patent No. 5,622,439 ("the '439 patent"); claims 83 and 84 of U.S. Patent No. 5,158,377 ("the '377 patent"); claims 19 and 20 of U.S. Patent No. 5,221,148 ("the '148 patent"); claims 29, 31, 34 and 38 of U.S. Patent No. 5,156,472 ("the 472 patent"); claim 1 of U.S. Patent No. 5,488,401 ("the '401 patent"); claims 1, 2, 3 and 9 of U.S. Patent No. 6,502,917 ("the '917 patent"); claims 1, 31 and 34 of U.S. Patent No. 6,550,902 ("the '902 patent"); claims 1, 10 and 14 of U.S. Patent No. 6,955,422 ("the '422 patent"); claim 1 of U.S. Patent No. 7,008,053 ("the '053 patent") and claims 21, 45, 53, and 54 of U.S. Patent No. 7,011,397 ("the '397 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) "Complainants" shall mean Epson Portland Inc., of Hillsboro, Oregon, Epson America, Inc. of Long Beach, California, and Seiko Epson Corporation of Japan.

(C) "Respondent" means Mipo America Ltd., 3100 N.W. 72nd Avenue # 106, Miami, Florida 33122.

(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 ink cartridges that are covered by one or more of claim 7 of the '957 patent; claims 18, 81, 93, 149, 164, and 165 of the '439 patent; claims 83 and 84 of the '377 patent; claims 19 and 20 of the '148 patent; claims 29, 31, 34, and 38 of the '472 patent; claim 1 of the '401 patent; claims 1, 2, 3 and 9 of the '917 patent; claims 1, 31 and 34 of the '902 patent; claims 1, 10 and 14 of the '422 patent; claim 1 of the '053 patent; and claims 21, 45, 53, and 54 of the '397 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 the Order. For the remaining term of the respective patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products;
- (D) solicit U.S. agents or distributors for imported covered products; or
- (E) 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 U.S. Patent Nos. 5,615,957, 5,622,439, 5,158,377, 5,221,148, 5,156,472, 5,488,401, 6,502,917, 6,550,902,

6,955,422, 7,008,053 and 7,011,397 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 July 1 of each year and shall end on the subsequent June 30. However, the first report required under this section shall cover the period from the date of issuance of this Order through June 30, 2008. 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 the quantity in units and the value in dollars of covered products that Respondent have imported or sold in the United States after importation during the reporting period and 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.

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, offer for 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 choose, 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 its 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 U.S. Patent Nos. 5,615,957, 5,622,439, 5,158,377, 5,221,148, 5,156,472, 5,488,401, 6,502,917, 6,550,902, 6,955,422, 7,008,053, and 7,011,397, whichever is later.

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 of in the amount of \$13.60 per unit of the covered products. 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 limited 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.

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 destroy 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.

A handwritten signature in black ink, appearing to read "Marilyn R. Abbott", written over a horizontal line.

Marilyn R. Abbott
Secretary to the Commission

OCT 19 2007

Issued: _____

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN INK CARTRIDGES AND
COMPONENT PARTS THEREOF**

Inv. No. 337-TA-565

ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED THAT Glory South Software Manufacturing, Inc. of 6481 Orangethorpe Ave., Suite 6, Buena Park, California, 90620, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for, ink cartridges that are covered by one or more of claim 7 of U.S. Patent No. 5,615,957 ("the '957 patent"); claims 18, 81, 93, 149, 164, and 165 of U.S. Patent No. 5,622,439 ("the '439 patent"); claims 83 and 84 of U.S. Patent No. 5,158,377 ("the '377 patent"); claims 19 and 20 of U.S. Patent No. 5,221,148 ("the '148 patent"); claims 29, 31, 34 and 38 of U.S. Patent No. 5,156,472 ("the 472 patent"); claim 1 of U.S. Patent No. 5,488,401 ("the '401 patent"); claims 1, 2, 3 and 9 of U.S. Patent No. 6,502,917 ("the '917 patent"); claims 1, 31 and 34 of U.S. Patent No. 6,550,902 ("the '902 patent"); claims 1, 10 and 14 of U.S. Patent No. 6,955,422 ("the '422 patent"); and claim 1 of U.S. Patent No. 7,008,053 ("the '053 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) "Complainants" shall mean Epson Portland Inc., of Hillsboro, Oregon, Epson America, Inc. of Long Beach, California, and Seiko Epson Corporation of Japan.

(C) "Respondent" means Glory South Software Manufacturing, Inc. of 6481 Orangethorpe Ave., Suite 6, Buena Park, California, 90620.

(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 ink cartridges that are covered by one or more of claim 7 of the '957 patent; claims 18, 81, 93, 149, 164, and 165 of the '439 patent; claims 83 and 84 of the '377 patent; claims 19 and 20 of the '148 patent; claims 29, 31, 34, and 38 of the '472 patent; claim 1 of the '401 patent; claims 1, 2, 3 and 9 of the '917 patent; claims 1, 31 and 34 of the '902 patent; claims 1, 10 and 14 of the '422 patent; and claim 1 of the '053 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 the Order. For the remaining term of the respective patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products;
- (D) solicit U.S. agents or distributors for imported covered products; or
- (E) 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 U.S. Patent Nos. 5,615,957, 5,622,439, 5,158,377, 5,221,148, 5,156,472, 5,488,401, 6,502,917, 6,550,902,

6,955,422, and 7,008,053 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 July 1 of each year and shall end on the subsequent June 30. However, the first report required under this section shall cover the period from the date of issuance of this Order through June 30, 2008. 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 the quantity in units and the value in dollars of covered products that Respondent have imported or sold in the United States after importation during the reporting period and 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.

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, offer for 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 choose, 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 its 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 U.S. Patent Nos. 5,615,957, 5,622,439, 5,158,377, 5,221,148, 5,156,472, 5,488,401, 6,502,917, 6,550,902, 6,955,422, and 7,008,053, whichever is later.

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 of in the amount of \$13.60 per unit of the covered products. 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 limited 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.

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 destroy 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.



Marilyn R. Abbott
Secretary to the Commission

OCT 19 2007
Issued: _____

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

In the Matter of

**CERTAIN INK CARTRIDGES AND
COMPONENT PARTS THEREOF**

Inv. No. 337-TA-565

ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED THAT AcuJet U.S.A., Inc., 128 S. 6th Avenue, City of Industry, California 91746, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for, ink cartridges that are covered by one or more of claim 7 of U.S. Patent No. 5,615,957 ("the '957 patent"); claims 18, 81, 93, 149, 164, and 165 of U.S. Patent No. 5,622,439 ("the '439 patent"); claims 83 and 84 of U.S. Patent No. 5,158,377 ("the '377 patent"); claims 19 and 20 of U.S. Patent No. 5,221,148 ("the '148 patent"); claims 29, 31, 34 and 38 of U.S. Patent No. 5,156,472 ("the '472 patent"); claim 1 of U.S. Patent No. 5,488,401 ("the '401 patent"); claims 1, 2, 3 and 9 of U.S. Patent No. 6,502,917 ("the '917 patent"); claims 1, 31 and 34 of U.S. Patent No. 6,550,902 ("the '902 patent"); claims 1, 10 and 14 of U.S. Patent No. 6,955,422 ("the '422 patent"); and claim 1 of U.S. Patent No. 7,008,053 ("the '053 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) "Complainants" shall mean Epson Portland Inc., of Hillsboro, Oregon, Epson America, Inc. of Long Beach, California, and Seiko Epson Corporation of Japan.

(C) "Respondent" means AcuJet U.S.A., Inc., 128 S. 6th Avenue, City of Industry, California 91746.

(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 ink cartridges that are covered by one or more of claim 7 of the '957 patent; claims 18, 81, 93, 149, 164, and 165 of the '439 patent; claims 83 and 84 of the '377 patent; claims 19 and 20 of the '148 patent; claims 29, 31, 34, and 38 of the '472 patent; claim 1 of the '401 patent; claims 1, 2, 3 and 9 of the '917 patent; claims 1, 31 and 34 of the '902 patent; claims 1, 10 and 14 of the '422 patent; and claim 1 of the '053 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 the Order. For the remaining term of the respective patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products;
- (D) solicit U.S. agents or distributors for imported covered products; or
- (E) 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 U.S. Patent Nos. 5,615,957, 5,622,439, 5,158,377, 5,221,148, 5,156,472, 5,488,401, 6,502,917, 6,550,902,

6,955,422, and 7,008,053 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 July 1 of each year and shall end on the subsequent June 30. However, the first report required under this section shall cover the period from the date of issuance of this Order through June 30, 2008. 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 the quantity in units and the value in dollars of covered products that Respondent have imported or sold in the United States after importation during the reporting period and 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.

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, offer for 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 choose, 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 its 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 U.S. Patent Nos. 5,615,957, 5,622,439, 5,158,377, 5,221,148, 5,156,472, 5,488,401, 6,502,917, 6,550,902, 6,955,422, and 7,008,053, whichever is later.

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 of in the amount of \$13.60 per unit of the covered products. 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 limited 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.

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 destroy 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.



Marilyn R. Abbott
Secretary to the Commission

OCT 19 2007

Issued: _____

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

In the Matter of

**CERTAIN INK CARTRIDGES AND
COMPONENT PARTS THEREOF**

Inv. No. 337-TA-565

ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED THAT Nine Star Technology Company Ltd., 4620 Mission Boulevard, Montclair, California 91763, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for, ink cartridges that are covered by one or more of claim 7 of U.S. Patent No. 5,615,957 ("the '957 patent"); claims 18, 81, 93, 149, and 164 of U.S. Patent No. 5,622,439 ("the '439 patent"); claims 83 and 84 of U.S. Patent No. 5,158,377 ("the '377 patent"); claims 19 and 20 of U.S. Patent No. 5,221,148 ("the '148 patent"); claim 1 of U.S. Patent No. 5,488,401 ("the '401 patent"); claims 1, 2, 3 and 9 of U.S. Patent No. 6,502,917 ("the '917 patent"); claims 1, 31 and 34 of U.S. Patent No. 6,550,902 ("the '902 patent"); claims 1, 10 and 14 of U.S. Patent No. 6,955,422 ("the '422 patent"); claim 1 of U.S. Patent No. 7,008,053 ("the '053 patent"); and claim 21 of U.S. Patent No. 7,011,397 ("the '397 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) "Complainants" shall mean Epson Portland Inc., of Hillsboro, Oregon, Epson America, Inc. of Long Beach, California, and Seiko Epson Corporation of Japan.

(C) "Respondent" means Nine Star Technology Company Ltd., 4620 Mission Boulevard, Montclair, California 91763.

(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 ink cartridges that are covered by one or more of claim 7 of the '957 patent; claims 18, 81, 93, 149, and 164 of the '439 patent; claims 83 and 84 of the '377 patent; claims 19 and 20 of the '148 patent; claim 1 of the '401 patent; claims 1, 2, 3 and 9 of the '917 patent; claims 1, 31 and 34 of the '902 patent; claims 1, 10 and 14 of the '422 patent; claim 1 of the '053 patent; and claim 21 of the '397 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 the Order. For the remaining term of the respective patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products;
- (D) solicit U.S. agents or distributors for imported covered products; or
- (E) 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 U.S. Patent Nos. 5,615,957, 5,622,439, 5,158,377, 5,221,148, 5,488,401, 6,502,917, 6,550,902, 6,955,422, 7,008,053, and 7,011,397 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 July 1 of each year and shall end on the subsequent June 30. However, the first report required under this section shall cover the period from the date of issuance of this Order through June 30, 2008. 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 the quantity in units and the value in dollars of covered products that Respondent have imported or sold in the United States after importation during the reporting period and 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.

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, offer for 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 choose, 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 its 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 U.S. Patent Nos. 5,615,957, 5,622,439, 5,158,377, 5,221,148, 5,488,401, 6,502,917, 6,550,902, 6,955,422, 7,008,053, and 7,011,397, whichever is later.

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 of in the amount of \$13.60 per unit of the covered products. 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 limited 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.

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 destroy 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.

A handwritten signature in black ink, appearing to read "Marilyn R. Abbott", written in a cursive style.

Marilyn R. Abbott
Secretary to the Commission

OCT 19 2007

Issued: _____

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN INK CARTRIDGES AND
COMPONENT PARTS THEREOF**

Inv. No. 337-TA-565

ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED THAT Town Sky Inc., 5 South Linden Avenue, Suite 4, South San Francisco, California, 94080, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for, ink cartridges that are covered by one or more of claim 7 of U.S. Patent No. 5,615,957 ("the '957 patent"); claims 18, 81, 93, 149, and 164 of U.S. Patent No. 5,622,439 ("the '439 patent"); claims 83 and 84 of U.S. Patent No. 5,158,377 ("the '377 patent"); claims 19 and 20 of U.S. Patent No. 5,221,148 ("the '148 patent"); claim 1 of U.S. Patent No. 5,488,401 ("the '401 patent"); claims 1, 2, 3 and 9 of U.S. Patent No. 6,502,917 ("the '917 patent"); claims 1, 31 and 34 of U.S. Patent No. 6,550,902 ("the '902 patent"); claims 1, 10 and 14 of U.S. Patent No. 6,955,422 ("the '422 patent"); claim 1 of U.S. Patent No. 7,008,053 ("the '053 patent"); and claim 21 of U.S. Patent No. 7,011,397 ("the '397 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) "Complainants" shall mean Epson Portland Inc., of Hillsboro, Oregon, Epson America, Inc. of Long Beach, California, and Seiko Epson Corporation of Japan.

(C) "Respondent" means Town Sky Inc., 5 South Linden Avenue, Suite 4, South San Francisco, California, 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 ink cartridges that are covered by one or more of claim 7 of the '957 patent; claims 18, 81, 93, 149, and 164 of the '439 patent; claims 83 and 84 of the '377 patent; claims 19 and 20 of the '148 patent; claim 1 of the '401 patent; claims 1, 2, 3 and 9 of the '917 patent; claims 1, 31 and 34 of the '902 patent; claims 1, 10 and 14 of the '422 patent; claim 1 of the '053 patent; and claim 21 of the '397 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 the Order. For the remaining term of the respective patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products;
- (D) solicit U.S. agents or distributors for imported covered products; or
- (E) 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 U.S. Patent Nos. 5,615,957, 5,622,439, 5,158,377, 5,221,148, 5,488,401, 6,502,917, 6,550,902, 6,955,422, 7,008,053, and 7,011,397 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 July 1 of each year and shall end on the subsequent June 30. However, the first report required under this section shall cover the period from the date of issuance of this Order through June 30, 2008. 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 the quantity in units and the value in dollars of covered products that Respondent have imported or sold in the United States after importation during the reporting period and 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.

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, offer for 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 choose, 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 its 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 U.S. Patent Nos. 5,615,957, 5,622,439, 5,158,377, 5,221,148, 5,488,401, 6,502,917, 6,550,902, 6,955,422, 7,008,053, and 7,011,397, whichever is later.

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

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN INK CARTRIDGES AND
COMPONENTS THEREOF**

Inv. No. 337-TA-565

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW
AN INITIAL DETERMINATION TERMINATING FOUR RESPONDENTS
ON THE BASIS OF A SETTLEMENT AGREEMENT AND CONSENT ORDERS;
ISSUANCE OF CONSENT ORDERS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") of the presiding administrative law judge ("ALJ") in the above-captioned investigation terminating the investigation with respect to four respondents on the basis of a settlement agreement and consent orders.

FOR FURTHER INFORMATION CONTACT: Michael K. Haldenstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3041. Copies of the public version of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 23, 2006, based on a complaint filed by Epson Portland, Inc. of Oregon; Epson America, Inc. of California; and Seiko Epson Corporation of Japan. 71 *Fed. Reg.* 14720 (March 23, 2006). The complaint, as amended, alleged 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 ink cartridges and components thereof by reason of infringement of claim 7 of U.S. Patent No. 5,615,957; claims 18, 81, 93, 149, 164, and 165 of U.S. Patent No. 5,622,439; claims 83 and 84 of U.S. Patent No. 5,158,377; claims 19 and 20 of U.S. Patent No. 5,221,148; claims 29, 31, 34, and 38 of U.S. Patent No. 5,156,472; claim 1 of U.S. Patent No. 5,488,401; claims 1-3 and 9 of U.S. Patent No. 6,502,917; claims 1, 31, and 34 of U.S. Patent No. 6,550,902; claims 1, 10, and 14 of U.S. Patent No. 6,955,422; claim 1 of U.S. Patent No. 7,008,053; and claims 21, 45, 53, and 54 of U.S. Patent No. 7,011,397. The complaint further alleged that an industry in the United States exists as required by

subsection (a)(2) of section 337. The complainants requested that the Commission issue a general exclusion order and cease and desist orders. The Commission named as respondents 24 companies located in China, Germany, Hong Kong, Korea, and the United States. The ALJ set June 25, 2007, as the target date for completion of the investigation.

On December 27, 2006 and January 4, 2007, complainants and four respondents (Nectron International, Ltd.; Ribbon Tree (USA) Inc.; Apex Distributing, Inc.; and Master Ink Co. Ltd.) filed joint motions seeking to terminate the investigation as to these respondents based upon a settlement agreement, consent order stipulations, and consent orders. The Commission investigative attorney supported the motions in a response dated January 8, 2007. No other parties responded to the motions.

On January 16, 2007, the ALJ issued the subject ID (Order No. 28) terminating the four respondents pursuant to Commission rule 210.21. No petitions for review of the ID were filed and the Commission has determined not to review the ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, and Commission rules 210.21 and 210.42, 19 C.F.R. §§ 210.21, 210.42.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Marilyn R. Abbott', with a large, sweeping flourish extending from the end of the signature.

Marilyn R. Abbott
Secretary to the Commission

Issued: February 12, 2007

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

In the Matter of

**CERTAIN INK CARTRIDGES AND
COMPONENTS THEREOF**

Investigation No. 337-TA-565

CONSENT ORDER

The United States International Trade Commission on March 17, 2006 (71 Fed. Reg. 56 (March 23, 2006)), instituted the above-caption investigation under Section 337 of the Tariff Act of 1930, as amended, (19 U.S.C. § 1337) naming numerous respondents, including Nectron International, Ltd. (sometimes referred to herein as "Nectron"), based upon the allegations contained in the complaint and amended complaint filed by Complainants Epson Portland Inc., Epson America, Inc. and Seiko Epson Corporation ("Complainants" or "Epson"), which allege unfair acts in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ink cartridges for use with Epson printers or components thereof.

Nectron has executed a Consent Order Stipulation in which it agrees to the entry for this Consent Order and to all waivers and other provisions as required by Commission Rule of Practice and Procedure 210.21(c) (19 C.F.R. § 210.21(c)). Complainants and Nectron have filed a Joint Motion to Terminate the Investigation as to Respondent Nectron based on a Consent Order.

IT IS HEREBY ORDERED THAT:

1. Upon entry of this Consent Order, Nectron shall not import into the United States or sell in the United States after importation, or knowingly aid, abet, encourage, participate in, or induce the sale for importation, importation in the United States or sale in the United States after importation of ink cartridges for use with Epson printers, or components thereof, that are the subject of this investigation and/or that infringe claim 7 of United States Patent No. 5,615,957 (the "957 patent"), claims 18, 81, 93, 149, 164 and 165 of United States Patent No. 5,622,439 (the "439 patent"), claims 29, 31, 34 and 38 of United States Patent No. 5,156,472 (the "472 patent"), claims 83 and 84 of United States Patent No. 5,158,377 (the "377 patent"), claims 19 and 20 of United States Patent No. 5,221,148 (the "148 patent"), claim 1 of United States Patent No. 5,488,401 (the "401 patent"), claims 1, 2, 3 and 9 of United States Patent No. 6,502,917 (the "917 patent"), claims 1, 31 and 34 of United States Patent No. 6,550,902 (the "902 patent"), claims 1, 10 and 14 of United States Patent No. 6,955,422 (the "422 patent"), and claim 1 of United States Patent No. 7,008,053 (the "053 patent"), including but not limited to Nectron's existing U.S. inventory of ink cartridges for use with Epson printers and components thereof, except under consent or license from Complainants, their successors or assignees as to the "Inventory" and "In-Transit Products" as set forth in the Settlement Agreement entered into between Epson and Nectron as of November 2, 2006.

2. This Consent Order shall be applicable to and binding upon Nectron, on behalf of itself and its Affiliates, and their respective officers, directors, agents, servants, employees, attorneys, and all other persons, firms, or corporations to the extent acting or claiming to act on its behalf or under its direction or authority.

3. Nectron shall be precluded from seeking judicial review or otherwise challenging or contesting the validity of this Consent Order.

4. Nectron shall cooperate with and shall not seek to impede by litigation or other means the Commission's efforts to gather information under Subpart 1 of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210. Furthermore, Nectron shall cooperate with and timely provide information in response to discovery requests propounded by Complainants during the prosecution of this Investigation.

5. Nectron shall not seek to challenge and is precluded from making any challenges to the validity or enforceability of the '957, '439, '472, '377, '148, '401, '917, '902, '422, and '053 patents in any administrative or judicial proceeding.

6. Nectron stipulates that, as a condition of terminating the investigation as to Nectron, it agrees that it will not contest the legal conclusions or findings of fact determined by the Commission in any final determination in this investigation in any administrative or judicial proceeding. The foregoing legal conclusions and findings of fact, which shall be the law of the case, include, but are not limited to, any determination as to claim construction and infringement.

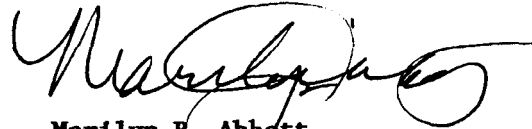
7. This Consent Order shall become null and void on the date the '957, '439, '472, '377, '148, '401, '917, '902, '422, or '053 patent expires, whichever is later. This Consent Order shall not apply with respect to any claim of an intellectual property right that has expired or been found or adjudicated invalid or unenforceable by the Commission or a court or agency of competent jurisdiction, provided that such finding or judgment has become non-reviewable.

8. The entry of this Consent Order constitutes a determination as to violation of 19 U.S.C. §1337 by Nectron.

9. This investigation is hereby terminated with respect to Nectron. Nectron is hereby dismissed as a named respondent in this investigation provided, however, that enforcement, modification, or revocation of this Consent Order shall be carried out pursuant to

Subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210. In determining whether Nectron is in violation of this Consent Order, the Commission may infer facts adverse to Nectron if Nectron fails to provide adequate or timely information. The Commission may impose upon any person who violates this Consent Order a penalty of not more than the greater of \$100,000 or twice the domestic value of any articles entered or sold for each day on which the Consent Order is violated. The Commission's assessment of any such penalty shall have the force of a judgment and liability for payment of such penalty shall accrue upon administrative assessment by the Commission.

By Order of the Commission.



Marilyn R. Abbott
Secretary to the Commission

Issued: February 12, 2007

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

IN THE MATTER OF

CERTAIN INK CARTRIDGES AND
COMPONENTS THEREOF

Investigation No. 337-TA-565

CONSENT ORDER

The United States International Trade Commission on March 17, 2006 (71 Fed. Reg. 56, 14720 (March 23, 2006)), instituted the above-captioned investigation under Section 337 of the Tariff Act of 1930, as amended, (19 U.S.C. § 1337). The Complaint and Notice of Investigation alleged violation of section 337 based upon the unlawful importation into the United States, the sale for importation and/or the sale within the United States after importation of certain ink cartridges for use with Epson printers by twenty-four Respondents, including Respondent Master Ink Co., Ltd. ("Master Ink"). The subject cartridges were alleged to infringe or are made by a method that infringes one or more claims of nine asserted patents. On May 29, 2005, the Commission granted the Motion of Complainants Epson Portland Inc. ("Epson Portland"), Epson America, Inc. ("Epson America") and Seiko Epson Corporation ("SEC") (collectively "Complainants") to Amend the Complaint and Notice of Investigation to add claims from two additional patents to the scope of this investigation. Master Ink has responded to the allegations of the Complaint, denying violations and asserting defenses.

Master Ink has executed a Consent Order Stipulation in which it agrees to the entry of this Consent Order and to all waivers and other provisions as required by Commission Rule of

Practice and Procedure 210.21(c) (19 C.F.R. § 210.21(c)). Master Ink has filed a Motion for an Order Terminating the Investigation as to Master Ink Co. Ltd. by Entry of Consent Order.

IT IS HEREBY ORDERED THAT:

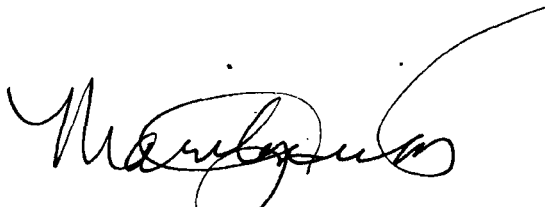
1. Upon entry of this Consent Order, Master Ink shall not sell for importation, import into the United States or sell in the United States after importation, or knowingly aid, abet, encourage, participate in, or induce the sale for importation, importation into the United States or sale in the United States after importation of ink cartridges that are the subject of this investigation or ink cartridges that infringe claim 7 of U.S. Patent No. 5,615,957 ("the '957 Patent"); claims 18, 81, 93, 149, 164 and 165 of U.S. Patent No. 5,622,439 ("the '439 Patent"); claims 83 and 84 of U.S. Patent No. 5,158,377 ("the '377 Patent"); claims 19 and 20 of U.S. Patent No. 5,221,148 ("the '148 Patent"); claims 29, 31, 34 and 38 of U.S. Patent No. 5,156,472 ("the '472 Patent"); claim 1 of U.S. Patent No. 5,488,401 ("the '401 Patent"); claims 1, 2, 3 and 9 of U.S. Patent No. 6,502,917 ("the '917 Patent"); claims 1, 31 and 34 of U.S. Patent No. 6,550,902 ("the '902 Patent"); claims 1, 10 and 14 of U.S. Patent No. 6,955,422 ("the '422 Patent"); claim 1 of United States Patent No. 7,008,053 ("the '053 Patent") and/or claims 21, 45, 53 and 54 of United States Patent No. 7,011,397 ("the '397 Patent") (collectively, the "Subject Patents"), including but not limited to Master Ink's existing U.S. inventory except under consent or license from Complainants, their successors or assignees.

2. This Consent Order shall be applicable to and binding upon Master Ink, its officers, directors, agents, servants, employees, and all persons, firms, or corporations acting or claiming to act on its behalf or under its direction or authority, or any of its affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns.

3. This investigation is hereby terminated with respect to Master Ink. Master Ink is hereby dismissed as a named respondent in this investigation provided, however, that enforcement, modification, or revocation of this Consent Order shall be carried out pursuant to Subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 211. In any enforcement action brought relating to this Consent Order, the Commission may infer facts adverse to Master Ink if Master Ink fails to provide adequate or timely information, and may impose penalties on any person violating the Consent Order to the full extent permitted by law.

4. This order of termination based upon a Consent Order does not constitute an admission that Section 337 has been violated.

By Order of the Commission.

A handwritten signature in dark ink, appearing to read 'Marilyn R. Abbott', with a long, sweeping flourish extending from the end of the signature.

Marilyn R. Abbott
Secretary to the Commission

Issued: February 12, 2007

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

IN THE MATTER OF

CERTAIN INK CARTRIDGES AND
COMPONENTS THEREOF

Investigation No. 337-TA-565

CONSENT ORDER

The United States International Trade Commission on March 17, 2006 (71 Fed. Reg. 56, 14720 (March 23, 2006)), instituted the above-captioned investigation under Section 337 of the Tariff Act of 1930, as amended, (19 U.S.C. § 1337). The Complaint and Notice of Investigation alleged violation of section 337 based upon the unlawful importation into the United States, the sale for importation and/or the sale within the United States after importation of certain ink cartridges for use with Epson printers by twenty-four Respondents, including Respondents Ribbon Tree (USA), Inc. ("Ribbon Tree (USA)") and Apex Distributing, Inc. ("Apex") (collectively "Respondents"). The subject cartridges were alleged to infringe or are made by a method that infringes one or more claims of nine asserted patents. On May 29, 2005, the Commission granted the Motion of Complainants Epson Portland Inc. ("Epson Portland"), Epson America, Inc. ("Epson America") and Seiko Epson Corporation ("SEC") (collectively "Complainants") to Amend the Complaint and Notice of Investigation to add claims from two additional patents to the scope of this investigation. Respondents have responded to the allegations of the Complaint, denying violations and asserting defenses.

Respondents have executed a Consent Order Stipulation in which they agree to the entry of this Consent Order and to all waivers and other provisions as required by Commission Rule of

Practice and Procedure 210.21(c) (19 C.F.R. § 210.21(c)). Respondents have filed a Motion for an Order Terminating the Investigation as to Ribbon Tree (USA) and Apex by Entry of Consent Order.

IT IS HEREBY ORDERED THAT:

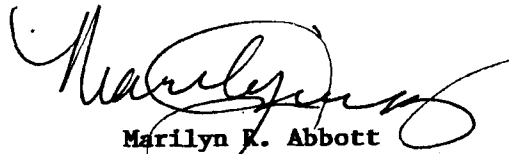
1. Upon entry of this Consent Order, Respondents shall not sell for importation, import into the United States or sell in the United States after importation, or knowingly aid, abet, encourage, participate in, or induce the sale for importation, importation into the United States or sale in the United States after importation of ink cartridges that are the subject of this investigation or ink cartridges that infringe claim 7 of U.S. Patent No. 5,615,957 ("the '957 Patent"); claims 18, 81, 93, 149, 164 and 165 of U.S. Patent No. 5,622,439 ("the '439 Patent"); claims 83 and 84 of U.S. Patent No. 5,158,377 ("the '377 Patent"); claims 19 and 20 of U.S. Patent No. 5,221,148 ("the '148 Patent"); claims 29, 31, 34 and 38 of U.S. Patent No. 5,156,472 ("the '472 Patent"); claim 1 of U.S. Patent No. 5,488,401 ("the '401 Patent"); claims 1, 2, 3 and 9 of U.S. Patent No. 6,502,917 ("the '917 Patent"); claims 1, 31 and 34 of U.S. Patent No. 6,550,902 ("the '902 Patent"); claims 1, 10 and 14 of U.S. Patent No. 6,955,422 ("the '422 Patent"); claim 1 of United States Patent No. 7,008,053 ("the '053 Patent") and/or claims 21, 45, 53 and 54 of United States Patent No. 7,011,397 ("the '397 Patent") (collectively, the "Subject Patents"), including but not limited to Apex's existing U.S. inventory except under consent or license from Complainants, their successors or assignees.

2. This Consent Order shall be applicable to and binding upon Respondents, their officers, directors, agents, servants, employees, and all persons, firms, or corporations acting or claiming to act on their behalf or under their direction or authority, or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns.

3. This investigation is hereby terminated with respect to Respondents. Respondents are hereby dismissed as named respondents in this investigation provided, however, that enforcement, modification, or revocation of this Consent Order shall be carried out pursuant to Subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 211. In any enforcement action brought relating to this Consent Order, the Commission may infer facts adverse to Respondents if Respondents fail to provide adequate or timely information, and may impose penalties on any person violating the Consent Order to the full extent permitted by law.

4. This order of termination based upon a Consent Order does not constitute an admission that Section 337 has been violated.

By Order of the Commission.



Marilyn R. Abbott
Secretary to the Commission

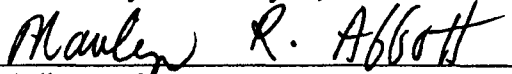
Issued: February 12, 2007

**CERTAIN INK CARTRIDGES AND
COMPONENTS THEREOF**

337-TA-565

CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL DETERMINATION TERMINATING FOUR RESPONDENTS ON THE BASIS OF A SETTLEMENT AGREEMENT AND CONSENT ORDERS; ISSUANCE OF CONSENT ORDERS** has been served on upon the Commission Investigative Attorney Kevin Baer, Esq. and all parties via first class mail and air mail where necessary on February 15, 2007.


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

ON BEHALF OF COMPLAINANTS
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AMERICA, INC., AND SEIKO
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TREE (USA) INC., DBA
CANA-PACIFIC RIBBONS INC.
AND MASTER INK CO., LTD.:

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ON BEHALF OF INK LAB (H.K.)
CO., LTD.:

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Minneapolis, MI 55402-2215

DECLARATION OF HERBERT SEITZ

I, HERBERT SEITZ, declare as follows:

1. I am an investigator retained by Epson America, Inc. I make this declaration of personal, firsthand knowledge and, if called and sworn as a witness, I could and would testify competently as follows.

2. In 2005-2006 I conducted an investigation of Ribbon Tree (USA) Inc., dba Cana-Pacific Ribbons Inc., and a related company Apex Distributing Inc. At that time, I determined that Ribbon Tree USA Inc., dba Cana-Pacific Ribbons Inc. and Apex Distributing Inc. shared two U.S. addresses; one at 6920 Salashan Parkway, D107, Ferndale, WA 98248 and one at 16081 Flight Path Drive, Brooksville, FL 34604. I also determined that Ribbon Tree USA Inc., dba Cana-Pacific Ribbons Inc. was using a website located at www.cana-pacific.com and was doing business as "Cana-Pacific Ribbons Inc."

3. As part of the above referenced investigation, on August 24, 2005, I spoke with Michael Hui at the Cana-Pacific Ribbons Inc. exhibition booth at the World Expo. Mr. Hui handed me his business card and a product brochure for aftermarket ink cartridges. Mr. Hui's card identifies him as an "Account Manager-USA" for Cana-Pacific Ribbons Inc. In addition, his card identifies "usasales@cana-pacific.com" as an email address for Cana-Pacific Ribbons Inc. Mr. Hui's card lists one of the addresses set forth above in paragraph 2, namely, 6920 Salashan Parkway, D107, Ferndale, WA 98248. Despite the Ferndale, Washington address that appears on his business card, the phone and fax numbers listed have a "604" area code which I have determined is used only in and/or around Vancouver, Canada and is not used in the United States. Specifically, the telephone number on the card is 604-821-1787 and the fax number is 604-821-1786. A second, toll-free, telephone number is also listed on Mr. Hui's business card, namely, 1-800-503-3339. Further, the website listed on the card is "www.cana-pacific.com." Finally, on the back of the card, the locations of four Cana-Pacific Ribbons Inc. warehouses are identified, as follows: (1) "US West: Ferndale WA. - U.S.A."; (2) "US East: Brooksville

FL. - U.S.A."; (3) "Canada West: Richmond - B.C. - Canada"; and (4) "Canada East: Toronto - ON. - Canada."

4. On or about November 2007, I received a marketing email from "marketing@cana-pacific.com." The email was an offer from Cana-Pacific Ribbons Inc. to purchase inkjet cartridges and, among other details, stated "Our program for buying at low price from China but we will ship out from our Florida warehouse is now back." The email also indicated that the "Order must be confirmed by Wed, Nov 21st, 2007." The signature block at the end of the email identified Mr. Hui as follows: "Michael Hui, Sales Manager, Cana-Pacific Ribbons Inc." In addition, there were two telephone numbers listed in the signature block; both numbers are the same as those listed on Mr. Hui's business card which I obtained at the World Expo in 2005, namely, "1-800-503-3339" and "1-640-821-1787." (I note that the area code in the second telephone number appears to be miswritten as "640." I investigated the "640" area code and found that no such area code exists. The remainder of that telephone number is the same as the telephone number on Mr. Hui's business card that I obtained at the World Expo in 2005.) A fax number was also included in the signature block of the email, and that fax number is also the same as the fax number on Mr. Hui's business card that I obtained in 2005, namely, "1-604-821-1786." Finally, there are two email addresses for Mr. Hui found in the signature block, namely, "usasales@cana-pacific.com" and "lasales@cana-pacific.com." The "usasales@cana-pacific.com" email address is the same email address that is identified on Mr. Hui's business card that I obtained in 2005.

5. A few days after receiving the marketing email from Cana-Pacific Ribbons Inc. in November 2007, I replied to the email and inquired about purchasing cartridges. In response, I received an email from Mr. Hui (from the usasales@cana-pacific.com email address). On or about November 21, 2007 under my instruction, my associate Ron Hanson purchased via email correspondence with Mr. Hui (to usasales@cana-pacific.com) and via fax (to 1-604-821-1786) numerous BUTTERFLY-brand remanufactured ink jet cartridges for Epson printers.

6. Thereafter, Mr. Hui informed me via email that the cartridges would be shipped to me from their Florida warehouse. Mr. Hui sent me via email the packing list and invoice. Both the packing list and the invoice identify Cana-Pacific Ribbons Inc., and show an address of Unit 260, 4011 Viking Way, Richmond, B.C., V6V 2K9 Canada. The telephone number identified is 604-821-1872, and the fax number identified is 604-821-1873. I received the cartridges on or about February 5, 2008.

7. The Secretary of State website for the State of Washington shows active corporate registrations for Ribbon Tree USA Inc., Cana-Pacific Ribbons Inc. and Apex Distributing Inc. The companies share a common service of process agent, namely Gene R. Moses, 2200 Rimland Dr., Ste. 220, Bellingham, WA 98226. Attached as Exhibits 1-3, respectively, are copies of the corporate Registration of Ribbon Tree USA Inc., Cana-Pacific Ribbons Inc. and Apex Distributing Inc. from the Secretary of State of Washington website.

Executed on March 14, 2008, at Huntington Beach, California.

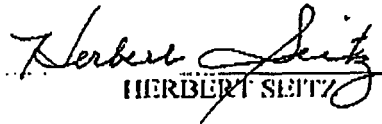

HERBERT SEITZ

Exhibit 1

**Corporations**[CORPORATIONS MENU](#) **Corporations Division - Registration Data Search****RIBBON TREE (USA), INC.**

UBI Number	601354175
Category	Regular Corporation
Profit/Nonprofit	Profit
Active/Inactive	Active
State of Incorporation	WA
Date of Incorporation	12/02/1991
License Expiration Date	12/31/2007

Registered Agent Information

Agent Name	GENE R MOSES
Address	2200 RIMLAND DRIVE STE 220
City	BELLINGHAM
State	WA
ZIP	982266643

Special Address Information

Address
City
State
Zip

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Washington Secretary of State
801 Capitol Way South
PO Box 40234, Olympia WA 98504-0234
(360) 753-7115

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Exhibit 2



Corporations

[CORPORATIONS MENU](#)

Corporations Division - Registration Data Search

CANA-PACIFIC RIBBONS, INC.

UBI Number	601372258
Category	Regular Corporation
Profit/Nonprofit	Profit
Active/Inactive	Active
State of Incorporation	WA
Date of Incorporation	02/21/1992
License Expiration Date	02/29/2008

Registered Agent Information

Agent Name	GENE R MOSES
Address	2200 RIMLAND DR STE 220
City	BELLINGHAM
State	WA
ZIP	98226

Special Address Information

Address
City
State
Zip

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Exhibit 3



Corporations

[CORPORATIONS MENU](#)

Corporations Division - Registration Data Search

APEX DISTRIBUTING INC.

UBI Number	601996723
Category	Regular Corporation
Profit/Nonprofit	Profit
Active/Inactive	Active
State of Incorporation	WA
Date of Incorporation	12/06/1999
License Expiration Date	12/31/2007

Registered Agent Information

Agent Name	GENE R MOSES
Address	LAW OFFICES OF GENE R MOSES PS 2200 RIMLAND DR # 220
City	BELLINGHAM
State	WA
ZIP	98226

Special Address Information

Address
City
State
Zip

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **COMPLAINT FOR ENFORCEMENT PROCEEDINGS PURSUANT TO RULE 210.75 (PUBLIC)** was served on the 18th day of March 2008 on all parties listed below:

The Honorable Marilyn R. Abbott
SECRETARY
U.S. INTERNATIONAL TRADE COMMISSION
500 E Street, S.W., Room 112A
Washington, DC 20436
(VIA HAND DELIVERY – Original + 12 copies)

The Honorable Paul J. Luckern
ADMINISTRATIVE LAW JUDGE
U.S. INTERNATIONAL TRADE COMMISSION
500 E Street, S.W., Room 317
Washington, DC 20436
(VIA HAND DELIVERY – 2 copies)

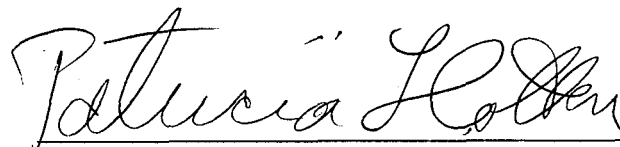
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OFFICE OF UNFAIR IMPORT INVESTIGATIONS
U.S. INTERNATIONAL TRADE COMMISSION
500 E Street, S.W., Room 401
Washington, DC 20436
(kevin.baer@usitc.gov)

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AND DATA PRODUCTS USA LLC**

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