

CHAIRMAN



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UNITED STATES INTERNATIONAL TRADE COMMISSION

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Washington, D.C. 20436

May 26, 2016

The President  
The White House  
Washington, DC 20500

Dear Mr. President:

In accordance with subsection (j) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337(j)) and the July 21, 2005 Memorandum for the United States Trade Representative (70 *Fed. Reg.* 43251), I am transmitting to you and the United States Trade Representative copies of the Commission's general exclusion order and two cease and desist orders, as described below, and the record upon which it based its determination.

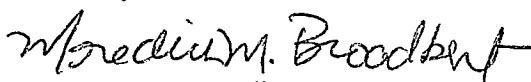
On May 26, 2016, the United States International Trade Commission issued a general exclusion order and two cease and desist orders, pursuant to section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), in USITC Investigation No. 337-TA-946, *Certain Ink Cartridges And Components Thereof*.

The general exclusion order prohibits the importation into the United States of ink cartridges and components thereof covered by one or more of claims 1 and 10 of U.S. Patent No. 8,366,233; claims 9, 14, 18, and 21 of U.S. Patent No. 8,454,116; claims 1, 18, 49, and 60 of U.S. Patent No. 8,794,749; claims 1 and 6 of U.S. Patent No. 8,801,163; and claims 14, 15, and 19 of U.S. Patent No. 8,882,513. The Commission has also determined to issue cease and desist orders prohibiting importation, sale, and distribution of infringing products in the United States by Zinyaw LLC of Houston, Texas, and InkPro2day, LLC of Los Angeles, California.

Confidential Removed APP

The Commission concluded that the statutory public interest factors enumerated in subsection (d)(1) and (f)(1) of section 337 of the Tariff Act of 1930, as amended, (19 U.S.C. §§ 1337(d)(1), (f)(1)) do not preclude the issuance of this remedy. The Commission also determined that excluded ink cartridges and components thereof may be imported and sold in the United States during the period of Presidential review with the posting of a bond in the amount of 100 percent of the entered value.

Sincerely,

A handwritten signature in black ink that reads "Meredith M. Broadbent". The signature is written in a cursive style with a large, prominent initial "M".

Meredith M. Broadbent  
Chairman

Enclosures

CHAIRMAN



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UNITED STATES INTERNATIONAL TRADE COMMISSION

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Washington, D.C. 20436

May 26, 2016

The Honorable Jacob J. Lew  
Secretary of the Treasury  
Washington, DC 20220

Dear Mr. Secretary:

In accordance with subsection (j) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337(j)), I am transmitting to you a copy of the Commission's general exclusion order, as described below, and the record upon which it based its determination.

On May 26th, 2016, the United States International Trade Commission issued a general exclusion order, pursuant to section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), in USITC Investigation No. 337-TA-946, *Certain Ink Cartridges And Components Thereof*.

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The Commission concluded that the statutory public interest factors enumerated in subsection (d)(1) of section 337 of the Tariff Act of 1930, as amended, (19 U.S.C. § 1337(d)(1)) do not preclude the issuance of this remedy. The Commission also determined that excluded ink cartridges and components thereof may be imported and sold in the United States during the period of Presidential review with the posting of a bond in the amount of 100 percent of the entered value.

Sincerely,



Meredith M. Broadbent  
Chairman

Enclosures

cc: Charles Steuart, Chief  
CBP IPR & Restricted Merchandise Branch  
Office of International Trade Regulation and Rulings  
U.S. Customs and Border Protection  
90 K Street, NE  
Washington, D.C. 20229-1177

CHAIRMAN



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UNITED STATES INTERNATIONAL TRADE COMMISSION

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Washington, D.C. 20436

May 26, 2016

The Honorable Michael Froman  
United States Trade Representative  
Washington, DC 20508

Dear Ambassador Froman:

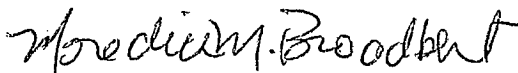
In accordance with subsection (j) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337(j)) and the July 21, 2005 Memorandum for the United States Trade Representative (70 *Fed. Reg.* 43251), I am transmitting to you and the President copies of the Commission's general exclusion order and two cease and desist orders, as described below, and the record upon which it based its determination.

On May 26, 2016, the United States International Trade Commission issued a general exclusion order and two cease and desist orders, pursuant to section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), in USITC Investigation No. 337-TA-946, *Certain Ink Cartridges And Components Thereof*.

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The Commission concluded that the statutory public interest factors enumerated in subsection (d)(1) and (f)(1) of section 337 of the Tariff Act of 1930, as amended, (19 U.S.C. §§ 1337(d)(1), (f)(1)) do not preclude the issuance of this remedy. The Commission also determined that excluded ink cartridges and components thereof may be imported and sold in the United States during the period of Presidential review with the posting of a bond in the amount of 100 percent of the entered value.

Sincerely,



Meredith M. Broadbent  
Chairman

Enclosures

cc: Shannon M. Nestor, Esq.  
Joseph P. Whitlock, Esq.  
Juli C. Schwartz, Esq  
Office of the General Counsel  
Office of the United States Trade Representative

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

**In the Matter of**

**CERTAIN INK CARTRIDGES AND  
COMPONENTS THEREOF**

**Investigation No. 337-TA-946**

**ISSUANCE OF A GENERAL 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 determined to issue: (1) a general exclusion order (“GEO”) barring entry of certain ink cartridges and components thereof that infringe the patents asserted in this investigation; and (2) cease and desist orders (“CDOs”) directed against two domestic defaulting respondents. The Commission has terminated this investigation.

**FOR FURTHER INFORMATION CONTACT:** Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3115. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“section 337”), on January 27, 2015, based on a complaint filed by Epson Portland Inc., Epson America, Inc. and Seiko Epson Corporation (collectively, “Epson,” or Complainants). 80 *Fed. Reg.* 4314-16 (Jan. 27, 2015). The complaint alleges a violation of section 337 by reason of infringement of certain claims of U.S. Patent No. 8,366,233 (“the ‘233 patent”); U.S. Patent No. 8,454,116 (“the ‘116 patent”); U.S. Patent No. 8,794,749 (“the ‘749 patent”); U.S. Patent No. 8,801,163 (“the ‘163 patent”); and U.S. Patent No. 8,882,513 (“the ‘513 patent”) (collectively, the “Asserted Patents”) by numerous respondents. *Id.* In particular, the notice of investigation named the following nineteen entities as respondents: Zhuhai Nano Digital Technology Co., Ltd. of Zhuhai, China;

Nano Business & Technology, Inc. of Lake Oswego, Oregon; Zhuhai National Resources & Jingjie Imaging Products Co., Ltd. of Zhuhai, China; Huebon Co. Ltd. of Hong Kong; Chancen Co., Ltd. of Hong Kong; Zhuhai Rich Imaging Technology Co., Ltd. of Zhuhai, China; Shanghai Orink Infotech International Co., Ltd. of Shanghai, China; Orink Infotech International Co., Ltd. of Hong Kong; Zinyaw LLC of Houston, Texas; Yotat Group Co., Ltd. of Hong Kong; Yotat (Zhuhai) Technology Co., Ltd. of Zhuhai, China; Ourway Image Co., Ltd. of Zhuhai, China; Kingway Image Co., Ltd. of Zhuhai, China; Zhuhai Chinamate Technology Co., Ltd. of Zhuhai, China; InkPro2day, LLC of Los Angeles, California; Dongguan OcBestjet Printer Consumables Co., Ltd. of Dongguan, China; OcBestjet Printer Consumables (HK) Co., Ltd. of Hong Kong; Aomya Printer Consumables (Zhuhai) Co., Ltd. of Guangdong, China; and Zhuhai Richeng Development Co., Ltd. of Zhuhai, China. The Commission's Office of Unfair Import Investigations ("OUII") was also named as a party.

On June 18, 2015, the ALJ issued an initial determination ("ID") (Order No. 9) finding in default respondents Huebon Co.; Ltd., Chancen Co., Ltd.; Yotat Group Co., Ltd.; Ourway Image Co., Ltd.; Shanghai Orink Infotech International Co., Ltd.; Orink Infotech International Co., Ltd.; Kingway Image Co., Ltd.; Zhuhai Chinamate Technology Co., Ltd.; Yotat (Zhuhai) Technology Co., Ltd.; Zhuhai Richeng Development Co., Ltd.; Dongguan OcBestjet Printer Consumables Co., Ltd.; OcBestjet Printer Consumables (HK) Co., Ltd.; Zinyaw LLC; InkPro2day; LLC, Aomya Printer Consumables (Zhuhai) Co., Ltd.; Zhuhai National Resources & Jingjie Imaging Products Co., Ltd.; and Zhuhai Rich Imaging Technology Co., Ltd. (collectively, "the Defaulting Respondents") (*not reviewed* Jul. 10, 2015). On July 8, 2015, the ALJ issued an ID (Order No. 10) terminating the investigation as to remaining named respondents Zhuhai Nano Digital Technology, Co., Ltd. (China) and Nano Business and Technology, Inc. (USA) based on a settlement agreement and consent order (*not reviewed* Aug. 5, 2015).

All of the respondents in this investigation have either defaulted or entered into consent orders that have been approved by the Commission. On September 16, 2015, the ALJ issued an ID (Order No. 11) partially terminating the investigation based on Epson's withdrawal of certain claims (*not reviewed* Oct. 15, 2015). Claims 1 and 10 of the '233 patent; claims 9, 14, 18, and 21 of the '116 patent; claims 1, 18, 49, and 60 of the '749 patent; claims 1 and 6 of the '163 patent; and claims 14, 15, and 19 of the '513 patent remain pending in this investigation. ID at 3.

On August 31, 2015, Epson filed a motion for summary determination of violation by the Defaulting Respondents. The IA filed a response in support of the motion on September 11, 2015. No respondent filed a response to the motion.

On October 28, 2015, the ALJ issued an ID (order No. 12) granting Complainants' motion for summary determination. No party petitioned for review of the ID. The Commission determined to review-in-part the subject ID and, on review, to affirm the ID with certain modifications to the ALJ's findings regarding the importation requirement. Notice of Commission Determination To Review an ID in Part and, on Review, to Affirm a Finding of a Violation of Section 337 dated December 14, 2015 ("Commission Notice") at 2. *See* 80 Fed.



Reg. 79097-99 (Dec. 18, 2015). The Commission's determination resulted in a finding of a violation of section 337.

The Commission requested written submissions on remedy, public interest, and bonding. *Id.* Complainants and OUII timely filed their submissions pursuant to the Commission Notice. No other parties filed submissions in response to the Commission Notice. No submissions were filed by the public.

Having reviewed the submissions filed in response to the Commission's Notice and the evidentiary record, the Commission has determined that the appropriate form of relief in this investigation is: (a) a GEO prohibiting the unlicensed importation of certain ink cartridges and components thereof covered by one or more of claims 1 and 10 of the '233 patent; claims 9, 14, 18, and 21 of the '116 patent; claims 1, 18, 49, and 60 of the '749 patent; claims 1 and 6 of the '163 patent; and claims 14, 15, and 19 of the '513 patent; and (b) CDOs directed against respondents Zinyaw and InkPro2day.

The Commission has further determined that the public interest factors enumerated in subsections (d)(1) and (f)(1) (19 U.S.C. §§ 1337(d)(1), (f)(1)) do not preclude issuance of the above-referenced remedial orders. Additionally, the Commission has determined that a bond in the amount of one hundred (100) percent of the entered value is required to permit temporary importation of the articles in question during the period of Presidential review (19 U.S.C. § 1337(j)). The Commission has also issued an opinion explaining the basis for the remedy. The investigation is terminated.

The Commission's orders and the record upon which it based its determination were delivered to the President and to the United States Trade Representative on the day of their issuance. The Commission has also notified the Secretary of the Treasury of the orders.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 C.F.R. Part 210).

By order of the Commission.



Lisa R. Barton  
Secretary to the Commission

Issued: May 26, 2016

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

**In the Matter of**

**CERTAIN INK CARTRIDGES AND  
COMPONENTS THEREOF**

**Inv. No. 337-TA-946**

**GENERAL EXCLUSION ORDER**

The Commission has determined that there is a violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), in the unlawful importation and sale of certain ink cartridges and components thereof covered by one or more of claims 1 and 10 of U.S. Patent No. 8,366,233 (“the ’233 patent”); claims 9, 14, 18, and 21 of U.S. Patent No. 8,454,116 (“the ’116 patent”); claims 1, 18, 49, and 60 of U.S. Patent No. 8,794,749 (“the ’749 patent”); claims 1 and 6 of U.S. Patent No. 8,801,163 (“the ’163 patent”); and claims 14, 15, and 19 of U.S. Patent No. 8,882,513 (“the ’513 patent”).

Having reviewed the record of this investigation, including the written submissions of the parties, the Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that 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 and components thereof (“covered products”).

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. § 1337(d) 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 one hundred (100) percent of the entered value for all covered products in question.

Accordingly, the Commission hereby ORDERS that:

1. Ink cartridges and components thereof that are covered by one or more of claims 1 and 10 of the '233 patent; claims 9, 14, 18, and 21 of the '116 patent; claims 1, 18, 49, and 60 of the '749 patent; claims 1 and 6 of the '163 patent; and claims 14, 15, and 19 of the '513 patent are 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 terms of the patents, except under license of the patent owner or as provided by law.

2. Notwithstanding paragraph 1 of this Order, the aforesaid ink cartridges and components thereof are entitled to entry into the United States for consumption, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption under bond in the amount of one hundred (100) percent of the entered value of the products, pursuant to subsection (j) of Section 337 (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 Order is approved or disapproved but, in any event, not later than sixty days after the date of receipt of this Order.

3. At the discretion of U.S. Customs and Border Protection ("CBP") and pursuant to procedures that it establishes, persons seeking to import ink cartridges and components thereof that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of

their knowledge and belief, the products being imported are not excluded from entry under paragraph 1 of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.

4. In accordance with 19 U.S.C. § 1337(1), the provisions of this Order shall not apply to ink cartridges and components thereof 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 CBP.

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

By order of the Commission.



Lisa R. Barton  
Secretary to the Commission

Issued: May 26, 2016

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

**In the Matter of**

**CERTAIN INK CARTRIDGES AND  
COMPONENTS THEREOF**

**Inv. No. 337-TA-946**

**CEASE AND DESIST ORDER**

**IT IS HEREBY ORDERED THAT** InkPro2day, LLC, of Los Angeles, California, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, transferring (except for exportation), and soliciting U.S. agents or distributors for ink cartridges and components thereof that infringe one or more of claims 1 and 10 of U.S. Patent No. 8,366,233 (“the ’233 patent”); claims 9, 14, 18, and 21 of U.S. Patent No. 8,454,116 (“the ’116 patent”); claims 1, 18, 49, and 60 of U.S. Patent No. 8,794,749 (“the ’749 patent”); claims 1 and 6 of U.S. Patent No. 8,801,163 (“the ’163 patent”); and claims 14, 15, and 19 of U.S. Patent No. 8,882,513 (“the ’513 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 Seiko Epson Corporation of Japan; Epson Portland Inc. of Hillsboro, Oregon; and Epson America, Inc. of Long Beach, California.
- (C) “Respondent” shall mean InkPro2day, LLC, of Los Angeles, California.

(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 and components thereof that infringe one or more of claims 1 and 10 of the '233 patent; claims 9, 14, 18, and 21 of the '116 patent; claims 1, 18, 49, and 60 of the '749 patent; claims 1 and 6 of the '163 patent; and claims 14, 15, and 19 of the '513 patent.

## **II. Applicability**

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

## **III. Conduct Prohibited**

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the relevant one or more of the '233, '116, '749, '163, and '513 patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products
- (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 the relevant one or more of the '233, '116, '749, '163, and '513 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States as described in Section 337(*l*) of the Tariff Act of 1930 (19 U.S.C. § 1337(*l*)).

**V.  
Reporting**

For purposes of this requirement, the reporting periods shall commence on January 1 of each year and shall end on the subsequent December 31. The first report required under this section shall cover the period from the date of issuance of this order through December 31, 2016. This reporting requirement shall continue in force until such time as Respondent has truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to

the Commission: (a) the quantity in units and the value in dollars of covered products that it has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period.

When filing written submissions, Respondent must file the original document electronically on or before the deadlines stated above and submit eight (8) true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-946") in a prominent place on the cover pages and/or the first page. (See Handbook for Electronic Filing Procedures, [http://www.usitc.gov/secretary/fed\\_reg\\_notices/rules/handbook\\_on\\_electronic\\_filing.pdf](http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf)). Persons with questions regarding filing should contact the Secretary (202-205-2000). If Respondent desires to submit a document to the Commission in confidence, it must file the original and a public version of the original with the Office of the Secretary and must serve a copy of the confidential version on Complainants' counsel.<sup>1</sup>

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

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<sup>1</sup> Complainants must file a letter with the Secretary identifying the attorney to receive reports and bond information associated with this order. The designated attorney must be on the protective order entered in the investigation.



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

## **VII.**

### **Service of Cease and Desist order**

Respondent is ordered and directed to:

(A) Serve, within fifteen 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 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 expiration dates of the '233, '116, '749, '163, and '513 patents.

**VIII.  
Confidentiality**

Any request for confidential treatment of information obtained by the Commission pursuant to Section VI of this Order should be made in accordance with section 201.6 of the Commission's Rules of Practice and Procedure (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 under Section 337(f) of the Tariff Act of 1930 (19 U.S.C. § 1337(f)), as well as any other action that the Commission deems appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if it 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. 43,251 (Jul. 21, 2005)), subject to Respondent posting of a bond in the amount of 100 percent of the entered value 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 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* 19 C.F.R. § 210.68). The bond and any accompanying documentation are to be provided to and approved by the Commission prior to the commencement of conduct that is otherwise prohibited by Section III of this Order. Upon the Secretary's acceptance of the bond, (a) the Secretary will serve an acceptance letter on all parties, and (b) Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.<sup>2</sup>

The bond is to be forfeited in the event that the United States Trade Representative approves this Order (or does not disapprove it within the review period), unless (i) 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 (ii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the

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<sup>2</sup> *See* note 1 above.

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 "Lisa R. Barton", written in a cursive style.

Lisa R. Barton  
Secretary to the Commission

Issued: May 26, 2016

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

**In the Matter of**

**CERTAIN INK CARTRIDGES AND  
COMPONENTS THEREOF**

**Inv. No. 337-TA-946**

**CEASE AND DESIST ORDER**

**IT IS HEREBY ORDERED THAT** Zinyaw, LLC, of Houston, Texas, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, transferring (except for exportation), and soliciting U.S. agents or distributors for ink cartridges and components thereof that infringe one or more of claims 1 and 10 of U.S. Patent No. 8,366,233 (“the ’233 patent”); claims 9, 14, 18, and 21 of U.S. Patent No. 8,454,116 (“the ’116 patent”); claims 1, 18, 49, and 60 of U.S. Patent No. 8,794,749 (“the ’749 patent”); claims 1 and 6 of U.S. Patent No. 8,801,163 (“the ’163 patent”); and claims 14, 15, and 19 of U.S. Patent No. 8,882,513 (“the ’513 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 Seiko Epson Corporation of Japan; Epson Portland

Inc. of Hillsboro, Oregon; and Epson America, Inc. of Long Beach, California.

(C) “Respondent” shall mean Zinyaw, LLC, of Houston, Texas.

(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 and components thereof that infringe one or more of claims 1 and 10 of the '233 patent; claims 9, 14, 18, and 21 of the '116 patent; claims 1, 18, 49, and 60 of the '749 patent; claims 1 and 6 of the '163 patent; and claims 14, 15, and 19 of the '513 patent.

## **II. Applicability**

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

## **III. Conduct Prohibited**

The following conduct of Respondent in the United States is prohibited by this Order. For the remaining term of the relevant one or more of the '233, '116, '749, '163, and '513 patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, sell, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products
- (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 the relevant one or more of the '233, '116, '749, '163, and '513 patent licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States as described in Section 337(l) of the Tariff Act of 1930 (19 U.S.C. § 1337(l)).

#### **V. Reporting**

For purposes of this requirement, the reporting periods shall commence on January 1 of each year and shall end on the subsequent December 31. The first report required under this section shall cover the period from the date of issuance of this order through December 31, 2016. This reporting requirement shall continue in force until such time as Respondent has truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to

the Commission: (a) the quantity in units and the value in dollars of covered products that it has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period.

When filing written submissions, Respondent must file the original document electronically on or before the deadlines stated above and submit eight (8) true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-946") in a prominent place on the cover pages and/or the first page. (See Handbook for Electronic Filing Procedures, [http://www.usitc.gov/secretary/fed\\_reg\\_notices/rules/handbook\\_on\\_electronic\\_filing.pdf](http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf)).

Persons with questions regarding filing should contact the Secretary (202-205-2000). If Respondent desires to submit a document to the Commission in confidence, it must file the original and a public version of the original with the Office of the Secretary and must serve a copy of the confidential version on Complainants' counsel.<sup>1</sup>

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

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<sup>1</sup> Complainants must file a letter with the Secretary identifying the attorney to receive reports and bond information associated with this order. The designated attorney must be on the protective order entered in the investigation.



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

## **VII.**

### **Service of Cease and Desist order**

Respondent is ordered and directed to:

(A) Serve, within fifteen 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 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 expiration dates of the '233, '116, '749, '163, and '513 patents.

**VIII.  
Confidentiality**

Any request for confidential treatment of information obtained by the Commission pursuant to Section VI of this Order should be made in accordance with section 201.6 of the Commission's Rules of Practice and Procedure (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 under Section 337(f) of the Tariff Act of 1930 (19 U.S.C. § 1337(f)), as well as any other action that the Commission deems appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if it 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. 43,251 (Jul. 21, 2005)), subject to Respondent posting of a bond in the amount of 100 percent of the entered value 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 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* 19 C.F.R. § 210.68). The bond and any accompanying documentation are to be provided to and approved by the Commission prior to the commencement of conduct that is otherwise prohibited by Section III of this Order. Upon the Secretary's acceptance of the bond, (a) the Secretary will serve an acceptance letter on all parties, and (b) Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.<sup>2</sup>

The bond is to be forfeited in the event that the United States Trade Representative approves this Order (or does not disapprove it within the review period), unless (i) 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 (ii) Respondent exports or destroys the products subject to this bond and provides certification to that effect that is satisfactory to the

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<sup>2</sup> See note 1 above.

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 the order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', written in a cursive style.

Lisa R. Barton  
Secretary to the Commission

Issued: May 26, 2016