

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

In the Matter of

**CERTAIN TONER SUPPLY
CONTAINERS AND COMPONENTS
THEREOF**

Inv. No. 337-TA-960

Order No. 4: INITIAL DETERMINATION
Terminating the Investigation Based on a Consent Order Stipulation and
Proposed Consent Order

Pursuant to 19 C.F.R. § 210.21(c), respondents General Plastic Industrial Co., Ltd. (“GPI”) and Color Imaging, Inc. (“Color Imaging”) filed an unopposed motion to terminate this investigation based on a consent order stipulation and proposed consent order. Motion Docket No. 960-001. Complainants Canon Inc.; Canon U.S.A., Inc.; and Canon Virginia, Inc. do not oppose the motion. *See Mot.* at 1, 5.

Commission Rule 210.21(c) provides that “[a] motion for termination by consent order shall contain copies of any licensing or other settlement agreement, any supplemental agreements, and a statement that there are no other agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation.” 19 C.F.R. § 210.21(c). The pending motion includes the following attachments: (1) a consent order stipulation signed by GPI and Color Imaging and (2) a proposed consent order. Further, it is stated that “[t]here are no agreements, written or oral, express or implied, between the parties concerning the subject matter of this investigation.” *Mot.* at 4. The pending motion therefore satisfies the requirements of Commission Rule 210.21(c).

Commission Rule 210.21(c)(3) sets forth the requirements for a consent order stipulation. 19 C.F.R. § 210.21(c)(3). It is determined that the consent order stipulation submitted with the pending motion satisfies the requirements set forth in Commission Rule 210.21(c)(3).

Commission Rule 210.21(c)(4) sets forth the requirements for a consent order. 19 C.F.R. § 210.21(c)(4). It is determined that the proposed consent order submitted with the pending motion satisfies the requirements set forth in Commission Rule 210.21(c)(4).

Commission Rule 210.50(b)(2) provides that, in the case of a proposed termination by settlement agreement, consent order, or arbitration agreement, the parties may file statements regarding the impact of the proposed termination on the public interest, and the administrative law judge may hear argument, although no discovery may be compelled, with respect to issues relating solely to the public interest. 19 C.F.R. § 210.50(b)(2). The administrative law judge is directed to consider and make appropriate findings “regarding the effect of the proposed settlement on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers.” *See id.*

Movants state that “termination of this Investigation against Respondents and entry of the Proposed Consent Order is in the public interest, which favors the settlement of dispute to avoid needless litigation and to conserve resources.” Mot. at 4. It is argued that “entry of the Proposed Consent Order will conserve the time and resources of both the Commission and the private parties since it removes Respondents from this Investigation.” *Id.* at 4-5. It is further argued that “entry of the Proposed Consent Order will not impose an undue burden on the public health and welfare, competitive conditions in the United States economy, production of like or directly competitive articles in the United States or United States’ consumers.” *Id.* at 5.

Having reviewed the pending motion and the attachments thereto, the undersigned does not find any evidence that terminating this investigation as to General Plastic Industrial Co., Ltd. and Color Imaging, Inc. based on the consent order stipulation and proposed consent order would be contrary to the public interest.

Accordingly, it is the initial determination of the undersigned that Motion No. 960-001 is granted. This investigation is terminated in its entirety.

Pursuant to 19 C.F.R. § 210.42(h), this initial determination shall become the determination of the Commission unless a party files a petition for review of the initial determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders on its own motion a review of the initial determination or certain issues contained herein.



David P. Shaw
Administrative Law Judge

Issued: August 4, 2015

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C. 20436
Before the Honorable David P. Shaw
Administrative Law Judge**

In the Matter of:

CERTAIN TONER SUPPLY CONTAINERS
AND COMPONENTS THEREOF

Investigation No.
337-TA-960

**RESPONDENTS GENERAL PLASTIC INDUSTRIAL
CO., LTD.'S AND COLOR IMAGING, INC.'S
UNOPPOSED MOTION TO TERMINATE
INVESTIGATION BASED ON CONSENT ORDER
STIPULATION AND PROPOSED CONSENT ORDER**

Pursuant to Commission Rule 210.21(c)(1)(ii), 19 C.F.R. § 210(c)(1)(ii), Respondents General Plastic Industrial Co., Ltd. (“GPI”) and Color Imaging, Inc. (“Color Imaging”) (collectively “Respondents”) hereby move for the termination of this investigation as to GPI and Color Imaging and for the entry of the attached Proposed Consent Order.

Complainants Canon Inc., Canon U.S.A., Inc., and Canon Virginia, Inc. (collectively “Canon”) filed a complaint (“Complaint”) before the United States International Trade Commission (“Commission”) on June 12, 2015, alleging unfair acts in the importation into the United States, sale for importation into the United States, and sale in the United States after importation of certain toner supply containers and components thereof by GPI and Color Imaging that infringe one or more of claims 1, 7-9,

11, 16-18, 29, and 38 of U.S. Pat. No. 8,909,094 (the “‘094 Patent”) and claims 1, 7-9, and 16 of U.S. Pat. No. 9,046,820 (the “‘820 Patent”) (collectively “Asserted Patents”).

As set forth in the accompanying Stipulation to Consent Order, Respondents stipulate and agree:

- 1) Respondent GPI is a limited liability company organized and existing under the laws of Taiwan, with its principal place of business located at 50 Tzu Chiang Road, Wu-Chi Town, Taichung County, Taiwan.
- 2) Respondent Color Imaging is a corporation organized and existing under the laws of the State of Georgia, with its principal place of business located at 4350 Peachtree Industrial Blvd., Suite 100, Norcross, Georgia 30071.
- 3) “Subject Articles” shall mean the toner supply containers identified in the Complaint as having come from GPI and/or Color Imaging (see, for example, Sections V and VI and Exhibits 8 to 13 of the Complaint), and any other toner supply containers that infringe one or more of claims 1, 7-9, 11, 16-18, 29, and 38 of the ‘094 Patent and claims 1, 7-9, and 16 of the ‘820 Patent.
- 4) Respondents stipulate to the entry of a Consent Order in the form attached to the Stipulation to Consent Order as Exhibit A (the “Consent Order”).
- 5) The Commission has in rem jurisdiction over Respondents’ certain toner supply containers and components thereof that are the basis of this Investigation

and the Commission has personal jurisdiction over Respondents for purposes of the Consent Order.

6) Respondents agree that, upon entry of the Consent Order, they will not sell for importation, import into the United States, or sell or offer for sale in the United States after importation the Subject Articles, directly or indirectly, and will not aid, abet, encourage, participate in, or induce importation into the United States, the sale for importation into the United States, or the sale, offer for sale, or use in the United States after importation of the Subject Articles, except under consent or license from Canon.

7) Respondents expressly waive all rights to seek judicial review or otherwise challenge or contest the validity of the Consent Order.

8) Respondents will cooperate with and will not seek to impede by litigation or other means the Commission's efforts to gather information under subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210.

9) Enforcement, modification, or revocation of the Consent Order will be carried out pursuant to subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210, which is incorporated herein by reference.

10) The Consent Order shall have the same force and effect and may be enforced, modified, or revoked in the same manner as is provided in Section 337 of the Tariff Act of 1930 and the Commission's Rules of Practice and Procedure,

19 C.F.R. Part 210, for other Commission actions, and the Commission may require periodic compliance reports pursuant to subpart I of the Commission's Rules of Practice and Procedure. 19 C.F.R. Part 210, to be submitted by Respondents.

11) The Consent Order shall not apply with respect to any claim of any Asserted Patent 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 final and nonreviewable.

12) Respondents will not seek to challenge the validity or enforceability of the Asserted Patents in any administrative or judicial proceeding to enforce the Consent Order.

13) The signing of the Consent Order Stipulation does not constitute an admission by Respondents that an unfair act has been committed.

14) There are no agreements, written or oral, express or implied, between the parties concerning the subject matter of this investigation.

Also, as set forth more fully in the accompanying memorandum of points and authorities in support of this Motion, termination of this Investigation against Respondents and entry of the Proposed Consent Order is in the public interest, which favors the settlement of dispute to avoid needless litigation and to conserve resources. Specifically, entry of the Proposed Consent Order will conserve the time and resources of both the

Commission and the private parties since it removes Respondents from this Investigation. Furthermore, entry of the Proposed Consent Order will not impose an undue burden on the public health and welfare, competitive conditions in the United States economy, production of like or directly competitive articles in the United States or United States' consumers. There is no longer any case-in-controversy before the Commission and the Proposed Consent Order fully satisfies all of Respondents' obligations under the Commission Rules.

Claimants have indicated that they do not oppose this Motion.

Dated: August 4, 2015

Respectfully submitted,

LOCKE LORD LLP

s/ Bryan G. Harrison
Bryan G. Harrison

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*Attorneys for Respondents
General Plastic Industrial Co., Ltd.
and Color Imaging, Inc.*

EXHIBIT A

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

Before the Honorable David P. Shaw
Administrative Law Judge

In the Matter of:

CERTAIN TONER SUPPLY CONTAINERS
AND COMPONENTS THEREOF

Investigation No.
337-TA-960

PROPOSED CONSENT ORDER

The United States International Trade Commission (hereinafter the "Commission") has instituted this Investigation under Section 337 of the Tariff Act of 1930 as amended (19 U.S.C. § 1337), based upon the allegations contained in the Complaint filed by Complainants Canon Inc., Canon U.S.A., Inc., and Canon Virginia, Inc. (collectively "Canon") that alleges unfair acts in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain toner supply containers and components thereof by Respondents General Plastic Industrial Co., Ltd. ("GPI") and Color Imaging, Inc. ("Color Imaging") (collectively "Respondents") that infringe one or more of claims 1, 7-9, 11, 16-18, 29, and 38 of U.S. Patent No. 8,909,094 ("094 Patent") and claims 1, 7-9, and 16 of U.S. Patent No. 9,046,820 ("820 Patent") (collectively "Asserted Patents").

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 the Commission's Rules of Practice and Procedure and have filed an Unopposed Motion for Termination of this Investigation based upon the Proposed Consent Order.

IT IS HEREBY ORDERED THAT:

- 1) "Subject Articles" shall mean the toner supply containers identified in the Complaint as having come from GPI and/or Color Imaging (see, for example, Sections V and VI and Exhibits 8 to 13 of the Complaint), and any other toner

supply containers that infringe one or more of claims 1, 7-9, 11, 16-18, 29, and 38 of the '094 Patent and claims 1, 7-9, and 16 of the '820 Patent.

- 2) Upon entry of this Consent Order, Respondents shall not sell for importation, import into the United States, or sell or offer for sale in the United States after importation the Subject Articles, directly or indirectly, and will not aid, abet, encourage, participate in, or induce importation into the United States, the sale for importation into the United States, or the sale, offer for sale, or use in the United States after importation of the Subject Articles, except under consent or license from Canon.
- 3) This Consent Order shall be applicable to and binding upon Respondents and their officers, directors, agents, servants, employees, and all persons, firms, corporations, successors, assigns, or other entities acting or purporting to act on any Respondent's behalf or under the direction or authority of any Respondent.
- 4) Respondents shall be precluded from seeking judicial review or otherwise challenging or contesting the validity of the Consent Order.
- 5) Respondents shall cooperate with and will not seek to impede by litigation or other means the Commission's efforts to gather information under subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210.
- 6) Respondents and their officers, directors, employees, agents, and any entity or individual acting on any Respondent's behalf and with its authority shall not seek to challenge the validity or enforceability of claims 1, 7-9, 11, 16-18, 29, and 38 of the '094 Patent and claims 1, 7-9, and 16 of the '820 Patent in any administrative or judicial proceeding to enforce the Consent Order.
- 7) Upon the expiration of an Asserted Patent, this Consent Order shall become null and void as to that Asserted Patent.

- 8) If any claim of any Asserted Patent is found or adjudicated invalid or unenforceable by the Commission or a court or agency of competent jurisdiction, in a final decision, no longer subject to appeal, this Consent Order shall become null and void as to any such invalid or unenforceable claims.
- 9) This Investigation is hereby terminated as to GPI and Color Imaging; 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 210.

BY ORDER OF THE COMMISSION:

Date:

Lisa R. Barton
Secretary

CERTIFICATE OF SERVICE

I hereby certify that a copy of **RESPONDENTS GENERAL PLASTIC INDUSTRIAL CO., LTD.'S AND COLOR IMAGING, INC.'S UNOPPOSED MOTION TO TERMINATE INVESTIGATION BASED ON CONSENT ORDER STIPULATION AND PROPOSED CONSENT ORDER** has been served on August 4, 2015, as indicated, on the following:

The Honorable Lisa R. Barton
Secretary
UNITED STATES INTERNATIONAL TRADE
COMMISSION
500 E. Street, SW, Room 112
Washington, DC 20436

- Via Hand-Delivery
- Via U.S. Mail
- Via Overnight Mail
- Via EDIS
- Via Electronic Mail

The Honorable David P. Shaw
Administrative Law Judge
U. S. INTERNATIONAL TRADE COMMISSION
500 E Street, S.W., Room 317-0
Washington, DC 20436
Email: pyong.yoon@usitc.gov

- Via Hand-Delivery (1 copy)
- Via U.S. Mail
- Via Overnight Mail
- Via EDIS
- Via Electronic Mail

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- Via U.S. Mail
- Via Overnight Mail
- Via Electronic Mail
- Via Facsimile

s/ Bryan G. Harrison
Bryan G. Harrison

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C. 20436
Before the Honorable David P. Shaw
Administrative Law Judge**

In the Matter of:

CERTAIN TONER SUPPLY CONTAINERS
AND COMPONENTS THEREOF

Investigation No.
337-TA-960

**RESPONDENTS GENERAL PLASTIC INDUSTRIAL
CO., LTD.'S AND COLOR IMAGING, INC.'S
MEMORANDUM IN SUPPORT OF THEIR
UNOPPOSED MOTION TO TERMINATE
INVESTIGATION BASED ON CONSENT ORDER
STIPULATION AND PROPOSED CONSENT ORDER**

Respondents General Plastic Industrial Co., Ltd. ("GPI") and Color Imaging, Inc. ("Color Imaging") (collectively "Respondents") files this memorandum of points and authorities in support of their Unopposed Motion for the Termination of this Investigation as to GPI and Color Imaging (the "Motion") and for the entry of the attached Proposed Consent Order, showing the Commission as follows.

I. PRELIMINARY STATEMENT

Respondents respectfully submit that the termination of this Investigation as to Respondents is timely, appropriate, and mandated. Upon entry of the Proposed Consent Order, Respondents agree that they will not sell for importation, import into the United States, or sell or offer for sale in the United States after importation, or knowingly aid, abet, encourage, participate in, or induce importation into the United States, the sale for

importation into the United States, or the sale, offer for sale, or use in the United States after importation certain toner supply containers and components that infringe one or more of claims 1, 7-9, 11, 16-18, 29, and 38 of U.S. Pat. No. 8,909,094 (the “‘094 Patent”) and claims 1, 7-9, and 16 of U.S. Pat. No. 9,046,820 (the “‘820 Patent”) (collectively “Asserted Patents”) until the expiration, invalidation, and/or a finding of unenforceability of those claims of the Asserted Patents or until Respondents’ products are found not to infringe or are licensed. Upon entry of the Proposed Consent Order, there is no longer a case-in-controversy to be litigated before the Commission and Respondents have consented to the full extent of the very relief Complainant seeks in this Investigation. In addition, the Proposed Consent Order fully satisfies all of Respondents’ obligations under the Commission’s Rules and, accordingly, Complainants do not oppose the Motion.

II. POINTS AND AUTHORITIES

The Proposed Consent order filed herewith comports with the ITC Rules and provides Complainants with the full extent of the very relief sought.

A. All Acts that Form the Basis for the Notice of Investigation Will Cease With The Entry Of The Consent Order.

It is well-settled that “unlawful activities” under the jurisdiction of the ITC for purposes of this Investigation consist of the following:

The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that-

- (i) infringe a valid and enforceable United States patent... ; or
- (ii) are made, produced, process, or mined under, or by means of, a process covered by the claims of a valid and enforceable United States patent.

19 U.S.C. § 1337(a)(1)(B).

Upon the entry of the Proposed Consent Order, none of the requisites of 19 U.S.C. § 1337(a)(1)(B) will exist in this Investigation. Thus, there will no longer be any case-in-controversy to be litigated in the ITC, and termination is both appropriate and mandated.

B. The Proposed Consent Order Complies with the Commission's Rules.

The Proposed Consent Order fully satisfies all of Respondents obligations under the Commission's Rules.

First, the Proposed Consent Order reflects the fact that, as set forth above, all acts that form the basis for this Investigation will terminate upon the entry of the Proposed Consent Order. Specifically, paragraph 6 of the stipulation to the Proposed Consent Order states that Respondents agree to stop all importation related acts “upon entry of the Proposed Consent Order.”

Second, the Proposed Consent Order tracks the precise scope of this Investigation as defined by the Complaint. Indeed, in paragraph 6 of the Proposed Consent Order Respondents agree to not sell for importation, import into the United States or sell or offer for sale in the United States after importation, or knowingly aid, abet, encourage, participate in, or induce importation into the United States, the sale for importation into the United States, or the sale, offer for sale, or use in the United States after importation

certain toner supply containers and components that infringe one or more of claims 1, 7-9, 11, 16-18, 29, and 38 of the '094 Patent and claims 1, 7-9, and 16 of the '820 Patent until the expiration, invalidation, and/or a finding of unenforceability of those claims of the Asserted Patents or until Respondents' products are found not to infringe or are licensed. Accordingly, the Proposed Consent Order conforms precisely to the scope of this Investigation.

Third, because the language of the Proposed Consent Order tracks the Notice of Investigation precisely, it covers all of Respondents toner supply containers and components of the same that Complainants allege infringe the Asserted Patents. In other words, there is no question—and no need for any possible discovery—regarding the products covered by the Proposed Consent Order. Thus, any discovery on this issue is not relevant to the relief requested herein but is instead enforcement-related discovery which is premature and unnecessary.

Fourth, paragraph 6 of the Proposed Consent Order specifically states that Respondents will not “knowingly aid, abet, encourage, participate in, or induce” any importation into the U.S. of the devices that form the basis for this Investigation. Although a great many consent orders reviewed by Respondents' counsel do not contain this language, Respondents have included this phrase specifically to allay any concerns regarding either the potential importation by unrelated third parties as a way to subvert

the Proposed Consent Order or the potential use for training, demonstrations, or testing of previously imported products.

In short, Respondents have worked painstakingly to craft a Proposed Consent Order that complies in every way with the Commission Rules and applicable ITC authorities and which Complainants do not oppose.

C. The Motion to Terminate is Permissible and Appropriate.

Commission Rule 210.21(c)(1)(ii) provides that any party to an Investigation may move to terminate the Investigation based upon a consent order at any time prior to the commencement of the hearing. See 19 C.F.R. § 210(c)(1)(ii). Furthermore, Rule 210.21(c)(1)(ii) states that such a motion “may be filed by one or more Respondent, and may be filed jointly with other parties to the investigation.” *Id.*

Furthermore, the Commission's comments to the Rule emphasize its interpretation of the Rule as permitting efficient resolution of investigations by granting a respondent the ability to unilaterally terminate an investigation. See 57 Fed. Reg. 52830, 52838 (1992). In its comments, the Commission stated:

Finally, interim Rule 211.20 also was revised to streamline the consent order process by eliminating the requirement that the complainant and the Commission investigative attorney must participate in the filing of a motion to terminate an investigation on the basis of a consent order. The complainant and the Commission investigative attorney were, however, still permitted to file such a motion jointly with Respondent.

Id.

In short, termination of this Investigation at this time based on the Proposed Consent Order is warranted. Respondents will cease all actions that create a case-in-controversy in the ITC upon the entry of the Proposed Consent Order, and the Consent Order addresses all of the necessary issues with respect to the scope of the termination.

III. CONCLUSION

Based upon the foregoing, Respondents respectfully request that the Administrative Law Judge issue an Initial Determination granting the Motion and enter the Proposed Consent Order submitted concurrently herewith.

Dated: August 4, 2015

Respectfully submitted,

LOCKE LORD LLP

s/ Bryan G. Harrison
Bryan G. Harrison

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*Attorneys for Respondents
General Plastic Industrial Co., Ltd.
and Color Imaging, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that a copy of **RESPONDENTS GENERAL PLASTIC INDUSTRIAL CO., LTD.'S AND COLOR IMAGING, INC.'S MEMORANDUM IN SUPPORT OF UNOPPOSED MOTION TO TERMINATE INVESTIGATION BASED ON CONSENT ORDER STIPULATION AND PROPOSED CONSENT ORDER** has been served on August 4, 2015, as indicated, on the following:

The Honorable Lisa R. Barton
Secretary
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The Honorable David P. Shaw
Administrative Law Judge
U. S. INTERNATIONAL TRADE COMMISSION
500 E Street, S.W., Room 317-0
Washington, DC 20436
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- Via Hand-Delivery
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- Via Facsimile

s/ Bryan G. Harrison
Bryan G. Harrison

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

Before the Honorable David P. Shaw
Administrative Law Judge

In the Matter of:

CERTAIN TONER SUPPLY CONTAINERS
AND COMPONENTS THEREOF

Investigation No.
337-TA-960

CONSENT ORDER STIPULATION

WHEREAS, Complainants Canon Inc., Canon U.S.A., Inc., and Canon Virginia, Inc. (collectively "Canon") filed a complaint ("Complaint") before the United States International Trade Commission ("Commission") on June 12, 2015, alleging unfair acts in the importation into the United States, sale for importation into the United States, and sale in the United States after importation of certain toner supply containers and components thereof by Respondents General Plastic Industrial Co., Ltd. ("GPI") and Color Imaging, Inc. ("Color Imaging") (collectively "Respondents") that infringe one or more of claims 1, 7-9, 11, 16-18, 29, and 38 of U.S. Pat. No. 8,909,094 (the "'094 Patent") and claims 1, 7-9, and 16 of U.S. Pat. No. 9,046,820 (the "'820 Patent") (collectively "Asserted Patents");

WHEREAS, the Commission instituted this Investigation under Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, based upon the allegations contained within the Complaint;

WHEREAS, Respondents GPI and Color Imaging agree to the entry of a Consent Order by the Commission, in the form attached hereto as Exhibit A;

NOW THEREFORE, pursuant to Commission Rule 210.21(c), GPI and Color Imaging stipulate and agree as follows in connection with the Unopposed Motion for the Termination of this Investigation as to GPI and Color Imaging and for the Entry of the Proposed Consent Order:

- 1) Respondent GPI is a limited liability company organized and existing under the laws of Taiwan, with its principal place of business located at 50 Tzu Chiang Road, Wu-Chi Town, Taichung County, Taiwan.
- 2) Respondent Color Imaging is a corporation organized and existing under the laws of the State of Georgia, with its principal place of business located at 4350 Peachtree Industrial Blvd., Suite 100, Norcross, Georgia 30071.
- 3) "Subject Articles" shall mean the toner supply containers identified in the Complaint as having come from GPI and/or Color Imaging (see, for example, Sections V and VI and Exhibits 8 to 13 of the Complaint), and any other toner supply containers that infringe one or more of claims 1, 7-9, 11, 16-18, 29, and 38 of the '094 Patent and claims 1, 7-9, and 16 of the '820 Patent.
- 4) Respondents stipulate to the entry of a Consent Order in the form attached hereto as Exhibit A (the "Consent Order").
- 5) The Commission has *in rem* jurisdiction over Respondents' certain toner supply containers and components thereof that are the basis of this Investigation and the Commission has personal jurisdiction over Respondents for purposes of the Consent Order.
- 6) Respondents agree that, upon entry of the Consent Order, they will not sell for importation, import into the United States, or sell or offer for sale in the United States after importation the Subject Articles, directly or indirectly, and will not aid,

abet, encourage, participate in, or induce importation into the United States, the sale for importation into the United States, or the sale, offer for sale, or use in the United States after importation of the Subject Articles, except under consent or license from Canon.

- 7) Respondents expressly waive all rights to seek judicial review or otherwise challenge or contest the validity of the Consent Order.
- 8) Respondents will cooperate with and will not seek to impede by litigation or other means the Commission's efforts to gather information under subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210.
- 9) Enforcement, modification, or revocation of the Consent Order will be carried out pursuant to subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210, which is incorporated herein by reference.
- 10) The Consent Order shall have the same force and effect and may be enforced, modified, or revoked in the same manner as is provided in Section 337 of the Tariff Act of 1930 and the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210, for other Commission actions, and the Commission may require periodic compliance reports pursuant to subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210, to be submitted by Respondents.
- 11) The Consent Order shall not apply with respect to any claim of any Asserted Patent 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 final and nonreviewable.


- 12) Respondents will not seek to challenge the validity or enforceability of the Asserted Patents in any administrative or judicial proceeding to enforce the Consent Order.
- 13) The signing of the Consent Order Stipulation does not constitute an admission by Respondents that an unfair act has been committed.
- 14) There are no agreements, written or oral, express or implied, between the parties concerning the subject matter of this investigation.

IN WITNESS WHEREOF, duly authorized representatives of GPI and Color Imaging have caused this Consent Order Stipulation to be executed as of the date indicated below.

This __ day of July, 2015.

Respectfully submitted,

General Plastic Industrial Co., Ltd.


By: JUI-CHI WANG

Its: president

Color Imaging, Inc.

By: _____

Its: _____

- 12) Respondents will not seek to challenge the validity or enforceability of the Asserted Patents in any administrative or judicial proceeding to enforce the Consent Order.
- 13) The signing of the Consent Order Stipulation does not constitute an admission by Respondents that an unfair act has been committed.
- 14) There are no agreements, written or oral, express or implied, between the parties concerning the subject matter of this investigation.

IN WITNESS WHEREOF, duly authorized representatives of GPI and Color Imaging, have caused this Consent Order Stipulation to be executed as of the date indicated below.

This day of July, 2015.

Respectfully submitted,

General Plastic Industrial Co., Ltd.

By: _____

Its: _____

Color Imaging, Inc./

By: ? iJUPe-1

Its: EXECUTIVE V.P.

EXHIBIT A

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

Before the Honorable David P. Shaw
Administrative Law Judge

In the Matter of:

CERTAIN TONER SUPPLY CONTAINERS
AND COMPONENTS THEREOF

Investigation No.
337-TA-960

[PROPOSED] CONSENT ORDER

The United States International Trade Commission (hereinafter the "Commission") has instituted this Investigation under Section 337 of the Tariff Act of 1930 as amended (19 U.S.C. § 1337), based upon the allegations contained in the Complaint filed by Complainants Canon Inc., Canon U.S.A., Inc., and Canon Virginia, Inc. (collectively "Canon") that alleges unfair acts in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain toner supply containers and components thereof by Respondents General Plastic Industrial Co., Ltd. ("GPI") and Color Imaging, Inc. ("Color Imaging") (collectively "Respondents") that infringe one or more of claims 1, 7-9, 11, 16-18, 29, and 38 of U.S. Patent No. 8,909,094 ("094 Patent") and claims 1, 7-9, and 16 of U.S. Patent No. 9,046,820 ("820 Patent") (collectively "Asserted Patents").

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 the Commission's Rules of Practice and Procedure and have filed an Unopposed Motion for Termination of this Investigation based upon the Proposed Consent Order.

IT IS HEREBY ORDERED THAT:

- 1) "Subject Articles" shall mean the toner supply containers identified in the Complaint as having come from GPI and/or Color Imaging (see, for example, Sections V and VI and Exhibits 8 to 13 of the Complaint), and any other toner

supply containers that infringe one or more of claims 1, 7-9, 11, 16-18, 29, and 38 of the '094 Patent and claims 1, 7-9, and 16 of the '820 Patent.

- 2) Upon entry of this Consent Order, Respondents shall not sell for importation, import into the United States, or sell or offer for sale in the United States after importation the Subject Articles, directly or indirectly, and will not aid, abet, encourage, participate in, or induce importation into the United States, the sale for importation into the United States, or the sale, offer for sale, or use in the United States after importation of the Subject Articles, except under consent or license from Canon.
- 3) This Consent Order shall be applicable to and binding upon Respondents and their officers, directors, agents, servants, employees, and all persons, firms, corporations, successors, assigns, or other entities acting or purporting to act on any Respondent's behalf or under the direction or authority of any Respondent.
- 4) Respondents shall be precluded from seeking judicial review or otherwise challenging or contesting the validity of the Consent Order.
- 5) Respondents shall cooperate with and will not seek to impede by litigation or other means the Commission's efforts to gather information under subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210.
- 6) Respondents and their officers, directors, employees, agents, and any entity or individual acting on any Respondent's behalf and with its authority shall not seek to challenge the validity or enforceability of claims 1, 7-9, 11, 16-18, 29, and 38 of the '094 Patent and claims 1, 7-9, and 16 of the '820 Patent in any administrative or judicial proceeding to enforce the Consent Order.
- 7) Upon the expiration of an Asserted Patent, this Consent Order shall become null and void as to that Asserted Patent.

- 8) If any claim of any Asserted Patent is found or adjudicated invalid or unenforceable by the Commission or a court or agency of competent jurisdiction, in a final decision, no longer subject to appeal, this Consent Order shall become null and void as to any such invalid or unenforceable claims.
- 9) This Investigation is hereby terminated as to GPI and Color Imaging; 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 210.

BY ORDER OF THE COMMISSION:

Date:

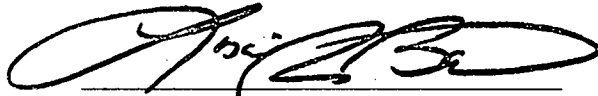
Lisa R. Barton
Secretary

CERTAIN TONER SUPPLY CONTAINERS AND COMPONENTS THEREOF

INV. NO. 337-TA-960

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER NO. 4** has been served upon the following parties as indicated, on AUG 04 2015



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street SW, Room 112A
Washington, DC 20436

FOR COMPLAINANTS CANON INC., CANON U.S.A., INC. AND CANON VIRGINIA, INC. :

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