

PUBLIC VERSION

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

In the Matter of

**CERTAIN TONER CARTRIDGES AND
COMPONENTS THEREOF**

Inv. No. 337-TA-918

Order No. 20: INITIAL DETERMINATION

Granting Summary Determination That the Importation Requirement Is Satisfied

Pursuant to 19 C.F.R. § 210.19, complainant Canon¹ moved for summary determination that the importation requirement of Section 337 is satisfied, and a memorandum in support thereof. Motion Docket No. 918-27. Specifically, Canon seeks a summary determination that the importation requirement is satisfied with respect to the accused products of the following respondents: Jiangxi Yibo E-Tech Co., Ltd., Aster Graphics Co., Ltd., Aster Graphics, Inc., American Internet Holdings, LLC, The Supplies Guys, LLC, Shenzhen ASTA Official Consumable Co., Ltd., Acecom, Inc. – San Antonio, Do It Wiser LLC, Grand Image Inc., Green Project, Inc., Nectron International, Inc., Online Tech Stores, LLC, Printronic Corporation, and

¹ “Canon” refers collectively to Canon Inc., Canon U.S.A., Inc., and Canon Virginia, Inc.

Zinyaw LLC. Mot. at 1.² The Commission Investigative Staff filed a response supporting Canon's motion for summary determination. No other party responded to the motion.³

As indicated in the notice of investigation, this investigation was instituted to determine whether a violation of section 337 has occurred in "the importation into the United States, the sale for importation, or the sale within the United States after importation" of certain products. *See* 79 Fed. Reg. 33777 (June 12, 2014); 19 U.S.C. § 1337(a)(1)(B) (making unlawful, in certain circumstances, 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 . . . infringe a valid and enforceable United States patent . . ."). It has long been recognized that an importation of even one accused product can satisfy the importation requirement of section 337. *See Certain Trolley Wheel Assemblies*, Inv. No. 337-TA-161, Comm'n Op. at 7-8, USITC Pub. No. 1605 (Nov. 1984) (deeming the importation requirement satisfied by the importation of a single product of no commercial value).

The Commission Rules provide that "[a]ny party may move with any necessary supporting affidavits for a summary determination in its favor upon all or part of the issues to be determined in the investigation." 19 C.F.R. § 210.18(a). Summary determination "shall be rendered if pleadings and any depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and

² Canon also moved for summary determination that the importation requirement is satisfied with respect to the accused products of respondent International Laser Group, Inc. ("ILG"), but later withdrew the motion as to ILG. *See* Notice of Partial Withdrawal of Canon's Motion for Summary Determination That the Importation Requirement of Section 337 Is Satisfied (Dec. 18, 2014) (EDIS Doc. No. 548062).

³ Pursuant to Commission Rule 210.15, if a nonmoving party does not respond to a motion, "he may be deemed to have consented to the granting of the relief asked for in the motion." 19 C.F.R. § 210.15(c).

that the moving party is entitled to a summary determination as a matter of law.” 19 C.F.R. § 210.18(b).

With the pending motion, Canon seeks summary determination that the accused products of certain respondents have been imported into the United States, thereby satisfying the importation requirements of 19 U.S.C. § 1337(a)(1)(B). *See* Mem. at 10-30. Each group of related respondents will be addressed separately below.

Aster

Respondents Jiangxi Yibo E-Tech Co., Ltd., Aster Graphics Co., Ltd., and Aster Graphics, Inc. (collectively, “Aster”) have stipulated that the following ink cartridges are representative of their MONO1A, MONO2A, and COLOR⁴ accused products:

Cartridge Type	Model Designation	Physical Sample(s)
MONO1A with one-piece coupling member	PT120	CAN P0111 A-D Complaint Physical Exhibit S
MONO1A with two-piece coupling member	AC-H0280AC	CAN P0137 A-F
MONO2A	PTCE255A	CAN P0120 A-D Complaint Physical Exhibit T
COLOR	CHCE311A	CAN P0124 A-D Complaint Physical Exhibit U

See Mem. at 10; Joint Stipulation Regarding Representative Accused Products at 8.

The evidence submitted with Canon’s motion demonstrates that Aster [

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⁴ For purposes of this investigation, the parties have stipulated that the ink cartridges accused in this investigation can be separated into six representative categories: “MONO1A,” “MONO1C,” “MONO1D,” “MONO2A,” “MONO2B,” and “COLOR.” *See* Mem. at 1-2; Joint Stipulation Regarding Representative Accused Products (Oct. 8, 2014) (EDIS Doc. No. 543811).

[]. *See* Mem. at 10-11 (citing F34, F35).⁵ The evidence therefore demonstrates that the importation requirement of Section 337 is satisfied with respect to the Aster accused products.

Supplies Guys

Respondents American Internet Holdings, LLC and The Supplies Guys, LLC (collectively, “Supplies Guys”) have stipulated that the following cartridges are representative of their MONO1A (with one- or two-piece coupling members), MONO2A (with one- or two-piece coupling members), and COLOR accused products:

Cartridge Type	Model Designation	Physical Sample(s)
MONO1A with one-piece coupling member	CE505A-C	CAN P0139 A-B Complaint Physical Exhibit X
MONO1A with two-piece coupling member	AC-H0280AC	CAN P0137 A-F
MONO2A with one-piece coupling member	AC-H0255AC	CAN P0140 A-B
MONO2A with two-piece coupling member	NT-C0255C	CAN P0141 A-D
COLOR	AC-H0312Y	CAN P0144 A-E Complaint Physical Exhibit Y

See Mem. at 14-15; Joint Statement Regarding Representative Accused Products at 14.

The evidence submitted with the pending motion shows that Supplies Guys sold the representative AC-H0280AC, AC-H0255AC, and AC-H0312Y products to Canon’s investigator in the United States between August 2013 and May 2014. *See* Mem. at 15 (citing F59).

Although the box of each product does not indicate a country of origin, [

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⁵ Citations to “F[]” refer to the Statement of Material Facts in Support of Canon’s Motion for Summary Determination That the Importation Requirement of Section 337 Is Satisfied (EDIS Doc. No. 975420), which was submitted with the pending motion.

[]. *See* Mem. at 15 (citing F34, F60). Moreover, Supplies Guys [], and the evidence shows that []. *See id.* (citing F62).

Canon also submitted evidence showing that Supplies Guys sold the representative CE505A-C products to Canon's investigator in the United States in November 2013. *See* Mem. at 16 (citing F63). Aster has stated that the representative CE505A-C products are manufactured by Jiangxi Yibo E-Tech Co., Ltd. in China and imported into the United States. *See id.* (citing F65). The evidence also shows that, as recently as July 2014, Supplies Guys []. *See id.* (citing F66).

The submitted evidence also shows that Supplies Guys sold the representative NT-C0255C products to Canon's investigator in the United States in November 2013. *See* Mem. at 16 (citing F67). The box of each product indicates that it was made in China. *See id.* (citing F68). The evidence further demonstrates that the NT-C0255C cartridges [],⁶ and that, as recently as July 2014, Supplies Guys []. *See id.* (citing F17, F69).

The evidence therefore demonstrates that the importation requirement of Section 337 is satisfied with respect to the Supplies Guys accused products.

⁶ []

Defaulting Respondents

Respondents Shenzhen ASTA Official Consumable Co., Ltd., Acecom, Inc. – San Antonio, Do It Wiser LLC, Grand Image Inc., Green Project, Inc., Nectron International, Inc., Online Tech Stores, LLC, Printronic Corporation, and Zinyaw LLC (collectively, the “defaulting respondent”) have been found in default. *See* Order No. 6 (July 29, 2014) (not reviewed); Order No. 12 (Sept. 5, 2014) (not reviewed). Canon argues that these defaulting respondents have waived their right to contest the allegations in Canon’s complaint, including allegations that the importation requirement of Section 337 has been satisfied with respect to the accused products of the defaulting respondents. *See* Mem. at 16-18 (citing 19 C.F.R. §§ 210.16(b)(4) and (c)).

Inasmuch as Canon may seek immediate relief from the Commission with respect to the defaulting respondents, the administrative law judge declines to grant summary determination as to the defaulting respondents at this time.

* * *

Therefore, it is the initial determination of the administrative law judge that the importation requirement of Section 337 is satisfied as to respondents Jiangxi Yibo E-Tech Co., Ltd., Aster Graphics Co., Ltd., Aster Graphics, Inc., American Internet Holdings, LLC, and The Supplies Guys, LLC. Motion No. 918-27 is granted in part.

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

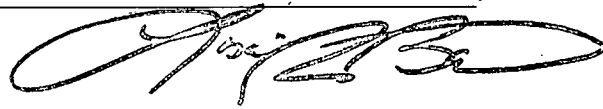
Issued: January 15, 2014

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PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **INITIAL DETERMINATION (ORDER NO. 20)** has been served by hand upon the Commission Investigative Attorney, **James Wiley, Esq.**, and the following parties as indicated, on **JAN 15 2015**



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