

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

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OFFICE OF THE SECRETARY
U.S. INTL TRADE COMM

In the Matter of)
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CERTAIN INK CARTRIDGES AND)
COMPONENTS THEREOF)
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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". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

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.



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 (CORRECTED)

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”); 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.

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U.S. ITC
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20541

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; 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, 5,488,401, 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, 5,488,401, 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.

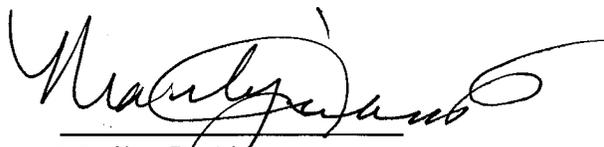
The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The bond and any accompanying documentation is to be provided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



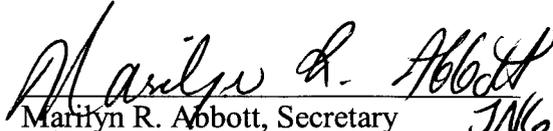
Marilyn R. Abbott
Secretary to the Commission

Issued: October 30, 2008

PUBLIC CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **ORDER TO CEASE AND DESIST (CORRECTED)** has been served by hand upon the Commission Investigative Attorney, Kevin Baer, Esq., and the following parties as indicated, on

OCT 31 2008


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

TOWN SKY INC.
5 South Linden Avenue
Suite 4
South San Francisco, CA 94080

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: CERTIFIED MAIL

**ON BEHALF OF COMPLAINANTS EPSON
PORTLAND, INC., EPSON AMERICA, INC.,
AND SEIKO EPSON CORPORATION:**

Louis S. Mastriani, Esq.
ADDUCI, MASTRIANI & SCHAUMBERG LLP
1200 Seventeenth Street, NW
Washington, DC 20036
P- 202-467-6300

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: CERTIFIED MAIL

**ON BEHALF OF RESPONDENTS NINESTAR
TECHNOLOGY CO., LTD., AND TOWN SKY INC.,:**

Edward F. O'Connor, Esq.
THE ECLIPSE GROUP LLP
1920 Main Street, Suite 150
Irvine, CA 92614
P-949-851-5000
F-949-851-5051

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: CERTIFIED MAIL

**ON BEHALF OF RESPONDENT DATAPRODUCTS
USA LLC.:**

Joel E. Lutzker, Esq.
SCHULTE ROTH & ZABEL LLP
919 Third Avenue
New York, New York 10022
P-212-756-2000
F-212-593-5955

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: CERTIFIED MAIL

**ON BEHALF OF RESPONDENTS MMC
CONSUMMABLES INC., AND ZHUHAI GREE
MAGNETO-ELECTRIC CO., LTD.:**

Thomas T. Chan, Esq.
CHAN LAW GROUP LLP
1055 West 7th Street, Suite 1880
Los Angeles, CA 90017
P-213-624-6560
F-213-622-1154

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: CERTIFIED MAIL

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Town Sky Inc.
5 South Linden Avenue
Suite 4
South San Francisco, CA 94080

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (*Printed Name*)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Certified Mail
- Registered
- Insured Mail
- Express Mail
- Return Receipt for Merchandise
- C.O.D.

4. Restricted Delivery? (*Extra Fee*) Yes

2. Article Number
(*Transfer from service label*)

7003 2260 0004 5448 3657

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

SUS C+D Order

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Joel E. Lutzker, Esq.
 Schulte Roth & Zabel LLP
 919 Third Avenue
 New York, NY 10022

2. Article Number
 (Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7003 2260 0004 5448 2162

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540

565 C + D Order

SENDER: COMPLETE THIS SECTION

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Thomas T. Chan, Esq.
 Chan Law Group LLP
 1055 West 7th Street Suite 1880
 Los Angeles, CA 90017

2. Article Number
 (Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7003 2260 0004 5448 2179

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540

565 C + D Order

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee X
1. Article Addressed to: <div style="border: 1px solid black; padding: 5px; width: fit-content;"> Edward F. O'Connor, Esq. The Eclipse Group LLP 1920 Main Street Suite 150 Irvine, CA 92614 </div>	B. Received by (<i>Printed Name</i>) C. Date of Delivery D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No
2. Article Number <i>(Transfer from service label)</i>	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (<i>Extra Fee</i>) <input type="checkbox"/> Yes
7003 2260 0004 5448 2155	

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

565 C+D order

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee X
1. Article Addressed to: <div style="border: 1px solid black; padding: 5px; width: fit-content;"> Louis S. Mastriani, Esq. Adduci Mastriani & Schaumberg LLP 1200 Seventeenth Street NW Washington, DC 20036 </div>	B. Received by (<i>Printed Name</i>) C. Date of Delivery D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No
2. Article Number <i>(Transfer from service label)</i>	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (<i>Extra Fee</i>) <input type="checkbox"/> Yes
7003 2260 0004 5448 2148	

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

565 C+D order

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN INK CARTRIDGES AND
COMPONENT PARTS THEREOF**

Inv. No. 337-TA-565

2008 OCT 20 PM 4:35
UNITED STATES INTERNATIONAL TRADE COMMISSION

ORDER TO CEASE AND DESIST (CORRECTED)

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”); 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 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; 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, 5,488,401, 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, 5,488,401, 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.

A handwritten signature in black ink, appearing to read "Marilyn R. Abbott", written in a cursive style. The signature is positioned above a horizontal line.

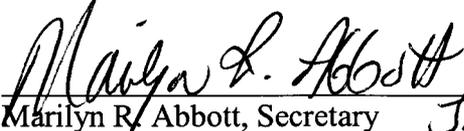
Marilyn R. Abbott
Secretary to the Commission

Issued: October 30, 2008

PUBLIC CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **ORDER TO CEASE AND DESIST (CORRECTED)** has been served by hand upon the Commission Investigative Attorney, Kevin Baer, Esq., and the following parties as indicated, on

OCT 31 2008


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

NINE STAR TECHNOLOGY COMPANY LTD
4620 Mission Boulevard
Montclair, CA 91763

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: Certified Mail

ON BEHALF OF COMPLAINANTS EPSON
PORTLAND, INC., EPSON AMERICA, INC.,
AND SEIKO EPSON CORPORATION:

Louis S. Mastriani, Esq.
ADDUCI, MASTRIANI & SCHAUMBERG LLP
1200 Seventeenth Street, NW
Washington, DC 20036
P- 202-467-6300

Via Hand Delivery
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 Other: Certified Mail

ON BEHALF OF RESPONDENTS NINESTAR
TECHNOLOGY CO., LTD., AND TOWN SKY INC.:

Edward F. O'Connor, Esq.
THE ECLIPSE GROUP LLP
1920 Main Street, Suite 150
Irvine, CA 92614
P-949-851-5000
F-949-851-5051

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: Certified Mail

**ON BEHALF OF RESPONDENT DATAPRODUCTS
USA LLC.:**

Joel E. Lutzker, Esq.
SCHULTE ROTH & ZABEL LLP
919 Third Avenue
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F-212-593-5955

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**ON BEHALF OF RESPONDENTS MMC
CONSUMMABLES INC., AND ZHUHAI GREE
MAGNETO-ELECTRIC CO., LTD.:**

Thomas T. Chan, Esq.
CHAN LAW GROUP LLP
1055 West 7th Street, Suite 1880
Los Angeles, CA 90017
P-213-624-6560
F-213-622-1154

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- Other: Certified Mail

SENDER COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Nine Star Technology Company Ltd
4620 Mission Boulevard
Montclair, CA 91763

2. Article Number
(Transfer from service label)

7003 2260 0004 5448 2131

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

565 C&D Order

SENDER: COMPLETE THIS SECTION

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Edward F. O'Connor, Esq.
 The Eclipse Group LLP
 1920 Main Street Suite 150
 Irvine, CA 92614

2. Article Number
 (Transfer from service label)

7003 2260 0004 5448 2155

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 X Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes
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3. Service Type
 Certified Mail Express Mail
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 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

565 C+D order

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Louis S. Mastriani, Esq.
 Adduci Mastriani & Schaumberg LLP
 1200 Seventeenth Street NW
 Washington, DC 20036

2. Article Number
 (Transfer from service label)

7003 2260 0004 5448 2148

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 X Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
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PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

565 C+D order

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Joel E. Lutzker, Esq.
Schulte Roth & Zabel LLP
919 Third Avenue
New York, NY 10022

2. Article Number
(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
X Addressee

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If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7003 2260 0004 5448 2162

565 C + D Order

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Thomas T. Chan, Esq.
Chan Law Group LLP
1055 West 7th Street Suite 1880
Los Angeles, CA 90017

2. Article Number
(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
X Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7003 2260 0004 5448 2179

565 C + D Order

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 (CORRECTED)

IT IS HEREBY ORDERED THAT Dataproducts USA LLC, 2001 Anchor Court, Thousand Oaks, California 91320, 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”); 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.

2009 OCT 20 PM 14:37
OIG
U.S. ITC

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 Dataproducts USA LLC, 2001 Anchor Court, Thousand Oaks, California 91320.

(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; 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, 5,488,401, 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, 5,488,401, 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.

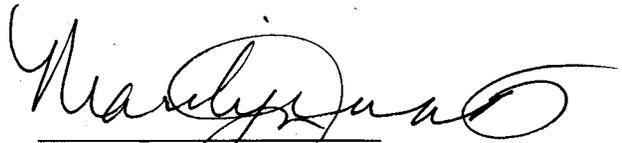
The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The bond and any accompanying documentation is to be provided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

A handwritten signature in black ink, appearing to read "Marilyn R. Abbott", written in a cursive style with a large loop at the end.

Marilyn R. Abbott
Secretary to the Commission

Issued: October 30, 2008

PUBLIC CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **ORDER TO CEASE AND DESIST (CORRECTED)** has been served by hand upon the Commission Investigative Attorney, Kevin Baer, Esq., and the following parties as indicated, on

OCT 31 2008


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

DATAPRODUCTS USA LLC
2001 Anchor Court
Thousand Oaks, CA 91320

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: CERTIFIED MAIL

**ON BEHALF OF COMPLAINANTS EPSON
PORTLAND, INC., EPSON AMERICA, INC.,
AND SEIKO EPSON CORPORATION:**

Louis S. Mastriani, Esq.
ADDUCI, MASTRIANI & SCHAUMBERG LLP
1200 Seventeenth Street, NW
Washington, DC 20036
P- 202-467-6300

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: CERTIFIED MAIL

**ON BEHALF OF RESPONDENTS NINESTAR
TECHNOLOGY CO., LTD., AND TOWN SKY INC.,:**

Edward F. O'Connor, Esq.
THE ECLIPSE GROUP LLP
1920 Main Street, Suite 150
Irvine, CA 92614
P-949-851-5000
F-949-851-5051

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: CERTIFIED MAIL

**ON BEHALF OF RESPONDENT DATAPRODUCTS
USA LLC.:**

Joel E. Lutzker, Esq.
SCHULTE ROTH & ZABEL LLP
919 Third Avenue
New York, New York 10022
P-212-756-2000
F-212-593-5955

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: CERTIFIED MAIL

**ON BEHALF OF RESPONDENTS MMC
CONSUMMABLES INC., AND ZHUHAI GREE
MAGNETO-ELECTRIC CO., LTD.:**

Thomas T. Chan, Esq.
CHAN LAW GROUP LLP
1055 West 7th Street, Suite 1880
Los Angeles, CA 90017
P-213-624-6560
F-213-622-1154

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: CERTIFIED MAIL

SENDER: COMPLETE THIS SECTION

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
 Print your name and address on the reverse so that we can return the card to you.
 Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

DataProducts USA LLC
 2001 Anchor Court
 Thousand Oaks, CA 91320

2. Article Number

(Transfer from service label)

7003 2260 0004 5448 3640

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

 Agent AddresseeB. Received by (*Printed Name*)

C. Date of Delivery

D. Is delivery address different from item 1? YesIf YES, enter delivery address below: No

3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.4. Restricted Delivery? (*Extra Fee*) Yes

565 C + D order

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Joel E. Lutzker, Esq.
Schulte Roth & Zabel LLP
919 Third Avenue
New York, NY 10022

2. Article Number
(Transfer from service label)

7003 2260 0004 5448 2162

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

565 C + D Order

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

 Agent Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Thomas T. Chan, Esq.
Chan Law Group LLP
1055 West 7th Street Suite 1880
Los Angeles, CA 90017

2. Article Number
(Transfer from service label)

7003 2260 0004 5448 2179

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

565 C + D Order

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

 Agent Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	A. Signature X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to: <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> Edward F. O'Connor, Esq. The Eclipse Group LLP 1920 Main Street Suite 150 Irvine, CA 92614 </div>	B. Received by (Printed Name)	C. Date of Delivery
	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.		
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes		
2. Article Number (Transfer from service label)	7003 2260 0004 5448 2155	

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540 **565 C+D order**

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	A. Signature X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to: <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> Louis S. Mastriani, Esq. Adduci Mastriani & Schaumberg LLP 1200 Seventeenth Street NW Washington, DC 20036 </div>	B. Received by (Printed Name)	C. Date of Delivery
	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.		
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes		
2. Article Number (Transfer from service label)	7003 2260 0004 5448 2148	

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540 **565 C+D order**

**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 MMC Consumables Inc., 20456 Carrey Road, Walnut, California 91789, 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 MMC Consumables Inc., 20456 Carrey Road, Walnut, California 91789.

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

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

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

(G) The term "covered products" shall mean 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.



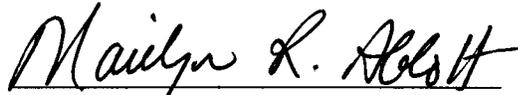
Marilyn R. Abbott
Secretary to the Commission

OCT 19 2007

Issued: _____

CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **NOTICE OF FINAL DETERMINATION; ISSUANCE OF GENERAL EXCULSION ORDER, LIMITED EXCULSION ORDER AND CEASE AND DESIST ORDERS; TERMINATION OF INVESTIGATION** has been served by hand upon the Commission Investigative Attorney, Kevin Baer, Esq., and the following parties as indicated, on October 22, 2007.



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

**ON BEHALF OF COMPLAINANTS EPSON
PORTLAND, INC., EPSON AMERICA, INC., AND
SEIKO EPSON CORPORATION:**

Louis S. Mastriani, Esq.
ADDUCI, MASTRIANI & SCHAUMBERG LLP
1200 Seventeenth Street, NW
Washington, DC 20036
P-202-467-6300

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

Harold A. Barza, Esq.
**QUINN EMANUEL URQUHART OLIVER &
HEDGES LLP**
865 South Figueroa Street, 10th Fl
Los Angeles, CA 90017
P- 213-443-3000

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

**ON BEHALF OF RESPONDENTS NINESTAR
TECHNOLOGY CO., LTD., TOWN SKY INC., AND
NINESTAR TECHNOLOGY COMPANY, LTD. AND
DATA PRODUCTS USA LLC.:**

Joel E. Lutzker, Esq.
Leonard S. Sorgi, Esq.
David H. Kagan, Esq.
SCHULTE ROTH & ZABEL, LLP

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

919 Third Avenue
New York, NY 10022
P-212-756-2000
F-212-593-5955

**ON BEHALF OF RESPONDENTS MMC
CONSUMMABLES INC., AND ZHUHAI GREE
MAGNETO-ELECTRIC CO., LTD.:**

Thomas T. Chan, Esq.
Ronald M. St. Marie, Esq.
Lisa A. Karczewski, Esq.
CHAN LAW GROUP LLP
1055 West 7th Street, Suite 1880
Los Angeles, CA 90017
P-213-624-6560
F-213-622-1154

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

Hung H. Bui, Esq.
George H. Spencer, Esq.
STEIN, McEWEN & Bui, LLP
1400 Eye Street, NW, Suite 300
Washington, DC 20005
P-202- 216-9505
F-202- 216-9510

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