



7020-02

INTERNATIONAL TRADE COMMISSION

Certain Magnetic Data Storage Tapes and Cartridges Containing the Same

[Investigation No. 337-TA-1012 (Enforcement Proceeding)]

Notice of Institution of Formal Enforcement Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has instituted a formal enforcement proceeding relating to the March 8, 2018 cease and desist orders issued in the above-referenced investigation.

FOR FURTHER INFORMATION CONTACT: Amanda P. Fisherow, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2737. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://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 the original investigation on July 1, 2016, based on a complaint filed by Fujifilm Corporation of Tokyo, Japan, and Fujifilm Recording Media U.S.A., Inc. of Bedford, Massachusetts (collectively, "Fujifilm"). 81

Fed. Reg. 43243-44 (July 1, 2016). Pertinent to this action, the complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), in the sale for importation, importation, and sale within the United States after importation of certain magnetic data storage tapes and cartridges containing the same by reason of infringement of claims 1, 4-9, 11 and 14 of U.S. Patent No. 6,641,891 (“the ’891 patent”). The Commission’s Notice of Investigation named as respondents Sony Corporation of Tokyo, Japan; Sony Corporation of America of New York, New York; and Sony Electronics Inc. of San Diego, California (collectively, “Sony”). The Office of Unfair Import Investigations (“OUII”) was also named as a party to the investigation.

On March 8, 2018, the Commission found a section 337 violation as to the ’891 patent and issued a limited exclusion order and cease and desist orders (“CDOs”) to each of the Sony respondents. 83 FR 11245-47 (March 14, 2018). The CDOs prohibit Sony from importing, selling, marketing, advertising, distributing, transferring (except for exportation), and soliciting United States agents or distributors for certain magnetic data storage tapes and cartridges containing the same that infringe the ’891 patent.

On May 9, 2018, Fujifilm filed a complaint requesting that the Commission institute a formal enforcement proceeding under Commission Rule 210.75 to investigate alleged violation of the CDOs by Sony. On May 23, 2018, Sony filed a letter requesting that the Commission determine not to institute the enforcement proceeding. On May 30, 2019, Fujifilm filed a response.

Having examined having examined the enforcement complaint, the supporting documents, and the pre-institution correspondence, the Commission has determined to institute a

formal enforcement proceeding, pursuant to 19 C.F.R. §210.75(a), to determine whether a violation of the March 8, 2018 CDOs issued in the original investigation has occurred and to determine what, if any, enforcement measures are appropriate. The named respondents are the three Sony entities from the original investigation and Sony Storage Media Solutions Corporation of Tokyo, Japan; Sony Storage Media Manufacturing Corporation of Miyagi, Japan; Sony DADC US Inc. of Terre Haute, Indiana; and Sony Latin America Inc. of Miami, Florida. OUII is also named as a party. The Commission has not ruled on the issues raised in the pre-institution correspondence submitted by the parties.

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

By order of the Commission.

Lisa Barton
Secretary to the Commission

Issued: June 7, 2018

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