



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1259 (Modification Proceeding)]

Certain Toner Supply Containers and Components Thereof (I); Notice of Commission Determination Not to Review an Initial Determination Terminating the Modification Proceeding Based on Withdrawal of the Petition; Termination of Modification Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined not to review an initial determination (“ID”) (Order No. 23) of the presiding administrative law judge (“ALJ”) granting the unopposed motion of respondents Katun Corporation (“Katun”) and General Plastic Industrial Co. Ltd. (“General Plastic”) to terminate the modification proceeding based on withdrawal of their petition for modification. The modification proceeding is hereby terminated.

FOR FURTHER INFORMATION CONTACT: Lynde Herzbach, Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 205-3228. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: On April 13, 2021, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based on a complaint filed by Canon Inc. of Tokyo, Japan; Canon U.S.A., Inc. of Melville, New York; and Canon Virginia, Inc. of Newport News, Virginia (collectively,

“Complainants”). *See* 86 FR 19284-86. The complaint, as supplemented, alleges a violation of section 337 based upon the importation into the United States, sale for importation, or sale after importation into the United States of certain toner supply containers and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 10,209,667 (“the ’667 patent”); 10,289,060 (“the ’060 patent”); 10,289,061 (“the ’061 patent”); 10,295,957 (“the ’957 patent”); 10,488,814 (“the ’814 patent”); 10,496,032 (“the ’032 patent”); 10,496,033 (“the ’033 patent”); 10,514,654 (“the ’654 patent”); 10,520,881 (“the ’881 patent”); 10,520,882 (“the ’882 patent”); 8,565,649; 9,354,551; and 9,753,402. *Id.* The complaint further alleges that a domestic industry exists. *Id.*

The Commission instituted two separate investigations based on the complaint and defined the scope of the present investigation as whether there is a violation of section 337 in the importation, sale for importation, or sale within the United States after importation of toner supply containers and components thereof by reason of infringement of certain claims the ’667 patent, the ’060 patent, the ’061 patent, the ’957 patent, the ’814 patent, the ’032 patent, the ’033 patent, the ’654 patent, the ’881 patent, and the ’882 patent (collectively, “the Asserted Patents”). *Id.* The notice of investigation (“NOI”) names twenty-six respondents, including General Plastic of Taichung, Taiwan and Katun of Minneapolis, Minnesota. *Id.* The Office of Unfair Import Investigations (“OUII”) was also a party to the investigation. *Id.*

The complaint and NOI were later amended to correct the name of a respondent. Order No. 5 (May 13, 2021), *unreviewed by* 86 FR 29292-93 (June 1, 2021).

Twenty-two of the named respondents were later found in default (hereinafter, “Defaulting Respondents”). *See* Order No. 7 (June 22, 2021), *unreviewed by* Notice (July 6, 2021); Order No. 18 (Sept. 28, 2021), *unreviewed by* Notice (Oct. 27, 2021). Several respondents, including General Plastic and Katun were later terminated from the investigation based on consent order stipulations. Order No. 10 (July 1, 2021), *unreviewed by* Notice (July 19,

2021). Another respondent was later terminated based on partial withdrawal of the complaint. Order No. 13, *unreviewed by* Notice (Aug. 25, 2021).

The Commission also terminated the investigation as to certain claims of the Asserted Patents. Order No. 11, *unreviewed by* Notice (Aug. 25, 2021).

On August 1, 2022, the Commission affirmed an initial determination issued by the presiding ALJ, granting summary determination of a violation of section 337 with respect to Defaulting Respondents. 87 FR 48039-41 (Aug. 5, 2022). Accordingly, the Commission issued: (1) a GEO prohibiting the unlicensed entry of certain toner supply containers and components thereof that infringe one or more of claim 1 of the '667 patent; claim 1 of the '060 patent; claim 1 of the '061 patent; claim 1 of the '957 patent; claims 1 and 12 of the '814 patent; claims 50, 58, and 61 of the '032 patent; claims 1 and 13 of the '033 patent; claims 46 and 50 of the '654 patent; claims 1, 10, and 13 of the '881 patent; or claims 1 and 8 of the '882 patent; and (2) CDOs against certain of Defaulting Respondents. *Id.*

On April 25, 2023, respondents Katun and General Plastic filed a petition pursuant to Commission Rule 210.76 (19 CFR 210.76) to modify the GEO in order to clarify that the order does not cover certain Katun and General Plastic redesigned toner supply containers. On May 5, 2023, Complainants filed an opposition to the petition. OUII did not file a response to the petition.

On June 1, 2023, the Commission instituted a modification proceeding, pursuant to Commission Rule 210.76(a) (19 CFR 210.76(a)), to determine whether certain redesigned toner supply containers of Katun and General Plastic infringe the '667 patent, the '060 patent, the '061 patent, the '957 patent, the '814 patent, the '032 patent, the '033 patent, the '654 patent, the '881 patent, or the '882 patent. 88 FR 35915-35917 (June 1, 2023).

On July 3, 2023, Katun and General Plastic filed a motion to terminate the modification proceeding based on the withdrawal of their petition. That same day, Complainants filed a response stating that Complainants do not oppose the motion but reserve their right to oppose

institution of any future proceeding. On July 5, 2023, OUII filed a response supporting the motion to terminate.

On July 11, 2023, the presiding ALJ issued the subject ID granting Katun's and General Plastic's motion to terminate the modification proceeding pursuant to Commission Rule 210.21(a)(1) (19 CFR 210.21(a)(1)). Order No. 23 (July 11, 2023). The ID finds that the motion complies with the Commission's rules and that there are no extraordinary circumstances that might justify denying the motion. No party petitioned for review of the subject ID.

The Commission has determined not to review the subject ID. The modification proceeding is terminated.

The Commission vote for this determination took place on August 9, 2023.

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.

Issued: August 9, 2023.

Lisa Barton,
Secretary to the Commission.

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