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ONRR Information Collection Clearance Officer: Luis Aguilar (303) 231–3418.

Authority: The authorities for this action are the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1337) and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et. seq.*).

Gregory J. Gould,

Director for Office of Natural Resources Revenue.

[FR Doc. 2017–27204 Filed 12–15–17; 8:45 am]

BILLING CODE 4335–30–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1012]

Certain Magnetic Data Storage Tapes and Cartridges Containing the Same; Commission Determination To Review-in-Part a Final Initial Determination Finding a Violation of Section 337; Request for Written Submissions; Extension of Target Date for Completion of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the presiding administrative law judge's (''ALJ'') final initial determination (''Final ID'') issued on September 1, 2017, finding a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337'') in the above-captioned investigation. The Commission has also determined to extend the target date for completion of the above-captioned investigation to February 20, 2018.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2301. 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 SW, Washington, DC 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 this 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 FR 43243–44 (July 1, 2016). The Complaint alleges 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 certain claims of U.S. Patent Nos. 6,641,891 (''the '891 patent''); 6,703,106 (''the '106 patent''); 6,703,101 (''the '101 patent''); 6,767,612 (''the '612 patent''); 8,236,434 (''the '434 patent''); and 7,355,805 (''the '805 patent''). The Complaint further alleges the existence of a domestic industry. 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. The Commission later terminated the investigation as to the '101 patent. Order No. 24 (Jan. 18, 2017); Notice (Feb. 15, 2017).

On September 1, 2017, the ALJ issued his final ID finding a violation of section 337 with respect to claims 1, 4–9, 11, and 14 of the '891 patent and asserted claims 1, 2, 4, 5, 7, and 8 of the '612 patent. The ALJ found no violation of section 337 with respect to asserted claims 9–11 of the '612 patent; asserted claim 2, 5, and 6 of the '106 patent; asserted claim 1 of the '434 patent; and asserted claims 3 and 10 of the '805 patent.

In particular, the Final ID finds that Sony's accused products infringe claims 1, 4–9, 11, and 14 of the '891 Patent under 35 U.S.C. 271(a). The Final ID also finds that Fujifilm's domestic industry (''DI'') products practice the asserted claims of the '891 Patent, thus Fujifilm has satisfied the technical prong of the domestic industry requirement with respect to the '891 Patent regarding its LTO–6 and LTO–7 DI products. The Final ID finds that Sony has not shown that the asserted claims of the '891 Patent are invalid under 35 U.S.C. 102, 103, or 112.

The Final ID finds that Sony's accused products infringe asserted claims 1, 2, 4, 5, 7, and 8 of the '612 Patent under 35 U.S.C. 271(a). The Final ID finds, however, that Fujifilm failed to show that Sony has induced infringement of claims 9–11 of the '612 Patent under 35 U.S.C. 271(b). The Final ID further finds that Fujifilm's DI products practice claims 1, 2, 4, 5, and 7–11 of the '612 Patent and, thus, Fujifilm has satisfied the technical prong of the domestic industry requirement with respect to the '612 Patent regarding its LTO–6 and LTO–7 DI products. The Final ID finds that Sony has not shown that the asserted claims of the '612 Patent are invalid under 35 U.S.C. 102, 103, or 112.

The Final ID finds that the accused products do not infringe asserted claims 2, 5, and 6 of the '106 Patent under 35 U.S.C. 271(a). The Final ID further finds that neither Fujifilm's LTO–6 nor LTO–7 DI products practice any claim of the '106 Patent, thus Fujifilm has failed to satisfy the technical prong of the domestic industry requirement with respect to the '106 Patent. The Final ID also finds that Sony has not shown that the asserted claims of the '106 Patent are invalid under 35 U.S.C. 102 or 103, but has shown that the asserted claims of the '106 Patent are indefinite under 35 U.S.C. 112.

The Final ID finds that the accused products do not infringe asserted claim 1 of the '434 under 35 U.S.C. 271(a). The Final ID further finds that Fujifilm's LTO–7 DI products do not practice any claim of the '434 Patent, thus Fujifilm has failed to satisfy the technical prong of the domestic industry requirement with respect to the '434 Patent. The Final ID finds that Sony has not shown that the asserted claims of the '434 Patent are invalid under 35 U.S.C. 102, 103, or 112.

The Final ID finds the accused products do not infringe asserted claims 3 and 10 of the '805 Patent under 35 U.S.C. 271(a). The Final ID further finds that Fujifilm's LTO–7 DI products practice claims 1, 2, 3, and 10 of the '805 Patent. The Commission notes that the Final ID misstates its finding concerning the technical prong in the Conclusions of Fact and Law with respect to the '805 Patent The Final ID finds that Sony has not shown that the asserted claims of the '805 Patent are invalid under 35 U.S.C. 102, 103, or 112.

The Final ID finds that Fujifilm has satisfied the economic prong of the domestic industry requirement with

respect to the '891, '612, and '106 Patent pursuant to 19 U.S.C. 337(A) and (B) for the asserted LTO–6 DI products. The Final ID finds that Fujifilm has not satisfied the economic prong requirement for the asserted LTO–7 DI products, which Fujifilm asserted alone with respect to the '434 and '805 patents.

The Final ID finds Sony has not shown that the '612, '106, and '805 Patents are essential to the LTO–7 Standard. The Final ID also finds that Fujifilm has not breached any provisions of the Fujifilm AP–75 agreement, in particular §§ 8.2 or 11.11. The Final ID further finds that Sony has not shown that the AP–75 agreement warrants barring Fujifilm's claims or terminating the investigation. The Final ID also finds that patent misuse does apply to bar Fujifilm's claims. The Final ID further finds that Fujifilm has not waived its rights to enforce the patents-in-suit. The Final ID also finds that Sony does not have an implied license to the patents-in-suit. The Final ID further finds that Sony has not shown that patent exhaustion applies.

On September 12, 2017, the ALJ issued his recommended determination on remedy and bonding. As instructed by the Commission, the ALJ also made findings concerning the public interest factors set forth in 19 U.S.C. 1337(d)(1) and (f)(1). *See* 81 FR 43243. The ALJ recommended that the appropriate remedy is a limited exclusion order and a cease and desist order against Sony. The ALJ recommended that the Commission require no bond during the period of Presidential review. The ALJ further found that public interest factors do not bar or require tailoring the recommended exclusion order. The ALJ also found that even if the asserted claims are essential, the public interest does not favor tailoring or curbing and exclusion order because Fujifilm did not breach its obligations under the AP–75 Agreement.

On September 18, 2017, Sony and OUII each filed petitions for review of various aspects of the Final ID. Also on September 18, 2017, Fujifilm filed a contingent petition for review of various aspects of the Final ID.

Sony petitions for review of the Final ID's finding that the asserted claims of the '891 Patent are not invalid as indefinite, anticipated, or obvious. Sony also petitions for review of the Final ID's findings that Sony's accused products infringe the asserted claims 1, 2, 4, 5, 7, and 8 of the '612 Patent and that the asserted claims of the '612 Patent are not invalid as obvious or indefinite. Sony contingently petitions for review of the Final ID's finding that the asserted claims are not invalid as obvious. Sony also contingently petitions for review of the Final ID's findings that the asserted claim of the '434 Patent is not invalid as indefinite or obvious. Sony further contingently petitions for review of the Final ID's findings that claims 3 and 10 are not invalid as anticipated. Sony also petitions for review of the Final ID's finding regarding Fujifilm's AP–75 Agreement. Sony further petitions for review of the Final ID's finding that Fujifilm has satisfied the economic prong of the domestic industry requirement with respect to its LTO–6 DI products.

OUII petitions for review of the Final ID's finding that Fujifilm failed to satisfy the technical prong of the domestic industry requirement with respect to the '434 Patent and that Sony's accused products do not infringe claim 1 of the '434 Patent.

Fujifilm contingently petitions for review of the Final ID's findings that Sony's accused LTO–7 products do not infringe claim 1 of the '434 Patent and that Fujifilm's LTO–7 DI products do not satisfy the technical prong with respect to claim 1 of the '434 Patent. Fujifilm also contingently petitions for review of the Final ID's finding that Sony's accused products do not infringe the asserted claims of the '805 Patent. Fujifilm further contingently petitions for review of the Final ID's findings that Sony's accused LTO–7 products do not infringe the asserted claims of the '106 Patent, that Fujifilm's LTO products do not satisfy the technical prong with respect to the asserted claims of the '106 Patent, and that the asserted claims of the '106 Patent are invalid as indefinite. Fujifilm also contingently petitions for review of the Final ID's findings with respect to secondary considerations of non-obviousness with respect to the patents-in-suit. Fujifilm further contingently petitions for review of the Final ID's finding that Fujifilm has failed to satisfy the economic prong with respect to its LTO–7 DI products.

On September 26, 2017, Fujifilm, Sony, and OUII filed responses to the various petitions for review.

On October 6, 2017, Fujifilm filed a post-RD statement on the public interest pursuant to Commission Rule 210.50(a)(4). Sony filed its statement on October 13, 2017. No responses were filed by the public in response to the post-RD Commission Notice issued on September 13, 2017. *See* Notice of Request for Statements on the Public Interest (Sept. 13, 2017); 82 FR 43567–68 (Sept. 18, 2017).

Having examined the record of this investigation, including the Final ID, the petitions for review, and the responses thereto, the Commission has determined to review the Final ID in part.

Specifically, the Commission has determined to review-in-part the Final ID's finding of violation with respect to the '891 Patent. In particular, the Commission has determined to review the Final ID's findings with respect to anticipation and obviousness. The Commission has further determined to review the Final ID's findings concerning secondary considerations.

The Commission has also determined to review-in-part the Final ID's finding of violation with respect to the '612 Patent. Specifically, the Commission has determined to review the Final ID's finding that the asserted claims of the '612 Patent are not obvious. Accordingly, the Commission has also determined to review the Final ID's finding that Fujifilm has satisfied the technical prong of the domestic industry requirement with respect to the '612 Patent.

The Commission has further determined to review-in-part the Final ID's findings with respect to the '106 Patent. Specifically, the Commission has determined not to review the Final ID's finding that the asserted claims of the '106 Patent are invalid as indefinite. The Commission has also determined to determine to review the Final ID's findings with respect to obviousness, infringement, and the technical prong of the domestic industry requirement.

The Commission has also determined to review-in-part the Final ID's findings with respect to the '434 Patent. Specifically the Commission has determined to review the Final ID's finding that Sony's accused LTO–7 products do not infringe claim 1 of the '434 Patent. The Commission has also determined to review the Final ID's finding that Fujifilm's LTO–7 DI products do not practice claim 1. The Commission has further determined to review the Final ID's finding that claim 1 is not obvious.

The Commission has further determined to review-in-part the Final ID's findings with respect to the '805 Patent. Specifically, the Commission has determined to review the Final ID's finding that Sony's accused LTO–7 products do not infringe asserted claims 3 and 10 of the '805 Patent. The Commission has also determined to review the Final ID's finding that U.S. Patent No. 6,710,967 (''Hennecken'') does not anticipate claims 3 and 10.

The Commission has also determined review the Final ID's findings that the asserted claims of the '612, '106, and '805 Patents are not essential to the LTO–7 Standard.

The Commission has further determined to review the Final ID's findings concerning the economic prong of the domestic industry.

The Commission has determined not to review the remaining issues decided in the Final ID.

The parties are requested to brief their positions on the issues under review with reference to the applicable law and the evidentiary record. In connection with its review, the Commission is particularly interested in responses to the following questions:

1. With respect to claim 1 of the '434 patent, please address the proper scope of the limitations ''a power spectrum density at a pitch of 10 micrometers ranges from 800 to 10,000 nm^3 on the magnetic layer surface.'' In particular, please explain whether the entirety of the claimed ''magnetic layer surface'' must exhibit the recited range of power spectrum densities such that a finding of infringement would require that no portion of the claimed ''magnetic layer surface'' exhibits a power spectrum density outside of the claimed range.

2. With respect to claim 1 of the '434 patent, please address the proper scope of the limitations ''a power spectrum density at a pitch of 10 micrometers ranges from 20,000 to 80,000 nm^3 on the backcoat layer surface.'' In particular, please explain whether the entirety of the claimed ''backcoat layer surface'' must exhibit the recited range of power spectrum densities such that a finding of infringement would require that no portion of the claimed ''backcoat layer surface'' exhibits a power spectrum density outside of the claimed range.

3. Please address whether the backcoat layer of the accused products exhibit any power spectrum density values outside of the range recited in claim 1 of the '434 patent.

4. Please address whether the backcoat layer of the asserted domestic industry products exhibit any power spectrum density values outside of the range recited in claim 1 of the '434 patent.

5. Please address whether the magnetic layer of the asserted domestic industry products exhibit any power spectrum density values outside of the range recited in claim 1 of the '434 patent.

6. Please address how the asserted domestic industry products practice the limitation ''a first step of encoding data for specifying a servo band where the servo signal positions'' recited in claims 3 and 10 of the '805 patent and how, or if, that informs whether the accused products infringe that claim limitation.

7. Please provide a comparison of Fujifilm's domestic revenues to its global revenues for the LTO–6 DI Products for fiscal year 2013–2015, and address whether Fujifilm's domestic investments in the LTO–6 are significant in this context.

The parties have been invited to brief only these discrete issues, as enumerated above, with reference to the applicable law and evidentiary record. The parties are not to brief other issues on review, which are adequately presented in the parties' existing filings.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent(s) being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to the investigation, including the Office of Unfair Import Investigations, are requested to file written submissions on the issues identified in this notice. Parties to the investigation, including the Office of Unfair Import Investigations, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding. Complainant and the Office of Unfair Import Investigations are also requested to submit proposed remedial orders for the Commission's consideration. Complainant is further requested to state the dates that the patents expire, the HTSUS numbers under which the accused products are imported, and any known importers of the accused products. The written submissions and proposed remedial orders must be filed no later than close of business on December 27, 2017. Initial submissions are limited to 50 pages, not including any attachments or exhibits related to discussion of the public interest. Reply submissions must be filed no later than the close of business on January 5, 2018. Reply submissions are limited to 25 pages, not including any attachments or exhibits related to discussion of remedy, the public interest, and bonding. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–1012'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full

statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[1] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The Commission has also determined to extend the target date for completion of the above-captioned investigation to February 20, 2018.

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: December 12, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–27168 Filed 12–15–17; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Michel P. Toret, M.D.; Decision and Order

On July 13, 2017, the Acting Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause to Michel P. Toret, M.D. (hereinafter, Applicant) of Jeannette, Pennsylvania. GX 5. The Show Cause Order proposed the denial of Applicant's application for a DEA Certificate of Registration on the ground that Applicant's ''registration is inconsistent with the public interest.'' GX 5, at 1 (citing 21 U.S.C. 823(f)).

As to the Agency's jurisdiction, the Show Cause Order alleged that, on February 14, 2017, Applicant applied for DEA Certificate of Registration. GX 5, at 2. *See also* GX 4 (DEA Form 224 submitted by Applicant).

As the substantive grounds for the proceeding, the Show Cause Order alleged that Applicant was registered with the DEA as a practitioner in schedules II through V pursuant to Certificate of Registration No. AT9432460, and that Applicant surrendered that registration for cause on November 29, 2016. GX 5, at 1. The Show Cause Order further alleged that Applicant ''continued to issue prescriptions for controlled substances'' after he surrendered that DEA registration. GX 5, at 2. According to the Show Cause Order, ''DEA's investigation of . . . [Applicant's] medical practice reveals that . . . [Applicant] issued approximately 17 prescriptions for controlled substances after November 29, 2016 in violation of Federal law.'' *Id.* (citing 21 U.S.C. 841(a) and 843(a)(2)).

The Show Cause Order further alleged that Applicant materially falsified his application for a Certificate of Registration. GX 5, at 2. Specifically, the Show Cause Order alleged that Applicant's material falsification was his having ''answered 'no' when asked, '[h]as the applicant ever surrendered (for cause) or had a federal controlled substance(s) registration revoked, suspended, restricted, or denied, or is any such answer pending.' '' GX 5, at 2. According to the Show Cause Order, ''this answer represents a material falsification on an application for a DEA Registration and, as such, is sufficient for denial of the pending application.'' GX 5, at 2 (citing 21 U.S.C. 843(a)(4) and 824(a)(1)).

The Show Cause Order notified Applicant of his right to request a hearing on the allegations or to submit a written statement while waiving his right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. GX 5, at 2 (citing 21 CFR 1301.43). The Show Cause Order also notified Applicant of the opportunity to submit a corrective action plan. GX 5, at 3 (citing 21 U.S.C. 824(c)(2)(C)).

Adequacy of Service

By Declaration dated August 23, 2017, a Diversion Investigator (hereinafter, DI), who described herself as the lead DI assigned to the regulatory matter involving Applicant, stated that, on July 21, 2017, she ''personally served Registrant with a copy of the Order to Show Cause why Registrant's application for a new DEA COR should not be denied.'' GX 6, at 2 (hereinafter, DI Declaration). Based on the Government's sworn statement, I find that the Government's service of the Show Cause Order on Applicant was legally sufficient.

In its Request for Final Agency Action dated August 25, 2017, the Government represented that ''more than thirty days have passed since the Order to Show Cause was served on . . . [Applicant] and no request for hearing or other correspondence has been received by DEA.'' Request for Final Agency Action (hereinafter, RFAA), at 1. The Government requested that Applicant's application for a DEA Certificate of Registration be denied based on Applicant's ''issuing prescriptions without a DEA COR and then committing a material falsification on his subsequent application for a new DEA COR.'' RFAA, at 5.

Based on the Government's sworn statement and written representations, and based on my review of the record, I find that more than 30 days have now passed since the date on which Applicant was served with the Show Cause Order. Further, based on the Government's written representations, I find that neither Applicant, nor anyone purporting to represent him, has requested a hearing, submitted a written statement while waiving Applicant's right to a hearing, or submitted a corrective action plan. Accordingly, I find that Applicant has waived his right to a hearing and his right to submit a written statement and corrective action plan. 21 CFR 1301.43(d) and 21 U.S.C. 824(c)(2)(C). I, therefore, issue this Decision and Order based on the record submitted by the Government. 21 CFR 1301.43(e).

Findings of Fact

Jurisdictional Facts

On or about February 13, 2017, Applicant submitted an application for a DEA registration under the Controlled Substances Act. GX 4. On that application, Applicant certified to the truth and correctness of the information he furnished on the application, including that he never ''surrendered (for cause) or had a federal controlled substance registration revoked, suspended, restricted or denied.'' *Id.* at 1. Based on the evidence in the record, I find that this certification was false.

[1] All contract personnel will sign appropriate nondisclosure agreements.