

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

**In the Matter of
CERTAIN INK CARTRIDGES AND
COMPONENTS THEREOF**

**Inv. No. 337-TA-565
Consolidated Advisory Opinion and
Modification Proceedings**

COMMISSION ORDER

On October 19, 2007, the Commission issued a general exclusion order, limited exclusion order, and cease and desist orders in the above-captioned investigation.

The general exclusion order prohibits the unlicensed entry of ink cartridges for consumption 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”).

The Commission 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; and claim 1 of the ‘053 patent to certain domestic respondents, including Ninestar Technology Company, Ltd. (“Ninestar U.S.”).

On December 13, 2010, Ninestar Technology Co., Ltd. and Ninestar U.S. (collectively, “Ninestar”) filed a joint request for an advisory opinion proceeding and a petition for modification of the general exclusion order and a cease and desist order issued by the Commission to Ninestar U.S. On February 3, 2011, Epson Portland, Inc. of Oregon, Epson America, Inc. of California, and Seiko Epson Corporation of Japan (collectively, “Epson”) filed a petition for modification of the general exclusion order and the cease and a desist order issued to Ninestar U.S.

The Commission, having examined the two aforementioned submissions of Ninestar and Epson, has determined that they comply with the requirements for institution of advisory opinion proceedings and modification proceedings and that it is appropriate to order such proceedings.

Accordingly, the Commission hereby **ORDERS THAT --**

1. Pursuant to Commission rule 210.79, 19 C.F.R. § 210.79, an advisory opinion proceeding is instituted to determine whether Ninestar’s R-Series ink cartridges infringe any of the patent claims included in the general exclusion order or the cease and desist order issued to Ninestar U.S. in the above-referenced investigation.
2. Pursuant to Commission rule 210.76, 19 C.F.R. § 210.76, a modification proceeding is instituted to determine what, if any, modifications to the general exclusion order and/or the cease and desist order issued to Ninestar U.S. are appropriate.
2. The proceedings are consolidated and the following are named parties to the proceedings:

Epson Portland Inc.
3950 NW Aloclek Place
Hillsboro, Oregon 97124

Epson America, Inc.
3840 Kilroy Airport Way
Long Beach, California 9086-2469

Seiko Epson Corporation
3-3-5 Owa, Suwa-shi
Nagano-ken 392-8502
Japan

Ninestar Technology Co., Ltd.
No. 63 Mingzhubei Road
Xiangzhou District
Zhuhai, Guangdong
China 519075

Ninestar Technology Company, Ltd.
19895 Harrison Avenue
Walnut, California 91789

The Office of Unfair Import Investigations will not be participating in these proceedings as a party.

3. For the consolidated proceedings, the Honorable Paul J. Luckern, Chief Administrative Law Judge, shall designate a presiding Administrative Law Judge (“ALJ”) to conduct the appropriate proceedings and issue an initial advisory opinion (“IAO”) and recommendation on modification of the general exclusion order and cease and desist order. The IAO and recommendation on modification of the general exclusion order and cease and desist order shall be due 11 months after issuance of this order and shall be issued as separate documents.
4. The presiding ALJ, in his discretion, may conduct any proceedings he deems necessary, including issuing a protective order, holding hearings, taking evidence, ordering discovery, and seeking documents from other agencies consistent with Commission rules to issue his IAO and recommendation on modification of the remedial orders.
5. Petitions for review of the IAO and responses thereto may be filed pursuant to Commission rule 210.43, 19 C.F.R. § 210.43. The IAO shall become the Commission’s final determination 60 days after service of the IAO, unless the Commission orders review of the IAO or changes the deadline for determining whether to review it. Comments on the ALJ’s recommendation on modification of the remedial orders may be filed concurrently with the petitions for review and responses.
6. The Secretary shall:
 - (a) Docket Ninestar’s Request and Epson’s Petition for advisory opinion and modification proceedings;

- (b) serve a copy of this order upon each party to the proceedings;
- (c) publish notice of this order in the *Federal Register*.

By order of the Commission.

A handwritten signature in black ink, appearing to read "J R Holbein", with a horizontal line extending to the right.

James R. Holbein
Acting Secretary to the Commission

Issued: March 18, 2011

**CERTAIN INK CARTRIDGES AND COMPONENTS
THEREOF**

**337-TA-565
(Advisory &
Modification)**

CERTIFICATE OF SERVICE

I, James R. Holbein, hereby certify that the attached **COMMISSION ORDER** has been served by hand upon the following parties as indicated, on
March 21, 2011



James R. Holbein, Acting 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:**

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 Via First Class Mail
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**On Behalf of Respondents Ninestar Technology Co., Ltd.
and Nine Star Technology Company, Ltd.:**

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