

PUBLIC VERSION

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

In the Matter of

**CERTAIN INK CARTRIDGES AND
COMPONENTS THEREOF II**

Investigation No. 337-TA-1452

COMMISSION OPINION

TABLE OF CONTENTS

I.	INTRODUCTION	2
II.	BACKGROUND	3
	A. Procedural Background.....	3
	B. The Private Parties	7
	C. Asserted Patents	7
	D. Relevant Products	10
III.	COMMISSION REVIEW OF THE ID	16
IV.	DISCUSSION AND ANALYSIS ON DOMESTIC INDUSTRY	16
	A. ID	17
	B. Analysis.....	24
V.	REMEDY, THE PUBLIC INTEREST, AND BONDING.....	34
	A. General Exclusion Order.....	34
	B. Cease and Desist Orders	37
	C. Public Interest	38
	D. Bonding.....	40
VI.	CONCLUSION.....	41

PUBLIC VERSION

I. INTRODUCTION

On May 8, 2026, the Commission determined to review in part an initial determination (“ID”) (Order No. 16) granting summary determination of a violation issued by the presiding Administrative Law Judge (“ALJ”) on the issue of economic prong of the domestic industry (“DI”) requirement and requested written submissions on the issue under review as well as remedy, the public interest, and bonding. 91 Fed. Reg. 25921-23 (May 12, 2026) (“Review Notice”). On review, the Commission affirms with modified analysis the ID’s finding that the complainants have satisfied the economic prong of the DI requirement. The Commission therefore affirms with modification the ID’s finding of a violation of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337) (“section 337”) with respect to asserted claims 1 and 7 of each of U.S. Patent Nos. 8,764,172 (“the ’172 patent”), 9,370,934 (“the ’934 patent”), 11,535,038 (“the ’038 patent”), 12,240,248 (“the ’248 patent”), and 12,240,249 (“the ’249 patent”) (collectively, “the asserted claims”).

The Commission determines that the appropriate remedy is a general exclusion order (“GEO”) as to the asserted claims to prohibit the importation of infringing ink cartridges and components thereof, and cease and desist orders (“CDOs”) against two respondents, Mountain Peak, Inc. (“Mountain Peak”) of Industry, CA; and Straightouttink, LP (“Straightouttink”) of San Jose, CA. The Commission also determines that the public interest will not be adversely affected by the issuance of the GEO and CDOs. Lastly, the Commission has determined to set a bond in the amount of 100 percent of entered value of infringing articles imported during the period of Presidential review. This opinion sets forth the Commission’s reasoning in support of that determination.

II. BACKGROUND

A. Procedural Background

On June 17, 2025, the Commission instituted this investigation under section 337 based on a complaint filed by Epson America, Inc. (“Epson America”) of Los Alamitos, California, Epson Portland, Inc. (“Epson Portland”) of Hillsboro, Oregon, and Seiko Epson Corporation (“SEC”) of Nagano, Japan (collectively “Epson”). 90 Fed. Reg. 25644-45 (June 17, 2025). The complaint, as supplemented, alleged violations of section 337 based upon 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 the infringement of claims 1-3, 7-8, and 10 of the ’172 patent; claims 1, 7-8, and 10 of the ’934 patent; claims 1, 7, 12, 17, 19-20, and 24 of the ’038 patent; claims 1, 7, 13, 15, and 20-21 of the ’248 patent; and claims 1-2, 7-8, 13-15, and 20-22 of the ’249 patent. *Id.*; Compl. ¶ 169. The complaint, as supplemented, further alleged that a domestic industry exists in the United States. *Id.*

The Commission’s notice of investigation named the following entities as respondents:

Shenzhen Hongxinyuan E-Commerce Co., Ltd. d/b/a Jianjai (“Shenzhen Hongxinyuan”) of Shenzhen, China; Shangrao Shixuan E-Commerce Co., Ltd. d/b/a Inkgo (“Shangrao Shixuan”) of Shangrao, China; Shen Zhen Sailing Technology Limited d/b/a Triple-Color (“Shen Zhen Sailing”) of Shenzhen, China; Qiong Wang d/b/a 7-Magic (“Qiong Wang”) of Leizhou City, China; Dongguan Ocbestjet Digital Technology Co., Ltd. d/b/a Ocbestjet (“Ocbestjet Dongguan”) of Dongguan City, China; Ocbestjet Printer Consumables (HK) Co., Ltd. d/b/a Ocbestjet (“Ocbestjet HK”) of Hong Kong, China; Shenzhen Kaizhen Technology Co., Ltd. d/b/a PayForLess (“Kaizhen”) of Shenzhen, China; ZhuHai MeiJiAn Trading Co., Ltd. d/b/a HaloFox (“ZhuHai MeiJiAn”) of Zhuhai, China; Zhuhai Shuofeng E-commerce Co., Ltd. d/b/a super-ink-club (“Shuofeng”) of Zhuhai, China; Tatrix International China Co., Ltd.

PUBLIC VERSION

(“Tatrix”) of Guangdong, China; Luozhi Trading Co., Ltd. (“Luozhi”) of Guanzhou, China; Zhuhai Zhenyang Electronics Co., Ltd. (“Zhenyang”) of Zhuhai, China; Zhuhai Hengyunda Electronics Co., Ltd. (“Hengyunda”) of Zhuhai, China; Zhuhai Rongtaida Electronics Co., Ltd. (“Rongtaida”) of Zhuhai, China; Zhuhai Shi Wei Tai Electronics Co., Ltd. (“Shi Wei Tai”) of Zhuhai, China; Zhuhai Yixing Electronics Co., Ltd. (“Yixing”) of Zhuhai, China; Zhuhai Bowang Technology Co., Ltd. (“Bowang”) of Zhuhai, China; Mei Jin Technology HK Co., Ltd. (“Mei Jin”) of Hong Kong, China; Mountain Peak; and Straightouttink. The Office of Unfair Import Investigations (“OUII”) was also named as a party in this investigation. *Id.*

The Commission found respondents Tatrix, Luozhi, Zhenyang, Hengyunda, Rongtaida, Shi Wei Tai, Yixing, Bowang, Mei Jin, Mountain Peak, and Straightouttink in default. *See* Order No. 8 (Sept. 15, 2025), *unreviewed by* Comm’n Notice (Nov. 17, 2025). The Commission also found respondents Ocbestjet Dongguan, Ocbestjet HK, Kaizhen, ZhuHai MeiJiAn, and Shuofeng in default. *See* Order No. 10 (Dec. 3, 2025), *unreviewed by* Comm’n Notice (Dec. 22, 2025).

On January 8, 2026, the Commission terminated the following respondents from the investigation based on withdrawal of the complaint: Shenzhen Hongxinyuan, Shangrao Shixuan, Shen Zhen Sailing, and Qiong Wang. *See* Order No. 11 (Dec. 11, 2025), *unreviewed by* Comm’n Notice (Jan. 8, 2026).

On January 20, 2026, the Commission terminated the investigation as to claims 2, 3, 8, and 10 of the ’172 patent; claims 8 and 10 of the ’934 patent; claims 12, 17, 19-20, and 24 of the ’038 patent; claims 13, 15, and 20-21 of the ’248 patent; and claims 2, 8, 13-15, and 20-22 of the ’249 patent. Order No. 12 (Dec. 18, 2025), *unreviewed by* Comm’n Notice (Jan. 20, 2026).

On February 26, 2026, Epson filed a motion for summary determination on violation of section 337 by the sixteen respondents previously found in default in the investigation—Tatrix, Luozhi,

PUBLIC VERSION

Zhenyang, Hengyunda, Rongtaida, Shi Wei Tai, Yixing, Mei Jin, Bowang, Mountain Peak, Straightouttaintank, Ocbestjet Dongguan, Ocbestjet HK, Kaizhen, ZhuHai MeiJiAn, and Zhuhai Shuofeng (“Respondents”)—and requested issuance of a GEO and CDOs against Mountain Peak and Straightouttaintank and a bond of 100 percent.¹ To support the motion, Epson also filed (1) a memorandum supporting the motion,² (2) three expert declarations,³ (3) a declaration from its employee,⁴ and (4) various evidentiary exhibits.

On March 9, 2026, OUII filed a response generally supporting the motion, but indicating an evidentiary error pertaining to infringement.⁵ On March 11, 2026, Epson filed corrected exhibits addressing the evidentiary error OUII identified. On March 13, 2026, OUII filed for leave to amend its response based on Epson’s corrected exhibits.⁶ The ALJ granted OUII’s motion for good cause shown.

¹ Complainant’s Motion for Summary Determination regarding Violation of 19 U.S.C. § 1337 and Request for General Exclusion Order and Cease and Desist Orders (Feb. 26, 2026).

² Memorandum in Support of Complainant’s Motion for Summary Determination regarding Violation of 19 U.S.C. § 1337 and Request for General Exclusion Order and Cease and Desist Orders (Feb. 26, 2026) (“Mot.”).

³ Declarations of Dr. Gerald M. Murch (“Murch Decl.”), Brian W. Seitz (“Seitz Decl.”), and Ryan N. Herrington (“Herrington Decl.”). Dr. Murch is Epson’s technical expert who analyzed the infringing products and the DI products. Murch Decl. ¶¶ 1-3. Mr. Seitz is a private investigator retained by Epson to investigate counterfeit and patent-infringing ink cartridges. Seitz Decl. ¶¶ 1-5. Mr. Herrington is an economic expert retained by Epson to assess the economic prong of a domestic industry related to the asserted patents. Herrington Decl. ¶¶ 1-4.

⁴ Declaration of Jaime Ramsey (“Ramsey Decl.”). Mr. Ramsey is “the Director of General Affairs and Administration and the Assistant Corporate Secretary” at Epson Portland, Inc. Ramsey Decl. ¶ 1.

⁵ OUII’s Response to Complainants’ Motion for Summary Determination regarding Violation of 19 U.S.C. § 1337 and Request for General Exclusion Order and Cease and Desist Orders (Mar. 9, 2026).

⁶ OUII’s Amended Response to Complainants’ Motion for Summary Determination regarding Violation of 19 U.S.C. § 1337 and Request for General Exclusion Order and Cease and Desist Orders (Mar. 9, 2026).

PUBLIC VERSION

On March 24, the ALJ issued the subject ID (Order No. 16) granting Epson's motion for summary determination of violation of section 337. The ID includes the ALJ's Recommended Determination ("RD") recommending that the Commission issue a GEO and CDOs against respondents Mountain Peak and Straightouttaintank and set a bond in the amount of 100 percent of entered value of infringing articles imported during the period of Presidential review. No party filed a petition for review of the ID (Order No. 16).

The Commission did not receive any responses to its post-RD notice seeking submissions on public interest from the public. *See* 91 Fed. Reg. 17307-08 (April 6, 2026). On April 21, 2026, Epson filed a statement on the public interest pursuant to Commission Rule 210.50(a)(4), 19 C.F.R. § 210.50(a)(4).

On May 8, 2026, the Commission determined to review the ID in part with respect to the economic prong of the DI requirement and requested written submissions on the issue under review as well as on remedy, the public interest, and bonding. Review Notice, 91 Fed. Reg. at 25922-23. The Commission determined not to review the remainder of the ID.

On May 22, 2026, Epson and OUII filed their written submissions in response to the Review Notice.⁷ No other written submissions were filed in response to the Review Notice. On May 29, 2026, Epson and OUII filed replies to each other's written submission.⁸

⁷ Complainants' Responses to Commission Request for Briefing (May 22, 2026) ("Epson Br."); Opening Submission of the Office of Unfair Import Investigations in Response to the Commission's May 8, 2026 Notice (May 22, 2026) ("OUII Br.").

⁸ Complainants' Reply in Support of Response to Commission Request for Briefing (May 29, 2026) ("Epson Rep."); Reply Submission of the Office of Unfair Import Investigations to the Commission's May 8, 2026 Notice (May 29, 2026) ("OUII Rep.").

PUBLIC VERSION

B. The Private Parties

1. Complainants

Complainants SEC, Epson Portland, and Epson America make and sell many different models of printers and ink cartridges in the United States. Mot. at 5-6, 24; ID at 11. SEC is the assignee and owner of the asserted patents. ID at 11, 15.

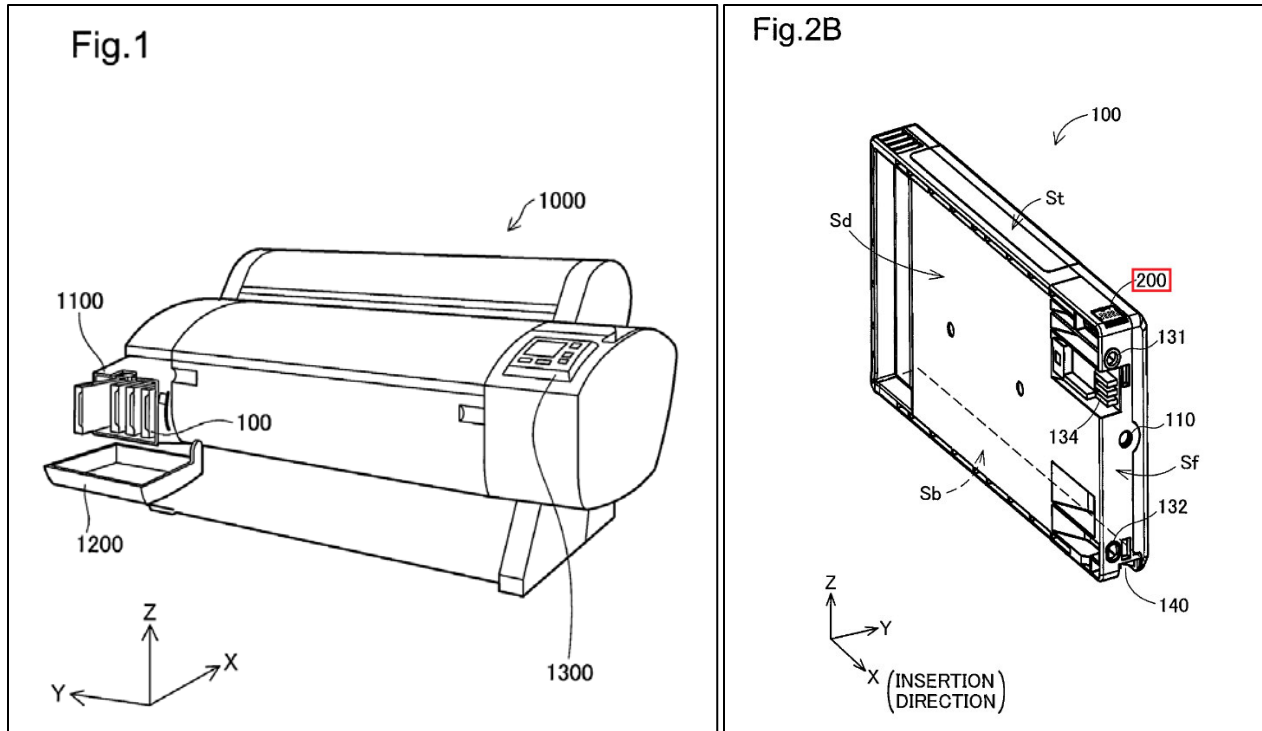
2. Defaulting Respondents

The sixteen defaulting respondents are Tatrix, Luozhi, Zhenyang, Hengyunda, Rongtaida, Shi Wei Tai, Yixing, Mei Jin, Bowang, Mountain Peak, Straightouttaink, Ocbestjet Dongguan, Ocbestjet HK, Kaizhen, ZhuHai MeiJiAn, and Zhuhai Shuofeng. According to Epson, Ocbestjet Dongguan and Ocbestjet HK are related companies under common ownership, which are part of a common enterprise known as Ocbestjet Group. Mot. at 6. Respondents are engaged in the manufacture, importation into the United States, sale for importation into the United States and/or sale within the United States after importation of the accused ink cartridge products. *Id.* at 6-14.

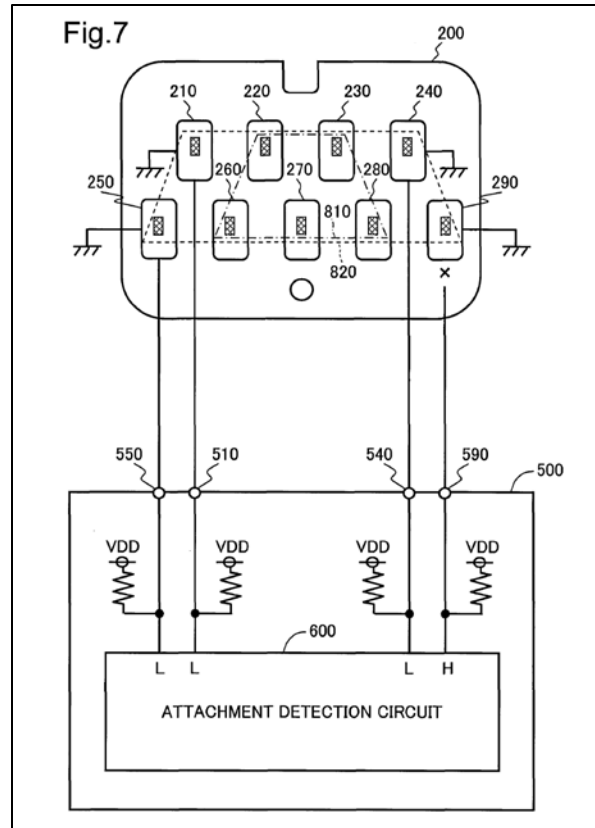
C. Asserted Patents

The '172 patent, '934 patent, '038 patent, '248 patent, and '249 patent generally relate to improved layouts and functions of terminals of printed circuit boards for ink cartridges. ID at 15. The improvements disclosed in the patents are designed to minimize disruption of the electrical connection between the ink cartridge and the printer that can cause inconvenient malfunction or damage. Mot. at 16.

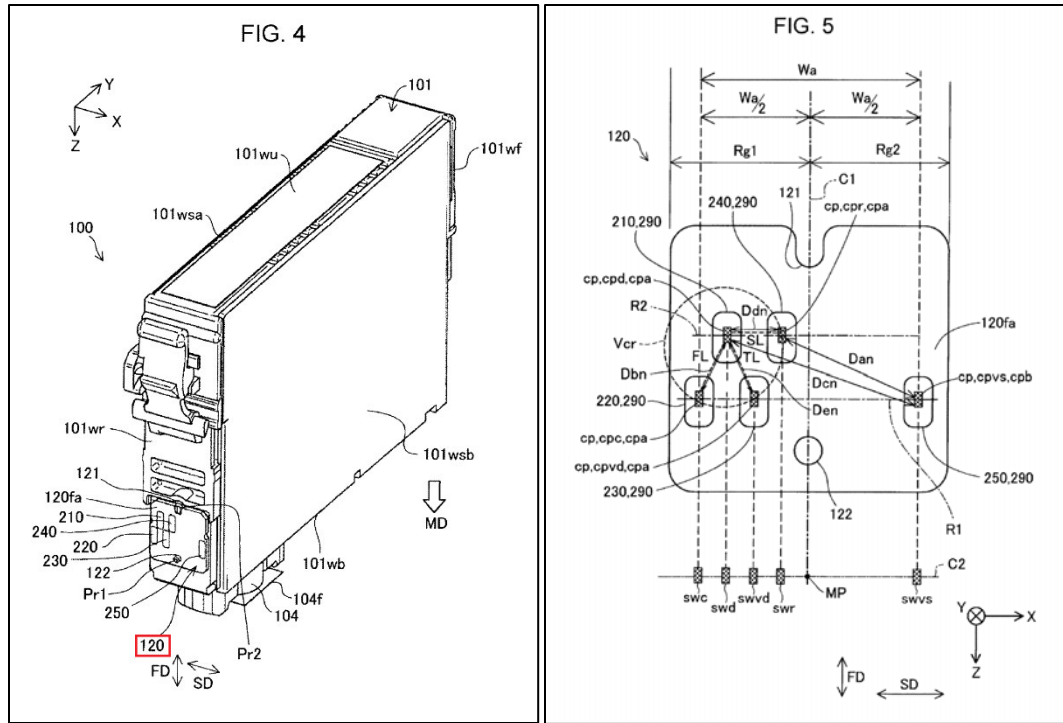
The '172 and '934 patents share a common specification, and generally disclose an improved electrical connection between a printer **1000** and an ink cartridge **100**. ID at 15-16; '172 patent and '934 patent at Figs. 1 and 2B, shown below (showing a printer **1000** and an ink cartridge **100**, annotated to highlight the cartridge's circuit board **200**).



The ink cartridge **100** has electrical terminals in its circuit board **200** that are configured to connect with a printer **1000**'s attachment unit **1100** in a manner that can check the connection status between the cartridge and the printer. *Id.* at 15-16; '172 patent and '934 patent at Figs. 1 and 2B. Specifically, the ink cartridge's circuit board **200** has terminals **210-290** that are arranged in two rows (shown in Fig 7, below) and configured to connect with corresponding printer side terminals **510**, **540**, **550**, and **590** (also shown in Fig. 7, below) to conduct electrical signals and detect the connection status between the ink cartridge and the printer. '172 patent and '934 patent at Fig 7, shown below.



The '038, '248, and '249 patents also share a common specification and disclose an arrangement of terminals **210-250, 290** in an ink cartridge's circuit board **120** (shown in Fig. 5, below) to detect a short circuit between certain terminals. ID at 16-18; '038, '248, and '249 patents at Figs. 4 and 5, shown below (showing an ink cartridge **100** and its circuit board **120**, annotated to highlight a circuit board **120**).



Epson asserts the following claims from the five asserted patents:

- Claims 1 and 7 of the '172 patent;
- Claims 1 and 7 of the '934 patent;
- Claims 1 and 7 of the '038 patent;
- Claims 1 and 7 of the '248 patent; and
- Claims 1 and 7 of the '249 patent.

Mot. at 21.

D. Relevant Products

1. Infringing Products

Epson categorizes the products infringing the asserted claims into two groups, “group 2 products” and “group 3 products” (collectively, “infringing products”).⁹ As shown in the table below,

⁹ There are also “group 1 products,” which Epson accuses of infringement in co-pending Investigation No. 337-TA-1451. Mot. at 30, n.9.

PUBLIC VERSION

Epson asserted that (1) the group 2 products from all sixteen Respondents infringe claims 1 and 7 of the '172 and '934 patents, and (2) the group 3 products from four Respondents infringe claims 1 and 7 of the '038, '248, and '249 patents. ID at 17-18; Mot. at 78.^{10 11}

Respondent	Group	Cartridge Control No.	NT Numbers
Straightouttink	2	240897	822
Ocbestjet Group	2	250119	725
Tatrix	2	250024	725
Luozhi	2	240770	725
Kaizhen	2	240847	822
Zhenyang Electronics	2	240791	802
Hengyunda	2	250017	802
Rongtaida	2	250034	302
Shi Wei Tai	2	250029	802
Yixing	2	250043	302
Mei Jin	2	240775	822
Zhuhai MeJiAn	2	240859	802
Shuofeng	2	250055	212
Bowang	2	250005	212
Mountain Peak	2	241073	802
Kaizhen Tech	3	240851	232
Hengyunda	3	250134	232
Mountain Peak	3	241070	222
Straightouttink	3	241040	222

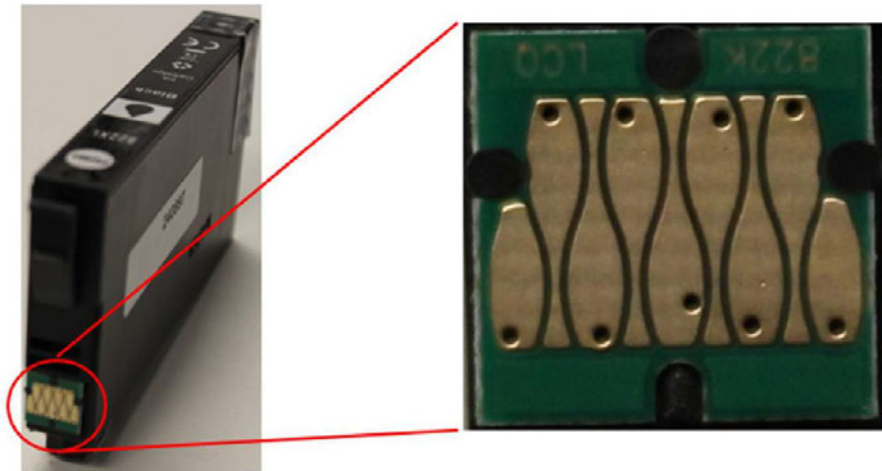
Mot. at 77-78.

The group 2 products include a circuit board with nine terminals. Mot. at 29. The image below shows pictures of an exemplary group 2 product from Straightouttink with control number 240897 and NT number 897, including an enlarged picture of the circuit board with nine terminals:

¹⁰ The “Cartridge Control No.” is a sample number assigned by Epson’s investigator, Mr. Seitz. Seitz Decl. ¶¶ 29-183.

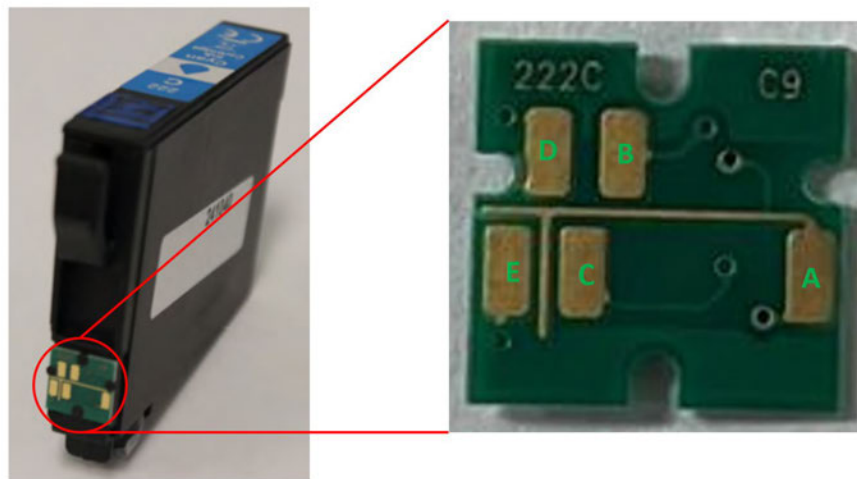
¹¹ The NT (Numerical Trademark) Number represents the compatible Epson printer model and also serves as the corresponding model number of the Epson ink cartridge. ID at 17-18; Murch Decl. ¶ 102.

PUBLIC VERSION



Id.; Murch Decl., Ex. 12 at 2, 10.

The group 3 products, as shown below, include a circuit board with five terminals. Mot. at 37-38; Murch Ex. 45 at 2, 8. The image below shows pictures of an exemplary group 3 product from Straightouttaintank with control number 241040 and NT number 222, including an enlarged picture of the circuit board with five terminals:



Id.; Murch Decl., Ex. 45 at 2, 8.

In addition to the fully assembled infringing products discussed above, Epson accuses Ocbestjet Group and Tatrix of supplying components of ink cartridge products—*i.e.*, one-time use printed circuit

PUBLIC VERSION

boards (“PCBs”) and empty cartridges individually—to be combined by a customer to create a group 2 product. *Id.* at 19 (citing Seitz Decl. ¶¶ 291, 292, 295, 297). The ID agrees with Epson’s categorization of these components as part of the group 2 products. *Id.* at 19-20. Examples of the individual components sold by Ocbestjet Group and Tatrix for use with Epson printers are shown below:



View larger image



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Quantity(Pieces)	1 - 1	>1
Est. Time(days)	3	To be negotiated

Customization: Customized logo(Min. Order: 500 Pieces)
Customized packaging(Min. Order: 500 Pieces)
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Murch Decl., Ex. 9.

Tatrix

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byr-Tatrix International... (**4.9** | 1,000+ sold)

Color: Yellow chip

One time chip T6941-T6945

Murch Decl., Murch Ex. 10.

The Commission determined not to review the ID’s findings that the infringing products satisfy the asserted claims, and found that Respondents directly and indirectly infringe the asserted claims based on substantial, reliable, and probative evidence. 91 Fed. Reg. at 25922.

2. Domestic Industry Product

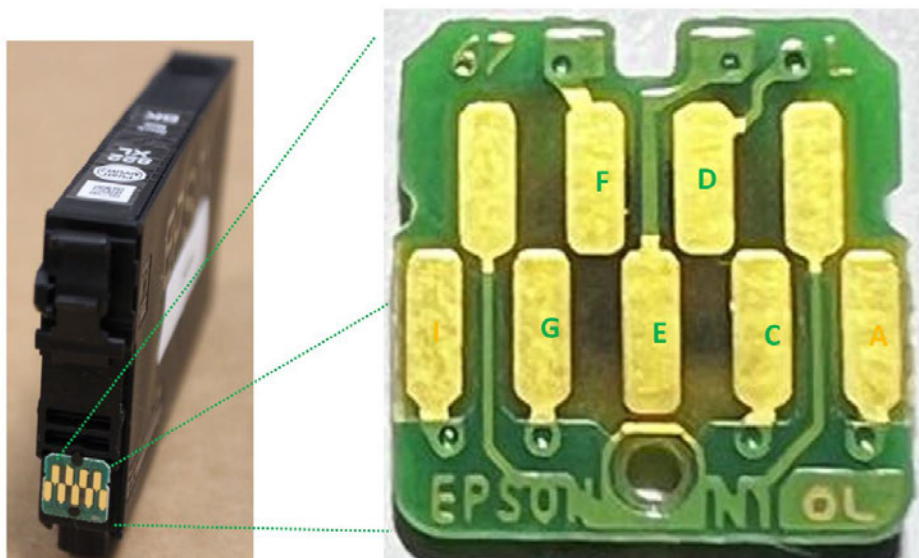
Epson also categorizes its asserted DI products into two groups, “group 2 DI products” and “group 3 DI products” (collectively, “DI products”). *Id.* at 20. Epson contends that its group 2 DI products practice claim 1 of the ’172 and ’934 patents, and that the group 3 DI products practice claim 1 of the ’038, ’248, and ’249 patents. Mot. at 90-91. The groups 2 and 3 DI products include the following:

- Group 2 DI product model numbers (NT numbers): 195, 196, 200, 202, 206, 207, 212, 215, 220, 252, 254, 273, 277, 288, 296, 302, 312, 314, 324, 410, 702, 725, 748, 760, 786, 788, 802, 812, 822, 912, 924.
- Group 3 DI product model numbers (NT numbers): 222, 232, 340, 11J.

PUBLIC VERSION

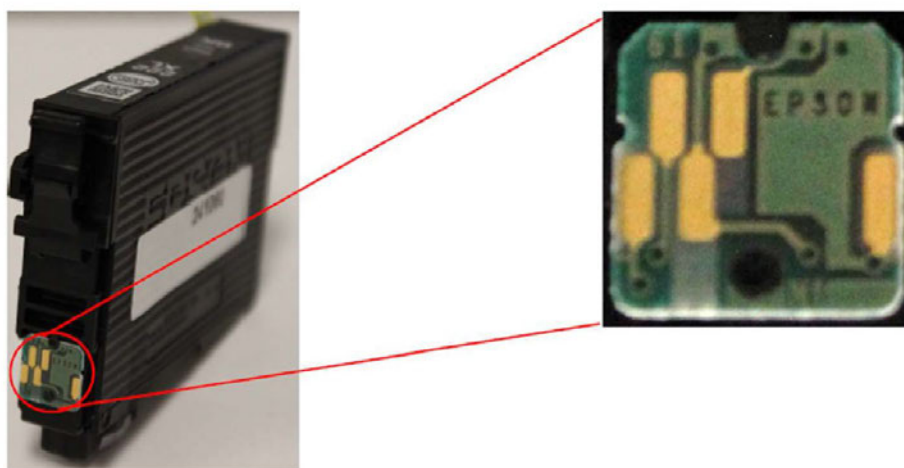
Id. (citing Murch Decl. ¶¶ 198-210).

Epson's representative group 2 DI product is shown below:



Mot. at 34; Murch Decl. ¶ 203, Ex. 73 at 9 (pictures of Epson's exemplary group 2 DI product with control number 250084 and NT number 822, showing an ink cartridge with enlarged picture of the circuit board with nine terminals).

Epson's representative group 3 DI product is shown below:



Mot. at 38; Murch Decl. ¶ 205 (pictures of Epson's exemplary group 3 DI product with control number 241060 and NT number 222, showing an ink cartridge with enlarged picture of the circuit board with five terminals).

PUBLIC VERSION

The Commission determined not to review the ID's findings that the technical prong of the DI requirement is satisfied because Epson's asserted DI products practice at least claim 1 of the '172, '934, '038, '248, and '249 patents based on substantial, reliable, and probative evidence. 91 Fed. Reg. at 25922.

III. COMMISSION REVIEW OF THE ID

When the Commission reviews an initial determination, in whole or in part, it reviews the determination *de novo*. *Certain Electronic Stud Finders, Metal Detectors and Electrical Scanners*, Inv. No. 337-TA-1221, Comm'n Op. at 9 (Feb. 15, 2022) (citations omitted), *aff'd*, *Zircon Corp. v. ITC*, 101 F.4th 817 (Fed. Cir. 2024). Upon review, the "Commission has 'all the powers which it would have in making the initial determination,' except where the issues are limited on notice or by rule." *Certain Electronic Devices, Including Streaming Players, Televisions, Set Top Boxes, Remote Controllers, and Components Thereof*, Inv. No. 337-TA-1200, Comm'n Op. at 7 (Nov. 10, 2021) (citations omitted), *aff'd*, *Roku, Inc. v. ITC*, 90 F.4th 1367 (Fed. Cir. 2024). With respect to the issues under review, "the Commission may affirm, reverse, modify, vacate, or remand for further proceedings, in whole or in part, the initial determination of the administrative law judge." 19 C.F.R. § 210.45(c). The Commission also "may take no position on specific issues or portions of the initial determination," and "may make any finding or conclusions that in its judgment are proper based on the record in the proceeding." *Id.*; *see also Beloit Corp. v. Valmet Oy*, 742 F.2d 1421, 1423 (Fed. Cir. 1984).

IV. DISCUSSION AND ANALYSIS ON DOMESTIC INDUSTRY

The Commission affirms with modification the ID to the extent that the ID is consistent with the Commission opinion.

PUBLIC VERSION

A. ID

The ID finds that Epson has satisfied the DI economic prong requirement under subsections (A) and (B) based on the related investments and activities in Epson Portland's facilities in Hillsboro, Oregon ("Oregon facilities") from 2023 to 2025. ID at 45-51. The ID finds that the Oregon facilities, shown below, consist of 184,824 square feet of improved space:



Epson Portland's Facilities in Hillsboro, Oregon (3950 NE Alcolek Drive)

Id. at 46 (citing Ramsey Decl. ¶¶ 4, 6). The ID finds that Epson Portland employed between [REDACTED] employees from 2023 to 2025 at the Oregon facilities for manufacturing and packaging activities. *Id.* The manufacturing activities consisted of “(1) blending inks of various colors in large, [REDACTED] drums; (2) injection and blow molding of plastic cartridge and bottle parts; and (3) the assembly of cartridges and bottles, filling them with ink, and individually vacuum sealing them to preserve shelf life.” *Id.* (citing Herrington Decl. ¶ 44). The packaging activities included “taking the vacuum sealed cartridge from the manufacturing process described above and packaging it into a sealed box in retail packaging where it is ready for sale to the end-user.” *Id.* (citing Herrington Decl. ¶ 45). The ID finds that while Epson manufactured some of the DI products outside the United States during the relevant time period, Epson packaged [REDACTED] percent of the DI products in the United States. *Id.* at 47.

PUBLIC VERSION

The ID finds that Epson relied on its business records to calculate the relevant DI investments, showing: (1) the cost of goods sold (“COGS”),¹² as well as general and administrative (“G&A”)¹³ investments for all of the cartridge products, including both the DI and non-DI products as summarized in Ramsey Decl., Ex. B; (2) the number of different types of cartridges manufactured as summarized in Ramsey Decl., Ex. C; and (3) the number of different types of cartridges packaged as summarized in Ramsey Decl., Ex. D. *Id.* The ID finds that Epson calculated its investments with respect to the DI products by allocating the COGS and G&A investments based on Mr. Ramsey’s data of the number of DI products manufactured and packaged compared to the total numbers of products manufactured and packaged at the Oregon facilities. *Id.* at 47-48.

The allocation percentages based on comparing the number of DI products manufactured and packaged with the total number of products (including both the DI and non-DI products) manufactured and packaged are summarized in Table 3, below:

¹² Total COGS investments include Materials, Labor, Depreciation, Utilities, Rent, Maintenance/Repair, Property Taxes, Insurance, and Other. Ramsey Decl., Ex. B. The ID finds the “Materials” and “Other” COGS investments are foreign-related expenses. *Id.* at 49-50 (citing Herrington Decl., Exs. 3-5).

¹³ Total G&A investments include Salaries/Wages, Depreciation, Utilities, Rent, Maintenance/Repair, Property Taxes, Insurance, and Other. Ramsey Decl., Ex. B. The ID finds the “Other” G&A investments are foreign-related expenses. *Id.* at 49-50 (citing Herrington Decl., Exs. 3-5).

PUBLIC VERSION

Table 3: Units Manufactured Allocation Percentages and Units Packaged Allocation Percentages

	FY 2022	FY 2023	FY 2024	FY 2025
Allocation Percentages by Patent	<i>Jan. 2023 - March 2023</i>	<i>April 2023 - March 2024</i>	<i>April 2024 - March 2025</i>	<i>April 2025 - June 2025</i>
Units Manufactured				
'172 and '934 Patents				
'038, '248, and '249 Patents				
Units Packaged				
'172 and '934 Patents				
'038, '248, and '249 Patents				

Mot. at 95 (citing Herrington Decl. ¶ 58; Ramsey Decl., Exs. E, F). OUII supported this allocation methodology, and the ID finds it to be persuasive. ID at 49.

1. Investment in Plant and Equipment under Subsection (A)

Epson asserted that:

From 2015 to 2024 Epson Portland invested more than [REDACTED], including [REDACTED] in equipment used to manufacture its ink cartridges that practice certain of the Asserted Patents, and an additional [REDACTED] in capital equipment (e.g., new molding machines, redundant cooling tower, fork lifts, etc.) and facilities improvements (e.g., a new roof over a large portion of the roof over a large portion of the facility, HVAC roof-top units, bathroom remodels, and other improvements) commonly used across all products.

Id. at 47 (citing Mot. at 96-97). The ID finds that Epson Portland’s plant and equipment-related COGS investments include “Depreciation, Utilities, Rent, Maintenance/Repair, Property Taxes, and Insurance,” and that the plant and equipment-related G&A investments include “Depreciation, Utilities, Rent, Maintenance/Repair, Property Taxes, and Insurance.” *Id.*; Mot. at 98 (citing Ramsey Decl. ¶ 15; Ramsey Decl., Exs. B, E). Epson Portland’s plant and equipment-related COGS and G&A investments at the Oregon facilities (before allocation) are summarized in Table 1, below:

PUBLIC VERSION

Table 1: Plant and Equipment Investments in Manufacturing and Packaging

	FY 2022	FY 2023	FY 2024	FY 2025	Total
	<i>Jan. 2023 - March 2023</i>	<i>April 2023 - March 2024</i>	<i>April 2024 - March 2025</i>	<i>April 2025 - June 2025</i>	<i>Jan. 2023 - June 2025</i>
Plant and Equipment Investments					
Manufacturing					
COGS Plant and Equipment					
G&A Plant and Equipment					
Total Manufacturing					
Packaging					
COGS Plant and Equipment					
G&A Plant and Equipment					
Total Packaging					
Total Plant and Equipment Investments					

Mot. at 99 (citing Herrington Decl. ¶ 52; Ramsey Decl., Ex. E). Based on the allocation percentages in Table 3, Epson Portland's DI-related investments per patent under subsection (A) as summarized in Table 4, below:

Table 4: Plant and Equipment Investments Allocated to the Domestic Industry Products

	FY 2022	FY 2023	FY 2024	FY 2025	Total
	<i>Jan. 2023 - March 2023</i>	<i>April 2023 - March 2024</i>	<i>April 2024 - March 2025</i>	<i>April 2025 - June 2025</i>	<i>Jan. 2023 - June 2025</i>
Plant and Equipment Investments Allocated to the DI Products					
'172 and '934 Patents					
Manufacturing					
Packaging					
Total '172 and '934 Patents					
'038, '248, and '249 Patents					
Manufacturing					
Packaging					
Total '038, '248, and '249 Patents					

ID at 48;¹⁴ Mot. at 100 (citing Herrington Decl. ¶ 59; Ramsey Decl., Ex. E). Accordingly, the ID finds the total asserted investments under subsection (A) is approximately [REDACTED] for the '172 and '934 patents and [REDACTED] for the '038, '248, and '249 patents. *Id.*

¹⁴ The allocated amounts are not exact because the percentages in Table 3 are rounded.

2. Investment in Labor under Subsection (B)

The ID finds that Epson Portland’s COGS and G&A labor investments are related to salaries, wages, and other benefits for the Oregon facilities’ employees who are “dedicated to ink blending, precision injection and blow molding, ink cartridge and ink bottle production, and retail packaging.” *Id.* at 48; Mot. at 100 (citing Ramsey Decl. ¶ 11; Herrington Decl. ¶¶ 53-55). Epson Portland’s labor related COGS and G&A investments at the Oregon facilities (before allocation) are summarized in Table 2, below:

Table 2: Labor Investments in Manufacturing and Packaging

	FY 2022	FY 2023	FY 2024	FY 2025	Total
	<i>Jan. 2023 - March 2023</i>	<i>April 2023 - March 2024</i>	<i>April 2024 - March 2025</i>	<i>April 2025 - June 2025</i>	<i>Jan. 2023 - June 2025</i>
Labor Investments					
Manufacturing					
COGS Labor					
G&A Labor					
Total Manufacturing					
Packaging					
COGS Labor					
G&A Labor					
Total Packaging					
Total Labor Investments					

Mot. at 101-102 (citing Herrington Decl. ¶ 56; Ramsey Decl., Ex. F). Based on the allocation percentages in Table 3, the DI related investments under subsection (B) as summarized in Table 5, below:

Table 5: Labor Investments Allocated to the Domestic Industry Products

	FY 2022	FY 2023	FY 2024	FY 2025	Total
Labor Investments Allocated to the DI Products	<i>Jan. 2023 - March 2023</i>	<i>April 2023 - March 2024</i>	<i>April 2024 - March 2025</i>	<i>April 2025 - June 2025</i>	<i>Jan. 2023 - June 2025</i>
'172 and '934 Patents					
Manufacturing					
Packaging					
Total '172 and '934 Patents					
'038, '248, and '249 Patents					
Manufacturing					
Packaging					
Total '038, '248, and '249 Patents					

Id. at 49; Mot. at 102 (citing Herrington Decl. ¶ 59; Ramsey Decl., Ex. F). Accordingly, the ID finds the total asserted investments under subsection (B) is approximately [REDACTED] for the '172 and '934 patents and [REDACTED] for the '038, '248, and '249 patents. *Id.*

3. Significance under Subsections (A) & (B)

The ID finds Epson Portland's asserted investments under subsections (A) and (B) to be quantitatively significant based on a domestic-to-foreign value-added analysis where Epson and its economic expert, Mr. Herrington, compared the domestic investment amounts to the total COGS and G&A amounts allocated to the DI products (*i.e.*, domestic + foreign¹⁵). *Id.* at 49-50. The ID summarizes Epson's comparison of the domestic investment amounts to the total allocated COGS and G&A amounts as follows:

- Plant and equipment investments allocated to the group 2 DI products protected by the '172 and '934 patents [REDACTED], Herrington Decl., Ex. 4) are greater than [REDACTED] of the total COGS and G&A investments allocated to the group 2 DI products [REDACTED], Herrington Decl., Ex. 3¹⁶);

¹⁵ As noted above, the ID finds that the total allocated COGS and G&A amounts include "Materials" and "Other" line items that are not included as domestic investment and, therefore, "it is fair to treat them as foreign expenses" for the DI products. *Id.*

¹⁶ The manufacturing and packaging totals (rows A and F) shown in Herrington Decl., Ex. 3 are detailed in Ramsey Decl., Ex. B.

PUBLIC VERSION

- Plant and equipment investments allocated to the group 3 DI products protected by the '038, '248, and '249 patents [REDACTED], Herrington Decl., Ex. 4) are greater than [REDACTED] of the total COGS and G&A investments allocated to the group 3 DI products [REDACTED], Herrington Decl., Ex. 3);
- Labor and capital investments allocated to the group 2 DI products protected by the '172 and '934 patents [REDACTED], Herrington Decl., Ex. 5) are greater than [REDACTED] of the total COGS and G&A investments allocated to the group 2 DI products [REDACTED], Herrington Decl., Ex. 3); and
- Labor and capital investments allocated to the group 3 DI products protected by the '038, '248, and '249 patents [REDACTED], Herrington Decl., Ex. 5) are greater than [REDACTED] of the total COGS and G&A investments allocated to the group 3 DI products [REDACTED], Herrington Decl., Ex. 3).

Id.; Mot. at 98-99, 101; Herrington Decl. ¶¶ 73, 79, Exs. 3-5.

The ID finds that these percentages are more than *de minimis* and show that Epson Portland has made significant investments with respect to the asserted DI products in the United States. *Id.* at 50. Accordingly, the ID finds that Epson's investments directed to the DI products "represent a significant value-add under both subsections (A) and (B)." *Id.* at 51 (citing *Wuhan Healthgen Biotechnology Corp. v. ITC*, 127 F.4th 1334, 1339 (Fed. Cir. 2025) (citing *Lelo Inc. v. ITC*, 786 F.3d 879, 883-84 (Fed. Cir. 2015))).

Lastly, the ID finds that Epson included "Materials" expenses as part of the total COGS and G&A investments in the denominator of the subsection (A) calculations, which the ID assumes to mean the raw materials for the manufacturing and packaging activities. *Id.* (citing Ramsey Decl. ¶¶ 11, 14-17, Ex. B). The ID finds that these raw materials under the "Materials" line item (shown in Ramsey Decl., Ex. B) are "normally understood to be 'capital' under subsection (B)," and should be removed from the subsection (A) analysis. *Id.* (citing *Lelo*, 786 F.3d at 883 ("Similarly, 'capital' is 'a stock of accumulated goods[.]'"); *Certain Replacement Automotive Lamps*, Inv. No. 337-TA-1291, Comm'n Op. at 30, 30 n.44 (Mar. 7, 2024) (holding that subsection (A), (B), and (C) investments should not be aggregated) (citing *Certain Carburetors and Products Containing Such Carburetors*, Inv. No. 337-TA-

1123, Comm’n Op. at 21 (Sept. 12, 2019)). The ID finds that removing “Materials” from the denominator would “cause the subsection (A) value-add percentage to rise drastically which only further supports finding Epson’s domestic plant and equipment to be quantitatively significant.”¹⁷ *Id.* at 50-51.

B. Analysis

The Commission affirms the ID’s finding that Epson has satisfied the economic prong of the DI requirement under subsections (A) and (B) as modified below.¹⁸

1. Qualitative Factors

While the ID finds that Epson’s qualifying DI investments are significant under subsections (A) and (B), the ID does not consider any qualitative factors, which are important as part of a holistic review of all relevant considerations consistent with *Wuhan*. *See id.* at 49-51; 127 F.4th at 1339. Epson Portland manufactures and packages ink cartridges, including the DI products, at its facilities in Hillsboro, Oregon. *Id.* at 46; Mot. at 96. In particular, Epson Portland blends inks, manufactures genuine Epson ink cartridges and bottles, and packages them for use in Epson printers and for retail sales. Ramsey Decl. ¶ 3; Herrington Decl. ¶ 41; Compl. ¶ 4, 328-29. Among other things, it uses raw plastic resin to manufacture the cartridge bodies, other components of the cartridges, and ink bottles; it programs and applies integrated circuits to cartridges; it fills the cartridges and bottles with ink it produces; and it packs them in retail packaging. Mot. at 96. In its motion, Epson argued that its DI investments are qualitatively significant because its group 2 DI products for the ’172 and ’934 patents are “a relatively large portion” of Epson Portland’s overall business and its group 3 DI products for the

¹⁷ The ID does not address whether the subsection (B) analysis would be impacted based on its assumption of the “Materials” line item as the raw materials. *See id.* at 50-51.

¹⁸ Commissioner Kearns finds the economic prong satisfied under only section 337(a)(3)(B) (significant employment of labor) for the reasons stated in footnotes 21 and 23 and takes no position as to section 337(a)(3)(A) (significant investment in plant and equipment).

PUBLIC VERSION

'038, '248, and '249 patents are “an increasingly growing part” of Epson Portland’s overall business. *Id.* at 102. The evidence supports Epson’s characterizations of the importance of the DI products to its business. As summarized in Table 3 of Epson’s summary determination motion, [REDACTED] of the ink cartridges manufactured at the Oregon facilities from January to March 2023 were the group 2 DI products, whereas only [REDACTED] accounted for the group 3 DI products during the same time period. *Id.* at 95. By April to June 2025 time period, the number of group 2 DI products manufactured at the Oregon facilities was still a substantial [REDACTED], while the number of group 3 DI products had increased to [REDACTED]. *Id.*

Epson also states in its written submission that Epson Portland’s Oregon facilities are “the only location in the United States that manufactures any Epson ink cartridge products,” and that Epson Portland “solely exists in the United States to manufacture and package Epson designed printers and ink cartridges, including the DI Products.” Epson Br. at 4, 14. During the relevant period between January 2023 and June 2025, Epson states that the Oregon facilities manufactured the “vast majority” of the DI products manufactured globally and packaged [REDACTED] of the DI products including those manufactured abroad. *Id.* at 14-15.

2. Quantitative Factors

a. *Domestic vs Foreign Manufacturing*

Regarding foreign activity, Epson asserts that the “vast majority of the DI Products manufactured worldwide” were manufactured at Epson Portland’s Oregon facilities during the relevant period between January 2023 and June 2025, implying that at least some manufacturing activity occurred overseas. Epson Br. at 4-5 (citing Ramsey Decl., ¶¶ 3-7, 18; Herrington Decl., ¶¶ 70 and 76). While the record is unclear regarding the full extent of Epson’s foreign activity, the Commission finds that Epson domestically manufactured the vast majority of the DI products based on the following analysis of

PUBLIC VERSION

Epson Portland's manufacturing and packaging data. *See generally* Epson Br. at 1-21; Mot. at 102-13; Ramsey Decl., Exs. C, D. During the relevant time period, Epson Portland's Oregon facilities manufactured [REDACTED] group 2 DI products and [REDACTED] group 3 DI products; and in comparison, the Oregon facilities packaged [REDACTED] group 2 DI products and [REDACTED] group 3 DI products. Ramsey Decl., Exs. C and D, shown below (modified to show only the total number of group 2 and group 3 DI products manufactured and packaged at the Oregon facilities).

	FY 2022	FY 2023	FY 2024	FY 2025	Total
Units	<i>Jan. 2023 -</i>	<i>April 2023 -</i>	<i>April 2024 -</i>	<i>April 2025 -</i>	<i>Jan. 2023 -</i>
Manufactured	<i>March 2023</i>	<i>March 2024</i>	<i>March 2025</i>	<i>June 2025</i>	<i>June 2025</i>
Total Group 2	[REDACTED]				[REDACTED]
Total Group 3	[REDACTED]				[REDACTED]

	FY 2022	FY 2023	FY 2024	FY 2025	Total
Units	<i>Jan. 2023 -</i>	<i>April 2023 -</i>	<i>April 2024 -</i>	<i>April 2025 -</i>	<i>Jan. 2023 -</i>
Packaged	<i>March 2023</i>	<i>March 2024</i>	<i>March 2025</i>	<i>June 2025</i>	<i>June 2025</i>
Total Group 2	[REDACTED]				[REDACTED]
Total Group 3	[REDACTED]				[REDACTED]

The evidence is undisputed that Epson Portland's Oregon facilities packaged [REDACTED] of the DI products manufactured globally. Epson Br. at 5, 14-15; Ramsey Decl., ¶ 19; Herrington Decl., ¶¶ 71, 77. Accordingly, the number of DI products packaged at the Oregon facilities is a reasonable representation of the total number of the DI products that Epson manufactured globally, both abroad and in the United States, during the relevant time period. *Id.* The Commission finds that comparing the

PUBLIC VERSION

number of DI products manufactured in Oregon versus the number packaged in Oregon offers a way to determine the extent of Epson's domestic manufacturing of the DI products compared to its manufacturing of DI products abroad.¹⁹ *Id.* This comparison analysis shows that Epson domestically manufactured in Oregon:

- in FY 2022, [REDACTED] of the group 2 DI products and [REDACTED] of the group 3 DI products;
- in FY 2023, [REDACTED] of the group 2 DI products and [REDACTED] of the group 3 DI products;
- in FY 2024, [REDACTED] of the group 2 DI products and [REDACTED] of the group 3 DI products; and
- in FY 2025, [REDACTED] of the group 2 DI products and [REDACTED] of the group 3 DI products.

See Ramsey Decl., Exs. C, D.

Overall, this comparison shows that during the January 2023 to June 2025 time frame, Epson domestically manufactured about [REDACTED] of the group 2 DI products and about [REDACTED] of the group 3 DI products.²⁰ *Id.* Notably, the percentage of products in both categories manufactured versus packaged generally increased over the relevant time frame, indicating a shift toward domestic production.

¹⁹ Indeed, in co-pending Investigation No. 337-TA-1451, Epson stated that because Epson Portland “packages [REDACTED] of the DI Products manufactured globally, one can gain a sense of the relative proportion of DI Products that [Epson Portland] manufactures in the United States to the proportion of DI Products manufactured outside of the United States by reviewing the information provided in Exhibits C and D to Mr. Ramsey’s Declaration.” *Certain Ink Cartridges And Components Thereof I*, Inv. No. 337-TA-1451, Complainants’ Opening Submission in Response to the Commission’s July 1, 2026 Notice at 3 (July 15, 2026) (EDIS Doc. ID 888159). Epson submitted materially the same version of Exhibits C and D to Mr. Ramsey’s Declaration in Investigation Nos. 337-TA-1451 (a co-pending investigation) and 337-TA-1452 (this investigation).

²⁰ According to the data in Exhibits C and D of Mr. Ramsey’s declaration, Epson Portland manufactured [REDACTED] more group 3 DI products than it packaged during the relevant period between January 2023 and June 2025. It may be the case that not every DI product manufactured during the relevant period is packaged during the same time period, but the Commission finds that comparison of the number of products packaged in Oregon and the number of products manufactured in Oregon nonetheless provides a reasonable basis on which to estimate the percentage of DI products manufactured in the United States for the purpose of analyzing significance under subsections (A) and (B).

PUBLIC VERSION

b. *Analysis of DI investments, COGS, and G&A*

The ID characterizes Epson's comparison of its asserted domestic investments under subsection (A) and (B) to its total COGS and G&A as a "value-add" analysis of activities taking place in the United States. ID at 49. Here, it is undisputed that the vast majority of the manufacturing activities for the DI products and [REDACTED] of the packaging activities for the DI products take place in the United States. However, the record does not contain adequate, specific information regarding the types of investments and foreign manufacturing for the ID's "value-add" analysis.²¹ Epson itself, in its motion for summary determination, also did not characterize its DI analysis as a value-added analysis (though Epson appears to argue as such in its submission on Commission review). *Compare* Mot. with Epson Br. at 7-12. Even the ID acknowledges that "the percentages for subsection (A) are likely understated as the 'Materials' line item is assumed to mean the raw materials for the manufacturing and packaging activities," and "raw materials are normally understood to be 'capital' under subsection (B)." ID at 50.

Epson argues in this investigation that COGS comprises materials, labor, and overhead related to the machinery and equipment used in the manufacture and packaging of the ink cartridge products at Epson Portland's facilities, including the DI products, with overhead specified as comprising

²¹ Commissioner Kearns finds that even if the "Materials" and "Other" line items in the COGS and G&A investments are *not* foreign expenses, Epson's comparison of DI COGS and G&A to total COGS and G&A may serve as a conservative proxy for the "value-added" to the DI products from activities taking place within the United States. *See* ID at 49-50. For example, the inclusion of "Materials" and "Other" line items in the denominator of a comparison would cause lower than expected percentages, resulting in a conservative approach to comparing Epson's stated domestic investments to its "total COGS and G&A" investments for the DI products. Thus, even with including the "Materials" and "Other" line items as foreign expenses, Epson's labor and capital for the '172 and '934 patents are greater than [REDACTED] of the total COGS and G&A and labor and capital for the '038, '248, and '249 patents are greater than [REDACTED] of the total COGS and G&A. *See id.* Commissioner Kearns finds these percentages significant. Further, Commissioner Kearns agrees with the majority's finding below that the record shows that Epson's comparisons of its DI investments calculated based on the components of COGS and G&A relevant to labor and capital under subsection (B) to Epson Portland's total COGS and G&A investments indicate that Epson's asserted DI investments comprise a significant share of the total COGS and G&A for the DI products.

PUBLIC VERSION

depreciation, utilities, rent, maintenance/repair, property taxes, insurance, and other; G&A comprises salaries/wages, depreciation, utilities, rent, maintenance/repair, property taxes, insurance, and other related to facility investments used for activities including engineering, purchasing and planning for the ink cartridge products, including the DI products. Epson Br. at 1-3; Mot. at 98; Ramsey Declaration, Ex. B. The ID assumes that the “Materials” and “Other” line items in the COGS and G&A investments (shown in Ramsey Decl., Ex. B) are foreign expenses. ID at 49-50. The ID explains that these are foreign investments simply because they were “not included in the proffered domestic investment.” *Id.* at 49.

The evidence, however, does not show that the “Other” investments are foreign investments. Mr. Ramsey explained that “[t]he ‘Other’ overhead under COGS and the ‘Other’ G&A investments are investments related to the manufacture and packaging of the ink cartridge products, including the Domestic Industry Products, at Epson Portland’s facilities but are investments unrelated to plant, equipment, or labor.” Ramsey Decl. ¶ 14, 16; *see also* Epson Br. at 1-3. Mr. Ramsey does not characterize the “Other” investments as foreign investments. *Id.*

Similarly, the record evidence does not support the ID’s assumption that the “Materials” line item is properly treated as foreign investments. ID at 49-50. Epson states in its submission on Commission review that the “Materials” costs in the COGS investments (shown in Ramsey Decl., Ex. B) include both domestic and “any foreign costs related to the purchase of materials,” such as “raw plastic resin to manufacture the cartridge bodies, other components of the cartridges, and ink bottles.” Epson Br. at 2. However, even so, the record does not indicate what portion of the “Materials” costs, if any, are foreign costs which would be needed to conduct a value-added analysis. *See* Ramsey Decl., Ex. B.

PUBLIC VERSION

Therefore, the Commission declines to adopt the ID's assumption that the "Materials" and "Other" line items should be treated as foreign investments. To the extent the ID concludes that Epson's comparison of DI COGS and G&A to total COGS and G&A demonstrates the "value-add" to the DI products from activities taking place within the United States, the Commission finds the record lacks adequate, specific information to find the "value-added" to the DI products. ID at 49-50; *see Certain Bone Cements, Components Thereof and Prods. Containing the Same*, Inv. No. 337-TA-1153, Comm'n Op. at 26-27 (Jan. 25, 2021). While a COGS comparison can be useful in showing domestic value-added activities in order to determine the significance of domestic investments, here, the record does not contain sufficient information for such analysis. *Certain Crafting Machines and Components Thereof*, Inv. No. 337-TA-1426, Comm'n Op. at 16 (July 7, 2026).

Instead, we observe that the record evidence shows that a vast majority of the manufacturing activities and [REDACTED] of the packaging activities directed to the DI products occur at Epson Portland's Hillsboro, Oregon facilities. Further, the record shows that Epson's comparisons of its DI investments calculated based on the components of COGS and G&A relevant to plant and equipment and labor and capital under subsection (A) and (B) respectively to Epson Portland's total COGS and G&A investments indicate that Epson's asserted DI investments comprise a significant share of the total COGS and G&A for the DI products. Herrington Decl., ¶¶ 73-74, 79-80; Motion at 98-99, 101.

c. Insurance Expenses

The Commission requested the parties to brief whether Epson properly included the Insurance expenses in Epson Portland's COGS and G&A investments (shown in Ramsey Decl., Ex. B) in the DI economic prong analysis under section 337(a)(3)(A). *See* Review Notice, 91 Fed. Reg. at 25922. In its motion, Epson stated that the "Insurance" expenses generally "relate to facility investments" for the DI products, but did not explain the subject of insurance that is being protected against damages or loss, and

PUBLIC VERSION

how the Insurance expenses relate to plant and equipment investments for the DI products. Mot. at 98. The ID generally finds that “Epson’s methodology is persuasive” and considers the Insurance expenses in its DI analysis without any detailed discussion on this issue. ID at 47-48.

Epson explains, in its submission on Commission review, that the Insurance expenses relate to property insurance for Epson Portland’s Oregon facilities and are necessary plant investments to domestically manufacture and package the DI products. Epson Br. at 4. OUII states that “the evidence of record (specifically, as described and discussed in the supporting declarations)” provides the basis for including the “Insurance” expenses as part of the plant and equipment investments, and the statutory language of section 337(a)(3)(A) also supports including the insurance expenses. OUII Br. at 10-11 (explaining that “section 337(a)(3)(A) requires only that domestic investments in plant and equipment be ‘with respect to the articles protected by the patent’”); *see also Lashify, Inc. v. ITC*, 130 F.4th 948, 958-59 (recognizing that the statutory language of subsection (A)—like that of subsection (B)—identifies “inputs for an enterprise’s functioning” without limiting “what enterprise functions the inputs must be used to perform”); *Certain Solid State Storage Drives*, Inv. No. 337-TA-1097, Comm’n Op. at 8 (noting the statutory text does not limit subsection (A) or (B) “to investments related to manufacturing or any other type of industry”).

The Commission has determined to take no position on whether Epson has properly included the Insurance expenses as plant and equipment investments for the DI analysis under section 337(a)(3)(A).²² *See Beloit Corp. v. Valmet Oy*, 742 F.2d 1421, 1423 (Fed. Cir. 1984). The Commission finds that the

²² Commissioner Karpel finds that the Insurance expenses are reasonably related to plant investments for the domestic manufacture and packaging of the DI products. Epson Br. at 4; OUII Br. at 10-11; Ramsey Decl. ¶ 15; Herrington Decl. at ¶ 48. Specifically, expenses related to property such as a manufacturing facility may qualify as plant and equipment investments “with respect to the articles protected by the patent.” 19 U.S.C. § 1337(a)(3)(A). Therefore, Commissioner Karpel finds that Epson properly included the Insurance expenses as part of its DI investments in plant and equipment under section 337(a)(3)(A).

PUBLIC VERSION

Insurance expenses here (*i.e.*, [REDACTED] under COGS expenses and [REDACTED] under G&A expenses) are relatively small part of Epson's overall asserted DI investments and are not necessary for Epson to satisfy the economic prong. *See* Ramsey Decl., Ex. B. Therefore, the Commission's determination to take no position and not considering such *de minimis* expenses will have minimal impact on the DI analysis.

3. Significance

Quantitative and qualitative significance are not individual findings but, rather, the DI analysis is performed under the "holistic analysis" standard set forth in *Wuhan Healthgen*. 127 F.4th at 1339; *see Certain Semiconductor Devices and Products Containing the Same*, Inv. No. 337-TA-1414, Comm. Op. at 38 (May 7, 2026) (noting that the Commission "considers what the FID broke into determinations of 'quantitative significance' and 'qualitative significance' together as an integrated analysis of whether Infineon's asserted investments, based on a holistic review of all relevant considerations, satisfy the domestic industry requirement"). Based on the evidence as discussed above, the Commission finds²³

²³ In Commissioner Kearns' view, the significance analysis under sections 337(a)(3)(A) and (B) should be based on a full picture of all expenses associated with the domestic industry products, not a selective subset of those expenses or limited to comparisons of a single category. *See Certain Smart Wearable Devices, Systems, and Components Thereof*, Inv. No. 337-TA-1398, Comm'n Op. at 6, n.4 (Aug. 21, 2025). Here, Commissioner Kearns finds that the record evidence supports the existence of a domestic industry under section 337(a)(3)(B) based on Epson's labor investments for the group 2 and group 3 DI products. Specifically, during the January 2023 to June 2025 time frame, Epson domestically manufactured about [REDACTED] of the group 2 DI products and about [REDACTED] of the group 3 DI products. Also, [REDACTED] of the DI products were packaged domestically. Accordingly, the DI products are the result of nearly all domestic activities.

As explained above in footnote 21, Commissioner Kearns finds that even considering the conservative comparison in the ID, Epson's labor or capital investments allocated to the group 2 DI products [REDACTED] Herrington Decl., Ex. 5) are greater than [REDACTED] of the total COGS and G&A investments allocated to the group 2 DI products [REDACTED] Herrington Decl., Ex. 3); and Epson's labor or capital investments allocated to the group 3 DI products [REDACTED] Herrington Decl., Ex. 5) are greater than [REDACTED] of the total COGS and G&A investments allocated to the group 3 DI products [REDACTED], Herrington Decl., Ex. 3), which further confirms the domestic investments are significant. However, Commissioner Kearns takes no position on the significance of Epson's domestic investments in plant and equipment under section 337(a)(3)(A).

PUBLIC VERSION

that Epson's investments in the DI products are significant under subsections (A) and (B) based upon a holistic review of the record including the following:

- Epson's group 2 DI products for the '172 and '934 patents are "a relatively large portion" of Epson Portland's overall business and its group 3 DI products for the '038, '248, and '249 patents are "an increasingly growing part" of Epson Portland's overall business. The evidence shows that Epson has shifted more manufacture of its group 2 DI products to its Oregon facility and manufactures nearly all of its group 3 products domestically.
- The [REDACTED] in plant and equipment investments allocated to the group 2 DI products (Herrington Decl., Ex. 4) that Epson invested in the domestic manufacture and packaging of the DI products under subsection (A) where these investments comprise [REDACTED] of Epson Portland's total COGS and G&A investments and [REDACTED] of Epson Portland's total U.S. plant and equipment investments (Mot. at 98-99; Herrington Decl. ¶¶ 73, 75, Ex. 4) and where approximately [REDACTED] of these DI products were manufactured in the United States;
- The [REDACTED] in plant and equipment investments allocated to the group 3 DI products (Herrington Decl., Ex. 4) that Epson invested in the domestic manufacture and packaging of the DI products under subsection (A) where these investments comprise [REDACTED] of Epson Portland's total COGS and G&A investments and [REDACTED] of Epson Portland's total U.S. plant and equipment investments (Mot. at 98-99; Herrington Decl. ¶¶ 73, 75, Ex. 4) and where nearly [REDACTED] of these DI products were manufactured in the United States;
- The [REDACTED] in labor investments allocated to the group 2 DI products (Herrington Decl., Ex. 5) that Epson invested in the domestic manufacture and packaging of the DI products under subsection (B) where these investments comprise [REDACTED] of Epson Portland's total COGS and G&A investments and [REDACTED] of Epson Portland's total labor investments (Mot. at 101; Herrington Decl. ¶¶ 79, 81, Ex. 5) and where approximately [REDACTED] of these DI products were manufactured in the United States; and
- The [REDACTED] in labor investments allocated to the group 3 DI products (Herrington Decl., Ex. 5) that Epson invested in the domestic manufacture and packaging of the DI products under subsection (B) where these investments comprise [REDACTED] of Epson Portland's total COGS and G&A and [REDACTED] of Epson Portland's total labor investments (Mot. at 101; Herrington Decl. ¶¶ 79, 81, Ex. 5) and where nearly [REDACTED] of these DI products were manufactured in the United States.

Commission precedent supports finding Epson's DI investments significant because Epson domestically manufactured the vast majority and packaged [REDACTED] of its DI products in Oregon. The Commission has found the economic prong of the DI requirement satisfied based on a similar comparison of domestic production to worldwide production of the DI products. *See Certain Toner*

PUBLIC VERSION

Supply Containers and Components Thereof (I), Inv. No. 337-TA-1259, Comm’n Op. at 11-12 (Aug. 19, 2022) (finding the economic prong of the DI requirement satisfied where the complainant domestically manufactured the “overwhelming majority” of the DI products sold in the United States); *Certain Power Converter Modules & Computing Sys. Containing the Same*, Inv. No. 1370, Comm’n Op. at 95-96 (Feb. 26, 2025) (finding the economic prong of the DI requirement satisfied where “all” of complainant’s manufacturing and engineering, research, and development took place in the United States).

V. REMEDY, THE PUBLIC INTEREST, AND BONDING

The Commission has “broad discretion in selecting the form, scope, and extent of the remedy.” *Viscofan, S.A. v. ITC*, 787 F.2d 544, 548 (Fed. Cir. 1986). As discussed below, the Commission has determined to (1) issue a GEO prohibiting the importation of infringing articles; (2) issue CDOs against respondents Mountain Peak and Straightouttaint; (3) find that the public interest will not be adversely affected by the issuance of the proposed GEO and CDOs; and (4) set a bond in the amount of 100 percent of entered value of infringing articles imported during the period of Presidential review.

A. General Exclusion Order

The Commission has the authority to issue a GEO under section 337(g)(2) where, as here, the respondents were found in default, and a violation has been shown. Section 337(g)(2) states:

In addition to the authority of the Commission to issue a general exclusion from entry of articles when a respondent appears to contest an investigation concerning a violation of the provisions of this section, a general exclusion from entry of articles, regardless of the source or importer of the articles, may be issued if—

(A) no person appears to contest an investigation concerning a violation of the provisions of this section,

(B) such a violation is established by substantial, reliable, and probative evidence, and

(C) the requirements of subsection (d)(2) are met.

PUBLIC VERSION

19 U.S.C. § 1337(g)(2). The referenced requirements of subsection (d)(2) are:

(A) a general exclusion from entry of articles is necessary to prevent circumvention of an exclusion order limited to products of named persons; or

(B) there is a pattern of violation of this section and it is difficult to identify the source of infringing products.

19 U.S.C. § 1337(d)(2). “Satisfaction of either criterion [in subsection (d)(2)] is sufficient for imposition of a GEO, subject to a consideration of the public interest.” *Certain Batteries and Products Containing Same*, Inv. No. 337-TA-1244, Comm’n Op. at 16 (Sept. 8, 2022).

Section 337(g)(2)(A) is satisfied here because all of the named respondents were either found in default or were withdrawn after Epson failed to serve the complaint on those respondents. As such, no respondent appeared to contest the investigation concerning a violation of the provisions of this section. As to Section 337(g)(2)(B), the Commission affirms the ALJ’s finding of a violation of section 337 “by substantial, reliable, and probative evidence” as to claims 1 and 7 of the ’172, ’934, ’038, ’248, and ’249 patents, with the modified economic prong analysis discussed above.

Epson requests a GEO as to claims 1 and 7 of the ’172, ’934, ’038, ’248, and ’249 patents, and contends that the requirements of subsection (d)(2)(A) and (B) are met because a GEO is (1) necessary in order to prevent infringers from circumventing a limited exclusion order (“LEO”), and (2) there is a pattern of violation along with difficulty in identifying the source of the infringing products. Epson Br. at 21-23. OUII supports Epson’s request under both sections 337(d)(2)(A) and (B), and the RD so recommends. OUII Br. at 29-35; RD at 51-54. The Commission finds that issuing a GEO is warranted here under both subsections.

The Commission agrees with the RD’s finding that issuance of a GEO is appropriate. As to a pattern of violations, this investigation alone involves sixteen Respondents who have all been shown to violate section 337 with respect to the asserted claims. RD at 52. Epson additionally has shown that

PUBLIC VERSION

“the marketplace is plagued by counterfeit ink cartridges that offer inferior quality but are sold at attractive price points, undermining trust in legitimate products and brands.” *Id.* (citing Mot. at 110; Herrington Decl. ¶ 100). In particular, as the RD notes, Epson’s investigator, Mr. Seitz stated that he was able to place orders from “at least 7 non-respondents for Epson compatible aftermarket ink cartridges that have business addresses in China,” and that “Ocbestjet, Tatrix, and Mountain Peak and their affiliates have imported over 225 tons of printer consumable products into the U.S. within the last 3 years.” *Id.* (citing Seitz Decl. ¶¶ 228 273, 275-277, 279-281).

As to difficulty in identifying sources, the Commission finds that it is easy for infringers to set up profiles/vendor pages on the online sales platforms without providing accurate identity. *Id.* at 53. This is supported by Epson’s ability to purchase the accused products from certain sellers, who could not be successfully served in the investigation, resulting in the premature termination of the investigation as to those sellers. *Id.* (citing Order No. 11 terminating respondents Shenzhen Hongxinyuan, Shangrao Shixuan, Shen Zhen Sailing, and Qiong from the investigation). As the RD notes, when the infringing products arrive, they are often generic with no “indicia of manufacturer or supplier,” and that identical ink cartridge products were often sold under different brand names, making it difficult to identify the sources of these infringing products. *Id.* Many respondents sell the infringing products under tradenames that appear to be designed for anonymity or do not resemble the sellers’ corporate names. *Id.*

As to circumvention, the Commission finds that ease of concealing identities would motivate respondents to circumvent an LEO issued against them. *Id.* at 54. As the RD finds, the sixteen Respondents found in default failed to appear or participate in the investigation even though they were all successfully served, which shows that they are unlikely to abide by an LEO. *Id.* Some respondents, even after defaulting, continue to sell the infringing products. *Id.* As Epson explained, the Commission

PUBLIC VERSION

has issued GEOs in past investigations involving ink/toner cartridges based, in part, on findings that it would be difficult for U.S. Customs and Border Protection to identify the source of such infringing goods and enforce an LEO. *Id.* at 52-53 (citing Mot. at 105-106, 124-125 discussing Inv. Nos. 337-TA-565, 337-TA-723, 337-TA-740, 337-TA-829, and 337-TA-946).

B. Cease and Desist Orders

Epson requests CDOs against respondents Mountain Peak and Straightouttaintank based on the inference that they maintain commercially significant inventories. Epson Br. at 23. *Id.* at 54-55. Epson notes that both respondents were successfully served at their domestic addresses, which supports an inference that they maintain “commercially significant domestic inventories or significant domestic operations with respect to the infringing articles.” *Id.* at 55. The RD agrees that the evidence supports issuance of CDOs against respondents Mountain Peak and Straightouttaintank. *Id.* Epson and OUII agree that the Commission’s practice is to presume the presence of commercially significant inventory in the United States for domestic defaulting respondents, and therefore it is appropriate for the Commission to issue CDOs against respondents Mountain Peak and Straightouttaintank. Epson Br. at 23; OUII Br. at 36-37.

The Commission agrees that issuing CDOs against Mountain Peak and Straightouttaintank is appropriate.²⁴ The Commission generally has issued CDOs against defaulting domestic respondents,

²⁴ Commissioner Karpel concurs with the majority that CDOs directed to defaulting domestic respondents Mountain Peak and Straightouttaintank should be issued but bases her decision on grounds that differ from the majority view. Commissioner Karpel considers section 337(g)(1) is the appropriate authority for the issuance of CDOs as to both domestic and foreign defaulting respondents when the criteria for issuance of CDOs under subsection 337(g)(1)(A)-(E) are met. *See, e.g., Certain Powered Cover Plates*, Inv. No. 337-TA-1124, Comm’n Op. at 22-23 n.20 (June 11, 2020), *Certain Pocket Lighters*, Inv. No. 337-TA-1142, Comm’n Op. at 19-20 n.15 (July 13, 2020), and *Certain Footwear*, Inv. No. 337-TA-936 (remand), Comm’n Op. at 120-21 n.66 (Sept. 9, 2020). In the present investigation, each of the defaulting respondents was named in the complaint and each was served with the complaint and notice of investigation. *See* Order No. 8 (Sept. 15, 2025), *unreviewed by* Comm’n Notice (Nov. 17, 2025); Order No. 10 (Dec. 3, 2025), *unreviewed by* Comm’n Notice (Dec. 22, 2025).

PUBLIC VERSION

finding a presumption that such respondents have significant domestic inventory is appropriate. *See Certain Inkjet Supplies and Components Thereof*, Inv. No. 337-TA-691, Comm'n Op. at 13-14 (Jan. 28, 2011) (inferring from domestic respondent's default that the respondent had commercially significant inventory in the United States and issuing a CDO).

C. Public Interest

Section 337 requires the Commission, upon finding a violation of section 337, to issue an exclusion order “unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.” 19 U.S.C. §§ 1337(d)(1), (f)(1), (g)(1); *see Certain Exercise Equipment and Subassemblies Thereof*, Inv. No. 337-TA-1419, Comm'n Op. at 19-24 (Aug. 20, 2025) (considering the public interest factors and finding that the public interest will not be adversely affected by issuing the remedy under 19 U.S.C. §§ 1337(g)(1) and (2)).

Epson and OUII, in their submissions, contend that the public interest factors enumerated in section 337 do not preclude the issuance of the requested GEO and CDOs. Based on the record evidence discussed below, the Commission finds the public interest factors of section 337 do not preclude the issuance of the requested remedy.

The ALJ issued a show cause order ordering these respondents to show cause why they should not be held in default for failing to respond to the complaint and notice of investigation. *See id.* None of these respondents filed responses to the show cause orders. *Id.* These findings satisfy subsections 337(g)(1)(A)-(D). Complainant requested CDOs limited to defaulting respondents Mountain Peak and Straightouttink thus satisfying subsection 337(g)(1)(E). Given that subsections 337(g)(1)(A)-(E) are satisfied and complainant requested CDOs directed to these respondents, the statute directs the Commission to issue the requested CDOs, subject to consideration of the public interest. The public interest factors as detailed in Section V.C. *infra* do not support a finding that the remedial orders in this investigation would be contrary to the public interest. Accordingly, Commissioner Karpel would issue CDOs against Mountain Peak and Straightouttink under section 337(g)(1).

PUBLIC VERSION

1. The Public Health and Welfare

The Commission agrees with Epson's and OUII's statements that the requested remedy will not adversely impact the public health and welfare because the ink cartridge products and components at issue in the investigation are not likely to raise such concerns. Epson Br. at 24-25; OUII Br. at 37. The Commission in the past has determined that the public health and welfare would not be adversely impacted by remedial orders excluding similar products. *Toner Supply Containers*, Inv. No. 337-TA-1259, Comm'n Op. at 23-24 (finding no evidence that toner supply containers and components at issue for copy machines are "necessary to fulfill any public health, safety, or welfare needs").

2. Competitive Conditions in the United States Economy

Epson and OUII state that the competitive conditions in the United States economy will not be affected by the requested remedy because Epson and its affiliates already provide a sufficient supply of replacement articles. *Id.* at 25; OUII Br. at 38. The Commission agrees. As Epson states, there are other printer manufacturers that manufacture similar printers and ink cartridges that would not be impacted by the requested remedial relief. *Id.*

3. The Production of Like or Directly Competitive Articles in the United States

The Commission also agrees with Epson's and OUII's statements that the requested remedy is unlikely to have a significant adverse impact on the production of like or directly competitive articles in the United States. *Id.* at 26; OUII Br. at 38. To the contrary, as Epson explains, the requested remedy will likely "cause Epson's domestic production (and therefore, overall domestic production) to increase." *Id.* Epson also explains that it has "sold ink cartridges for use with Epson printers for decades" and has "the capacity to replace the volume of production of infringing ink cartridges without delay." *Id.* Lastly, the Commission finds that there is no evidence of domestic manufacturing of any

PUBLIC VERSION

infringing products, so a significant adverse impact on the production of like or directly competitive articles in the United States is unlikely. OUII Br. at 38.

4. United States Consumers

Epson and OUII state that the U.S. consumers would not be adversely impacted by the requested remedy because Epson and its affiliates, as well as third parties, can produce an adequate supply of the ink cartridge products. Epson Br. at 26; OUII Br. at 39. The Commission agrees. In particular, as OUII explains, “there are many competing products available, including Epson’s domestically manufactured ink cartridge products or cartridges from affiliates in Epson’s network,” such that excluding the infringing products will have no significant impact on the U.S. consumers. OUII Br. at 39.

D. Bonding

If the Commission enters an exclusion order or a cease and desist order, a respondent may continue to import and sell its products during the 60-day period of Presidential review under a bond in an amount determined by the Commission to be “sufficient to protect the complainant from any injury.” 19 U.S.C. § 1337(j)(3); *see also* 19 C.F.R. § 210.50(a)(3). When possible, the Commission sets the bond at an amount based upon price differentials between respondent’s and complainant’s products. *See, e.g., Certain Hydraulic Excavators and Components Thereof*, Inv. No. 337-TA-582, Comm’n Op. at 21, USITC Pub. No. 4115 (Dec. 2009); *Certain Led Photographic Lighting Devices and Components Thereof*, Inv. No. 337-TA-804, Comm’n Op. at 34 (Feb. 28, 2013) (“*Certain Led Photographic Lighting Devices*”) (setting the bond at 43% of entered value based on the price differential because respondents’ products were sold for 30% less than complainant’s products).

The RD recommends that the Commission issue a bond in the amount of 100 percent because Epson was unable to obtain reliable pricing information for the infringing products based on the lack of participation from the sixteen defaulting Respondents. RD at 56. Epson and OUII agree with the RD

PUBLIC VERSION

that reliable price information is not available, such that 100 percent bond is appropriate. Epson Br. at 27-28; OUII Br. at 39-40. However, Epson’s investigator, Mr. Seitz, provided detailed pricing information for the infringing products he purchased. *See e.g.*, Seitz Decl. ¶ 40 (“I paid for the order and shipping, which totaled [REDACTED], and the Epson compatible [REDACTED] were later shipped from China to one of my [REDACTED].”); *see generally* Seitz Decl. ¶¶ 40-297 (describing the pricing information for ordering the infringing products). Therefore, the Commission is not persuaded by Epson’s argument that reliable pricing information for the infringing products was not obtainable.

However, the Commission has typically set a 100 percent bond in investigations where respondents defaulted and the prices of infringing products vary across different products. *Certain Exercise Equipment and Subassemblies Thereof*, Inv. No. 337-TA-1419, Comm’n Op. at 24 (Aug. 20, 2025) (imposing a 100 percent bond because “there are pricing variations across the infringing products”); *Certain Digital Photo Frames and Image Display Devices and Components Thereof*, Inv. No. 337-TA-807, Comm’n Op. at 15 (Mar. 27, 2013) (imposing a 100 percent bond based on “pricing variations” of the infringing products). Here, all sixteen Respondents in the investigation defaulted, and the record evidence shows pricing variations of the infringing products at issue. Seitz Decl. ¶¶ 40-297 (showing that Mr. Seitz paid different prices for different sets of infringing products). Such pricing variations make it difficult to calculate a bond based on price differentials between Epson’s DI products and Respondents’ infringing products. Accordingly, the Commission sets a bond in the amount of 100 percent of entered value of infringing articles imported during the period of Presidential review.

VI. CONCLUSION

For the foregoing reasons, the Commission affirms with modified analysis the ID’s finding that the economic prong of the DI requirement is satisfied and, thus, affirms the ID’s finding of violation of

PUBLIC VERSION

section 337. The Commission determines that the appropriate remedy is a GEO as to claims 1 and 7 of the '172, '934, '038, '248, and '249 patents, respectively, prohibiting the importation of infringing ink cartridges and components thereof, and CDOs against respondents Mountain Peak and Straightouttink. The Commission determines that the public interest does not preclude that remedy. The Commission has determined to set a bond in the amount of 100 percent of entered value of infringing articles imported during the period of Presidential review.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'L.R. Barton', enclosed within a thin black rectangular border.

Lisa R. Barton
Secretary to the Commission

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