



7020-02

## INTERNATIONAL TRADE COMMISSION

### [Investigation No. 337-TA-1076]

#### Certain Magnetic Data Storage Tapes and Cartridges Containing Same (II)

#### Commission's Final Determination Finding a Violation Of Section 337; Issuance of a Limited Exclusion Order and Cease and Desist Orders; and Termination of the Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined that there is a violation of 19 U.S.C. 1337, as amended (“Section 337”), in the above-captioned investigation. The Commission has further determined to issue a limited exclusion order and cease and desist orders and to set bond rates on the entered value of covered products imported during the period of Presidential review.

**FOR FURTHER INFORMATION CONTACT:** Carl P. Bretscher, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2382. 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 (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission’s Electronic Docket Information System (“EDIS”) (<https://edis.usitc.gov>). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on October 25, 2017, on a complaint filed by FUJIFILM Corporation of Tokyo, Japan and FUJIFILM Recording Media U.S.A., Inc. of Bedford, Massachusetts (collectively, “Fujifilm”). 82 FR 49421-22 (Oct. 25, 2017). The complaint alleged violations of 19 U.S.C. 1337 (“Section 337”), in the importation, sale for importation, or sale in the United States after importation of certain magnetic data storage tapes and cartridges by reason of infringement of one or more asserted claims of U.S. Patent Nos. 6,630,256 (“the ’256 patent”); 6,835,451 (“the ’451 patent”); 7,011,899 (“the ’899 patent”); 6,462,905 (“the ’905 patent”); and 6,783,094 (“the ’094 patent”). *Id.* The notice of investigation named Sony Corporation of Tokyo, Japan; Sony Storage Media Solutions Corporation of Tokyo, Japan; Sony Storage Media Manufacturing Corporation of Miyagi, Japan; Sony DADC US Inc. (“Sony DADC”) of Terre Haute, Indiana; and Sony Latin America Inc. (“Sony Latin America”) of Miami, Florida (collectively, “Sony”) as respondents. *Id.* The Office of Unfair Import Investigations (“OUII”) was also named a party to the investigation. *Id.*

The Commission previously terminated the investigation as to the ’094 patent and certain claims of the ’905, ’256, ’451, and ’899 patents. *See* Comm’n Notice (Apr. 17, 2018) (*aff’g* Order No. 11); Comm’n Notice (July 9, 2018) (*aff’g* Order No. 17); Comm’n Notice (July 27, 2018) (*aff’g* Order No. 22).

On October 25, 2018, the presiding administrative law judge issued a combined final initial determination (“ID”) and recommended determination (“RD”). The ID found Sony violated Section 337 by reason of infringement of the ’256 and ’899 patents. The ID found no violation with respect to the ’905 or ’451 patents. The RD recommended issuance of a limited exclusion order and cease and desist orders and set bond rates on the entered value of certain

covered products. The ALJ also issued an RD on the public interest pursuant to the Commission's delegation of those issues in the notice of investigation under Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1). *See* 82 FR at 49421.

The parties filed their petitions for review on November 9, 2018, and responses on November 20, 2018. On March 15, 2019, the Commission issued a notice of its determination to review the ID in part with respect to certain findings relating to the '256, '899, and '905 patents. The parties filed their initial responses to the Commission's questions on March 29, 2019, and their replies on April 5, 2019.

Upon review of the parties' submissions, the ID, RD, and evidence of record, the Commission has determined that Sony violated Section 337 by reason of infringement of asserted claims 1-5 of the '256 patent and asserted claims 1, 7, 11, and 12 of the '899 patent. The Commission found no violation with respect to the '905 patent or '451 patent. The Commission has further determined to issue a limited exclusion order prohibiting further importation of Sony's accused LTO-4, LTO-5, and LTO-6 tape products and cease and desist orders against Sony's U.S. subsidiaries, Sony DADC and Sony Latin America. The Commission has set a bond of 10.4 percent of entered value on Sony's branded LTO-4 tapes, 7.9 percent of entered value on Sony's branded LTO-6 tapes, and 16.8 percent of entered value on Sony's OEM LTO-6 tapes imported during the period of Presidential review. The Commission has not set a bond on Sony's LTO-5 tapes (branded and OEM) or Sony's OEM LTO-4 tapes.

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:** June 6, 2019.

**Lisa Barton,**

*Secretary to the Commission.*

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