UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of **CERTAIN INKJET CARTRIDGES WITH PRINTHEADS AND COMPONENTS THEREOF**	**Inv. No. 337-TA-723**

ORDER NO. 8: ORDER TO SHOW CAUSE

(September 3, 2010)

On August 12, 2010, complainants Hewlett-Packard Company and Hewlett-Packard Development Company, L.P. (collectively "HP") filed a motion for an order to show cause and for entry of a default judgment against respondent MicroJet Technology Co., Ltd. ("MicroJet"). (Motion Docket No. 723-002.) On August 23, 2010, the Commission Investigative Staff ("Staff") filed a response in support of the motion for an order to show cause. No other responses were received.

HP states that upon institution of this investigation, the Office of the Secretary sent a copy of the Complaint and Notice of Investigation via overnight mail to MicroJet at the following address:

MicroJet Technology Co., Ltd.
1F, No. 28 R&D 2nd Rd.
Science-Based Industrial Park
Hsinchu City, Taiwan 30076

HP understands that copies of the Complaint and Notice of Investigation were not returned to the Office of the Secretary as undeliverable. HP states that while the deadline for MicroJet's response to the Complaint and Notice of Investigation was July 22, 2010, MicroJet

has not yet filed a response. HP states that MicroJet has not responded to any of the discovery served by HP, and that MicroJet failed to attend the pre-hearing conference held at the Commission on July 19, 2010. HP asserts that MicroJet has submitted a letter to the Commission indicating that it does not intend to participate in the investigation.

HP argues that MicroJet's failure to respond to the Complaint and Notice of Investigation merits the issuance of an order to show cause. HP further argues that upon MicroJet's failure to show cause, an immediate finding of default should be entered for MicroJet.

Staff supports HP's request for an order to show cause. Staff states that an order to show cause is warranted because MicroJet has not responded to the Complaint and Notice of Investigation. Staff notes that MicroJet attempted to file a motion to terminate, indicating that MicroJet has actual notice of the investigation and the allegations made by HP. Staff takes no position at this time on HP's request for default given that an order to show cause has not yet issued.

I. Legal Standard

Section 337 allows for the entry of an exclusion order and/or a cease and desist order against a defaulting respondent. 19 U.S.C. § 1337(g) (2009). Commission Rule 210.16 governs default, and states, *inter alia*:

> A party shall be found in default if it fails to respond to the complaint and notice of investigation in the manner prescribed in § 210.13 or § 210.59(c), or otherwise fails to answer the complaint and notice, and fails to show cause why it should not be found in default.

19 CFR 210.16(a)(1). The rule requires an order to show cause prior to a finding of default:

> If a respondent has failed to respond or appear in the manner described in paragraph (a)(1) of this section, a party may file a motion for, or the administrative law judge may issue upon his own initiative, an order directing that respondent to show cause why it should not be found in default. If the respondent fails to make the necessary showing, the administrative law judge shall issue an

> initial determination finding the respondent in default. An administrative law judge's decision denying a motion for a finding of default under paragraph (a)(1) of this section shall be in the form of an order.

19 CFR 210.16(b)(1)

II. Analysis

HP seeks an order to show cause based on MicroJet's failure to respond to the Complaint and Notice of Investigation. On June 21, 2010, the Office of the Secretary served the Complaint and Notice of Investigation on MicroJet via overnight mail. (Ex. 1 to HP Mot.) The served copies on MicroJet were not returned to the Secretary as undelivered, which has been found to be a sufficient indication of receipt to justify the issuance of a show-cause order under Commission Rule 210.16. *See Certain Inkjet Ink Supplies & Components Thereof*, Inv. No. 337-TA-691, Order No. 8 (Dec. 29, 2009); *Certain Magnifying Loupe Prods. & Components Thereof*, 337-TA-611, Order No. 9 (Mar. 21, 2008). Under the Commission Rules, MicroJet's response was due on July 22, 2010. As of this date, MicroJet has not yet filed a response to the Complaint and Notice of Investigation. MicroJet did not attend the pre-hearing conference held on July 19, 2010, and HP asserts that MicroJet has not responded to any discovery requests.

Moreover, it is clear that MicroJet has actual notice of this investigation. MicroJet presented a motion to terminate the investigation based on the entry of a consent order. In Order No. 7, that motion was denied for failure to comply with various Commission Rules. On August 19, 2010, counsel for MicroJet filed a Notice of Appearance in this investigation. The submission of the motion and the notice of appearance both constitute evidence that MicroJet is on notice of the investigation and HP's allegations against MicroJet.

Based on MicroJet's failure to respond to the Complaint and Notice of Investigation, I find that an order to show cause is justified.

ORDER

Motion No. 723-002 is hereby GRANTED. MicroJet is hereby ordered, no later than the close of business on September 17, 2010, to show cause why it should not be found in default for failure to respond to the Complaint and Notice of Investigation. In the absence of any showing of good cause within said time period, I shall enter an Initial Determination of default against MicroJet.

SO ORDERED.

Robert K. Rogers, Jr.
Administrative Law Judge

CERTAIN INKJET INK CARTRIDGES WITH PRINTHEADS AND COMPONENTS THEREOF **Inv. No. 337-TA-723**

PUBLIC CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **ORDER** was served upon **Rett Snotherly, Esq.,** Commission Investigative Attorney, and the following parties via first class mail delivery on September 3, 2010.

Marilyn R. Abbott, Secretary
U.S. International Trade Commission
500 E Street SW, Room 112A
Washington, D.C. 20436

FOR COMPLAINANTS HEWLETT-PACKARD COMPANY and HEWLETT-PACKARD DEVELOPMENT COMPANY L.P.:

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FOR RESPONDENTS MIPO TECHNOLOGY LIMITED and MIPO SCIENCE & TECHNOLOGY CO., LTD.

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PUBLIC CERTIFICATE OF SERVICE PAGE 2

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FOR RESPONDENTS MEXTEC d/b/a MIPO AMERICA LTD., and SINOTIME TECHNOLOGIES, INC.:

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RESPONDENTS:

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PUBLIC CERTIFICATE OF SERVICE PAGE 3

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