

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN COAXIAL CABLE CONNECTORS
AND COMPONENTS THEREOF AND
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-650

**NOTICE OF ISSUANCE OF A GENERAL EXCLUSION ORDER
FOR U.S. PATENT NO. 5,470,257**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to issue a general exclusion order for U.S. Patent No. 5,470,257 (“the ‘257 patent”) following a remand from the United States Court of Appeals for the Federal Circuit (“Federal Circuit”) in *John Mezzalingua Associates v. Int’l Trade Comm’n*, 2011 U.S. App. LEXIS 8806 (Fed. Cir. Apr. 28, 2011).

FOR FURTHER INFORMATION CONTACT: Michelle Klancnik, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5468. 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, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 30, 2008, based on a complaint filed by John Mezzalingua Associates, Inc. d/b/a PPC, Inc. of East Syracuse, New York (“PPC”). 73 *Fed. Reg.* 31145 (May 30, 2008). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain coaxial cable connectors and components thereof and products containing the same by reason of infringement of various United States Patents, including the ‘257 patent. The complaint named eight respondents. After institution, two respondents were terminated based on consent orders and four respondents were found to be in default (“defaulting respondents”). Two respondents, Fu-Ching Technical Industry, Co., Ltd. and Gem Electronics, Inc. (“the active respondents”), remained active.

On October 13, 2009, the presiding administrative law judge issued a final initial determination (“ID”) and a recommended determination on remedy and bonding. The Commission determined to review the final ID in part.

On March 31, 2010, the Commission found no violation of section 337 for the ‘257 patent. The Commission found infringement of the ‘257 patent by the defaulting respondents and no infringement by the active respondents. The Commission nevertheless found no violation of section 337 because it found no domestic industry for the ‘257 patent. Having found no violation, the Commission did not make a remedy determination for the ‘257 patent.

Complainant PPC appealed to the Federal Circuit. In *John Mezzalingua Associates v. International Trade Commission*, 2011 U.S. App. LEXIS 8806 (Fed. Cir. Apr. 28, 2011), the Federal Circuit reversed the Commission’s finding of no violation, entered a judgment of violation, and remanded the investigation to the Commission for proceedings consistent with its opinion. The Federal Circuit’s mandate issued on June 30, 2011.

On July 18, 2011, the Commission issued a notice requesting comments from the parties regarding how to proceed with the investigation following the remand from the Federal Circuit. On July 29, 2011, PPC filed a response to the Commission’s notice. On August 1, 2011, the Commission investigative attorney filed a response to the Commission’s notice.

Having reviewed the record to the investigation including all relevant submissions, the Commission has determined that the appropriate form of remedy is a general exclusion order. The general exclusion order prohibits the unlicensed entry of coaxial cable connectors and components thereof and products containing the same that infringe claim 1 and/or 5 of the ‘257 patent.

The Commission further determined that the public interest factors enumerated in section 337(d) (19 U.S.C. § 1337(d)) do not preclude issuance of the general exclusion order. Finally, the Commission determined that the amount of bond during the Presidential review period (19 U.S.C. § 1337(j)) shall be in the amount of thirteen (13) cents per coaxial connector of the defaulting respondents—Hanjiang Fei Yu Electronics Equipment Factory of China, Zhongguang Electronics of China, Yangzhou Zhongguang Electronics Co. of China, and Yangzhou Zhongguang Foreign Trade Co. Ltd. of China. A bond in the amount of zero is required for any other coaxial cable connector or component thereof or product containing the same covered by the general exclusion order. The Commission’s order was delivered to the President and the United States Trade Representative on the day of its issuance.

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 C.F.R. Part 210).

By order of the Commission.

A handwritten signature in black ink, appearing to read "J R Holbein". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

James R. Holbein
Secretary to the Commission

Issued: September 13, 2011

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

In the Matter of

**CERTAIN COAXIAL CABLE CONNECTORS
AND COMPONENTS THEREOF AND
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-650

GENERAL EXCLUSION ORDER

The Commission has determined that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the unlawful importation and sale by Hanjiang Fei Yu Electronics Equipment Factory, Zhongguang Electronics, Yangzhou Zhongguang Electronics Co., Ltd., and Yangzhou Zhongguang Foreign Trade Co., Ltd., each of Yangzhou, China (“the Respondents”) of certain coaxial cable connectors that infringe one or more of claims 1 and 5 of U.S. Patent No. 5,470,257 (“the ‘257 patent”). Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made a determination on the issues of remedy, the public interest, and bonding for the ‘257 patent. The Commission has determined that a general exclusion from entry for consumption is the appropriate remedy because there is a pattern of violation of section 337 and it is difficult to identify the source of infringing products under 19 U.S.C. § 1337(d). Accordingly, this Order prohibits the unlicensed importation of infringing coaxial cable connectors and components thereof and products containing the same infringing claims 1 and/or 5 of the ‘257 patent.

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. §§ 1337(d) do not preclude the issuance of the general exclusion order, and that the bond

during the Presidential review period shall be in the amount of 13 cents per unit for Respondents' coaxial cable connectors and in the amount of zero for any other coaxial cable connectors covered by this General Exclusion Order.

Accordingly, the Commission hereby **ORDERS** that:

1. Coaxial cable connectors that infringe one or more of claims 1 and 5 of U.S. Patent No. 5,470,257 are excluded from entry for consumption, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption, for the remaining term of the patent, except under license of the patent owner or as provided by law. Products of Fu-Ching Technical Industry Co., Ltd. and Gem Electronics, Inc. that were subject to investigation in the above-captioned investigation are not covered by this order. *See Certain Coaxial Cable Connectors and Components Thereof and Products Containing Same*, Inv. No. 337-TA-650, Comm'n Op. at 32-35 (Apr. 14, 2010).

2. Notwithstanding paragraph 1 of this Order, the aforesaid coaxial cable connectors are entitled to entry into the United States for consumption, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption, under bond in the amount of 13 cents per imported coaxial cable connector of Respondents and otherwise under bond in the amount of zero, from the day after this Order is received by the United States Trade Representative as delegated by the President, 70 *Fed. Reg.* 43251 (July 21, 2005), until such time as the United States Trade Representative notifies the Commission that this action is approved or disapproved but, in any event, not later than sixty (60) days after the date of receipt of this action.

3. At the discretion of U.S. Customs and Border Protection (“CBP”) and pursuant to procedures it establishes, persons seeking to import coaxial cable connectors that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under paragraph 1 of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.


4. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to coaxial cable connectors imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.

5. The Commission may modify this Order in accordance with the procedure described in section 210.76 of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 210.76).

6. The Commission Secretary shall serve copies of this Order upon each party of record in this investigation and upon the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and the Bureau of Customs and Border Protection.

7. Notice of this Order shall be published in the *Federal Register*.

By order of the Commission.



James R. Holbein
Secretary to the Commission


Issued: September 13, 2011

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COMPONENTS THEREOF AND PRODUCTS CONTAINING
SAME**

337-TA-650

CERTIFICATE OF SERVICE

I, James R. Holbein, hereby certify that the attached has been served by hand upon the Commission Investigative Attorney, David O. Lloyd, Esq., and the following parties as indicated on **September 13, 2011**.


James R. Holbein, Secretary
U.S. International Trade Commission
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**On Behalf of Complainant John Mezzalingua Associates,
Inc.:**

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() Via Hand Delivery
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**On Behalf of Respondents GEM Electronics and Fu
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