

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

**In the Matter of**

**CERTAIN INKJET INK SUPPLIES AND  
COMPONENTS THEREOF**

**Inv. No. 337-TA-691**

**ORDER NO. 12: INITIAL DETERMINATION GRANTING MOTION FOR  
TERMINATION OF INVESTIGATION AS TO RESPONDENT  
ZHUHAI GREE MAGNETO-ELECTRIC CO., LTD. BASED ON  
ENTRY OF CONSENT ORDER**

(February 17, 2010)

On January 28, 2010, respondent Zhuhai Gree Magneto-Electric Co., Ltd. (“Zhuhai”) moved to terminate the investigation based on entry of a consent order. (Motion Docket No. 691-007.) On February 1, 2010, the Commission Investigative Staff (“Staff”) filed a response in support of the motion. On February 9, 2010, complainant Hewlett-Packard Co. (“HP”) filed a response in support of the motion. On February 12, 2010, HP filed a corrected response that corrected typographical errors.

In accordance with Commission Rule 210.21(c), Zhuhai entered into a “Consent Order Stipulation” and a proposed “Consent Order,” both attached hereto as Attachment A. Commission Rule 210.21(c)(3) sets forth certain requirements for the contents of a consent order stipulation. The Consent Order Stipulation submitted by Zhuhai complies with the requirements of Commission Rule 210.21(c)(3).

Specifically, Zhuhai agrees that upon entry of the consent order, Zhuhai “will not directly or indirectly import into the United States, sell for importation into the United States, or sell within

the United States after importation any InkJet ink supplies or components thereof that infringe asserted claims 1-7 and 22-28 of the '985 Patent; claims 1-12, 14, 18-20, 22 and 26-35 of the '630 Patent; claims 6,7,9 and 10 of the '687 Patent; or claims 1-3 and 5-6 of the '301 Patent.” (See Consent Order Stipulation, ¶ 3; Proposed Consent Order at ¶ 3.) Zhuhai agrees, pursuant to Commission Rule 210.21(c)(3)(i)(A), to:

- (1) an admission of the Commission’s *in rem* jurisdiction over the subject matter and *in personam* jurisdiction over Zhuhai in this investigation (see Consent Order Stipulation, ¶ 2; Proposed Consent Order ¶ 2),
- (2) an express waiver by Zhuhai of all rights to seek judicial review or otherwise challenge or contest the validity of the consent order (see Consent Order Stipulation, ¶ 4; Proposed Consent Order at ¶ 4),
- (3) Zhuhai’s representation that it will cooperate with and will not seek to impede by litigation or other means the Commission’s efforts to gather information under subpart I of part 210 of Title 19 of the Code of Federal Regulations (see Consent Order Stipulation, ¶ 5; Proposed Consent Order at ¶ 5), and
- (4) that the enforcement, modification, and revocation of the consent order will be carried out pursuant to subpart I of part 210 of Title 19 of the Code of Federal Regulations, incorporating by reference the Commission’s Rules of Practice and Procedure (see Consent Order Stipulation, ¶ 6; Proposed Consent Order at ¶ 6).

Because this is an intellectual property-based investigation, the Consent Order Stipulation also contains a statement, pursuant to Commission Rule 210.21(c)(3)(i)(B), that:

- (1) the Consent Order shall not apply with respect to any claim of an intellectual property right that has expired or been found or adjudicated invalid or unenforceable by the Commission or a court or agency of competent jurisdiction, provided that such finding or judgment has become final and non-reviewable (see Consent Order Stipulation, ¶ 7; Proposed Consent Order at ¶ 7), and
- (2) a representation by Zhuhai that it will not seek to challenge the validity or enforceability

of the U.S. Patent Nos. 6,959,985; 7,104,630; 6,089,687; or 6,264,301 in any administrative or judicial proceeding to enforce the Consent Order (see Consent Order Stipulation, ¶ 8; Proposed Consent Order at ¶ 8).

In addition to the provisions required by Commission Rule 210.21(c)(3), the Consent Order Stipulation contains additional provisions, including a statement that the signing of the Consent Order Stipulation by Zhuhai is for settlement purposes only and does not constitute an admission by Zhuhai that an unfair act has been committed. (See Consent Order Stipulation, ¶ 9; Proposed Consent Order ¶ 9.) Commission Rule 210.21(c)(3)(i)(C) specifically provides that a consent order stipulation may contain a statement that it is for settlement purposes and does not constitute an admission that an unfair act has been committed. Therefore the additional terms in the Consent Order Stipulation are permissible.

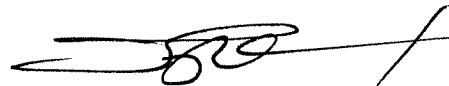
Commission Rule 210.50(b)(2) provides that in the case of a proposed termination by settlement agreement or consent order, the parties may file statements regarding the impact of the proposed termination on the public interest, and the administrative law judge may hear argument, although no discovery may be compelled, with respect to issues relating solely to the public interest. In any initial determination terminating an investigation by settlement agreement or consent order, the administrative law judge is directed to consider and make appropriate findings regarding the effect of the proposed settlement on 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. In its motion, Zhuhai asserts that termination of this investigation is in the public interest. (Motion at 1.) The Staff does not dispute this representation. (Staff Resp. at 6-7.)

Based on the pleadings filed in connection with the motion to terminate the investigation, the ALJ finds that there is no indication that termination of this investigation based on the consent order stipulation would have an adverse impact on the public interest. In addition, the termination of an investigation as to a respondent, such as that proposed by the motion, is generally in the public interest.

Accordingly, it is the Initial Determination that the motion to terminate this investigation as to Zhuhai be GRANTED. This initial determination, along with supporting documentation, is hereby certified to the Commission.

Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review of the Initial Determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders, on its own motion, a review of the Initial Determination or certain issues here

**SO ORDERED.**



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Theodore R. Essex  
Administrative Law Judge

# **ATTACHMENT A**

**UNITED STATES INTERNATIONAL TRADE COMMISSION**

Before The Honorable Theodore Essex  
Administrative Law Judge

**In the Matter of**

**CERTAIN INKJET INK SUPPLIES AND  
COMPONENTS THEREOF**

**Investigation No. 337-TA-691**

**MOTION FOR TERMINATION OF INVESTIGATION  
AS TO RESPONDENT ZHUHAI GREE MAGNETO-ELECTRIC CO., LTD.  
BASED ON ENTRY OF CONSENT ORDER**

Respondent Zhuhai Gree Magneto-Electric Co., Ltd. (“Zhuhai Gree”) hereby moves for termination of this investigation pursuant to 19 C.F.R. § 210.21(c)(1)(ii). Complainant Hewlett Packard Co. (“H-P”) and the OUII Staff have been informed of Zhuhai Gree’s intention to file this motion, and each has indicated that it will set forth its position in written responses after the motion is filed. An executed stipulation and proposed Consent Order is attached.

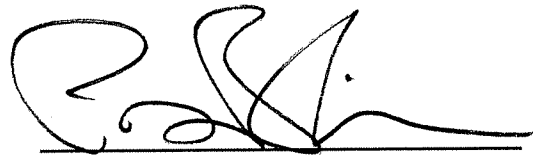
Zhuhai Gree requests entry of a Consent Order based on the stipulation submitted herewith. Under the terms of that stipulation, Zhuhai Gree will not import, sell for importation or sell after importation any ink supplies or components thereof that infringe any of the asserted claims of the H-P patents, including accused model numbers GH-C8721W, GH-C8771W, GH-C8772W, GH-C8774W and GH-C8775W. Entry of the proposed Consent Order will therefore render moot the dispute as to Zhuhai Gree with respect to the relief sought from the Commission by Complainant. This motion is made without admission by Zhuhai Gree that an unfair act, unlawful act, or act of infringement has been committed. Zhuhai Gree maintains and reserves its right to contest the validity and enforceability in other proceedings.

Entry of the proposed Consent Order is in the public interest, which favors the settlement

of disputes to avoid needless litigation and to conserve resources. Granting this motion for termination of this investigation as to Zhuhai Gree will dramatically streamline the case for trial by removing one of the eleven named respondents. In light of the apparent default by the other Respondents, execution of the proposed Stipulation and entry of the Proposed Order will eliminate the need for adjudication of virtually all of the issues in this case. Doing so would thus result in significant savings in Commission and party resources.

Accordingly, Zhuhai Gree respectfully requests that the Administrative Law Judge issue an Initial Determination that the Investigation be terminated as to Zhuhai Gree and that the proposed Consent Order, be entered.

Respectfully submitted,



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**Attorneys for Zhuhai Gree Magneto-  
Electric Co., Ltd.**

Date: January 28, 2010

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of  
CERTAIN INKJET INK SUPPLIES AND  
COMPONENTS THEREOF

Investigation No. 337-TA-691

CONSENT ORDER STIPULATION

WHEREAS, Complainant Hewlett-Packard Co. ("H-P") filed a complaint before the United States International Trade Commission (hereinafter "the Commission") alleging unfair acts in the sale for importation, importation into, and sale in the United States after importation of certain InkJet printer ink supplies and components thereof manufactured by Zhuhai Gree Magneto-Electric Co., Ltd., ("Zhuhai Gree"), which are alleged to infringe U.S. Letters Patent 6,959,985 ("the '985 patent"), U.S. Letters Patent 7,104,630 ("the '630 patent"), U.S. Letters Patent 6,089,687 ("the '687 patent") and U.S. Letters Patent 6,264,301 ("the '301 patent");

WHEREAS, the Commission instituted this investigation under section 337 of the Tariff Act of 1930 as amended (19 U.S.C. § 1337) based upon the allegations contained in the Complaint;

WHEREAS, Zhuhai Gree and H-P stipulated to an extension of time for Zhuhai Gree to file a response to the Complaint pending settlement discussions, but those discussions did not result in settlement of this matter;

WHEREAS Zhuhai Gree now agrees to forgo the sale for importation, importation into, and sale in the United States after importation of InkJet ink supplies and components thereof; and

WHEREAS, Zhuhai Gree agrees to the entry of a Consent Order by the Commission;

NOW THEREFORE, pursuant to Commission Rule 210.21(c)(1)(ii) and (c)(3)(i), Zhuhai Gree stipulates and agrees as follows in connection with their Motion to Terminate this investigation based on a Consent Order:

- (1) Zhuhai Gree stipulates to the entry of a Consent Order in the form attached hereto as Exhibit A;
- (2) The Commission has *in rem* jurisdiction over Zhuhai Gree's cartridges which are the subject of the Complaint in this investigation and the Commission has *in personam* jurisdiction over Zhuhai Gree for purposes of this Consent Order;
- (3) Zhuhai Gree, including its officers, directors, employees, agents, and any entity or individual acting on its behalf and with its authority, agrees, upon entry of the Consent Order, that they will not directly or indirectly import into the United States,

sell for importation into the United States, or sell within the United States after importation any InkJet ink supplies or components thereof that infringe asserted claims 1-7 and 22-28 of the '985 Patent; claims 1-12, 14, 18-20, 22 and 26-35 of the '630 Patent; claims 6, 7, 9 and 10 of the '687 Patent; or claims 1-3 and 5-6 of the '301 Patent.

- (4) Zhuhai Gree expressly waives all rights to seek judicial review or otherwise challenge or contest the validity of the Consent Order;
- (5) Zhuhai Gree will cooperate with and will not seek to impede by litigation or other means the Commission's efforts to gather information under subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210;
- (6) Enforcement, modification, or revocation of the Consent Order will be carried out pursuant to subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210;
- (7) The Consent Order shall not apply with respect to any claim of any intellectual property right that has expired or been found or adjudicated invalid or unenforceable by the Commission or a court or agency of competent jurisdiction, provided that such finding or judgment has become final and nonreviewable;
- (8) Zhuhai Gree will not seek to challenge the validity or enforceability of U.S. Letters Patent 6,959,985 ("the '985 patent"), and U.S. Letters Patent 7,104,630 ("the '630 patent"), and U.S. Letters Patent 6,089,687 ("the '687 patent") or U.S. Letters Patent 6,264,301 ("the '301 patent") in any administrative or judicial proceeding to enforce the Consent Order, but reserves its right to do so in any other proceeding;
- (9) The signing of this Consent Order Stipulation does not constitute an admission by Zhuhai Gree that an unfair act has been committed; and
- (10) There are no agreements, written or oral, express or implied, between Zhuhai Gree, the Complainant or any other Respondent concerning the subject matter of this investigation.

IN WITNESS WHEREOF a duly authorized representative of the Respondent Zhuhai Gree has caused this Stipulation to be executed as of the date indicated below.

Respectfully submitted,



Date: January 28, 2010

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**Attorneys for Zhuhai Gree Magneto-  
Electric Co., Ltd.**

# **EXHIBIT (A)**

# UNITED STATES INTERNATIONAL TRADE COMMISSION

**In the Matter of**

**CERTAIN INKJET INK SUPPLIES  
AND COMPONENTS THEREOF**

**Investigation No. 337-TA-691**

## **[PROPOSED] CONSENT ORDER**

The United States International Trade Commission (hereinafter the "Commission") has instituted this investigation under Section 337 of the Tariff Act of 1930 as amended (19 U.S.C. § 1337), based upon the allegations contained in the Complaint filed by Hewlett Packard Company (hereinafter "Complainant") which alleges unfair acts in the importation into the United States, the sale for importation, and the sale within the United States after importation, of certain Ink-jet Printer Supplies, among others, respondent Zhuhai Gree Magneto-Electric Co., Ltd. (hereinafter "Zhuhai Gree").

Zhuhai Gree has executed a Consent Order Stipulation in which it agrees to the entry of this Consent Order and to all waivers and other provisions as required by the Commission's Rules of Practice and Procedure, and has filed a Motion for Partial Termination of this Investigation with respect to its accused InkJet ink supplies and components, based on the Consent Order Stipulation. In particular, the Zhuhai Gree has stipulated as follows:

- (1) Zhuhai Gree stipulates to the entry of this Consent Order.
- (2) The Commission has *in rem* jurisdiction over Zhuhai Gree's Ink cartridges which are the subject of the Complaint in this investigation and the Commission has *in personam* jurisdiction over Zhuhai Gree for purposes of this Consent Order.
- (3) Zhuhai Gree, including its officers, directors, employees, agents, and any individual or entity acting on its behalf and with its authority, agrees, upon entry of the Consent Order, that they will not directly or indirectly import into the United States, sell for importation into the United States, or sell within the United States after importation any InkJet ink cartridges or components thereof that infringe asserted claims 1-7 and 22-28 of the '985 Patent; claims 1-12, 14, 18-20, 22 and 26-35 of the '630 Patent; claims 6, 7, 9 and 10 of the '687 Patent; or claims 1-3 and 5-6 of the '301 Patent.
- (4) Zhuhai Gree expressly waives all rights to seek judicial review or otherwise challenge or contest the validity of the Consent Order.

- (5) Zhuhai Gree will cooperate with and will not seek to impede by litigation or other means the Commission's efforts to gather information under subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210.
- (6) Enforcement, modification, or revocation of the Consent Order will be carried out pursuant to subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210.
- (7) The Consent Order shall not apply with respect to any claim of any intellectual property right that has expired or been found or adjudicated invalid or unenforceable by the Commission or a court or agency of competent jurisdiction, provided that such finding or judgment has become final and nonreviewable.
- (8) Zhuhai Gree will not seek to challenge the validity or enforceability of U.S. Letters Patent 6,959,985 ("the '985 patent"), and U.S. Letters Patent 7,104,630 ("the '630 patent"), and U.S. Letters Patent 6,089,687 ("the '687 patent") or U.S. Letters Patent 6,264,301 ("the '301 patent") in any administrative or judicial proceeding to enforce the Consent Order, but reserve their rights to do so in any other proceeding.
- (9) The signing of this Consent Order Stipulation does not constitute an admission by Zhuhai Gree that an unfair act has been committed.
- (10) There are no agreements, written or oral, express or implied, between Zhuhai Gree and Complainant concerning the subject matter of this investigation.

NOW, THEREFORE, the Commission issues the following Consent Order:

- (1) Upon entry of this Consent Order, Zhuhai Gree shall not sell for importation, import into the United States, or sell in the United States after importation or knowingly aid, abet, encourage, participate in, or induce the sale for importation, importation into the United States or sale in the United States after importation any InkJet printer ink supplies or components thereof that infringe asserted claims 1-7 and 22-28 of the '985 Patent; claims 1-12, 14, 18-20, 22 and 26-35 of the '630 Patent; claims 6, 7, 9 and 10 of the '687 Patent; or claims 1-3 and 5-6 of the '301 Patent, except under consent or license from Complainant.
- (2) Zhuhai Gree shall be precluded from seeking judicial review or otherwise challenging or contesting the validity of the Consent Order.
- (3) Zhuhai Gree shall cooperate with and shall not seek to impede by litigation or other means the Commission's efforts to gather information under subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210.

- (4) Zhuhai Gree shall not seek to challenge and is precluded from any challenges to the validity or enforceability of the claims of the '985, '630, '687 or '301 patent in any administrative or judicial proceeding to enforce the Consent Order, but shall be entitled to do so in any other proceeding.
- (5) When each of the '985, '630, '687 and '301 patents expire, this Consent Order shall become null and void.
- (6) If any claim of the '985, '630, '687 or '301 patents is held invalid or unenforceable by a court or agency of competent jurisdiction in a final decision, no longer subject to appeal, this Consent Order shall become null and void as to such invalid or unenforceable claim.
- (7) The entry of this Consent Order does not constitute a determination as to violation of section 337 by Zhuhai Gree.
- (8) This Investigation is hereby terminated with respect to Zhuhai Gree; provided, however, that enforcement, modification, or revocation of the Consent Order shall be carried out pursuant to Subpart I of the Commission's Rules of Practice and Procedure, 19 C.F.R. Part 210.

Dated: \_\_\_\_\_

BY ORDER OF THE COMMISSION:

Marilyn Abbott  
Secretary.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this day, a true and correct copy of the foregoing document was served by the indicated means to the persons at the addresses below:

The Honorable Marilyn R. Abbott  
Secretary  
U.S. INTERNATIONAL TRADE COMMISSION  
500 E Street, S.W., Room 112  
Washington, DC 20436

Via Electronic Filing

The Honorable Theodore R. Essex  
Administrative Law Judge  
United States International Trade Commission  
500 E Street, SW  
Washington, DC 20436

Via Hand Delivery  
(2 Copies)

Ben Levi, Esq.  
Office of Unfair Import Investigations  
United States International Trade Commission  
500 E Street, SW  
Washington, DC 20436

Via Hand Delivery and E-mail

***Counsel for Complainant Hewlett-Packard Co.***

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Ahmed J. Davis  
FISH & RICHARDSON, P.C.  
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[cordell@fr.com](mailto:cordell@fr.com)  
[adavis@fr.com](mailto:adavis@fr.com)

Via E-mail and Overnight Delivery

***Respondents***

Mextec Group, Inc. d/b/a Mipo America Ltd.  
1305 N. Biscayne Pt. Road  
Miami Beach, Florida 33141

Via First-Class Mail

Shanghai Angel Printer Supplies Co. Ltd.  
Room 1208, No. 495  
Jiangning Road  
Shanghai 200233  
China

SmartOne Services LLC d/b/a InkForSale.net  
27613 Del Norte Court  
Hayward, California 94545

Shenzhen Print Media Co., Ltd.  
Room 10A Xingfu Ge Zhongfu Building (129)  
Fumin Rd., Futian District  
Shenzhen 518102  
China

Comptree Ink d/b/a Meritline, ABCInk, EZ Label,  
and CDR DVDR Media  
18961 East Arenth Avenue  
City of Industry, California 91748

Zhuhai National Resources &  
Jingjie Imaging Products Co., Ltd.  
No. 1 Industrial Building, Pingdong 2 Road  
Nanping S&T Industrial Community  
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China

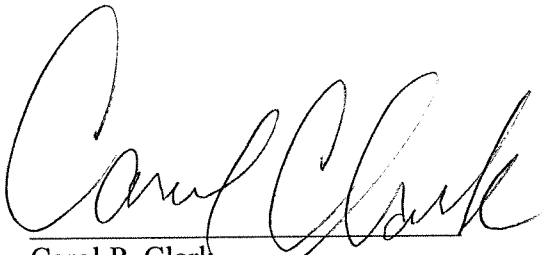
InkPlusToner.com  
7851 Alabama Avenue, #5  
Canoga Park, California 91304

Mipo International Ltd.  
Flat B, 11F, Wong Tze Bldg.,  
No. 71 Hoi Yuen Road,  
Kwun Tong, Kowloon 8523  
Hong Kong

Tatrix International  
10 C, Garden Building  
No. 1083 JiuZhou Road, Jida  
Zhuhai, Guangdong 519015  
China

Ourway Image Co., Ltd.  
15F, No. 125 Renmin East Road, Xiangzhong  
Zhuhai, Guangdong 519001  
China

Dated: January 28, 2010



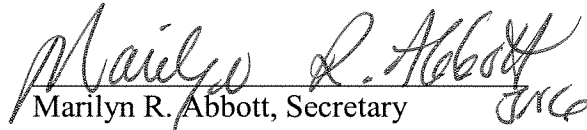
Carol P. Clark

**CERTAIN INKJET SUPPLIES AND  
COMPONENTS THEREOF**

**Inv. No. 337-TA-691**

**PUBLIC CERTIFICATE OF SERVICE**

I, Marilyn R. Abbott, hereby certify that the attached **ORDER 12: INITIAL DETERMINATION** been served by hand upon, the Commission Investigative Attorney, **Benjamin Levi, Esq.** and the following parties as indicated on **February 18, 2010**.

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

**Complainant Hewlett-Packard Company:**

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**FISH & RICHARDSON P.C.**  
1425 K Street NW, 11th Floor  
Washington, DC 20005-3682

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: \_\_\_\_\_

**Respondent Zhuhai Gree Magneto-Electric Co. Ltd.:**

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- Via First Class Mail
- Other: \_\_\_\_\_

**PUBLIC CERTIFICATE OF SERVICE - PAGE 2**

**Respondents:**

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Canoga Park, CA 91304-4954

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- Via Overnight Mail
- Via First Class Mail
- Other: \_\_\_\_\_

SmartOne Services LLC  
d/b/a InkForSale.net  
27613 Del Norte Court  
Hayward, CA 94545-4114

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: \_\_\_\_\_

Comptree Ink d/b/a Meritline,  
ABCInk, Ez Label, and CDR DVDR Media  
18961 East Arenth Ave.  
City of Industry, CA 91748-1305

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: \_\_\_\_\_

**PUBLIC CERTIFICATE OF SERVICE - PAGE 3**

**PUBLIC MAILING LIST**

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9443 Springboro Pike  
Miamisburg, OH 45342

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(  ) Via Overnight Mail  
( ) Via First Class Mail  
( ) Other:

Kenneth Clair  
**THOMSON WEST**  
1100 Thirteen Street, NW, Suite 200  
Washington, D.C. 20005

( ) Via Hand Delivery  
(  ) Via Overnight Mail  
( ) Via First Class Mail  
( ) Other: