

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

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

Investigation No. 337-TA-650

**NOTICE OF COMMISSION ISSUANCE OF A GENERAL EXCLUSION ORDER, A
LIMITED EXCLUSION ORDER, AND A REMAND ORDER; EXTENSION OF
TARGET DATE**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined that there is a violation of 19 U.S.C. § 1337 by 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 (collectively, “defaulting respondents”) with respect to U.S. Patent Nos. 6,558,194 (“the ‘194 patent”) and D519,076 (“the ‘076 patent”) in the above-captioned investigation. The Commission has also determined that neither respondents Fu-Ching Technical Industry Co., Ltd. of Taiwan (“Fu-Ching”), Gem Electronics, Inc. of Windsor, Connecticut (“Gem”) (collectively, “active respondents”) nor the defaulting respondents have violated section 337 in connection with U.S. Patent No. 5,470,257 (“the ‘257 patent”). The Commission has determined to issue a general exclusion order and a limited exclusion order. The Commission has also determined to issue a remand order remanding the portion of the investigation relating to U.S. Patent No. D440,539 (“the ‘539 patent”) to the administrative law judge (“ALJ”) for further proceedings. The Commission has determined to extend the target date by 61 days until June 1, 2010.

FOR FURTHER INFORMATION CONTACT: Daniel E. Valencia, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-1999. 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 the ‘257, ‘539, ‘194, and ‘076 patents. The complaint named eight respondents. After institution, two respondents were terminated from the investigation based on consent orders, and the following four respondents were found in default: 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. The only respondents actively remaining in this investigation are Fu-Ching and Gem.

On October 13, 2009, the ALJ issued his final initial determination (“ID”) finding, based on substantial, reliable, and probative evidence, that the defaulting respondents violated section 337 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 the ‘257, ‘539, ‘076, and ‘194 patents. The ALJ found that the active respondents have not violated section 337. Based upon petitions for review filed by PPC and the Commission Investigative Attorney, the Commission, on December 14, 2009, determined to review (1) the ALJ’s findings and conclusions relating to whether a violation of section 337 has occurred with respect to the ‘257 patent, including the issues of claim construction, infringement, validity, and domestic industry and (2) the ALJ’s finding that PPC has met the domestic industry requirement for the ‘539 patent.

In its review notice, the Commission asked several questions regarding the issues on review, and invited the public to comment on the domestic industry requirement under section 337(a)(3)(C), 19 U.S.C. § 1337(a)(3)(C). On January 13, 2010, the parties filed opening submissions addressing the issues on review as well as remedy, public interest, and bonding, and on January 27, 2010, the parties filed response submissions. Several non-parties also filed submissions addressing the questions regarding domestic industry in the Commission’s review notice.

On January 29, 2010, the law firm of Covington and Burling LLP filed, on behalf of several non-parties, a motion for leave to correct a reply submission, which it had timely filed on January 27, 2010. No one opposed this motion. The Commission has determined to grant this motion.

Having examined the record of this investigation, including the ALJ’s final ID and all the written submissions, the Commission has determined to vacate in part the ALJ’s finding that complainant PPC established a domestic industry for the ‘539 patent and to issue an order remanding the portion of the investigation relating to the ‘539 patent to the ALJ for further proceedings. The Commission has also determined to modify the ALJ’s constructions of “fastener means” and “engagement means” in the ‘257 patent and consequently reverse the ALJ’s finding that complainant PPC established a domestic industry for the ‘257 patent and his finding

that a violation has occurred with respect to the '257 patent. The Commission has determined that the defaulting respondents violated section 337 by reason of infringement of the '076 and '194 patents. The Commission has determined that the active respondents, Fu-Ching and Gem, did not violate section 337.

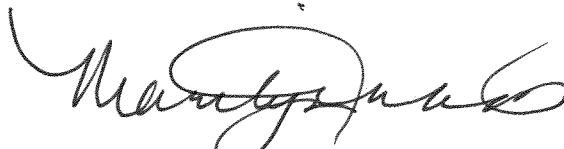
The Commission has determined that the appropriate form of relief is a limited exclusion order and a general exclusion order. The limited exclusion order prohibits the unlicensed entry of coaxial cable connectors and components thereof and products containing the same that infringe the claim of the '076 design patent and are manufactured abroad by or on behalf of, or imported by or on behalf of, any of the defaulting respondents. 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 2 of the '194 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 limited exclusion order and 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 that is subject to the limited exclusion order or the general exclusion order. No bond 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.

Finally, the Commission has determined to extend the target date from March 31, 2010, to June 1, 2010, to allow the ALJ time to consider the Commission's remand instructions. The Commission has instructed the ALJ to make his determination on remand at the earliest practicable time, and to extend the target date of the above-captioned investigation as he deems necessary to accommodate the remand proceedings.

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 sections 210.42-50 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42-50).

By order of the Commission.



Marilyn R. Abbott
Secretary to the Commission

Issued: March 31, 2010

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN COAXIAL CABLE
CONNECTORS AND COMPONENTS OF
THE SAME AND PRODUCTS
CONTAINING THE SAME**

Inv. 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 2 of U.S. Patent No. 6,558,194 (“the ‘194 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 ‘194 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. Accordingly, the Commission has determined to issue a general exclusion order prohibiting the unlicensed importation of infringing coaxial cable connectors.

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.

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

1. Coaxial cable connectors covered by one or more of claims 1 and 2 of U.S. Patent No. 6,558,194 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.

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 without bond, 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, Customs 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.

A handwritten signature in black ink, appearing to read 'Marilyn R. Abbott', written in a cursive style.

Marilyn R. Abbott
Secretary to the Commission

Issued: March 31, 2010

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN COAXIAL CABLE
CONNECTORS AND COMPONENTS OF
THE SAME AND PRODUCTS
CONTAINING THE SAME**

Inv. No. 337-TA-650

LIMITED EXCLUSION ORDER

The Commission has determined that there is a violation of section 337 of the Tariff Act of 1930, as amended, 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 coaxial cable connectors by reason of infringement of the claim of U.S. Design Patent No. D519,076 (“the ‘076 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 ‘076 patent. The Commission has determined that the appropriate form of relief is a limited exclusion order prohibiting the unlicensed entry of infringing coaxial cable connectors manufactured by or on behalf of, or imported by or on behalf of, Respondents or any of their affiliated companies, parents, subsidiaries, licensees, or other related business entities, or their successors or assigns.

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

determined that the bond during the Presidential review period shall be in the amount of 13 cents per coaxial cable connectors that are subject to this order.

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

1. Coaxial cable connectors covered by the claim of U.S. Design Patent No. D519,076 that are manufactured abroad by or on behalf of, or imported by or on behalf of, Respondents or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns are excluded from entry for consumption into the United States, 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.

2. Notwithstanding paragraph 1 of this Order, the aforesaid products are entitled to entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, under bond in the amount of 13 cents per unit of imported coaxial cable connectors, 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, Customs 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.

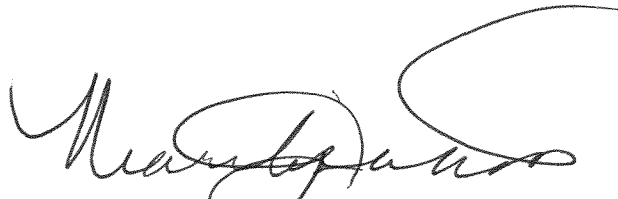
4. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to coaxial cable connectors that are imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.

5. The Commission may modify this Order in accordance with the procedures described in Rule 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 Customs and Border Protection.

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

By Order of the Commission.



Marilyn R. Abbott
Secretary to the Commission

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

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

Investigation No. 337-TA-650

REMAND ORDER

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 U.S. Patent Nos. 5,470,257 (“the ‘257 patent”); D440,539 (“the ‘539 patent”); 6,558,194 (“the ‘194 patent”); and D519,076 (“the ‘076 patent”). The complaint named eight respondents. After institution, two respondents were terminated from the investigation based on consent orders, and the following four respondents were found in default: 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. The only respondents remaining in this investigation are Fu-Ching Technical Industry Co., Ltd. of Taiwan (“Fu-Ching”) and Gem Electronics, Inc. of Windsor, Connecticut (“Gem”) (collectively, “active respondents”).

On October 13, 2009, the Administrative Law Judge issued his final initial determination (“ID”) finding, based on substantial, reliable, and probative evidence, that the defaulting

respondents violated section 337 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 the '257, '539, '076, and '194 patents. The Administrative Law Judge found that the active respondents have not violated section 337. Based upon petitions for review filed by PPC and the Commission Investigative Attorney, the Commission, on December 14, 2009, determined to review (1) the Administrative Law Judge's findings and conclusions relating to whether a violation of section 337 has occurred with respect to the '257 patent, including the issues of claim construction, infringement, validity, and domestic industry and (2) the Administrative Law Judge's finding that PPC has met the domestic industry requirement for the '539 patent.

Having examined the record of this investigation, including the Administrative Law Judge's final ID and all the written submissions, the Commission has determined *inter alia* that the active respondents, Gem and Fu-Ching, are not in violation of section 337 and that the defaulting respondents have violated section 337 by reason of infringement of the '076 and '194 patents. The Commission has determined to vacate in part the Administrative Law Judge's finding that complainant PPC established a domestic industry for the '539 patent and to remand the portion of the investigation relating to the '539 patent to the Administrative Law Judge for further proceedings.

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

1. The question of whether PPC has made a substantial investment in exploitation of the '539 patent is remanded to the Administrative Law Judge for a remand initial determination ("RID") consistent with the principles set forth in the Commission's Opinion.
2. The Administrative Law Judge shall make findings consistent with the

Commission opinion and shall consider, among other things, (1) what is the cost of each individual activity alleged by PPC to be related to licensing, (2) whether each individual activity and its cost is associated with licensing, and (3) whether each individual activity and its cost is associated with the '539 patent.

3. The Administrative Law Judge shall issue his RID at the earliest practicable time.
4. The Administrative Law Judge shall issue an initial determination within 30 days of this Order extending the target date as he deems necessary to accommodate the remand proceedings and a three (3) month period of Commission review.
5. The RID will be processed in accordance with Commission rules 210.42-46. Any petitions for review will be due 10 days after service of the RID. Responses to any petition for review will be due 7 days after service of the petition. The RID will become the Commission's final determination 45 days after issuance unless the Commission orders review.
6. The Administrative Law Judge may otherwise conduct the remand proceedings as he deems appropriate, including reopening the record.
7. The Secretary shall serve copies of this Order upon each party of record in this investigation.
8. Notice of this Order shall be published in the Federal Register.

By order of the Commission.



Marilyn R. Abbott
Secretary to the Commission

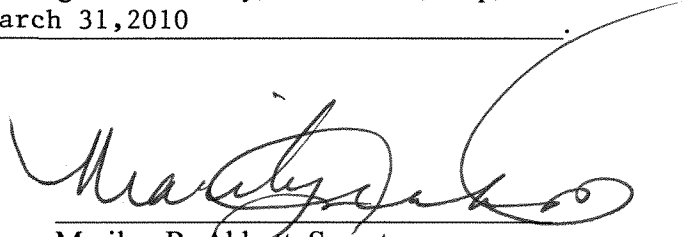
Issued: March 31, 2010

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

337-TA-650

CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **NOTICE OF COMMISSION
ISSUANCE OF A GENERAL EXCLUSION ORDER, A LIMITED EXCLUSION
ORDER, AND REMAND ORDER; EXTENTION OF TARGET DATE** has been
served by hand upon the Commission Investigative Attorney, Kevin Baer, Esq., and the
following parties as indicated on March 31, 2010.



Marilyn R. Abbott, Secretary
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

**On Behalf of Complainant John Mezzalingua Associates,
Inc.:**

Patrick D. Gill, Esq.
RODE & QUALEY
55 W. 39th Street
New York, NY 10018

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

**On Behalf of Respondents GEM Electronics and Fu
Ching Technical Industry Co., LTD.:**

Michael L. Doane, Esq.
ADDUCI MASTRIANI & SCHAUMBERG LLP
1200 Seventeenth Street, N.W.
Washington, DC 20036

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

GOVERNMENT AGENCIES:

Edward T. Hand, Chief
Foreign Commerce Section
Antitrust Division
U.S. Department of Justice
450 5th Street NW – Room 11000

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

Washington, DC 20530

U.S. Bureau of Customs and Border Protection
Intellectual Property Rights Branch
Mint Annex Building
799 9th Street, NW -7th floor
Washington, DC 20229-1177

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

Elizabeth Kraus, Deputy Director
International Antitrust, Office of
International Affairs
Federal Trade Commission
600 Pennsylvania Avenue, Room 498
Washington, DC 20580

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____

Richard Lambert, Esq.
Office of Technology Development Services
Dept. of Health & Human Services
National Institutes of Health
6610 Rockledge Drive - Room 2800
MSC 6606
Bethesda, MD 20892

Via Hand Delivery
 Via Overnight Mail
 Via First Class Mail
 Other: _____