

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN INDUSTRIAL AUTOMATION
SYSTEMS AND COMPONENTS THEREOF
INCLUDING CONTROL SYSTEMS,
CONTROLLERS, VISUALIZATION
HARDWARE, MOTION AND MOTOR
CONTROL SYSTEMS, NETWORKING
EQUIPMENT, SAFETY DEVICES, AND
POWER SUPPLIES

Investigation No. 337-TA-1074

ISSUANCE OF A GENERAL EXCLUSION ORDER AND
A CEASE AND DESIST ORDER; TERMINATION OF THE INVESTIGATION

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued a general exclusion order (“GEO”) denying entry of certain industrial automation systems and components thereof including control systems, controllers, visualization hardware, motion and motor control systems, networking equipment, safety devices, and power supplies that infringe complainant’s asserted trademarks. The Commission has also issued a cease and desist order (“CDO”) directed to respondent Fractioni (Hongkong) Ltd. (“Fractioni”). The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708-4716. 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, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://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 October 16, 2017, based on a complaint filed by Complainant Rockwell Automation, Inc. of Milwaukee, Wisconsin (“Complainant” or “Rockwell”). See 82 Fed. Reg. 48113-15 (Oct. 16,

2017). The complaint, as supplemented, alleges violations of section 337 based on the infringement of certain registered trademarks and copyrights and on unfair methods of competition and unfair acts in the importation or sale of certain industrial automation systems and components thereof including control systems, controllers, visualization hardware, motion and motor control systems, networking equipment, safety devices, and power supplies, the threat or effect of which is to destroy or substantially injure an industry in the United States. *See id.* The notice of investigation identifies fifteen respondents: Can Electric Limited of Guangzhou, China (“Can Electric”); Capnil (HK) Company Limited of Hong Kong (“Capnil”); Fractioni of Shanghai, China; Fujian Dahong Trade Co. of Fujian, China (“Dahong”); GreySolution Limited d/b/a Fibica of Hong Kong (“GreySolution”); Huang Wei Feng d/b/a A-O-M Industry of Shenzhen, China (“Huang”); KBS Electronics Suzhou Co, Ltd. of Shanghai, China (“KBS”); PLC-VIP Shop d/b/a VIP Tech Limited of Hong Kong (“PLC-VIP”); Radwell International, Inc. d/b/a PLC Center of Willingboro, New Jersey (“Radwell”); Shanghai EuoSource Electronic Co., Ltd of Shanghai, China (“EuoSource”); ShenZhen T-Tide Trading co., Ltd. of Shenzhen, China (“T-Tide”); SoBuy Commercial (HK) Co. Limited of Hong Kong (“SoBuy”); Suzhou Yi Micro Optical Co., Ltd., d/b/a Suzhou Yiwei Guangxue Youxiangongsi, d/b/a Easy Microoptics Co. LTD. of Jiangsu, China (“Suzhou”); Wenzhou Sparker Group Co. Ltd., d/b/a Sparker Instruments of Wenzhou, China (“Sparker”); and Yaspro Electronics (Shanghai) Co., Ltd. of Shanghai, China (“Yaspro”). *See id.* The Office of Unfair Import Investigations (“OUII”) is also a party in this investigation. *See id.*

Nine respondents were found in default, namely, Fractioni, GreySolution, KBS, EuoSource, T-Tide, SoBuy, Suzhou, Yaspro and Can Electric (collectively, “the Defaulted Respondents”). *See* Order No. 17 (Feb. 1, 2018), *unreviewed*, Comm’n Notice (Feb. 26, 2018); Order No. 32 (June 28, 2018), *unreviewed*, Comm’n Notice (July 24, 2018). In addition, five unserved respondents (Capnil, Dahong, Huang, PLC-VIP, and Sparker) were terminated from the investigation and one respondent (Radwell) was terminated based on the entry of a consent order. *See* Order No. 41 (July 17, 2018), *unreviewed*, Comm’n Notice (Aug. 13, 2018); Order No. 42 (July 20, 2018), *unreviewed*, Comm’n Notice (Aug. 15, 2018).

On October 23, 2018, the ALJ issued a final initial determination (“FID”) finding a violation of section 337 by the Defaulted Respondents based on the infringement of Complainant’s asserted trademarks, namely, U.S. Trademark Reg. Nos. 1172995, 696401, 693780, 1172994, 712800, 712836, 2510226, 2671196, 2701786, and 2412742. The ALJ also recommended that the Commission: (1) issue a GEO; (2) issue a CDO against defaulted respondent Fractioni; and (3) set a bond at 100% of the entered value of the infringing products during the period of Presidential review. No petitions for review of the subject FID were filed.

On December 20, 2018, the Commission issued a notice determining not to review the FID. *See* 83 Fed. Reg. 67346-48 (Dec. 28, 2018). The Commission’s determination resulted in a finding of a section 337 violation. *See id.* The Commission’s notice also requested written submissions on remedy, the public interest, and bonding. On February 15, 2019, Complainant and OUII submitted written submissions and on February 22, 2019, OUII submitted a reply submission in response to the Commission’s notice.

As explained in the Commission's Opinion issued concurrently herewith, the Commission has determined that the appropriate remedy in this investigation is: (1) a GEO prohibiting the unlicensed entry of certain industrial automation systems and components thereof including control systems, controllers, visualization hardware, motion and motor control systems, networking equipment, safety devices, and power supplies that infringe Complainant's asserted trademarks, pursuant to 19 U.S.C. 1337(d)(2), and (2) a CDO directed to defaulted respondent Fractioni, pursuant to 19 U.S.C. 1337(f)(1). The Commission has also determined that the bond during the period of Presidential review pursuant to 19 U.S.C. 1337(j) shall be in the amount of 100 percent of the entered value of the imported articles that are subject to the GEO. The Commission has further determined that the public interest factors enumerated in subsections 337(d)(1) and (f)(1) (19 U.S.C. 1337(d)(1), (f)(1)) do not preclude the issuance of the GEO and CDO.

Commissioner Schmidlein disagrees with the Commission's decision not to issue cease and desist orders against all of the defaulting respondents under section 337(g)(1), and her views have been filed on EDIS.

The Commission's opinion and orders were delivered to the President and to the United States Trade Representative on the day of 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 CFR part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: April 8, 2019

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PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served by hand upon the Commission Investigative Attorney, **Brian Koo, Esq.**, and the following parties as indicated, on **April 8, 2019**.



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112
Washington, DC 20436

On Behalf of Complainants Rockwell Automation, Inc.:

Adam D. Swain
ALSTON & BIRD LLP
950 F Street NW
Washington, DC 20004

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

Respondents

Fractioni (Hongkong) Ltd.
#327 Siping Road
Shanghai 200092
China

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

GreySolution Limited d/b/a Fibica
Unit B601, 6/F Block A
Universal Ind. Ctr.
19-25 Shan Mei St Sha Tin,
Fo Tan, Hong Kong

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

KBS Electronics Suzhou Co, Ltd.
Block 7&43, No. 328 Hengyong Road,
Jiading district, Shanghai, China, 201806

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

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Certificate of Service – Page 2

Shanghai EuoSource Electronic Co., Ltd
Block 43, No. 328, Hengyong Road
Jiading District
Shanghai, China 201806

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

ShenZhen T-Tide Trading co., Ltd.
Room A-60S, Block.lexi.
Minle industrial park
Mei Ban Road '
Longhua District, Shcnzhen 51803 1
China

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

SOBuyCommercial (HK) Co. Limited
Flat B G/F Yeung Yiu Chung (No. 6)
Ind. Bldg. No. 19 Chetmg Shun Street
Lai Chi Kok Kowloon
Hong Kong

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

Suzhou Yi Micro Optical CO., Ltd.
d/b/a Suzhou Yiwei Guangxue Youxiangongsi
d/b/a Easy Micro-optics CO. LTD.
Office Building 5F, 91 Weixin Rd
Suzhou, SIP, Jiangsu
China, 215021

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

Yaspro Electronics (Shanghai) Co., Ltd.
Room 1808E,,No. 488, Vaohua Road
Pudong New District
Shanghai, China

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

Can Electric Limited
No. 2 Danan Rd, Yueziu District
Guangzhou, Guangdong, 510115
China

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____