

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN LITHOGRAPHY MACHINES
AND SYSTEMS AND COMPONENTS
THEREOF (I)**

Inv. No. 337-TA-1128

NOTICE OF INSTITUTION OF INVESTIGATION

Institution of Investigation Pursuant to 19 U.S.C.1337

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 20, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of Carl Zeiss SMT GmbH of Germany. Supplements to the complaint were filed on July 20 and 26, 2018. An amended complaint was filed on August 9, 2018. The amended complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain lithography machines and systems and components thereof by reason of infringement of certain claims of U.S. Patent No. 8,902,407 ("the '407 patent") and U.S. Patent No. 9,280,058 ("the '058 patent"). The amended complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The amended complaint, except for any confidential information contained therein, is 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., Room 112, Washington, D.C. 20436, telephone (202) 205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (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>.

FOR FURTHER INFORMATION CONTACT: Katherine Hiner, The Office of the Secretary, Docket Services, U.S. International Trade Commission, telephone (202) 205-1802.

SUPPLEMENTARY INFORMATION:

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10 (2018).

SCOPE OF INVESTIGATION: Having considered the amended complaint, the U.S. International Trade Commission, on August 15, 2018, **ORDERED THAT** –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of products identified in paragraph (2) by reason of infringement of one or more of claims 1-10, 12, 16, 17, 19-28, and 30-42 of the '407 patent and claims 1-9, 11, 13, 14, 17-22 and 24-29 of the '058 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is "lithography machines that use projection objectives to project circuit patterns drawn on a 'mask' or 'reticle' onto a photoresist on a silicon wafer, components of the lithography machines, and systems related to the operation of the lithography machines";

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Carl Zeiss SMT GmbH
Carl-Zeiss-Straße 22
Oberkochen, Germany 73447

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the amended complaint is to be served:

Nikon Corporation
Shingawa Intercity Tower C
2-15-3
Konan
Minato-ku
Tokyo 108-6290
Japan

Nikon Research Corporation of America
1399 Shoreway Road
Belmont, CA 94002-4107

Nikon Precision Inc.
1399 Shoreway Road
Belmont, CA 94002

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

The Chief Administrative Law Judge is authorized to consolidate Inv. No. 337-TA-1128 with Inv. No. 337-TA-1129 if he deems it appropriate.

Responses to the amended complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.13. Pursuant to 19 C.F.R. 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the amended complaint and the notice of investigation. Extensions of time for submitting responses to the amended complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the amended complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the amended complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: August 15, 2018

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PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE OF INSTITUTION** has been served on the following parties as indicated, on 8/15/2018



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

<u>Complainants:</u>	
Carl Zeiss SMT GmbH Carle-Zeiss Straße 22 Oberkochen, Germany 73447	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
<u>On Behalf of Complainants:</u>	
Thomas S. Fusco, Esq. FISH & RICHARDSON P.C. 1000 Maine Avenue SW Washington, DC 20024	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
<u>Respondents:</u>	
Nikon Corporation Shingawa Intercity Tower C, 2-15-3 Konan, Minato-ku Tokyo 108-6290	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
Nikon Research Corporation of America 1399 Shoreway Road Belmont, CA 94002-4107	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
Nikon Precision Inc. 1399 Shoreway Road Belmont, CA 94002-4107	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Express Delivery

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Inv. No. 337-TA-1128

Certificate of Service – Page 2

	<input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
Embassy:	
Embassy of Japan 2520 Massachusetts Avenue NW Washington, DC 20008	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
Government Agencies:	
Edward T. Hand, Chief Foreign Commerce Section Antitrust Division U.S. Department of Justice 450 5 th Street NW, Room 11000 Washington, DC 20530	<input type="checkbox"/> Via Hand Delivery <input type="checkbox"/> Via Express Delivery <input checked="" type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
U.S. Bureau of Customs and Border Protection Intellectual Property Rights Branch Mint Annex Building 799 9 th Street, NW, 7 th floor Washington, DC 20229-1177	<input type="checkbox"/> Via Hand Delivery <input type="checkbox"/> Via Express Delivery <input checked="" type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
Elizabeth Kraus, Deputy Director International Antitrust, Office of International Affairs Federal Trade Commission 600 Pennsylvania Avenue, Room 498 Washington, DC 20580	<input type="checkbox"/> Via Hand Delivery <input type="checkbox"/> Via Express Delivery <input checked="" type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
Dale D. Berkley, Ph.D., J.D. Office of the General Counsel, PHD, NIH Branch National Institutes of Health 31 Center Drive Bldg. 31, Rm. 47 Bethesda, MD 20892	<input type="checkbox"/> Via Hand Delivery <input type="checkbox"/> Via Express Delivery <input checked="" type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____



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