

Banner & Witcoff Wins General Exclusion Order as well as Cease and Desist Orders for Lexmark in ITC

September 28, 2011

Banner & Witcoff is pleased to announce that, on September 27, 2011, firm client Lexmark International Inc. prevailed in one of the largest investigations ever initiated in the United States International Trade Commission (ITC) which involved 15 patents and 23 respondents.

After having reviewed the record in this investigation, the Commission determined that a general exclusion from entry for consumption was necessary to prevent circumvention of an exclusion order limited to products of named respondents. The Commission explained that there was a pattern of violation of Section 337 and that it was difficult to identify the source of infringing products. Accordingly, the Commission issued a general exclusion order prohibiting the unlicensed importation of toner cartridges and components thereof.

Further, the Commission issued cease and desist orders against each respondent, including all domestic and foreign companies.

For the period of Presidential review, the Commission set a bond in the amount of 100 percent of the entered value of the toner cartridges in question.

The "Accused Cartridges" in the investigation included "aftermarket, remanufactured, cloned, counterfeit, and/or compatible laser toner cartridges; aftermarket, remanufactured, cloned, counterfeit, and/or compatible empty cores; empty cores for OEM laser toner cartridges first sold outside the United States; OEM toner cartridges first sold outside the United States; and/or components for one or more of the foregoing for use in any of the following Lexmark laser printer series: T520, X520, T522, X522s, T610, T612, T614, T616, T620, X620e, T622, T630, T632, T634, T640, T642, T644, E120, E220, E230, E232, E234, E238, E240, E250, E320, E322, E321, E323, E330, E332, E340, E342, E350, E352, and/or E450." The General Exclusion Order issued by the Commission bars importation and sale of these Accused Cartridges within the United States, regardless of manufacturer.

Please click [here](#) to view the Notice of Commission Final Determination of Violation of Section 337; Termination of Investigation; Issuance of General Exclusion Order and Cease and Desist Orders.

Lexmark International Inc. was represented by Banner & Witcoff, Ltd.'s Chicago-based attorneys Timothy C. Meece, V. Bryan Medlock, Matthew P. Becker, Jason S. Shull, and Neil C. Trueman; Banner & Witcoff, Ltd.'s DC-based attorney Christopher B. Roth; and V. James Adduci II, Jamie D. Underwood, Ian A. Taronji, and Katherine R. Lahnstein of Adduci, Mastriani & Schaumberg LLP.

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