



Slave Labor & the Supply Chain

Vendor panel sheds light on Ninestar embargo

by: Robert C. Goldberg, BTA General Counsel

If you were not able to attend the 2023 BTA National Conference Aug. 30-31 in Boston, Massachusetts, you missed one of the most comprehensive and informative meetings in memory. Record attendance and remarkable speakers contributed to the event's success. I was fortunate to moderate a panel of dignitaries who discussed how slave labor may disrupt the supply chain. My appreciation and gratitude goes to Charles Brewer, president, Actionable Intelligence; Sam Errigo, president and CEO, Konica Minolta Business Solutions U.S.A. Inc.; Tricia Judge, executive director and general counsel, International Imaging Technology Council; Mike Marusic, president and CEO, Sharp Imaging and Information Company of America; and Óscar Sánchez, president and CEO, KYOCERA Document Solutions America Inc. Ninestar and Lexmark were invited to participate, but declined.



The "Will Slave Labor Disrupt the Supply Chain?" panelists at the 2023 BTA National Conference were (left to right): Judge, Marusic, Errigo, Sánchez and Brewer.

The office technology industry has uniformly condemned the use of "slave labor" in conjunction with the production of any equipment, parts or supplies. On June 9, 2023, the Department of Homeland Security's Forced Labor Enforcement Task Force placed an embargo on imported products from Ninestar and eight related companies: Zhuhai Ninestar Information Technology, Zhuhai Pantum Electronics, Zhuhai Apex Microelectronics, Geehy Semiconductor, Zhuhai Pu-Tech Industrial, Zhuhai G&G Digital Technology, Zhuhai Seine Printing Technology and Zhuhai Ninestar Management. The embargo took effect on June 12, 2023. The announcement and implementation caught the entire industry by surprise.

Ninestar is alleged to have violated the Uyghur Forced Labor Prevention Act. The act prohibits, "All work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily." It is believed there are close to 5 million Uyghurs, Kazakhs and Muslim minorities who work within this prohibition. Ninestar is the 22nd company for which an embargo has been placed. Previous products forbidden include: artificial flowers, bricks, Christmas decorations, coal, cotton, electronics, fireworks, footwear, garments, gloves, hair products, nails, polysilicon, textiles, thread, yarn, tomato products and toys. No company has ever been removed from the listed entities precluded from exporting products.

The Ninestar restrictions have a dramatic effect on the office

technology industry. It is estimated that Ninestar manufactures 80% of the chips in toner cartridges and is the fourth largest manufacturer of laser printers. Ninestar chips and parts can be found in the products of numerous OEMs. Ninestar also owns more than 60% of Lexmark and 100% of Static Control. The Ninestar restrictions echoed throughout the industry.

Several OEMs and consumable suppliers rejected shipments of Ninestar

products that were at sea when the embargo was announced. Industry participants uniformly have moved quickly to find alternative sources. Pantum printers, manufactured by Ninestar, compose the Lexmark GO Line and are privately labeled for others. Each of the vendor panel participants clearly stated that steps are being taken to find alternative sources but, in some cases, there is concern about a back-order situation for certain equipment, parts and supplies.

Ninestar has filed a challenge to the embargo in the United States Court of International Trade. The challenge does not address the use of forced labor, but is brought under the Administrative Procedure Act. Ninestar contends it was not afforded due process and, thus, the embargo should be lifted. Ninestar alleges that trade associations, including the Business Technology Association (BTA), "... Have cut off their relationships with Ninestar" as a result of the embargo. BTA has removed the Ninestar logo from its website and moved to revoke Ninestar's membership for the failure to conduct itself in a manner that reflects favorably on the association and/or the industry.

During the panel, Judge pointed out that dealers face potential liability for the sale of embargoed products. Products received prior to June 12 should not be affected. BTA is working with suppliers to obtain assurances that any products, parts or supplies purchased by dealers are not in violation of the embargo. Suppliers are being asked to indemnify, defend and hold harmless any dealer for any claim based on their products. BTA is also working with the Department of Homeland Security to clarify numerous issues that have arisen due to its action. BTA will keep members informed of the latest developments in this critical matter. ■

Robert C. Goldberg is general counsel for the Business Technology Association. He can be reached at robert.goldberg@sfbg.com.

