

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

In the Matter of)	
)	
)	
CERTAIN ENDOSCOPIC PROBES)	Inv. No. 337-TA-569
FOR USE IN ARGON PLASMA)	
COAGULATION SYSTEMS)	

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW
AN INITIAL DETERMINATION TERMINATING THE INVESTIGATION AS TO
A RESPONDENT ON THE BASIS OF A SETTLEMENT AGREEMENT**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) of the presiding administrative law judge (“ALJ”) granting the joint motion of complainants ERBE Elektromedizin GmbH of Germany and ERBE USA, Inc. of Marietta, Georgia (collectively, “ERBE”) and respondent KLS Martin GmbH & Co. KG (“KLS Martin”) to terminate the above-captioned investigation as to KLS Martin on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Jonathan J. Engler, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-3112. Copies of the public version of the ID and all nonconfidential 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. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<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>.

SUPPLEMENTARY INFORMATION: This investigation was instituted by the Commission based on a complaint filed by ERBE. 71 Fed. Reg. 29386 (May 16, 2006). 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 endoscopic probes for use in argon plasma coagulation systems by reason of infringement of 10 claims of U.S. Patent No. 5,720,745 (“the ‘745 patent”) and infringement of U.S. Supplemental Trademark Registration No. 2,637,630 (“the ‘630 registration”). The complaint also alleged that a domestic industry exists and/or is in the process of being established, with regard to the ‘745 patent and the ‘630 registration under subsection (a)(2). The notice of investigation named Canady Technology, LLC of Hampton, Virginia (“Canady USA”); Canady Technology Germany GmbH of Germany (“Canady GmbH”); and KLS Martin as the respondents. The complaint requested that the Commission institute an investigation pursuant to

Section 337 and, after the investigation, issue a permanent exclusion order and a permanent cease and desist order.

On June 20, 2006, ERBE and KLS Martin filed a “Joint Motion to Terminate Investigation As to KLS Martin Based on a Settlement Agreement.” On July 7, 2006, the Commission Investigative Attorney filed a motion in support of the joint motion to terminate, noting that she was unaware of any information indicating that the settlement agreement would be contrary to the public interest.

On September 1, 2006, the ALJ issued the subject ID (Order No. 4) terminating the investigation as to KLS Martin on the basis of a settlement agreement. The ALJ found no indication that termination of the investigation on the basis of the settlement agreement would adversely affect the public interest, and that the procedural requirements for terminating the investigation had been met. No petitions for review were filed.

The Commission has determined not to review the ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, and Commission rule 210.42, 19 C.F.R. § 210.42.

By order of the Commission.

/s/

Marilyn R. Abbott
Secretary to the Commission

Issued: October 3, 2006