

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN MICROFLUIDIC SYSTEMS
AND COMPONENTS THEREOF AND
PRODUCTS CONTAINING SAME**

**Investigation No. 337-TA-1100
(Rescission)**

**NOTICE OF THE COMMISSION'S DETERMINATION TO INSTITUTE A
RESCISSION PROCEEDING; TO RESCIND PERMANENTLY A LIMITED
EXCLUSION ORDER AND A CEASE AND DESIST ORDER; TERMINATION OF
RESCISSION PROCEEDING**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to institute a rescission proceeding, rescind the remedial orders issued in the underlying investigation, and to terminate the rescission proceeding.

FOR FURTHER INFORMATION CONTACT: Benjamin S. Richards, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 708-5453. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.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: On February 21, 2018, the Commission instituted this investigation based on a complaint filed by 10X Genomics, Inc. of Pleasanton, CA ("10X"). 83 FR 7491 (Feb. 21, 2018). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain microfluidic systems and components thereof and products containing same by reason of infringement of one or more claims of U.S. Patent Nos. 9,644,204 ("the '204 patent"); 9,689,024 ("the '024 patent"); 9,695,468 ("the '468 patent"); and 9,856,530 ("the '530 patent"). *Id.* The Commission's notice of investigation named as the sole respondent Bio-Rad Laboratories, Inc. of Hercules, CA ("Bio-Rad"). *Id.* The Office of Unfair Import Investigations ("OUII") is participating in this investigation. *Id.*

On July 12, 2019, the presiding administrative law judge issued the final initial determination (“ID”). The ID found a violation of section 337 by virtue of Bio-Rad’s indirect infringement of the ’024, the ’468, and the ’530 patents. The ID found that 10X had not established a violation with respect to the ’204 patent. On October 17, 2019, the Commission determined to review various findings in the ID. Following its review, on February 12, 2020, the Commission found a violation of section 337 with respect the ’024 patent; the ’468 patent; and the ’530 patent. 85 FR 9479 (Feb. 19, 2020). The Commission also found no violation of section 337 with respect to the ’204 patent.

Having found a violation of section 337, and upon consideration of the statutory public interest factors, the Commission determined to issue a limited exclusion order prohibiting further importation of Bio-Rad’s infringing microfluidic systems and a cease and desist order against Bio-Rad. *Id.* On April 29, 2021, in an appeal initiated by Bio-Rad, the U.S. Court of Appeals for the Federal Circuit affirmed the Commission’s final determination. *Bio-Rad Laboratories, Inc. v. Int’l Trade Comm’n*, 996 F.3d 1302 (Fed. Cir. 2021).

On July 26, 2021, 10X and Bio-Rad entered into a settlement agreement that resolved the disputes concerning the subject matter of this investigation. Thereafter, on July 28, 2021, 10X and Bio-Rad jointly petitioned for rescission of the Commission’s remedial orders under 19 U.S.C. 1337(k) and Commission Rule 210.76(a) (19 CFR 210.76(a)). On August 9, 2021, OUII filed a response in support of 10X and Bio-Rad’s rescission petition.

The Commission has determined that the petition complies with Commission rules, *see* 19 CFR 210.76(a)(3), and that there are no extraordinary reasons to deny rescission of the remedial orders. Accordingly, the Commission has determined to institute a rescission proceeding and to permanently rescind the LEO and the CDO. The rescission proceeding is hereby terminated.

The Commission’s vote on this determination took place on August 25, 2021.

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 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: August 25, 2021