

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN STRONTIUM-RUBIDIUM
RADIOISOTOPE INFUSION SYSTEMS,
AND COMPONENTS THEREOF
INCLUDING GENERATORS**

Investigation No. 337-TA-1110

**NOTICE OF COMMISSION DECISION TO REVIEW IN PART AN INITIAL
DETERMINATION GRANTING-IN-PART A MOTION TO DECLASSIFY**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part an initial determination (“ID”) (Order No. 31) of the presiding administrative law judge (“ALJ”) granting-in-part the Commission Investigative Attorney’s (“IA”) motion to declassify.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708-4716. Copies of non-confidential 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 SW., Washington, D.C. 20436, telephone (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>. 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: The Commission instituted this investigation on May 1, 2018, based on a complaint, as amended, filed by Bracco Diagnostics Inc. of Monroe Township, New Jersey (“Complainant” or “Bracco”). *See* 83 FR 19112-13 (May 1, 2018). The complaint, as amended, alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain strontium-rubidium radioisotope infusion systems, and components thereof including generators, by reason of infringement of U.S. Patent Nos. 9,814,826; 9,750,869; and 9,750,870 (collectively, “the asserted patents”). *See id.* The notice of investigation names Jubilant DraxImage Inc. of Kirkland, Québec, Canada; Jubilant Pharma Limited of Singapore; and Jubilant Life Sciences of Noida, Uttar Pradesh, India

(collectively, “Respondents” or “Jubilant”) as respondents in this investigation. *See id.* The Office of Unfair Import Investigations is also a party to this investigation. *See id.*

On October 29, 2018, Respondents filed a motion for summary determination that the RUBY Rubidium Elution System Version 3.1 and the RUBY Rubidium Elution System Version 4 do not infringe the asserted patents. On February 8, 2019, the ALJ issued an ID (Order No. 27) granting Respondents’ motion for summary determination to the extent that the RUBY Rubidium Elution System Version 3.1 and the RUBY Rubidium Elution System Version 4 do not directly infringe the asserted patents. *See* Order No. 27 (Feb. 8, 2019), *unreviewed*, Comm’n Notice (Mar. 8, 2019). The ID (Order No. 27) declined to reach indirect infringement by those two products on summary determination. *See id.*

On November 14, 2018, the IA filed a motion to declassify portions of Respondents’ motion for summary determination of non-infringement. On November 26, 2018, Respondents filed a response in opposition to the IA’s motion to declassify.

On March 21, 2019, the ALJ issued the subject ID (Order No. 31) granting-in-part the IA’s motion to declassify. On April 2, 2019, Respondents filed a petition for review of the subject ID, and on April 9, 2019, the IA filed a response in opposition to Respondents’ petition.

The Commission has determined to review the ID in part, and on review, to affirm the ID with a modification, consistent with the IA’s response to Respondents’ petition for review (suggesting an additional redaction of the text of subheading II.B.2) and with Exhibit 1 thereof (showing the undisputed redactions in yellow) (EDIS Doc. No. 672558). The Commission has also determined to stay its declassification determination for 21 days to allow Respondents to seek judicial relief from and/or a judicial stay of the determination.

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 part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: May 6, 2019