

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN BONE CEMENTS AND BONE
CEMENT ACCESSORIES**

Investigation No. 337-TA-1175

NOTICE OF COMMISSION DECISION TO EXTEND THE TARGET DATE

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined to extend the target date in the above-captioned investigation to June 23, 2021.

FOR FURTHER INFORMATION CONTACT: Lynde Herzbach, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3228. 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, telephone 202-205-1810.

SUPPLEMENTARY INFORMATION: On September 23, 2019, the Commission instituted this investigation based on a complaint filed on behalf of Zimmer, Inc. and Zimmer US, Inc. both of Warsaw, Indiana (collectively, “Complainants”). 84 FR 49764 (Sept. 23, 2019). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based on the importation or sale in the United States of certain bone cements and bone cement accessories by reason of the misappropriation of trade secrets, false advertising, and tortious interference, the threat or effect of which is to destroy or substantially injure an industry in the United States. The complaint also alleges the existence of a domestic industry. The Commission’s notice of investigation names two respondents: Heraeus Medical GmbH of Wehrheim, Germany and Heraeus Medical LLC of Yardley, Pennsylvania (collectively, “Respondents”). *Id.* The Office of Unfair Import Investigations (“OUII”) is named as a party in this investigation. *Id.*

On February 11, 2021, the ALJ issued the FID finding no violation of section 337. More particularly, the FID finds, *inter alia*, that: (1) the Commission has subject matter and personal jurisdiction; (2) Respondents imported or sold within the United States accused bone cements and bone cement accessories; (3) a domestic industry exists under section 337(a)(1)(A)(i) (19 U.S.C. 1337(a)(1)(A)(i)); (4) Complainants own the asserted trade secrets; (5) trade secrets

("TS") 10, 15, and 28 are protectable, but TS 11 is not protectable; (6) Respondents did not misappropriate any asserted TS; (6) Respondents did not engage in false advertising; (7) Respondents did not tortiously interfere with Complainants' contracts or prospective business relationships; and (6) Complainants failed to show a substantial injury or threat of injury to their domestic industry. The ALJ recommended that, if the Commission finds a violation of section 337, the Commission should issue a limited exclusion order and a cease and desist order directed to Respondents and to impose a bond of five and a half (5.5) percent during the period of Presidential review.

On February 23, 2021, Complainants filed a petition for review seeking review of most of the FID's findings. On March 3, 2021, Respondents and OUII filed responses to Complainants' petition. On March 15, 2021, Respondents filed a submission on the public interest pursuant to Commission Rule 210.50(a)(4) (19 CFR 210.50(a)(4)). Complainants and OUII did not file a statement on the public interest. The Commission received no filings in response to its Federal Register notice calling for public interest comments. *See* 86 FR 12029-30 (Mar. 1, 2021).

On April 12, 2021, the Commission determined to review the FID in part and requested briefing from the parties on certain issues under review. 86 FR 20200-02 (Apr. 16, 2021). Specifically, the Commission determined to review the FID's findings as to: (1) the alleged misappropriation of the asserted trade secrets, including the finding that Respondents independently developed their own data compilation; (2) Respondents' alleged tortious interference with Complainants' prospective business advantages; and (3) domestic industry and injury. *Id.* The Commission also sought briefing from the parties, interested government agencies, and any other interested parties on remedy, bonding, and the public interest.

The Commission has determined to extend the target date for completing this investigation until June 23, 2021.

The Commission vote for this determination took place on June 21, 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 Part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: June 21, 2021