

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN NON-INVASIVE AESTHETIC
BODY-CONTOURING DEVICES,
COMPONENTS THEREOF, AND
METHODS OF USING THE SAME**

Investigation No. 337-TA-1219

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING AN UNOPPOSED MOTION TO TERMINATE THE
INVESTIGATION IN ITS ENTIRETY BASED UPON SETTLEMENT; TERMINATION
OF INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined not to review an initial determination (“ID”) (Order No. 31) of the presiding administrative law judge (“ALJ”) granting an unopposed motion to terminate the investigation in its entirety based upon settlement.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3042. 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 9, 2020, the Commission instituted this investigation based on a complaint filed by BTL Industries, Inc. (“BTL”) of Marlborough, Massachusetts. 85 FR 55687-88 (Sept. 9, 2020). The complaint alleged violations of section 337 based on the importation into the United States, the sale for importation, or the sale within the United States after importation of certain non-invasive aesthetic body-contouring devices, components thereof, and methods of using the same by reason of infringement of claims 1, 2, 4, 6-8, 10, 12-16, 20, 22, 23, and 26-28 of U.S. Patent No.10,632,321 (“the ’321 patent”); claims 1, 9-11, 13, 15, 16, and 20-22 of U.S. Patent No. 10,695,575 (“the ’575 patent”); claims 1, 8, 10, 11, 13, 16, 18, 23-25, 27, and 28 of U.S. Patent No. 10,695,576 (“the ’576 patent”); claims 1, 2, 4, 5, 9, 10, 12, 13, 17-21, 23, 24, and 26-29 of U.S. Patent No. 10,709,894 (“the ’894 patent”); claims 1, 2-6, 9, 10, and 14-25 of U.S. Patent No. 10,709,895 (“the ’895 patent”); and claims 1,

6, 7, 16, 21, and 22 of U.S. Patent No. 10,478,634 (“the ’634 patent”). *Id.* at 55687. The Commission’s notice of investigation named the following six respondents: Allergan Limited of Dublin, Ireland; Allergan USA, Inc. of Madison, New Jersey; Allergan, Inc. of Madison, New Jersey; Zeltiq Aesthetics, Inc. of Pleasanton, California; Zeltiq Ireland Unlimited Company of Galway, Ireland; and Zimmer MedizinSysteme GmbH of Neu-Ulm, Germany (collectively, “Respondents”). The Office of Unfair Import Investigations was not named as a party in this investigation. *Id.*

On September 10, 2021, BTL and Respondents filed a joint motion to terminate the investigation in its entirety based upon settlement.

The Commission previously determined not to review IDs (Order Nos. 15 and 21) terminating the investigation as to (1) all asserted claims of the ’321 patent; (2) all asserted claims of the ’575 patent; (3) claims 1, 8, 10, 11, 13, 23-25, 27, and 28 of the ’576 patent; (4) claims 1, 2, 4, 5, 10, 18, 19-24, and 26-29 of the ’894 patent; (5) claims 3, 4, 6, 9, 10, 15-18, and 20–25 of the ’895 patent; and (6) all asserted claims of the ’634 patent. *See* Order No. 15, *unreviewed by* Notice (Apr. 27, 2021); Order No. 21, *unreviewed by* Notice (May 19, 2021).

On September 16, 2021, the ALJ issued the subject ID (Order No. 31) granting the motion. The subject ID found that the joint motion complies with Commission Rule 210.21(a)(2), which provides that “[a]ny party may move at any time to terminate an investigation in whole or in part as to any or all respondents on the basis of a settlement, a licensing or other agreement” ID at 1 (citing 19 CFR 210.21(a)(2)). The ID further found that in accordance with Commission Rule 210.21(b)(1) the parties state that “[A]part from this Settlement Agreement there are no agreements, written or oral, express or implied between BTL and Respondents concerning the subject matter of the investigation.” ID at 2 (citing 19 CFR 210.21(b)(1)). In addition, the parties provided confidential and public versions of the settlement agreement. The ID also found that there is no evidence that terminating this investigation based upon settlement would be contrary to the public interest. *Id.* at 3. No one petitioned for review of the ID.

The Commission has determined not to review the subject ID. The investigation is hereby terminated in its entirety.

The Commission vote for this determination took place on October 6, 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.

A handwritten signature in black ink, appearing to read 'L.R. Barton', written in a cursive style.

Lisa R. Barton
Secretary to the Commission

Issued: October 6, 2021