

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

In the Matter of

**CERTAIN DEVICES HAVING
ELASTOMERIC GEL AND
COMPONENTS THEREOF**

Investigation No. 337-TA-732

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION TERMINATING THE INVESTIGATION AS TO TWO
RESPONDENTS ON THE BASIS OF CONSENT ORDER STIPULATIONS
AND CONSENT ORDERS; ISSUANCE OF CONSENT ORDERS**

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”) (Order No. 19) of the presiding administrative law judge (“ALJ”) in the above-captioned investigation terminating the investigation as to two respondents on the basis of consent order stipulations and consent orders.

FOR FURTHER INFORMATION CONTACT: Mark B. Rees, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone (202) 205-3116. 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, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <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>. 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 August 4, 2010, based on the complaint, as supplemented, of Interactive Life Forms, LLC of Austin, Texas (“ILF”). *75 Fed. Reg.* 47027 (Aug. 4, 2010). The complaint 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 devices having elastomeric gel and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 5,782,818 and 5,807,360. The complaint originally named 26 respondents, including TENGA Co., Ltd. of Tokyo, Japan (“TENGA”). The complaint and notice of investigation were later amended to, *inter alia*, add two respondents

and correctly identify the respondent U.S. distributor for TENGA, One Up Innovations, Inc. of Atlanta, Georgia (“One Up”). *75 Fed. Reg.* 64742 (Oct. 20, 2010). To date, one respondent has been defaulted and 23 others have been terminated from the investigation – 22 based on consent order stipulations and consent orders and one based on a settlement agreement.

On November 30 and December 3, 2010, ILF filed joint motions to terminate the investigation as to TENGA and One Up, respectively, based on consent order stipulations and consent orders. The Commission investigative attorney filed a combined response in support of these motions on December 10, 2010. No objections were filed.

On December 15, 2010, the ALJ issued the subject ID in which he finds that each consent order stipulation complies with Commission rule 210.21 and that each consent order closely parallels the corresponding stipulation. He also finds that termination as to these parties will not be contrary to the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers, and further that the public interest favors the proposed resolution. He therefore granted each motion. No petitions for review of the ID were filed.

The Commission has determined not to review the subject 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 Rules 210.21, 210.42 (19 C.F.R. §§ 210.21, 210.42).

By order of the Commission.

/s/
Marilyn R. Abbott
Secretary to the Commission

Issued: January 5, 2011