

**NITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.**

In the Matter of

**CERTAIN ELECTRIC SKIN CARE
DEVICES, BRUSHES AND CHARGERS
THEREFOR, AND KITS CONTAINING
THE SAME**

Investigation No. 337-TA-959

**NOTICE OF A COMMISSION DETERMINATION TO TERMINATE THE
INVESTIGATION AS TO RESPONDENT NUTRA-LUXE M.D., LLC; ISSUANCE OF A
CONSENT ORDER**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to terminate the investigation as to respondent Nutra-Luxe M.D., LLC based on a consent order stipulation and proposed consent order as modified in accordance with the Commission Notice dated September 29, 2015. The Commission has issued the consent order as modified.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3115. 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, S.W., Washington, D.C. 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 under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("Section 337"), on June 25, 2015, based on a complaint filed by Pacific Bioscience Laboratories, Inc. of Redmond, Washington ("PBL"). 80 *Fed. Reg.* 36576-77 (Jun. 25, 2015). The amended complaint, as supplemented, alleges a violation of Section 337 by reason of infringement of certain claims of U.S. Patent Nos. 7,320,691 and 7,386,906, and U.S. Design Patent No. D523,809 by numerous respondents. The amended complaint further alleges violations of Section 337 based upon the importation into the United States, or in the sale of certain electric skin care devices, brushes and chargers therefor, and kits containing the same, by reason of trade dress infringement, the threat

or effect of which is to destroy or substantially injure an industry in the United States. *Id.* The Commission's Office of Unfair Import Investigations was also named as a party.

On August 17, 2015, complainant PBL and respondent Nutra-Luxe M.D., LLC ("NutraLuxe") (collectively, "the moving parties") filed a joint motion to terminate this investigation as to NutraLuxe based on a consent order stipulation and proposed consent order. On August 28, 2015, the ALJ issued an ID (Order No. 10) granting the motion.

On September 29, 2015, the Commission determined to review Order No. 10 and issued a "Notice Of A Commission Determination To Review An Initial Determination Terminating The Investigation As To Respondent Nutra-Luxe M.D., LLC Based On A Consent Order Stipulation And Proposed Consent Order" ("the Notice") which directed the moving parties "to file a joint submission by October 13, 2015, which either modifies the proposed consent order and consent order stipulation, withdraws the joint motion to terminate on consent order, or shows cause why the proposed consent order is in compliance with the Commission rules and should be issued without modification." Notice at 2.

On October 13, 2015, PBL and NutraLuxe filed a response to the Notice, containing modifications. On November 3, 2015, the Commission issued an Order ("Commission Order") granting the moving parties' joint request for leave to submit a modified consent order stipulation and proposed consent order incorporating the modifications proposed by the moving parties and approved by the Commission. Commission Order at 2. The Order held that the modifications of the consent order proposed by the moving parties were acceptable and were in compliance with applicable Commission Rules. *Id.* (citing 19 C.F.R. § 210.21(c)(4)(i); 19 C.F.R. § 210.21(c)(3)(i)(B)). The Commission Order directed the parties to file a submission pursuant to Commission Order within fourteen days of the issuance of the Order.

On November 16, 2015, the moving parties filed a "Joint Submission In Response To The Commission's November 3, 2015 Order" ("Joint Submission"). Attached to the Joint Submission as Exhibit A is the modified consent order stipulation with the approved proposed language and, as Exhibit B, is the modified proposed consent order with the approved proposed language. *See* Joint Submission at 1.

The Commission has determined to grant the joint motion to terminate the investigation as to NutraLuxe based on the consent order stipulation and proposed consent order as modified in accordance with the Commission Notice and submitted in the Joint Submission.

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 C.F.R. Part 210).

By order of the Commission.

A handwritten signature in black ink, appearing to read "Lisa R. Barton". The signature is stylized and cursive.

Lisa R. Barton
Secretary to the Commission

Issued: January 5, 2016