

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 NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING SUMMARY DETERMINATION
AS TO CERTAIN PATENT INFRINGEMENT ISSUES**

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. 27) of the presiding administrative law judge (“ALJ”) granting summary determination with respect to certain patent infringement issues in the investigation.

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 No. 9,814,826; U.S. Patent No. 9,750,869; and U.S. Patent No. 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 (“OUII”) is also a party to this investigation. *See id.*

On October 29, 2018, Complainant Bracco filed a motion for summary determination that: (1) the accused product Ruby Rubidium Elution System Version 3.0 and components thereof, including the RUBY-FILL® Rubidium Rb-82 Generator and Ruby Set, infringe the asserted patents; (2) Bracco’s domestic industry product, the CardioGen-82® Infusion System Model 1700, satisfies the technical prong of the domestic industry requirement; and (3) Bracco satisfies the economic prong of the domestic industry requirement (“Complainant’s SD Motion”). On the same day, 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 any asserted claim of the asserted patents (“Respondents’ SD Motion”).

On November 8, 2018, OUII filed: (1) a response in support of Complainant’s SD motion as to the infringement and technical prong issues but not as to the economic prong issue; and (2) a response in support of Respondents’ SD Motion. On the same day, the private parties filed responses in opposition to each other’s SD Motion.

On February 8, 2019, the ALJ issued the subject ID granting: (1) Complainant’s SD Motion to the extent that the accused product, the Ruby Rubidium Elution System Version 3.0, infringes certain claims of the asserted patents; and (2) Respondents SD Motion to the extent that the RUBY Rubidium Elution System Version 3.1 and RUBY Rubidium Elution System Version 4 do not infringe any asserted claim of the asserted patents. The ALJ “determined to hold Bracco’s motion for summary determination on domestic industry issues in abeyance.” *See ID at 2.* In addition, the ALJ declined to decide on summary determination whether “the generator and tubing sets used with the RUBY Version 3.1 and Version 4 systems are identical to the generator and tubing sets used with the infringing RUBY Version 3” and whether “components of those two redesign systems could indirectly infringe in other contexts.” *See id.* at 20.

No petition for review of the subject ID was filed. The Commission has determined not to review the ID.

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: March 8, 2019