

**UNITED 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 REVIEW AN INITIAL
DETERMINATION TERMINATING THE INVESTIGATION AS TO RESPONDENT
SKINCAREBYALANA BASED ON A CONSENT ORDER STIPULATION AND
CONSENT ORDER; ISSUANCE OF 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 review an initial determination (“ID”) (Order No. 11) of the presiding administrative law judge (“ALJ”) terminating the investigation as to respondent SkincarebyAlana based on a consent order stipulation and proposed consent order. The Commission has issued a consent order.

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 21, 2015, complainant PBL and respondent SkincarebyAlana filed a joint motion to terminate this investigation as to SkincarebyAlana based on a consent order stipulation and proposed consent order. The Commission investigative attorney filed a response in support of the motion. No other responses were filed.

On September 9, 2015, the ALJ issued an ID (Order No. 11). The ALJ found that SkincarebyAlana's Consent Order Stipulation conforms with Commission Rule 210.21(c)(3) and that the Proposed Consent Order is consistent with Commission Rule 210.21(c)(4). The ALJ found that termination of the investigation as to SkincarebyAlana would not impose an undue burden on the public health and welfare, competitive conditions in the U.S. economy, the production of similar or directly competitive articles in the United States, or U.S. consumers, and granted the motion. Order No. 11 at 3. No party petitioned for review of the subject ID.

The Commission has determined to review the ID, and upon review to strike the language "in concert or participation with SkincarebyAlana or" from paragraph 3 of the proposed consent order, and issue the consent order as modified.

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.



Lisa R. Barton
Secretary to the Commission

Issued: October 6, 2015