

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN SLEEP-DISORDERED
BREATHING TREATMENT SYSTEMS
AND COMPONENTS THEREOF**

Investigation No. 337-TA-997

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING COMPLAINANTS' UNOPPOSED MOTION TO
TERMINATE THE INVESTIGATION AS TO CERTAIN CLAIMS BASED UPON
WITHDRAWAL OF ALLEGATIONS PERTAINING TO THOSE CLAIMS FROM THE
COMPLAINT**

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 the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 22) granting complainants' motion to terminate the investigation as to claim 24 of U.S. Patent No. RE44,453 ("the '453 patent"); claims 1, 5, 6, 8-10, 13, 15, 20-22, 24, 31, 56, 59, 66, 67, 69, 77, 82, 89, 92, 104, 107, 109-11, 139-42, 151, 152, 156-58, and 168 of U.S. Patent No. 8,006,691 ("the '691 patent"); claims 1, 2, 6, 8-11, 13, 15-17, 19, 20, 22, 24, 26, 27, 30, and 33 of U.S. Patent No. 8,020,551 ("the '551 patent"); and claims 16, 18, 22, and 28 of U.S. Patent No. 9,072,860 ("the '860 patent") based upon withdrawal of allegations pertaining to those claims from the complaint.

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 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 <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 Inv. No. 337-TA-997 on May 18, 2016, based on a complaint filed by ResMed Corporation of San Diego, California; ResMed Incorporated of San Diego, California; and ResMed Limited of New South Wales, Australia (collectively, “ResMed”). 81 *Fed. Reg.* 31255-56 (May 18, 2016). The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain sleep-disordered breathing treatment systems and components thereof that infringe one or more claims of the ’453 patent; the ’551 patent; the ’691 patent; and the ’860 patent. The notice of investigation named the following respondents: BMC Medical Co., Ltd. of Beijing, China; 3B Medical, Inc. of Lake Wales, Florida; and 3B Products, L.L.C., of Lake Wales, Florida (collectively “BMC”). The Office of Unfair Import Investigations (“OUII”) is not participating in the investigation.

On December 6, 2016, ResMed filed a motion to terminate the investigation as to the claims identified above based upon withdrawal of allegations pertaining to those claims from the complaint. ResMed stated that BMC does not oppose the motion.

On December 14, 2016, the ALJ issued the subject ID, granting the unopposed motion. The ALJ found that the motion complies with the requirements of Commission Rule 210.21(a)(1) (19 C.F.R. § 210.21(a)(1)) and further found that no extraordinary circumstances prohibits granting the motion. None of the parties petitioned for review of the ID.

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 C.F.R. Part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: January 13, 2017