

**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
**Washington, D.C. 20436**

**In the Matter of**

**CERTAIN MALE PROPHYLACTIC  
DEVICES**

**Investigation No. 337-TA-546**

**NOTICE OF CLARIFICATION THAT ADMINISTRATIVE LAW  
JUDGE'S INITIAL DETERMINATION ON REMAND WILL NOT  
BECOME COMMISSION'S FINAL DETERMINATION IF NO REVIEW  
IS ORDERED WITHIN FORTY-FIVE DAYS OF ITS ISSUANCE**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the initial determination on remand of the presiding administrative law judge ("ALJ") will not become the final determination of the U.S. International Trade Commission if no review is ordered within forty-five (45) days of issuance. Final agency action in the above-captioned investigation will take place on or before the target date, June 21, 2007.

**FOR FURTHER INFORMATION CONTACT:** Mark B. Rees, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 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, 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 on August 5, 2005, based on a complaint filed by Portfolio Technologies, Inc., of Chicago, Illinois. 70 *Fed. Reg.* 45422. The complaint, as amended and supplemented, alleged violations of section 337 of the Tariff Act of 1930, as amended, 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 male prophylactic devices by reason of infringement of claims 1-27, 31-33, and 36 of U.S. patent 5,082,004. The respondents named in the investigation are Church & Dwight Co., Inc., of

Princeton, New Jersey; Reddy Medtech, Ltd., of Tamil Nadu, India; and Intellx, Inc., of Petoskey, Michigan.

On June 30, 2006, the ALJ issued a final initial determination in which he ruled that there is no violation of section 337. On September 29, 2006, the Commission determined to review the issues of claim construction, invalidity due to anticipation, infringement, and domestic industry. 71 *Fed. Reg.* 58875 (Oct. 5, 2006). On December 5, 2006, the Commission determined to affirm in part, reverse in part, and remand in part. The Commission also determined to extend the target date for completion of the investigation until June 5, 2007, and requested issuance of the ALJ's initial determination on remand ("IDR") by March 5, 2007.

On February 28, 2007, the ALJ issued an initial determination extending the deadline for issuance of the IDR to March 21, 2007, and extending the target date to June 21, 2007. The Commission determined not to review this initial determination.

On March 19, 2007, the ALJ issued the IDR, in which he indicated that the IDR will become the determination of the Commission unless the Commission orders review within 45 days. IDR at 78, citing Commission rules 210.43-.44. The Commission, however, has set no deadline, by notice or rule, by which the IDR will become the Commission's determination absent action prior to the target date of June 21, 2007. This notice is issued to clarify that the IDR will not become the Commission's determination unless so acted upon by the Commission, and that final agency action will take place on or before June 21, 2007.

The authority for this notice is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

By order of the Commission.

/s/

Marilyn R. Abbott  
Secretary to the Commission

Issued: April 16, 2007