

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

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

Investigation No. 337-TA-1022

**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. 7) granting complainants' unopposed motion to terminate the investigation as to claims 24, 25, 27, 30, 34-36, 42, 50, 52, 58, 59, 61, 66, and 68 of U.S. Patent No. 8,960,196 ("the '196 patent"); and claims 13, 18, 29, 40, 54, 71, and 77 of U.S. Patent No. 9,119,931 ("the '931 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-1022 on September 22, 2016, based on a complaint filed by ResMed Corp. of San Diego, California; ResMed Inc. of San Diego, California; and ResMed Ltd. of New South Wales, Australia (collectively, “ResMed”). 81 *Fed. Reg.* 65411 (Sept. 22, 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 mask systems and components thereof that infringe one or more claims of the ’196 patent and the ’931 patent. The notice of investigation named the following respondents: Fisher & Paykel Healthcare Limited of Auckland, New Zealand; Fisher & Paykel Healthcare, Inc. of Irvine, California; and Fisher & Paykel Healthcare Distribution Inc., of Irvine, California (collectively “Fisher & Paykel”). The Office of Unfair Import Investigations is not participating in the investigation.

On February 8, 2017, 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 the Fisher & Paykel respondents do not oppose the motion.

On February 9, 2017, 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: March 13, 2017