

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

**In the Matter of**

**CERTAIN BIO-LAYER  
INTERFEROMETERS AND  
COMPONENTS THEREOF**

**Investigation No. 337-TA-1344**

**NOTICE OF COMMISSION DECISION NOT TO REVIEW AN INITIAL  
DETERMINATION SETTING AN 18.5-MONTH TARGET DATE**

**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. 29) of the presiding Administrative Law Judge (“ALJ”) setting an 18.5-month target date for completion of the investigation of June 6, 2024.

**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 may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.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:** On November 29, 2022, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based on a complaint filed by Sartorius Bioanalytical Instruments, Inc. of Bohemia, New York. *See* 87 FR 73329-30 (Nov. 29, 2022). The complaint, as supplemented, alleges a violation of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain bio-layer interferometers and components thereof by reason of the infringement of certain claims of U.S. Patent Nos. 7,394,547 (“the ’547 patent”); 7,445,887 (“the ’887 patent”); 7,728,982 (“the ’982 patent”); and 8,305,585 (“the ’585 patent”). *See id.* The notice of investigation names Gator Bio, Inc. of Palo Alto, California as a respondent in the investigation. *See id.* The Office of Unfair Import Investigations is also a party to the investigation. *See id.*

The Commission terminated the investigation as to the '547, '982, and '585 patents based on the withdrawal of the complaint as to those patents. *See* Order No. 14 (May 15, 2023), *unreviewed by* Comm'n Notice (June 9, 2023); Order No. 26 (June 29, 2023), *unreviewed by* Comm'n Notice (July 20, 2023). Claims 8, 16, and 18 of the '887 patent remain pending in this investigation.

On June 30, 2023, the ALJ issued an ID (Order No. 27) granting summary determination of invalidity based on indefiniteness with respect to the asserted claims of the '887 patent, thereby terminating the investigation before the ALJ. On August 16, 2023, the Commission determined to reverse the ALJ's invalidity finding and to remand to the ALJ for further proceedings consistent with the Commission's determination.

On August 24, 2023, the ALJ issued the subject ID (Order No. 29) setting an 18.5-month target date of June 6, 2024, based on the parties' representation that their "earliest availability for the evidentiary hearing is the week of October 30, 2023." *See* ID at 2. Under this schedule, the final ID on violation is due by February 6, 2024. *See id.*

No petition for review of the subject ID was filed.

The Commission has determined not to review the subject ID. The target date for completion of the investigation is June 6, 2024.

The Commission vote for this determination took place on September 22, 2023.

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.

A handwritten signature in black ink, appearing to read "Lisa R. Barton", written in a cursive style.

Lisa R. Barton  
Secretary to the Commission

Issued: September 22, 2023