

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 PARTIALLY TERMINATING THE INVESTIGATION
AS TO CERTAIN PATENT CLAIMS BASED ON WITHDRAWAL OF
THE COMPLAINT AS TO THOSE CLAIMS**

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. 37) of the presiding Administrative Law Judge (“ALJ”) partially terminating the investigation as to claims 16 and 18 of U.S. Patent No. 7,445,887 (“the ’887 patent”) based on withdrawal of the complaint as to those claims.

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. 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 (“Sartorius” or “Complainant”). *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 the ’887 patent as well as U.S. Patent Nos. 7,394,547 (“the ’547 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, '585 patents and claims 1-5, 7, 9-14, and 17 of the '887 patent based on the withdrawal of the complaint as to those patent claims. *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).

On October 25, 2023, Complainant filed an unopposed motion for partial termination of the investigation as to claims 16 and 18 of the '887 patent. No response to the motion was filed.

On October 26, 2023, the ALJ issued the subject ID (Order No. 37) granting the motion. The ID finds that the motion complies with the Commission's rules. *See* ID at 1-2. In accordance with Commission Rule 210.21(a)(1), 19 CFR 210.21(a)(1), the motion represents that "there are no agreements, written or oral, express or implied, between the parties concerning the subject matter of this Investigation or Sartorius's Motion for Partial Termination of this Investigation as to Certain Claims." *See id.* In addition, the ID finds no extraordinary circumstances that warrant denying the motion. *See id.* at 2.

No petition for review of the subject ID was filed.

The Commission has determined not to review the subject ID (Order No. 37). Accordingly, claims 16 and 18 of the '887 patent are terminated from the investigation. Claim 8 of the '887 patent remains pending in this investigation.

The Commission vote for these determinations took place on November 27, 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.



Lisa R. Barton
Secretary to the Commission

Issued: November 27, 2023