

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

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

Inv. No. 337-TA-879

**NOTICE OF COMMISSION DETERMINATION TO GRANT A PETITION TO
RESCIND A CONSENT ORDER**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to grant the joint petition of ResMed Corp. of San Diego, California; ResMed Inc. of San Diego, California; and ResMed Ltd. of Australia (collectively, “ResMed”) and Apex Medical Corp. of New Taipei City, Taiwan and Apex Medical USA Corp. of Brea, California (collectively, “Apex”) to rescind the consent order issued against Apex in the above-captioned investigation.

FOR FURTHER INFORMATION: Cathy Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2392. 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 (<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 April 25, 2013, based on a complaint filed on March 28, 2013, and supplemented on April 19, 2013, on behalf of ResMed. 78 *Fed. Reg.* 25475 (May 1, 2013). The complaint alleged violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the sale for importation, importation, or sale within the United States after importation of certain sleep-disordered breathing treatment systems and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 6,216,691; 6,935,337; 7,159,587; 7,487,772; 7,614,398; 7,743,767; and 7,997,267. The notice of investigation named as respondents Apex, and Medical Depot Inc., d/b/a Drive Medical Design & Manufacturing of Port Washington, New York.

Medical Depot Inc. and Apex were terminated from the investigation on the basis of separate consent orders. *See* Order Nos. 8 (unreviewed by the Commission, July 18, 2013) and 11 (unreviewed by the Commission, Aug. 8, 2013).

On September 11, 2014, ResMed and Apex filed a joint petition to rescind the consent order issued against Apex based on a settlement agreement between the parties. The Office of Unfair Import Investigations filed a response in support of the petition on September 16, 2014.

Having reviewed the parties' submissions, the Commission find that the petition satisfies the requirements for rescinding the consent order under Commission rule 210.76(a), 19 C.F.R. § 210.76(a). The Commission hereby rescinds the consent order previously issued against Apex in the investigation.

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 section 210 of the Commission's Rules of Practice and Procedure (19 C.F.R. Part 210).

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', with a stylized flourish at the end.

Lisa R. Barton
Secretary to the Commission

Issued: October 7, 2014