

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

**In the Matter of**

**CERTAIN RADIOTHERAPY SYSTEMS  
AND TREATMENT PLANNING  
SOFTWARE, AND COMPONENTS  
THEREOF**

**Investigation No. 337-TA-968**

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL  
DETERMINATION GRANTING A MOTION TO AMEND THE COMPLAINT AND  
NOTICE OF INVESTIGATION**

**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. 12) granting a motion to amend the complaint and notice of investigation to additionally allege a violation of section 337 by reason of infringement of claims 26-28, 35, 48, and 67 of U.S. Patent No. 7,945,021 (the '021 patent) and claim 13 of U.S. Patent No. 8,116,430 (the '430 patent).

**FOR FURTHER INFORMATION, CONTACT:** Ron Traud, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3427. 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 October 30, 2015, based on a complaint filed by Varian Medical Systems, Inc. of Palo Alto, California; and Varian Medical Systems International AG of ZG, Switzerland (collectively, "Varian"). 80 Fed. Reg. 66934 (Oct. 30, 2015). The complaint alleges 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, or the sale within the United States after importation of certain radiotherapy systems and treatment planning software, and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 7,945,021; 8,116,430; 8,867,703; 7,880,154;

7,906,770; and 8,696,538. *Id.* The notice of investigation named Elekta AB of Stockholm, Sweden; Elekta Ltd. of Crawley, United Kingdom; Elekta GmbH of Hamburg, Germany; Elekta Inc. of Atlanta, Georgia; IMPAC Medical Systems, Inc. of Sunnyvale, California; Elekta Instrument (Shanghai) Limited of Shanghai, China; and Elekta Beijing Medical Systems Co. Ltd. of Beijing, China (collectively, “Elekta”). The Office of Unfair Import Investigations (OUII) also was named as a party to the investigation. *Id.*

On February 17, 2016, Varian filed a motion for leave to file an amended complaint in this investigation and further sought a corresponding amendment to the notice of investigation. Varian seeks to additionally allege a violation of section 337 by reason of infringement of claims 26-28, 35, 48, and 67 of the ‘021 patent and claim 13 of the ‘430 patent. On February 29, 2016, Elekta filed a response in opposition. On the same date, OUII filed a response and does not oppose the pending motion. On March 9, 2016, the ALJ issued the subject ID (Order No. 12), which granted Varian’s motion. No party 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 CFR 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: April 4, 2016