

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN LAPAROSCOPIC SURGICAL
STAPLERS, RELOAD CARTRIDGES,
AND COMPONENTS THEREOF**

Investigation No. 337-TA-1167

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW
AN INITIAL DETERMINATION GRANTING COMPLAINANTS' UNOPPOSED
MOTION FOR PARTIAL TERMINATION OF THE INVESTIGATION WITH
RESPECT TO CERTAIN ALLEGATIONS AND ASSERTED 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. 21) of the presiding administrative law judge (“ALJ”) granting an unopposed motion for partial termination of the investigation with respect to certain allegations and asserted claims.

FOR FURTHER INFORMATION CONTACT: Benjamin S. Richards, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-5453. 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 SW, Washington, DC 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: On July 5, 2019, by publication in the *Federal Register*, the Commission instituted this investigation based on a complaint filed by Ethicon LLC of Guaynabo, Puerto Rico; Ethicon Endo-Surgery, Inc. of Cincinnati, Ohio; and Ethicon US, LLC of Cincinnati, Ohio (collectively “Ethicon”). 84 FR 32220 (July 5, 2019). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based on the importation into the United States, the sale for importation, and the sale within the United States after importation of certain reload cartridges for laparoscopic surgical staplers by reason of infringement of one or more claims of U.S. Patent Nos. 9,844,379 (“the ’379 patent”);

9,844,369; 7,490,749 (“the ’749 patent”); 8,479,969; and 9,113,874. *Id.* The Commission’s notice of investigation names the following as respondents: Intuitive Surgical Inc., of Sunnyvale, CA; Intuitive Surgical Operations, Inc., of Sunnyvale, CA; Intuitive Surgical Holdings, LLC, of Sunnyvale, CA; and Intuitive Surgical S. De R.L. De C.V. of Mexicali, Mexico. *Id.* The Office of Unfair Import Investigations is not participating in this investigation. *Id.*

On October 23, 2019, the ALJ granted Ethicon’s motion to amend the complaint, case caption, and notice of investigation to include surgical staplers and staple components within the scope of the accused products in this investigation. Order No. 14. The Commission determined not to review Order No. 14 and amended the case caption to “Certain Laparoscopic Surgical Staplers, Reload Cartridges, and Components Thereof.” Notice, 84 FR 65174 (Nov. 26, 2019) *as corrected*, 84 FR 67295 (Dec. 9, 2019).

On March 2, 2020, Ethicon moved, without opposition, for partial termination of the investigation based on withdrawal of the complaint with respect to allegations of infringement of and/or domestic industry as to the ’749 patent and claim 1 of the ’379 patent.

On March 5, 2020, the ALJ issued Order No. 21, the subject ID, granting Ethicon’s motion. The ALJ found that no extraordinary circumstances exist that would prevent the requested partial termination of this investigation and that Ethicon complied with the requirements of Commission Rule 210.21(a) (19 CFR 210.21(a)).

No petitions for review were filed.

The Commission has determined not to review the subject 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 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: March 25, 2020