

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN NON-INVASIVE AESTHETIC
BODY-CONTOURING DEVICES,
COMPONENTS THEREOF, AND
METHODS OF USING THE SAME**

Investigation No. 337-TA-1219

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING AN UNOPPOSED MOTION TO TERMINATE THE
INVESTIGATION AS TO CERTAIN ASSERTED PATENT CLAIMS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined not to review an initial determination (“ID”) (Order No. 21) of the presiding administrative law judge (“ALJ”) granting an unopposed motion to terminate the investigation as to certain patent claims.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3042. 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, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: On September 9, 2020, the Commission instituted this investigation based on a complaint filed by BTL Industries, Inc. (“BTL”) of Marlborough, Massachusetts. 85 FR 55687-88 (Sept. 9, 2020). The complaint alleged violations of section 337 based on the importation into the United States, the sale for importation, or the sale within the United States after importation of certain non-invasive aesthetic body-contouring devices, components thereof, and methods of using the same by reason of infringement of claims 1, 2, 4, 6-8, 10, 12-16, 20, 22, 23, and 26-28 of U.S. Patent No. 10,632,321 (“the ’321 patent”); claims 1, 9-11, 13, 15, 16, and 20-22 of U.S. Patent No. 10,695,575 (“the ’575 patent”); claims 1, 8, 10, 11, 13, 16, 18, 23-25, 27, and 28 of U.S. Patent No. 10,695,576 (“the ’576 patent”); claims 1, 2, 4, 5, 9, 10, 12, 13, 17-21, 23, 24, and 26-29 of U.S. Patent No. 10,709,894 (“the ’894 patent”); claims 1, 2-6, 9, 10, and 14-25 of U.S. Patent No. 10,709,895 (“the ’895 patent”); and claims 1, 6, 7, 16, 21, and 22 of U.S. Patent No. 10,478,634 (“the ’634 patent”). *Id.* at 55687. The

Commission's notice of investigation named the following six respondents: Allergan Limited of Dublin, Ireland; Allergan USA, Inc. of Madison, New Jersey; Allergan, Inc. of Madison, New Jersey; Zeltiq Aesthetics, Inc. of Pleasanton, California; Zeltiq Ireland Unlimited Company of Galway, Ireland; and Zimmer MedizinSysteme GmbH of Neu-Ulm, Germany (collectively, "Respondents"). The Office of Unfair Import Investigations was not named as a party in this investigation. *Id.*

On April 14, 2021, BTL moved to terminate the investigation as to (1) claims 8, 10, and 12-14 of the '321 patent; (2) claims 9-11, 13, 15, 16, and 22 of the '575 patent; (3) claims 8, 10, 11, 13, 23, 27, and 28 of the '576 patent; (4) claims 10, 18, 27, and 28 of the '894 patent; (5) claims 3, 4, 6, 17, and 20-23 of the '895 patent; and (6) claims 16 and 22 of the '634 patent. The motion stated that Respondents do not oppose.

The Commission previously determined not to review an ID (Order No. 15) terminating the investigation as to claims 1, 2, 4, 6, 7, 15, 16, 20, 22, 23, and 26-28 of the '321 patent; claims 1, 20, and 21 of the '575 patent; claims 1, 24, and 25 of the '576 patent; claims 1, 2, 4, 5, 19, 20, 21, 23, 24, 26, and 29 of the '894 patent; claims 9, 10, 15, 16, 18, 24, 25 of the '895 patent; and claims 1, 6, 7, and 21 of the '634 patent. Order No. 15, *unreviewed by* Notice (Apr. 27, 2021). Thus, the subject ID terminates all remaining claims of the '321, '575, and '634 patents.

On April 28, 2021, the ALJ issued the subject ID (Order No. 21) granting BTL's unopposed motion. The subject ID found that the motion complies with Commission Rule 210.21(a)(1), which provides that "[a]ny party may move at any time prior to the issuance of an initial determination on violation of section 337 of the Tariff Act of 1930 to terminate an investigation in whole or in part . . . on the basis of withdrawal of the complaint or certain allegations contained therein . . ." 19 CFR 210.21(a)(1). ID at 3. The ID further found that in compliance with 19 CFR 210.21(a)(1), "BTL confirms that there are no agreements, written or oral, express or implied, between the parties concerning the subject matter of the investigation" and that there are no extraordinary circumstances that warrant denying the motion. *Id.* The ID stated that withdrawal of these allegations "will simplify the Investigation, streamline the hearing, and conserve the judicial and private party resources." *Id.* No one petitioned for review of the subject ID.

The Commission has determined not to review the subject ID. The investigation is hereby terminated as to (1) all remaining claims of the '321, '575, and '634 patents; (2) claims 8, 10, 11, 13, 23, 27, and 28 of the '576 patent; (3) claims 10, 18, 27, and 28 of the '894 patent; and (4) claims 3, 4, 6, 17, and 20-23 of the '895 patent.

The Commission vote for this determination took place on May 19, 2021.

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'.

Lisa R. Barton
Secretary to the Commission

Issued: May 19, 2021