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## **INTERNATIONAL TRADE COMMISSION**

**[Investigation No. 337-TA-959]**

### **Certain Electric Skin Care Devices, Brushes and Chargers Therefore, and Kits Containing the Same: Notice of a Commission Determination Not to Review an Initial Determination Granting-in-Part Complainant's Motion for Leave to Amend the Amended 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. 22) of the presiding administrative law judge ("ALJ") granting-in-part complainant's motion for leave to amend the amended complaint and notice of investigation.

**FOR FURTHER INFORMATION CONTACT:** Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3115. 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 under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. section 1337 ("Section 337"), on June 25, 2015, based on a complaint filed by Pacific Bioscience Laboratories, Inc. of Redmond, Washington ("PBL") on April 30, 2015. An amended complaint was filed on May 20, 2015. 80 F R 36576-77 (Jun. 25, 2015). The amended complaint, as supplemented, alleges a violation of Section 337 by reason of infringement of certain claims of U.S. Patent Nos. 7,320,691 ("the '691 patent") and 7,386,906, and U.S. Design Patent No. D523,809 by numerous respondents. The amended complaint further alleges violations of Section 337 based upon the importation into the United States, or in the sale of certain electric skin care devices, brushes and chargers therefor, and kits containing the same, by reason of trade dress infringement, the threat or effect of which is to destroy or substantially injure an industry in the United States. *Id.* The Commission's Office of Unfair Import Investigations ("OUII") was also named as a party.

On September 11, 2015, complainant PBL filed a motion pursuant to 19 CFR 210.14(b) seeking leave to amend its amended complaint and the Commission's notice of investigation to (1) change the name of respondent "Michael Todd True Organics LP" to "Michael Todd LP" in order to reflect the new name of that entity; (2) assert violation as to an additional accused product of respondents Michael Todd LP and MTTO LLC (collectively, "MT"); and (3) assert infringement of additional claims of the '691 patent by MT's accused

products. On September 23, 2015, the Commission investigative attorney filed a response supporting the motion in part and opposing the motion in part. On September 28, 2015, PBL filed a reply brief.

On October 2, 2015, the ALJ issued Order No. 22, granting-in-part and denying-in-part complainant's motion. The ALJ granted PBL's motion with respect to changing the name of respondent "Michael Todd True Organics LP" to "Michael Todd LP" and accusing an additional MT product of infringement. Order No. 22 at 6. The ALJ denied the motion with respect to PBL's assertion of additional infringement claims against MT under the '691 patent.

Pursuant to Commission Rule 210.14(b), the name change of respondent "Michael Todd True Organics LP" to "Michael Todd LP" is an ID. No party petitioned for review of the subject ID, and the Commission has determined not to review it.

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.

Issued: October 27, 2015.

**William R. Bishop,**  
*Supervisory Hearings and Information Officer.*

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