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7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1219]

Certain Non-Invasive Aesthetic Body-Contouring Devices, Components Thereof, and Methods of Using Same; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 5, 2020, under section 337 of the Tariff Act of 1930, as amended, on behalf of BTL Industries, Inc. of Marlborough, Massachusetts. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain non-invasive aesthetic body-contouring devices, components thereof, and methods of using same by reason of infringement of certain claims of U.S. Patent No. 10,632,321 ("the '321 patent"); U.S. Patent No. 10,695,575 ("the '575 patent"); U.S. Patent No. 10,695,576 ("the '576 patent"); U.S. Patent No. 10,709,894 ("the '894 patent"); U.S. Patent No. 10,709,895 ("the '895 patent"); and U.S. Patent No. 10,478,634 ("the '634 patent"). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised

that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Katherine Hiner, Office of Docket Services, U.S. International Trade Commission, telephone (202) 205-1802.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2020).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on September 2, 2020, **ORDERED THAT –**

- (1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1, 2, 4, 6-8, 10, 12-16, 20, 22, 23, and 26-28 of the '321 patent; claims 1, 9-11, 13, 15, 16, and 20-22 of the '575 patent; claims 1, 8, 10, 11, 13, 16, 18, 23-25, 27, and 28 of the '576 patent; claims 1, 2, 4, 5, 9, 10, 12, 13, 17-21, 23, 24, and 26-29 of the '894 patent; claims 1, 2-6, 9, 10, and 14-25 of the '895 patent; and claims 1, 6, 7, 16, 21, and 22 of the '634 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is: non-invasive magnetic and cryolipolysis aesthetic body-contouring products and their components, including main units, applicators, straps, massagers, gel traps, and virtual consumables such as treatment cards that enable the products to administer the pre-programmed treatment protocols;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

BTL Industries, Inc.

362 Elm Street

Marlborough, MA 01752

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Allergan Limited

Clonshaugh Business and Technology Park

Coolock, Dublin D17 E400

Ireland

Allergan USA, Inc.

5 Giralta Farms

Madison, New Jersey 07940

Allergan, Inc.
5 Giralda Farms
Madison, New Jersey 07940

Zeltiq Aesthetics, Inc.
4410 Rosewood Dr.
Pleasanton, California 94588-3050

Zeltiq Ireland Unlimited Company
Galway West Business Park,
Western Distributor Road
Knocknacarra, Galway H91E8C3
Ireland

Zimmer MedizinSysteme GmbH
Junkersstraße 9, 89231
Neu-Ulm, Germany

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge. The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 Fed. Reg. 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: September 2, 2020.

Lisa Barton,

Secretary to the Commission.

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