

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN MICROFLUIDIC DEVICES

Inv. No. 337-TA-1068

ORDER NO. 16: INITIAL DETERMINATION GRANTING COMPLAINANTS' MOTION FOR PARTIAL TERMINATION OF THIS INVESTIGATION WITH RESPECT TO CERTAIN CLAIMS OF THE ASSERTED PATENTS [MOTION DOCKET NO. 1068-010]

(March 8, 2018)

On February 13, 2018, pursuant to 19 C.F.R. § 210.21(a)(1), Complainants Bio-Rad Laboratories, Inc. and Lawrence Livermore National Security, LLC (collectively, "Complainants") filed a motion for partial termination of this Investigation ("Motion") by withdrawal of the following claims ("Withdrawn Claims"): claims 1 and 18 of U.S. Patent No. 9,126,160 ("the '160 patent"); claims 6, 7, 9, and 13 U.S. Patent No. 9,089,844 ("the '844 patent"); claims 4 and 13 of U.S. Patent No. 9,636,682 ("the '682 patent"); and claims 5 and 17 of U.S. Patent No. 9,649,635 ("the '635 patent"). (Motion Docket No. 1068-010; Mot. at 1.).

In accordance with Ground Rule 2.2, Complainants certify that they conferred with Respondent 10X Genomics, Inc.'s ("10X"), who does not oppose Complainants' Motion. (*Id.*).

On March 6, 2018, Commission Investigative Staff ("Staff") filed a response ("Staff Response") supporting Complainants' Motion. (Doc. ID No. 638058 (Mar. 6, 2018); Staff Resp. at 1.).

Consistent with Commission Rule 210.21(a)(1), Complainants state that "there are no

agreements, written or oral, express or implied, between the parties concerning the subject matter of this Investigation.” (Mot. at 5.). 19 C.F.R. § 210.21(a)(1).

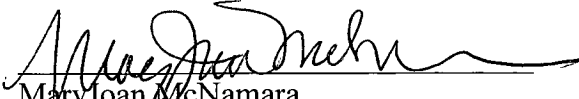
Commission Rules permit a motion to terminate part of an investigation based upon withdrawal of certain allegations contained within the Complaint before issuance of the Initial Determination on Violation of Section 337. 19 C.F.R. § 210.21(a)(1). An administrative law judge may grant said motion upon such terms and conditions as she deems proper. *Id.* The Commission has held that “in the absence of extraordinary circumstances, termination of an investigation will be readily granted to a complainant during the prehearing stage of an investigation.” *Certain Ultrafiltration Membrane Sys., and Components Thereof, Including Ultrafiltration Membranes*, Inv. No. 337-TA-107, Comm’n Action and Order at 2 (U.S.I.T.C. Mar. 11, 1982); *see also Certain Television Sets, Television Receivers, Television Tuners, and Components Thereof*, Inv. No. 337-TA-910, Order No. 50 at 2 (U.S.I.T.C. Nov. 12, 2014). Public policy supports termination in order to conserve public and private resources. *Certain Universal Serial Bus (“USB”) Portable Storage Devices, Including USB Flash Drives and Components Thereof*, Inv. No. 337-TA-788, Order No. 16 at 2 (U.S.I.T.C. Mar. 21, 2012).

Here, the parties have presented no extraordinary circumstances that would justify denying Complainants’ Motion to terminate from this Investigation the Withdrawn Claims in the Complaint as identified in this Order. Therefore, it is my Initial Determination that the Investigation be terminated with respect to the Withdrawn Claims asserted against 10X, and that Motion Docket No. 1068-010 be *granted*.

This Initial Determination is hereby certified to the Commission. Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review of the Initial Determination pursuant to 19 C.F.R. § 210.43(a),

or the Commission orders on its own motion a review of the Initial Determination or certain issues herein pursuant to 19 C.F.R. § 210.44.

SO ORDERED.


Mary Joan McNamara
Administrative Law Judge

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **INITIAL DETERMINATION** has been served by hand upon the Commission Investigative Attorney, **Whitney Winston, Esq.**, and the following parties as indicated, on **March 8, 2018**.



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112
Washington, DC 20436

**On Behalf of Complainants Bio-Rad Laboratories, Inc. and
Lawrence Livermore National Security, LLC:**

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