

United States after importation of certain sleep-disordered breathing treatment systems and components thereof that infringe one or more of claims 32–37, 53, 79, 80, and 88 of U.S. Patent No. 7,997,267 (“the ‘267 patent”); claims 1–7 of U.S. Patent No. 7,614,398 (“the ‘398 patent”); claim 1 of U.S. Patent No. 7,938,116 (“the ‘116 patent”); claims 30, 37, and 38 of U.S. Patent No. 7,341,060 (the ‘060 patent); claims 1, 3, 5, 11, 28, 30, 31, and 56 of U.S. Patent No. 8,312,883 (“the ‘883 patent”); claims 1, 3, 6, 7, 9, 29, 32, 35, 40, 42, 45, 50, 51, 56, 59, 89, 92, 94, and 96 of U.S. Patent No. 7,178,527 (the ‘527 patent); claims 19–24, 26, 29–36, and 39–41 of U.S. Patent No. 7,950,392 (the ‘392 patent); and claims 13, 15, 16, 26–28, 51, 52, and 55 of U.S. Patent No. 7,926,487 (“the ‘487 patent”). The notice of investigation named the following respondents: BMC Medical Co., Ltd. of Beijing, China; 3B Medical, Inc. of Lake Wales, Florida; and 3B Products, L.L.C., of Lake Wales, Florida (collectively “BMC”). The Office of Unfair Import Investigations (“OUII”) participated in the investigation.

On January 9, 2014, the Administrative Law Judge (“ALJ”) issued an initial determination (“ID”) granting a motion by ResMed to amend the complaint and notice of investigation to substitute U.S. Patent No. RE 44,453 (“the ‘453 patent”) for the ‘398 patent and to terminate the investigation as to the ‘398 patent. *See* Order No. 7 (Jan. 9, 2014). The Commission determined not to review the ID. *See* Commission Notice of Non-Review (Feb. 10, 2014); 79 FR 9000–01 (Feb. 14, 2014).

On February 24, 2014, the ALJ issued an ID granting a motion by ResMed to withdraw its allegations with respect to the ‘116 patent. *See* Order No. 11 (Feb. 24, 2014). The Commission determined not to review the ID. *See* Commission Notice of Non-Review (March 11, 2014). On March 18, 2014, the ALJ granted a motion by ResMed to terminate the investigation as to claims 26–28 of the ‘487 Patent. *See* Order No. 20 (Mar 18, 2012). The Commission determined not to review the ID. *See* Commission Notice of Non-Review (Apr. 29, 2014).

On August 21, 2014, the ALJ issued his final ID, finding a violation of section 337 by BMC with respect to certain asserted claims of the ‘392, ‘267, ‘060, ‘883, ‘527, and ‘453 patents. The ALJ found no violation of section 337 with respect to the asserted claims of the ‘487 patent.

On September 3, 2014, the parties filed petitions for review of the ID. On September 11, 2014, the parties filed responses to the petitions for review.

On October 16, 2014, the Commission determined to review the final ID in part. 79 FR 63163–65 (Oct. 22, 2014). On review, the Commission determined to affirm the ALJ’s finding of violation of section 337. The Commission, however, found the ‘453 patent invalid for anticipation. Having found a violation of section 337, the Commission determined that the appropriate form of relief was (1) a limited exclusion order prohibiting the unlicensed entry of sleep-disordered breathing treatment systems and components thereof that infringe one or more of claims 1, 9, 32, 89, and 92 of the ‘527 patent; claims 19, 21, 29, 32, and 36 of the ‘392 patent; claims 32, 33, 34, and 53 of the ‘267 patent; claims 30, 37, and 38 of the ‘060 patent; and claims 1, 3, 5, 11, 28, 30, 31, and 56 of the ‘883 patent that are manufactured by, or on behalf of, or are imported by or on behalf of BMC Medical Co., Ltd., 3B Medical, Inc., or 3B Products L.L.C. or any of their affiliated companies, parents, subsidiaries, agents, or other related business entities, or their successors or assigns, except for service and replacement parts for customers that purchased their covered products prior to the date the exclusion order becomes final; and (2) cease and desist orders prohibiting domestic respondents BMC Medical Co., Ltd., 3B Medical, Inc. from conducting any of the following activities in the United States: Importing, selling, marketing, advertising, distributing, transferring (except for exportation), and soliciting U.S. agents or distributors for, sleep-disordered breathing treatment systems and components thereof covered by claims 1, 9, 32, 89, and 92 of the ‘527 patent; claims 19, 21, 29, 32, and 36 of the ‘392 patent; claims 32, 33, 34, and 53 of the ‘267 patent; claims 30, 37, and 38 of the ‘060 patent; and claims 1, 3, 5, 11, 28, 30, 31, and 56 of the ‘883 patent.

On February 18, 2015, ResMed filed a notice of appeal in the U.S. Court of Appeals for the Federal Circuit, seeking review of the Commission’s determination as to the ‘453 patent (Appeal No. 2015–1360). On April 14, 2015, BMC filed a notice of appeal in the Federal Circuit, seeking review of the Commission’s domestic industry determination as well as the Commission’s finding that prior art does not render the asserted claims of the ‘267 patent invalid for obviousness (Appeal No. 2015–1576). The Court consolidated the two appeals on April 23, 2015.

On March 16, 2016, the parties jointly moved to dismiss ResMed’s appeal as to the ‘453 patent. On March 17, 2016, the

Commission moved to remand BMC’s appeal in light of intervening domestic industry precedent in *Lelo Inc. v. International Trade Commission*, 789 F.3d 879 (Fed. Cir. 2015). On March 29, 2016, the Court granted the motion dismiss ResMed’s appeal. On April 22, 2016, the Court granted the Commission’s remand motion, noting the Commission’s indication that it would suspend its remedial orders as it conducts its remand proceedings.

The Commission has determined to suspend the remedial orders issued in this investigation pending the outcome of the remand.

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: May 12, 2016.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2016–11638 Filed 5–17–16; 8:45 am]

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## **INTERNATIONAL TRADE COMMISSION**

**[Investigation No. 337–TA–997]**

### **Certain Sleep-Disordered Breathing Treatment Systems and Components Thereof; 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 April 14, 2016, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of ResMed Corp. of San Diego, California; ResMed Inc. of San Diego, California; and ResMed Ltd. of Australia. A corrected complaint was filed on April 18, 2016, and a supplement was filed on April 19, 2016. The corrected 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 sleeping-disordered breathing treatment systems and components thereof by reason of infringement of certain claims of U.S. Patent No. RE44,453 (“the ‘453 patent”); U.S. Patent No. 8,020,551 (“the ‘551 patent”); U.S. Patent No. 8,006,691 (“the ‘691 patent”); and U.S. Patent No. 9,072,860 (“the ‘860 patent”). The complaint

further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request 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, is 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., Room 112, Washington, DC 20436, telephone (202) 205-2000. 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 <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>.

**FOR FURTHER INFORMATION CONTACT:** The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

**SUPPLEMENTARY INFORMATION:**

*Authority:* The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2015).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on May 11, 2016, *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 sleeping-disordered breathing treatment systems and components thereof by reason of infringement of one or more of claims 23 and 24 of the '453 patent; claims 1-24 and 26-33 of the '551 patent; claims 1-31, 40-43, 52-59, 61-67, 69-84, 86-120, 122-158, 160, 161, 164, 165, 167, 168, and 173 of the '691 patent; and claims 16-30 of the '860 patent, and whether an industry in the United

States exists as required by subsection (a)(2) of section 337;

(2) 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 complainants are:  
ResMed Corp., 9001 Spectrum Center Drive, San Diego, CA 92123  
ResMed Inc., 9001 Spectrum Center Drive, San Diego, CA 92123  
ResMed Ltd., 1 Elizabeth Macarthur Drive, Bella Vista NSW 2153, Australia

(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:  
BMC Medical Co., Ltd., 5/F Main Building, No. 19 Gucheng Street West, Shijingshan, Beijing 100043, China  
3B Medical, Inc., 21301 US Highway 27, Lake Wales, FL 33589  
3B Products, L.L.C., 21301 US Highway 27, Lake Wales, FL 33589

(3) 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), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission 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: May 12, 2016.

**Lisa R. Barton,**

*Secretary to the Commission.*

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## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731-TA-282 (Fourth Review)]**

### Petroleum Wax Candles from China

#### Determination

On the basis of the record<sup>1</sup> developed in the subject five-year review, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930, that revocation of the antidumping duty order on petroleum wax candles from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

#### Background

The Commission, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), instituted this review on December 1, 2015 (80 FR 75130) and determined on March 7, 2016 that it would conduct an expedited review (81 FR 15122, March 21, 2016).

The Commission made this determination pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)). It completed and filed its determination in this review on May 12, 2016. The views of the Commission are contained in USITC Publication 4610 (May 2016), entitled *Petroleum Wax Candles from China: Investigation No. 731-TA-282 (Fourth Review)*.

By order of the Commission.

Issued: May 12, 2016.

**Lisa R. Barton,**

*Secretary to the Commission.*

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**BILLING CODE 7020-02-P**

<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).