

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

In the Matter of

**CERTAIN KINESIOTHERAPY DEVICES
AND COMPONENTS THEREOF**

Investigation No. 337-TA-823

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION TERMINATING THE INVESTIGATION AS TO
RESPONDENT MARSONER, INC. d/b/a FASCINATIONS
BASED ON A CONSENT ORDER STIPULATION;
ISSUANCE OF CONSENT ORDER**

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 the initial determination (“ID”) (Order No. 34) of the presiding administrative law judge (“ALJ”) granting a joint motion to terminate the above-captioned investigation as to respondent Marsoner, Inc. d/b/a Fascinations (“Marsoner”) based on a consent order stipulation and consent order. The Commission has entered a consent order.

FOR FURTHER INFORMATION CONTACT: Michael K. Haldenstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-3041. 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 on January 10, 2012, based on a complaint filed by Standard Innovation Corporation of Ottawa, ON, Canada and Standard Innovation (US) Corp. of Wilmington, Delaware (collectively, “Standard Innovation”). *77 Fed. Reg.* 1504 (Jan. 10, 2012). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain

kinesiotherapy devices and components thereof by reason of infringement of various claims of United States Patent Nos. 7,931,605 and D605,779 (“the ‘779 patent”). The complaint named twenty-one business entities as respondents, several of which have since been terminated from the investigation based upon consent orders. The Commission also determined not to review an ID terminating the investigation with respect to the ‘779 patent.

On July 18, 2012, Standard Innovation and Marsoner filed a joint motion pursuant to Commission Rule 210.21(c)(1)(ii) to terminate the investigation as to Marsoner based upon the entry of a consent order. The Commission investigative attorney filed a response supporting the motion. Several other respondents opposed the motion because the proposed consent order included the ‘779 patent, yet the ALJ had issued an ID granting complainants’ motion to withdraw the ‘779 patent from the investigation. They also contended that the consent order will have a detrimental effect on the U.S. economy with respect to the accused products and will have a negative impact on consumers.

On August 1, 2012, the ALJ issued the subject ID, granting the joint motion pursuant to section 210.21(c)(3) of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 210.21(c)(3)). The ALJ found that termination of the investigation would not impose any undue burdens on the public health and welfare, competitive conditions in the United States, production of like or directly competitive articles in the United States or United States consumers. No petitions for review were filed. The Commission has determined not to review the ID.

On July 25, 2012, the Commission determined not to review an ID (Order No. 25) granting complainants’ motion to withdraw the ‘779 patent from the investigation. The Commission has revised the consent order to remove the references to the ‘779 patent.

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 section 210.42 of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 210.42).

By order of the Commission.

A handwritten signature in black ink, appearing to read "Lisa R. Barton", written in a cursive style.

Lisa R. Barton
Acting Secretary to the Commission

Issued: August 29, 2012