

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

CERTAIN DEVICES HAVING
ELASTOMERIC GEL AND
COMPONENTS THEREOF

Inv. No. 337-TA-732

Order No. 3: Setting Target Date Of 12/4/11 And Requiring Proposed Procedural Schedules By Noon On 8/25/10

Pursuant to Order No. 1, the administrative law judge received certain discovery statements on August 20, 2010.

Complainant Interactive Life Forms, LLC (ILF) proposed a 16-month target date “given the Chief Judge’s schedule of hearings in investigations 337-TA-709, 337-TA-714, 337-TA-720, and 337-TA-726...”

Respondent California Exotic Novelties, Inc. argued, *inter alia*, that the patents and technology at issue in this investigation are not complex and are not expected to require extensive technical discovery or expert analysis, and thus it proposed a 15-month target date.

Respondent Nanma Manufacturing Co., Limited (Nanma), argued, *inter alia*, that each of the asserted patents is related to the same field of technology and involve a limited number of products, and thus it proposed a 12-month target date. Respondent Nanma also stated, however, that it believes that “this Investigation could be completed within a fifteen month period.”¹

Respondents Tenga Co. Ltd. and WES Consulting, Inc. d/b/a Liberator proposed a 14-month target date, arguing that such a date “would allow sufficient time and opportunity for

¹ In addition to the confusion over what target date is actually proposed, respondent Nanma characterized their submission as a “Joint Discovery Statement” but there is no indication of which other party or parties have joined said discovery statement.

private parties who so desire to explore settlement options, and the remaining parties to prepare for the evidentiary hearing without prejudice to ILF.”

The commission investigative attorney, considering, *inter alia*, that this investigation involves two related patents with a limited number of asserted claims; that twelve of the twenty-six named respondents have agreed to entry of a consent order; and the Chief Administrative Law Judge’s current schedule, proposed a target date of 16 months.

No other discovery statements have been received to date.

Having considered the arguments of the parties and the schedule of the administrative law judge, a target date of sixteen (16) months, *viz.* to December 5, 2011, is set.^{2 3} Hence any final initial determination should be filed no later than August 4, 2011.

In light of the hearing requests of the private parties and again considering the schedule of the undersigned, the prehearing conference and evidentiary hearing is set for May 16-20, 2011, in a hearing room to be announced at a later date. As set forth in the ground rules, and taking into consideration the May 16, 2011 hearing date, the parties are requested to furnish proposed procedural schedule(s) no later than close of business on August 25, 2010.

² The notice of publication was published in the Federal Register on August 4, 2010 (Fed. Reg. No. 149 at 47027-28), therefore making the institution date August 4, 2010. See Commission rule 210.10(b).

³ Because December 4, 2011 is a Sunday, the target date moves to the following Monday, December 5, 2011.

On August 23, 2010 each of the staff and the private parties represented by counsel received a copy of this order. The administrative law judge requests that all parties not represented by counsel be served by overnight delivery.

Paul J. Luckern (RAH)

Paul J. Luckern
Chief Administrative Law Judge

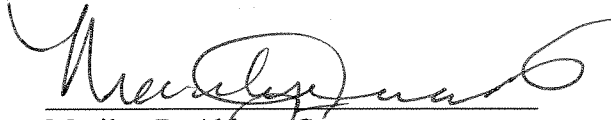
Issued: August 23, 2010

**CERTAIN DEVICES HAVING ELASTOMERIC GEL AND
COMPONENTS THEREOF**

337-TA-732

CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **Order** has been served by hand upon the Commission Investigative Attorney, Erin D.E. Joffe, Esq., and the following parties as indicated, on August 23, 2010.



Marilyn R. Abbott, Secretary
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

Complainant Interactive Life Forms, LLC:

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**Respondents California Exotic Novelties, Inc.; L.F.P., Inc.;
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