

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.**

In the Matter of

**CERTAIN ELECTRIC SKIN CARE
DEVICES, BRUSHES AND CHARGERS
THEREFOR, AND KITS CONTAINING
SAME**

Investigation No. 337-TA-959

LIMITED EXCLUSION ORDER

The United States International Trade Commission (“Commission”) has determined that there is a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the unlawful importation, sale for importation, or sale within the United States after importation by respondents Beauty Tech, Inc. of Coral Gables, Florida; Flageoli Classic Limited of Las Vegas, Nevada; Our Family Jewels, Inc. (“Our Family Jewels”) of Denver, Colorado; Serious Skin Care, Inc. of Carson City, Nevada; and Shanghai Anzikang Electric Co., Ltd. (“Anzikang”) of Shanghai, China (collectively, “Respondents”) of certain electric skin care devices, brushes and chargers therefor, and kits containing same that infringe the claim of United States Patent No. D523,809 (“the D’809”). In addition, the Commission has found the Our Family Jewels and Anzikang Respondents in default pursuant to section 337(g) and 19 C.F.R. § 210.16 for failing to respond to the Notice of Investigation and a Complaint that alleged a violation of section 337 with respect to the importation into the United States or sale of certain electric skin care devices, brushes and chargers therefor, and kits containing same infringing one or more of the Clarisonic Device Trade Dress or Clarisonic Charging Station Trade Dress. The elements of the

Clarisonic Device Trade Dress are set forth in Exhibit 1 to this order.

Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determination on the issues of remedy, public interest, and bonding. The Commission has determined that the appropriate form of relief is a limited exclusion order prohibiting the unlicensed entry of covered electric skin care devices, brushes or chargers therefor, or kits containing same, manufactured abroad by or on behalf of, or imported by or on behalf of, Respondents, as specified in items 1 – 3 below, or any of their affiliated companies, parents, subsidiaries, licensees, or other related business entities, or their successors or assigns.

The Commission has also determined that the public interest factors enumerated in 19 § 1337(d) do not preclude the issuance of the limited exclusion order, and that the bond during the Presidential review period shall be in the amount of one hundred (100) percent of the entered value of the electric skin care devices, brushes and chargers therefor, and kits containing same that are subject to this Order.

Accordingly, the Commission hereby **ORDERS** that:

1. Electric skin care devices, brushes or chargers therefor, or kits containing same that are covered by the claim of the D'809 patent and that are manufactured abroad by or on behalf of, or imported by or on behalf of, Respondents, or any of their affiliated companies, parents, subsidiaries, licensees, or other related business entities, or their successors or assigns, are excluded from entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for

consumption, for the remaining term of the patent, except under license of the patent owner or as provided by law.

2. Electric skin care devices, brushes or chargers therefor, or kits containing same that are covered by one or more of the Clarisonic Device Trade Dress or Clarisonic Charging Station Trade Dress and that are manufactured abroad by or on behalf of, or imported by or on behalf of, Our Family Jewels or Anzikang Respondents, or any of their affiliated companies, parents, subsidiaries, licensees, or other related business entities, or their successors or assigns, are excluded from entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, until the relevant Clarisonic Device Trade Dress or Clarisonic Charging Station Trade Dress has been abandoned or rendered invalid or unenforceable.
3. For the purpose of assisting U.S. Customs and Border Protection (“CBP”) in the enforcement of this Order, and without in any way limiting the scope of the Order, the Commission has attached to this Order as Exhibit 1 copies of photographs of the Clarisonic Plus and Clarisonic Pro products and charging stations that feature the Clarisonic Device Trade Dress and Clarisonic Charging Station Trade Dress, and a description of the Trade Dress.
4. Notwithstanding paragraph 1 or 2 of this Order, the aforesaid electric skin care

devices, brushes or chargers therefor, or kits containing same are entitled to entry into the United States for consumption, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption under bond in the amount of one hundred (100) percent of the entered value of such products pursuant to subsection (j) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337(j)), and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (70 *Fed. Reg.* 43251), from the day after this Order is received by the United States Trade Representative until such time as the United States Trade Representative notifies the Commission that this Order is approved or disapproved but, in any event, not later than sixty (60) days after the date of receipt of this Order.

5. At the discretion of CBP and pursuant to the procedures it establishes, persons seeking to import electric skin care devices, brushes or chargers therefor, or kits containing same that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under paragraph 1 or 2 of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses to substantiate the certification.
6. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to electric skin care devices, brushes or chargers therefor, or kits

containing same that are imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.

7. Complainant Pacific Bioscience Laboratories, Inc. shall file a written statement with the Commission, made under oath, each year on the anniversary of the issuance of this Order stating whether Pacific Bioscience Laboratories, Inc. continues to use each of the aforesaid trade dress in commerce in the United States in connection with electric skin care devices, brushes and chargers therefor, and kits containing same, whether any of the aforesaid trademarks has been abandoned or rendered invalid or unenforceable, and whether Pacific Bioscience Laboratories, Inc. continues to satisfy the industry and injury requirements of Section 337(a)(1)(A).
8. The Commission may modify this Order in accordance with the procedures described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).
9. The Commission Secretary shall serve copies of this Order upon each party of record in this investigation and upon U.S. Customs and Border Protection.
10. Notice of this Order shall be published in the Federal Register.

By order of the Commission.

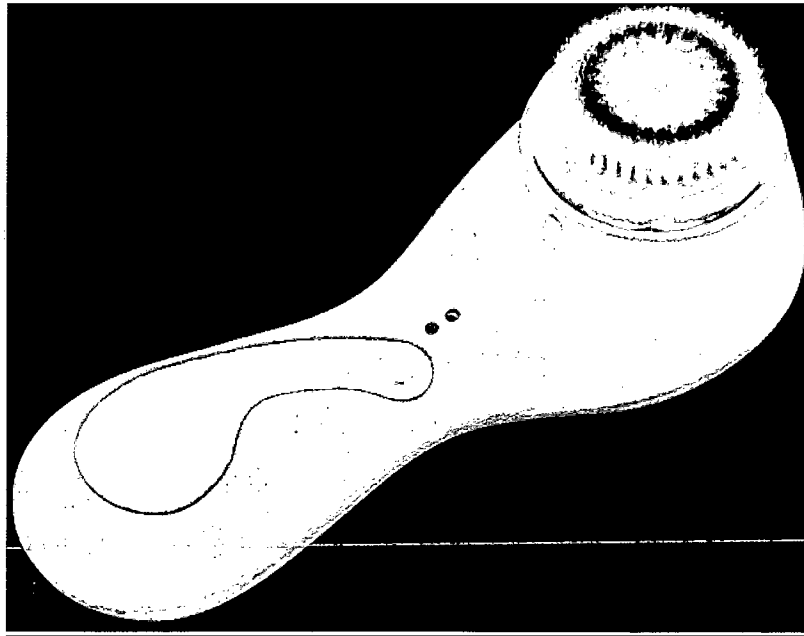
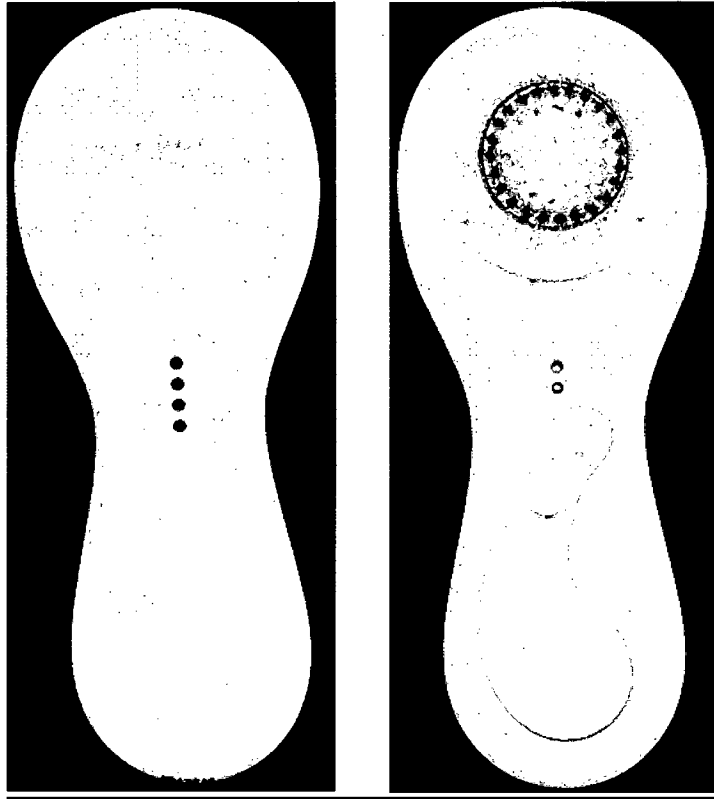


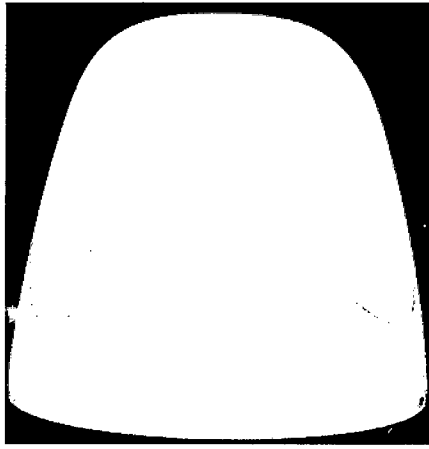
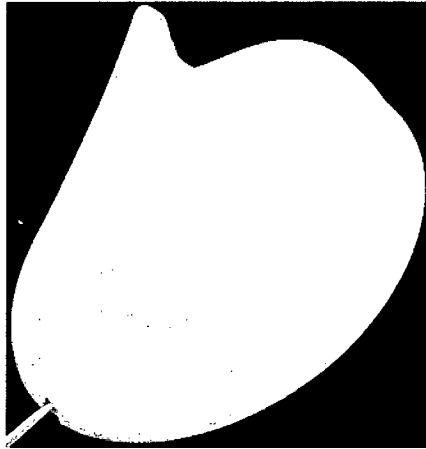
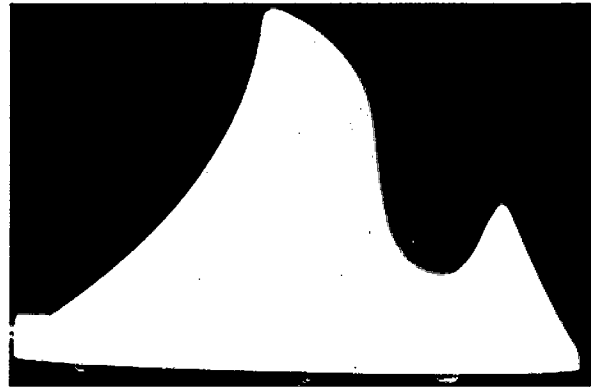
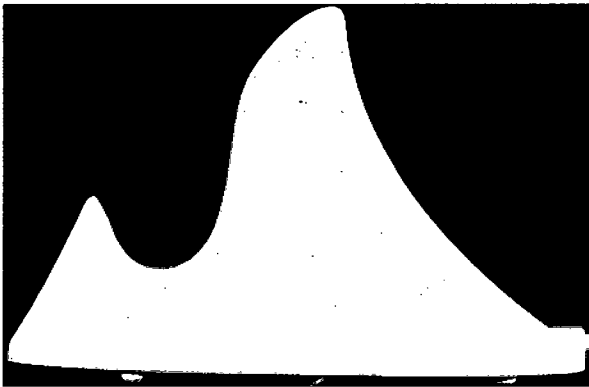
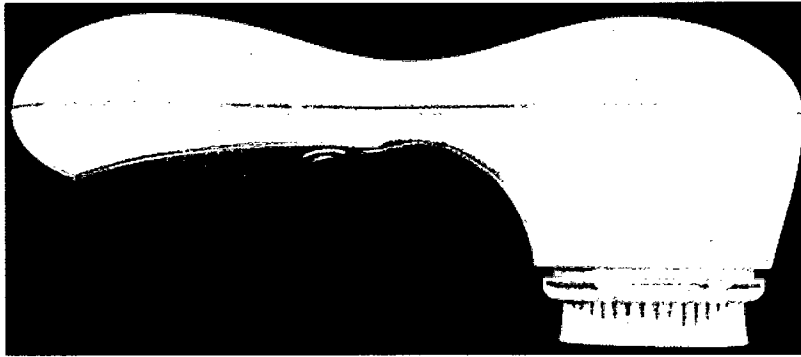
Lisa R. Barton
Secretary to the Commission

Issued: February 6, 2017

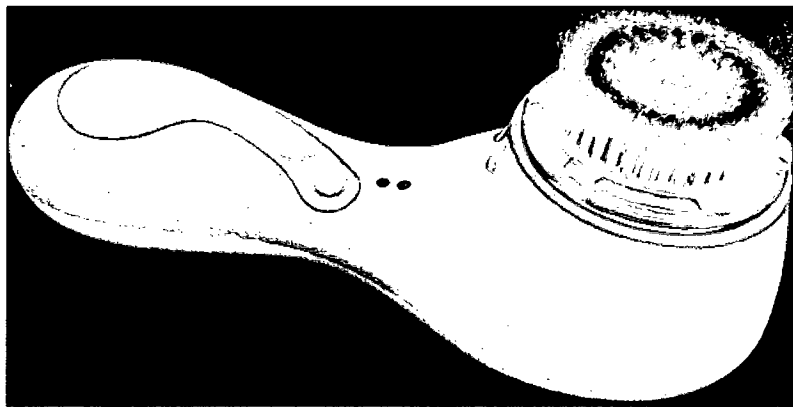
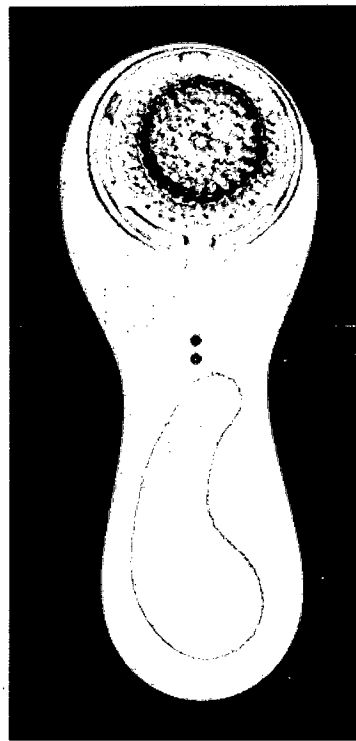
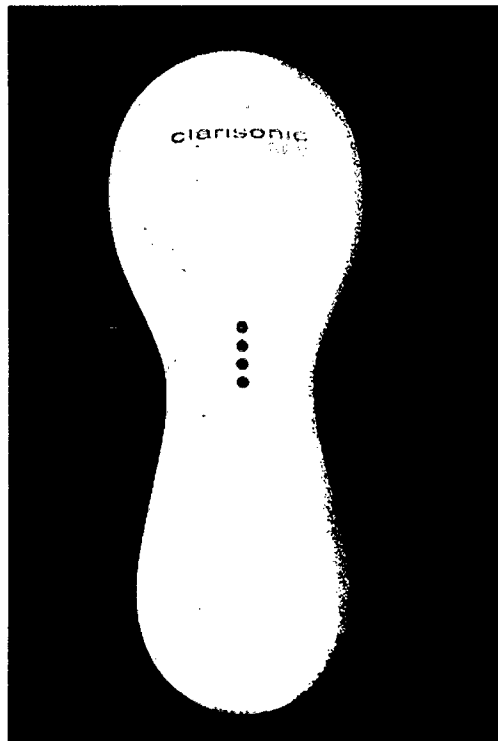
Exhibit 1

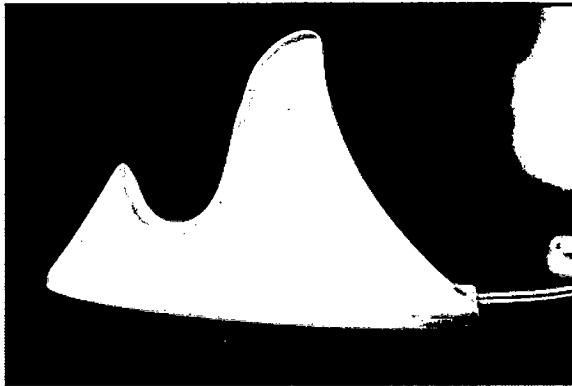
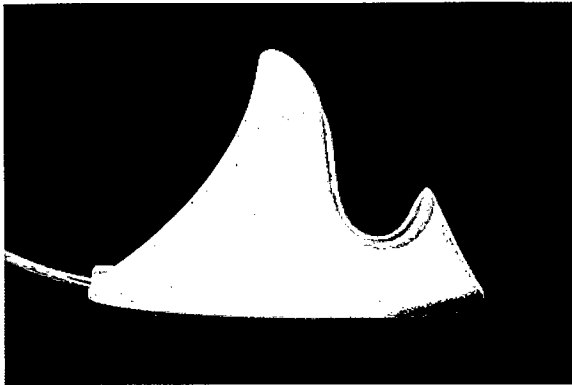
Clarisonic Plus Product and Charging Station

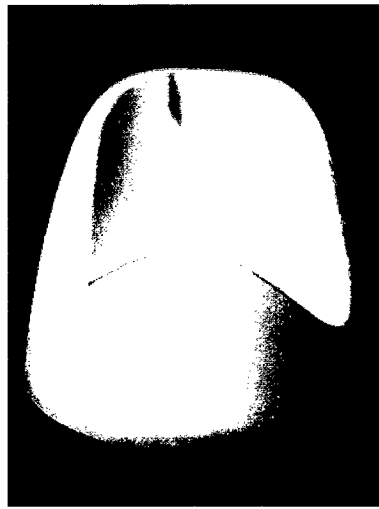
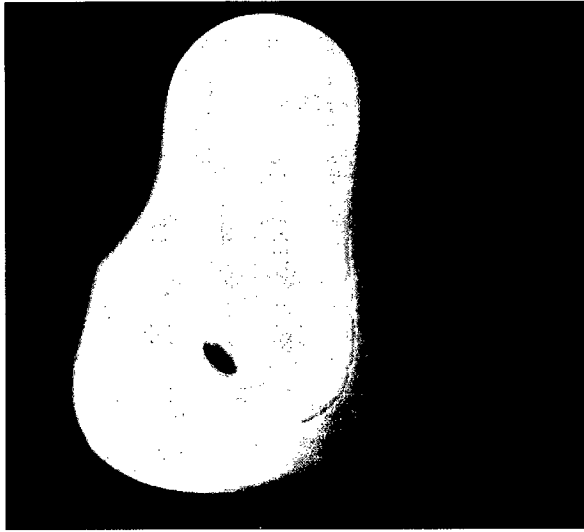




Clarisonic Pro Product and Charging Station







The elements of the Clarisonic Device Trade Dress are as follows:

The hourglass shape of the Clarisonic Plus and Clarisonic Pro products; shape of the head unit; identical molded arcs on each side of the head unit; a droplet (or "teardrop") shaped pad of contrasting texture on the front of the device; one or more control buttons located towards the top of the droplet, inside its perimeter; two round lights ("dots") located just above the droplet on the front of the device; four round lights ("dots") centered on the narrowest part of the back of the device; location of the Clarisonic Plus or Clarisonic Pro name at the widest part of the back of the device; contrasting-color ring of bristles located within the bristles on the brush head; the shape and contour of the ring surrounding the brush head, with alternating protrusions and indentations; and the brush cap, with six large holes spaced evenly on the face, around the perimeter of the cap.

The elements of the Clarisonic Charging Station Trade Dress are as follows:

The boot-last shape of the Clarisonic Plus and Clarisonic Pro products; front plane of product extending forward in exaggerated proportion; and cradle for product dramatically higher in front than in back.

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SAME**

Inv. No. 337-TA-959

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **COMMISSION ORDER** has been served by hand upon the Commission Investigative Attorney, Sarah J. Sladic, Esq., and the following parties as indicated, on **February 7, 2017**.



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

**On Behalf of Complainants Pacific Bioscience Laboratories,
Inc.:**

Robert M. Masters, Esq.

FRIED, FRANK, HARRIS, SHRIVER & JACOBSON LLP

801 17th St. NW

Washington, DC 20006

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

Respondents:

Our Family Jewels, Inc. d/b/a Epipür Skincare

7770 E. Iliff Ave. Rm./Suite E

Denver, CO 80231

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

Xnovi Electronic Co., Ltd.

Unit 6A, Block C1, Area G

Sha Jing Street, Min Zhu Industrial Estate,

Baoan District, Shenzhen City,

China

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

Shanghai Anzikang Electric Co., Ltd.

168 Ji Xin Road, Building 3, Room 401

Minhang District, Shanghai,

China

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

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Certificate of Service – Page 2

Beauty Tech, Inc.
1430 S. Dixie Hwy., Ste. 321
Coral Gables, FL 33146-3175

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

ANEX Corporation
#304-705 Bucheon Techno Park
345 Seokcheon-ro, Ojeong-gu
Bucheon City, Gyenggi-do
421-741, Korea

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

Korean Beauty Co., Ltd.
10 F, Pluszone Bldg. 700
Deungchon-Dong, Gangseo-Gu
Seoul, Korea

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

Serious Skin Care, Inc.
112 N. Curry St.
Carson City, NV 89703-4934

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

Wenzhou Ai Er Electrical Technology Co., Ltd. d/b/a CNAIER
1#, XiaSong Road, WanQuan Town
PingYang, ZheJiang
China

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

Coreana Cosmetics Co., Ltd.
204-1 Jeongchon-ri, eup, Seonggeo-eup
Seobuk-gu, Cheonan-si, Chungcheongnam-do
Korea

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____

Flageoli Classic Limited
7310 Smoke Ranch Road
Las Vegas, NV 89128

- Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: _____