

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

CERTAIN DENTAL IMPLANTS

Inv. No. 337-TA-934

Order No. 11

Non-party DevRight LLC (“DevRight”) filed a motion seeking to quash the subpoena *ad testificandum* issued upon application by complainant Nobel.¹ Motion Docket No. 934-06. Nobel opposed the motion, and the Commission Investigative Staff (“Staff”) filed a response supporting the motion. Respondent Neodent² “concur[s] with the relief sought in DevRight’s motion to quash.” *See* Mot. at 1.

DevRight is a professional services firm that trained dentists to improve their lecturing and presentation skills on behalf of Neodent as part of Neodent’s Ambassador Program. *See* Mot. at 3; Opp’n at 1; Staff Resp. at 1. The subpoena at issue in the pending motion requires that DevRight provide a witness to testify regarding various aspects of Neodent’s Ambassador Program. *See* Opp’n at 2.

DevRight argues, *inter alia*, that the subpoena should be quashed because “DevRight’s training [of dentists participating in Neodent’s Ambassador Program] was limited to effective

¹ “Nobel” refers collectively to Nobel Biocare Services AG and Nobel Biocare USA, LLC.

² “Neodent” refers collectively to Instrandent USA, Inc., formerly known as Neodent USA, Inc., and JJGC Indústria e Comércio de Materiais Dentários S/A. Neodent USA, Inc. is the named respondent in this investigation, not Instrandent USA, Inc. *See* 79 Fed. Reg. 63940 (Oct. 27, 2014). Instrandent USA, Inc. is nevertheless participating in the investigation as if it were a named respondent.

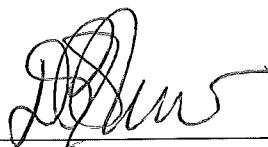
lecturing skills rather than technical details of Respondents' products," and because "Respondents are the best source for any information on technical issues related to the accused products." *See Mot.* at 2.

In opposition to the pending motion, Nobel argues that the "deposition subpoena is narrowly tailored to obtain relevant testimony regarding DevRight's involvement in the Neodent Ambassador Program, including its involvement in helping clinicians refine their audiovisual presentations on the Neodent system." *See Opp'n* at 1. It is argued that "[t]hese substantive presentations contain information relevant to infringement and secondary considerations of nonobviousness," and that "neither Respondents nor DevRight have included draft or final presentations among the documents they have produced in this investigation." *See id.*

The Staff supports the motion to quash, inasmuch as "testimony concerning DevRight's involvement in helping clinicians refine their audiovisual presentations (including information concerning the underlying presentations) is not clearly relevant to issues in this Investigation." *See Staff Resp.* at 4. The Staff further argues that Nobel may obtain the subpoenaed information by other means: "DevRight has agreed, and indeed, has produced documents in response to the document subpoena that seeks similar information Moreover, Respondents are the proper source for information about the Neodent Ambassador Program, the technical details of the accused dental implants, and training and marketing materials related to the accused dental implants." *See id.*

Having reviewed the arguments of the parties, the administrative law judge grants Motion No. 934-06. The information Nobel seeks via the subpoena at issue overlaps in large part with the information sought via the subpoena *duces tecum* served on DevRight. To the extent Nobel argues that "neither Respondents nor DevRight have included draft or final presentations among

the documents they have produced in this investigation,” Nobel may seek relief through a motion to compel discovery from Neodent or a motion to enforce the subpoena *duces tecum* served on DevRight.

A handwritten signature in black ink, appearing to read 'D. Shaw', written over a horizontal line.

David P. Shaw
Administrative Law Judge

Issued: March 11, 2015

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER NO. 11** has been served by hand upon the Commission Investigative Attorney, **Todd Taylor, Esq.**, and the following parties as indicated, on **MAR 12 2015**



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

FOR COMPLAINANTS NOBEL BIOCARE SERVICES AG AND NOBEL BIOCARE USA, LLC:	
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FOR NON-PARTY DEVRIGHT, LLC AND RESPONDENTS NEODENT USA, INC. AND JJGC INDÚSTRIA E COMÉRCIO DE MATERIAIS DENTÁRIOS S/A:	
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