[redacted]

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.

Before the Honorable MaryJoan McNamara
Administrative Law Judge

In the Matter of **CERTAIN DERMATOLOGICAL TREATMENT DEVICES AND COMPONENTS THEREOF**	**Investigation No. 337-TA-1356**

RESPONDENTS' JOINT REPLY POST-HEARING BRIEF

Serendia, LLC
Exhibit 2019
Jeisys v. Serendia
IPR2024-00386
Ex. 2019-001

TABLE OF CONTENTS

TABLE OF AUTHORITIES iii

TABLE OF ABBREVIATIONS vi

TABLE OF WITNESSES ix

I. INTRODUCTION 1

II. JURISDICTION 2

III. IMPORTATION 2

IV. STANDING 2

V. THE FAMILY ONE PATENT (THE '836 PATENT) 4

- A. Claim Constructions And POSITA 4
- B. U.S. Patent No. 9,480,836 4
  - 1. No Infringement 4
  - 2. Alleged Technical Domestic Industry 42
- C. Alleged Infringing Acts of the '836 Patent 43
  - 1. No Direct Infringement 43
  - 2. No Induced Infringement 43
  - 3. No Contributory Infringement 46

VI. THE FAMILY TWO PATENTS (THE '536, '774, AND '812 PATENTS) 48

- A. Claim Constructions And POSITA 48
- B. U.S. Patent No. 9,320,536 48
  - 1. No Infringement 48
  - 2. Alleged Technical Domestic Industry 59
- C. U.S. Patent No. 9,775,774 59
  - 1. No Infringement 59
  - 2. Alleged Technical Domestic Industry 62
- D. U.S. Patent No. 10,869,812 63
  - 1. No Infringement 63
  - 2. Alleged Technical Domestic Industry 67
- E. Alleged Infringing Acts Of The Family Two Patents 68
  - 1. No Direct Infringement 68
  - 2. No Induced Infringement 68
  - 3. No Contributory Infringement 69

VII. ECONOMIC DOMESTIC INDUSTRY 71

- A. Benev Is Not A Licensee Of The Asserted Patents 71

B. Serendia's Revenue-Based Allocation Results in an Overstatement of the Allegedly Qualifying Activities 75

C. Serendia Improperly Credits Activities of a Mere Importer 77

1. Benev's "Capital" Investments Are Mere Product Giveaways 78
2. Benev's Commission Payments to Independent Sales Representatives Are Non-Qualifying Investments 79
3. Benev's Customer Service Department Merely Handles Sales Orders 80
4. Benev's Investments in Delivery and Installation Are Not Cognizable 80
5. Benev's Sponsorship of the X-Class Aesthetic Elite Summit Is Not Cognizable 81

D. Serendia Failed To Carry Its Burden of Providing Credible Estimates Of Its Alleged Non-Sales Investments 82

1. The Absence of Documentation Supporting Benev's CEO and CFO's Claimed Activities Demonstrate They Are Overstated. 83
2. Serendia's Quantification of Qualifying Investments Paid to Medical Professionals Is Overstated. 84
3. Dr. Na's Alleged Contributions To Product Development Are Not Supported 87

E. The Alleged DI Investments Are Not Significant 88

VIII. REMEDY AND BOND 89

A. Limited Exclusion Order 89

B. Cease and Desist Order 90

C. Bond 90

IX. CONCLUSION 91

IX. CONCLUSION

Respondents seek a determination that they have not violated Section 337 and that Serendia is not entitled to any remedy for the reasons set forth in their Initial Post-Hearing Brief and above.

Dated: January 5, 2024

/s/ *David M. Airan*

Brian C. Rupp
David M. Airan
James W. Sanner
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza
180 N. Stetson Ave, Suite 4900
Chicago, IL 60601-6745
Telephone: (312) 616-5600
E-Mail: leydig-jeisys-itc@leydig.com

Paul M. Bartkowski
BARTKOWSKI PLLC
6803 Whittier Ave., Suite 200A
McLean, VA 22101
Telephone: (571) 533-3581
E-Mail: Jeisys-337@bartkowskipllc.com

Counsel for Respondents Jeisys Medical Inc. and Cynosure, LLC

/s/ Guy Yonay

David A. Loewenstein
Guy Yonay
Clyde A. Shuman
Kyle Auteri
PEARL COHEN ZEDEK LATZER BARATZ LLP
7 Times Square, 19th Floor
New York, NY 10036
Telephone: (646) 878-0800

endymed@PearlCohen.com

Counsel for Respondents EndyMed Medical Ltd. and EndyMed Medical Inc.

/s/ *Thomas E. Garten*

Brian Nester
W. Kiersten Choi
Alexander Trzeciak
Daniel J. Farnoly
Yong Joon Kwon
COVINGTON & BURLING LLP
One CityCenter, 850 Tenth Street, NW
Washington, DC 20001-4956
Telephone: (202) 662-6000

Anupam Sharma
Robert T. Haslam
COVINGTON & BURLING LLP
3000 El Camino Real
5 Palo Alto Square, 10th Floor
Palo Alto, CA 94306-2112
Telephone: (650) 632-4700

Dale A. Rice
Thomas E. Garten
COVINGTON & BURLING LLP
Salesforce Tower
415 Mission Street, Suite 5400
San Francisco, CA 94105-2533
Telephone: (415) 591-6000

COV-Ilooda-ITC@cov.com

Counsel for Respondents Ilooda, Co., Ltd. and Cutera, Inc.

CERTIFICATE OF SERVICE

I, Danute D. Abrishami, certify that on January 5, 2024, copies of the foregoing RESPONDENTS' JOINT REPLY POST-HEARING BRIEF were delivered, pursuant to Commission regulations, to the following interested parties as indicated:

The Honorable Lisa Barton Secretary to the Commission U.S. INTERNATIONAL TRADE COMMISSION 500 E Street, SW Washington, DC 20436	*Via* EDIS
The Honorable MaryJoan McNamara U.S. INTERNATIONAL TRADE COMMISSION 500 E Street, S.W., Room 317 Washington, DC 20436	*Via* E-Mail: McNamara337@usitc.gov
Aaron Rauh Office of Unfair Import Investigations U.S. INTERNATIONAL TRADE COMMISSION 500 E Street, SW Washington, DC 20436	*Via* E-Mail and BOX: Aaron.Rauh@usitc.gov
Kevin C. Wheeler LATHAM & WATKINS LLP 555 11th St. NW, Suite 1000 Washington, DC 20004	*Counsel for Complainant Serendia, LLC* *Via* E-Mail: serendiaitc.lwteam@lw.com
Brian C. Rupp David M. Airan James W. Sanner LEYDIG, VOIT & MAYER Two Prudential Plaza 180 N. Stetson Ave, Suite 4900 Chicago, IL 60601 Paul M. Bartkowski BARTKOWSKI PLLC 6803 Whittier Ave., Suite 200A McLean, VA 22101	*Counsel for Respondent Jeisys Medical Inc.* *Via* E-Mail: BRupp@leydig.com; DAiran@leydig.com; JSanner@leydig.com; jeisys-337@bartkowskipllc.com Leydig-Jeisys-ITC@leydig.com
Richard V. Wells BAKER & MCKENZIE, LLP 815 Connecticut Ave. NW Washington, DC 20006	*Counsel for Respondents Lutronic Corporation; Lutronic Aesthetics, Inc. aka Lutronic, Inc.; Lutronic, LLC* *Via* E-Mail: richard.wells@bakermckenzie.com; HOU-Lutronic-ITC@bakermckenzie.com

Ryan B. McCrum JONES DAY 901 Lakeside Avenue Cleveland, OH 44114	*Counsel for Respondents Rohrer Aesthetics, Inc.; Rohrer Aesthetics, LLC; Sung Hwan E&B Co., LTD. d/b/a SHEnB Co. LTD; and Cartessa Aesthetics, LLC* *Via* E-Mail: SHEnB-ITC-JD@jonesday.com
Lesley McCall Grossberg ICE MILLER LLP 1735 Market St., Suite 3900 Philadelphia, PA 19103	*Counsel for Respondents Rohrer Aesthetics, Inc. and Rohrer Aesthetics, LLC* *Via* E-Mail: RohrerITC@icemiller.com; lesley.grossberg@icemiller.com
Guy Yonay PEARL COHEN ZEDEK LATZER BARATZ LLP 7 Times Square, 19th Fl. New York, NY 10036 Telephone: (646) 878-0806 Facsimile: (646) 878-0801	*Counsel for Respondents EndyMed Medical, Ltd. and EndyMed Medical, Inc.* *Via* E-Mail: EndyMed@PearlCohen.com; GYonay@PearlCohen.com

/s/ *Danute D. Abrishami*
Danute D. Abrishami
Senior Patent/ITC Case Manager
COVINGTON & BURLING LLP
One CityCenter, 850 Tenth Street, NW
Washington, DC 20001
dabrishami@cov.com | 202.662.6573