

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In the Matter of)
)
)

Summit Technology, Inc.,)
a Corporation, and)

DOCKET No. 9286

VISX, Incorporated,)
a Corporation.)
_____)

ORDER SPECIFYING UNDISPUTED FACTS REGARDING
RESPONDENT VISX, INCORPORATED'S MOTION NO. 2 –
FOR SUMMARY DECISION REGARDING U.S. PATENT
NO. 5,711,762 AND U.S. PATENT NO. 5,735,843

Respondents motion for Partial Summary Decision having been denied, I enter this order, in accordance with Rule 3.24(a)(5), specifying facts that appear without substantial controversy:

1 U.S. Patent No. 7,511,762 ("762 Patent") is directed to a "system for use in a laser source surgical method of removing corneal tissue." The system of claim 1 requires a laser that produces a beam of radiation at a wavelength of about 193 nm in a series of pulses. The system also requires a laser delivery system means for receiving the 193 nm radiation from the laser and delivering a fraction of

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13 There were no terminal disclaimers filed in Patent App. Ser. No. 490,243; however

Complaint Counsel does not agree that this paragraph 13 is relevant to Motion No. 2.

14. The invention claimed in the '762 Patent is patentably distinct from that claimed in the '388 Patent.

15. The invention claimed in the '842 Patent is patentably distinct from that claimed in the '299