

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN BLOOD CHOLESTEROL
TESTING STRIPS AND ASSOCIATED
SYSTEMS CONTAINING THE SAME**

Investigation No. 337-TA-1116

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION TERMINATING THE INVESTIGATION AS TO CERTAIN
PATENT CLAIMS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined not to review a March 12, 2019 initial determination (“ID”) (Order No. 15) granting the complainant’s unopposed motion to terminate the investigation as to certain patent claims asserted with respect to the complainant’s infringement allegations.

FOR FURTHER INFORMATION CONTACT: Ron Traud, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-3427. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission’s Electronic Docket Information System (“EDIS”) (<https://edis.usitc.gov>). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: On June 5, 2018, the Commission instituted this investigation based on an amended complaint filed on behalf of Polymer Technology Systems, Inc. of Indianapolis, Indiana (“PTS”). 83 FR 26087 (June 5, 2018). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain blood cholesterol testing strips and associated systems containing the same by reason of infringement of one or more claims of U.S. Patent Nos. 7,087,397 (“the ’397 patent”); 7,625,721 (“the ’721 patent”); and 7,494,818 (“the ’818 patent”). *Id.* The Commission’s notice of investigation named as respondents ACON Laboratories, Inc. of San

Diego, California; and ACON Biotech (Hangzhou) Co., Ltd., of Hangzhou Zhejiang, China. *Id.* The Office of Unfair Import Investigations was not named as a party in this investigation. *Id.*

The Commission previously terminated this investigation as to certain claims of the '397, '721, and '818 patents and determined not to review a summary determination that PTS has satisfied the economic prong of the domestic industry requirement. Order No. 13, *unreviewed*, Notice (Mar. 11, 2019); Order No. 14, *unreviewed*, Notice (Mar. 4, 2019); Order No. 10, *unreviewed*, Notice (Feb. 21, 2019); Order No. 7, *unreviewed*, Notice (Sept. 25, 2018).

On February 14, 2019, PTS filed an unopposed motion pursuant to Commission Rule 210.21(a) (19 CFR 210.21(a)) seeking withdrawal from the investigation for infringement purposes claims 1–3, 5, and 18 of the '397 patent and claims 5, 7, and 9 of the '721 patent.

On March 12, 2019, the ALJ issued Order No. 15, the subject ID, which grants the motion. The ID finds that the unopposed motion complied with the Commission's rules for termination and that no extraordinary circumstances prevent termination as to the asserted claims. No party petitioned for review of the ID. The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: April 9, 2019