

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington D.C. 20436**

In the Matter of

CERTAIN ABSORBENT GARMENTS

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Inv. No. 337-TA-508

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW
AN INITIAL DETERMINATION TERMINATING THE INVESTIGATION
WITH RESPECT TO ALL RESPONDENTS ON THE BASIS OF A
CONSENT ORDER; ISSUANCE OF CONSENT ORDER;
TERMINATION OF INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) of the presiding administrative law judge (“ALJ”) granting the joint motion of the complainants and four respondents, Grupo ABS Internacional, S.A. de C.V., Absormex S.A. de C.V., and ABS Bienes de Capital S.A. de C.V. all of Mexico, and Absormex USA, Inc., of Laredo, Texas, to terminate the above-captioned investigation with respect to those respondents on the basis of a consent order. The investigation is terminated in its entirety.

FOR FURTHER INFORMATION CONTACT: Michael K. Haldenstein, Esq., telephone 202-205-3041, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436. Copies of all nonconfidential 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, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS-ON-LINE) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 2,

2004, based on a complaint filed by Tyco Healthcare Retail Group, Inc. and Paragon Trade Brands, Inc. A supplement to the complaint was filed on April 26, 2004. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain absorbent garments by reason of infringement of claims 1, 9, 12-13 of U.S. Patent No. 5,275, 590, claims 1-2 of U.S. Patent No. 5,403,301, and claims 8-9 of U.S. Patent No. 4,892,528. The complaint further alleges that there exists an industry in the United States as required by subsection (a)(2) of section 337. The complaint named three respondents: Grupo ABS Internacional, S.A. de C.V. and Absormex S.A. de C.V. of Mexico, and Absormex USA, Inc. of Laredo Texas. ABS Bienes de Capital S.A. de C.V. was added as a respondent on July 15, 2004.

On October 12, 2004, the two complainants and the four respondents filed a joint motion to terminate the investigation as to all four respondents. The joint motion was based on a proposed consent order, filed pursuant to a consent order stipulation and Memorandum of Understanding (MOU) between the parties. The Commission Investigative Attorney (“IA”) filed a response in support of the motion on October 22, 2004. The ALJ denied the joint motion on October 27, 2004 because it appeared to him that the parties may have intended to have the Commission enforce the MOU. The parties then moved for reconsideration of the denial of the joint motion on October 29, 2004.

The ALJ issued the subject ID on November 2, 2004, granting the motion for reconsideration and terminating the investigation as to all four respondents on the basis of a consent order. The ALJ indicates in the ID that he is satisfied that the parties made clear in their motion for reconsideration that they do not intend for the Commission to enforce the MOU. The ID also indicates that the consent order stipulation satisfies the provisions of Commission rule 210.21(c)(3)(i). No petitions for review of the subject ID were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, and Commission rule 210.42, 19 C.F.R. § 210.42.

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: November 24, 2004