

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

**In the Matter of**

**CERTAIN VAGINAL RING BIRTH  
CONTROL DEVICES**

**Investigation No. 337-TA-768**

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL  
DETERMINATION GRANTING A JOINT MOTION TO TERMINATE  
THE INVESTIGATION AS TO RESPONDENT CVS CAREMARK CORPORATION  
BASED ON WITHDRAWAL OF THE COMPLAINT  
AGAINST CVS CAREMARK CORPORATION**

**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”) (Order No. 7) issued by the presiding administrative law judge (“ALJ”) granting a joint motion to terminate the above-captioned investigation as to respondent CVS Caremark Corporation (“CVS Caremark”) on the ground that complainant voluntarily withdraws its complaint against CVS Caremark.

**FOR FURTHER INFORMATION CONTACT:** Jia Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-4737. 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, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on February 25, 2011, based on a complaint filed by Femina Pharma Incorporated (“Femina”) of Miami, Florida. 76 *Fed. Reg.* 17444 (Feb. 25, 2011). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain vaginal ring birth control devices by reason of infringement of claim 1 of United States Patent No. 6,086,909. The complaint named numerous respondents, including CVS Caremark and CVS Pharmacy Inc. (“CVS Pharmacy”), both of Woonsocket, Rhode Island.

On April 3, 2011, Femina and CVS Caremark filed a joint motion under 19 U.S.C. § 1337(c) and 19 C.F.R. § 210.21(a) to terminate the investigation on the ground that Femina voluntarily withdraws its complaint against CVS Caremark. The parties indicated that CVS Caremark is principally a holding company having no employees of its own and is therefore not a proper party to this investigation. The parties also indicated that terminating CVS Caremark from this investigation will not deprive Femina of any requested relief, as CVS Pharmacy remains as a respondent. On April 25, 2011, the Commission investigative attorney (“IA”) filed a response pointing out that the joint motion does not contain either a statement that no other agreements exist between Femina and CVS Caremark, or an identification of agreements between the two parties, as required by Commission Rule 210.21(a). The IA indicated, however, that the parties intend to amend the motion to satisfy this requirement, and that with this amendment, the IA does not oppose the motion. The next day, on April 26, 2011, Femina and CVS Caremark filed a supplement to their motion representing that there are no agreements, written or oral, express or implied, between the parties concerning the subject matter of the investigation. On May 9, 2011, the ALJ issued the subject ID granting the motion. The ALJ found that the joint motion, as supplemented, comports with Commission Rule 210.21(a) and that granting the motion is in the public interest. No petitions for review were filed.

The Commission has determined not to review the subject 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 C.F.R. Part 210).

By order of the Commission.

/s/  
James R. Holbein  
Secretary to the Commission

Issued: June 3, 2011