

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

**In the Matter of**

**CERTAIN COENZYME Q10 PRODUCTS  
AND METHODS OF MAKING SAME**

**Inv. No. 337-TA-790**

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL  
DETERMINATION GRANTING-IN-PART AND DENYING-IN-PART RESPONDENTS  
ZHEJIANG MEDICINE CO., LTD. AND ZMC-USA LLC'S MOTION FOR SUMMARY  
DETERMINATION OF NON-INFRINGEMENT**

**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. 42) granting-in-part and denying-in-part respondents Zhejiang Medicine Co., Ltd. and ZMC-USA LLC's motion for summary determination of non-infringement of U.S. Patent No. 7,910,340.

**FOR FURTHER INFORMATION CONTACT:** Cathy Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2392. 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 (<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 July 19, 2011, based on a complaint filed on June 17, 2011, by Kaneka Corp. of Osaka, Japan ("Kaneka"), and supplemented on June 24 and 27, 2011. 76 Fed. Reg. 42729 (July 19, 2011). The complaint alleges violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, by reason of infringement of certain claims of U.S. Patent No. 7,910,340 ("the '340 patent"). The Commission's notice of investigation named as respondents Zhejiang Medicine Co., Ltd. of Zhejiang, China; ZMC-USA, LLC of The Woodlands, Texas; Xiamen Kingdomway Group Co. of Xiamen, China; Pacific Rainbow International Inc. of City of Industry, California; Mitsubishi Gas Chemical Co., Inc. of Tokyo, Japan; Maypro Industries, Inc. of Purchase, New York; and Shenzhou Biology & Technology Co., Ltd. of Beijing, China.

On May 9, 2012, respondents Zhejiang Medicine Co., Ltd. and ZMC-USA LLC (“ZMC”) filed a motion for summary determination of non-infringement of all claims of the '340 patent. On May 21, 2012, complainant Kaneka filed a response opposing the motion. On May 31, 2012, ZMC filed a motion for leave to file a reply in support of their motion. On June 12, 2012 the ALJ granted ZMC's motion for leave to file a reply solely for the limited purpose of considering the Rebuttal Expert Report of Dr. Richard Taylor, and granted-in-part and denied-in-part ZMC's motion for summary determination of non-infringement. The ALJ found genuine disputes of material fact regarding whether or not ZMC's process literally satisfies or is equivalent to an “inert gas atmosphere” as recited in independent claims 1 and 11, and whether prosecution history estoppel bars Kaneka's infringement claims under the doctrine of equivalents with respect to the “inert gas atmosphere” limitation. The ALJ also found genuine disputes of material fact regarding whether or not the tank used in ZMC's process literally satisfies or is equivalent to a “sealed tank” as recited in independent claims 22 and 33, and whether prosecution history estoppel bars Kaneka's infringement claims under the doctrine of equivalents with respect to the “sealed tank” limitation. Finally, the ALJ found that ZMC did not infringe dependent claims 2, 5-8, 12, 16-19, 23, 26-28, 32, 34, 38-40 and 45. No petitions for review were filed.

The Commission has determined not to review the subject ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and of section 210.42(h) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.42(h)).

By order of the Commission.



Lisa R. Barton  
Acting Secretary to the Commission

Issued: June 29, 2012