

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN OMEGA-3 EXTRACTS FROM
MARINE OR AQUATIC BIOMASS AND
PRODUCTS CONTAINING THE SAME**

Investigation No. 337-TA-877

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING COMPLAINANTS' UNOPPOSED MOTION FOR
PARTIAL TERMINATION AS TO ALL ALLEGATIONS RELATING TO CERTAIN
CLAIMS**

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. 30) of the presiding administrative law judge granting Complainants' unopposed motion for partial termination as to all allegations relating to certain claims in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3065. 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 April 17, 2013, based on a complaint filed on January 29, 2013, as amended on March 21, 2013, and supplemented on April 1, 2013, on behalf of Neptune Technologies & Bioresources Inc. of Laval, Québec, Canada and Acasti Pharma Inc., also of Laval, Québec, Canada (collectively, "Complainants"). 78 *Fed. Reg.* 22898 (April 17, 2013). The complaint alleged violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the sale for importation, importation, or sale within the United States after importation of omega-3 extracts from marine or aquatic biomass and products containing the same by reason of infringement of one or more of claims 1-46 and 94 of U.S. Patent No. 8,278,351 ("the '351 patent") and claim 1 of the U.S. Patent No. 8,383,675. The Commission's notice of investigation named as respondents Aker BioMarine AS of Oslo, Norway; Aker BioMarine Anarctic USA, Inc. of Issaquah, Washington;

Aker BioMarine Antarctic AS of Stamsund, Norway; Enzymotec Limited of Industrial Zone K'far Baruch, Israel; Enzymotec USA, Inc. of Morristown, New Jersey; Olympic Seafood AS of Fosnavåg, Norway; Olympic Biotec Ltd. of New Zealand; Avoca, Inc. of Merry Hill, North Carolina; Rimfrost USA, LLC of Merry Hill, North Carolina; and Bioriginal Food & Science Corp. of Saskatoon, Saskatchewan, Canada (collectively, "Respondents").

On August 16, 2013, the Commission issued notice of its determination not to review an ID (Order No. 11) terminating the investigation with respect to claims 14-18 and 37-41 of the '351 patent based on withdrawal of the complaint.

On October 25, 2013, Complainants filed a motion for partial termination of the investigation based on withdrawal of the complaint with respect to claims 7-8, 10-11, 30-31, and 33-34 of the '351 patent as to all Respondents and claims 13 and 36 of the '351 patent as to Enzymotec Limited and Enzymotec USA, Inc. Complainants stated that Respondents do not oppose the motion. On November 4, 2013, the Commission investigative attorney filed a response in support of the motion. On November 5, 2013, the ALJ issued the subject ID, granting Complainants' motion. There were no petitions for review.

Having considered the ID, 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 § 210.42 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.42).

By order of the Commission.



Lisa R. Barton
Acting Secretary to the Commission

Issued: November 26, 2013