

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN L-TRYPTOPHAN,
L -TRYPTOPHAN PRODUCTS,
AND THEIR METHODS OF
PRODUCTION**

**Inv. No. 337-TA-1005
(Rescission)**

**NOTICE OF COMMISSION DETERMINATION TO INSTITUTE
A RESCISSION PROCEEDING; RESCISSION OF THE REMEDIAL ORDERS;
TERMINATION OF RESCISSION PROCEEDING**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to institute a rescission proceeding and to grant a joint petition to rescind the limited exclusion order (“LEO”) and cease and desist order (“CDO”) (collectively, “the remedial orders”) issued in the underlying investigation. The rescission proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-4716. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.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 June 14, 2016, based on a complaint filed by complainants Ajinomoto Co., Inc. of Tokyo, Japan and Ajinomoto Heartland Inc. of Chicago, Illinois (collectively, “Ajinomoto”). *See* 81 FR 38735-36 (June 14, 2016). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337) (“section 337”), based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain L-tryptophan, L-tryptophan products, and their methods of production by reason of infringement of certain claims of U.S. Patent No. 7,666,655 (“the ’655 patent”) and U.S. Patent No. 6,180,373 (“the ’373 patent”). *See id.* The notice of investigation named CJ CheilJedang Corp. of Seoul, Republic of Korea, CJ America, Inc. of Downers Grove, Illinois, and PT CheilJedang Indonesia of Jakarta, Indonesia (collectively, “CJ”) as respondents in this investigation. *See id.* The Office of Unfair Import Investigations was not a party to the investigation.

On December 18, 2017, the Commission issued a final determination finding a violation of section 337 with respect to certain tryptophan-producing bacteria strains (“the later strains”), but no violation of section 337 with respect to other strains (“the earlier strains”). The Commission issued the remedial orders, *i.e.*, an LEO against the infringing articles and a CDO against CJ America.

On February 16, 2018, Ajinomoto filed an appeal with the United States Court of Appeals for the Federal Circuit (“Federal Circuit”) from the Commission’s final determination finding no violation of section 337 with respect to the earlier strains. On February 27, 2018, CJ also filed an appeal with the Federal Circuit from the Commission’s final determination finding a violation of section 337 with respect to the later strains.

On May 25, 2018, CJ filed a motion for partial dismissal of the appeal with respect to the ’373 patent based on expiration of that patent. On June 27, 2018, the Federal Circuit issued an order dismissing the appeal with respect to the ’373 patent. On August 6, 2019, the Federal Circuit affirmed the Commission’s final determination with respect to the remaining ’655 patent.

On June 3, 2022, Ajinomoto and CJ filed a joint petition to rescind the remedial orders based on settlement. The petition includes a confidential and public version of the settlement agreement and indicates that there are no other agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation. No response to the petition was filed.

Having reviewed the petition and the settlement agreement between Ajinomoto and CJ provided therewith, the Commission finds that the conditions which led to the issuance of the remedial orders no longer exist, and therefore, granting the joint petition to rescind is warranted under section 337(k) (19 U.S.C. 1337(k)). The Commission also finds that the requirements of Commission Rule 210.76(a) (19 CFR 210.76(a)) are satisfied. Accordingly, the Commission has determined to institute a rescission proceeding and to grant the joint petition to rescind the remedial orders. The rescission proceeding is terminated.

The Commission vote for this determination took place on July 5, 2022.

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: July 5, 2022