

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN MICROPERFORATED
PACKAGING CONTAINING
FRESH PRODUCE**

Investigation No. 337-TA-1096

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING A MOTION TO TERMINATE THE INVESTIGATION
AS TO RESPONDENTS B&G FOODS NORTH AMERICA, INC. AND
TAYLOR FARMS CALIFORNIA, INC.**

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. 9) of the presiding administrative law judge (“ALJ”), granting complainant’s motion to terminate the investigation as to respondents B&G Foods North America, Inc. (“B&G Foods”) of Parsippany, New Jersey, and Taylor Farms California, Inc. (“Taylor Farms”) of Salinas, California.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 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 SW, Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://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 January 22, 2018, based on a complaint filed on behalf of Windham Packaging, LLC (“Windham”) of Windham, New Hampshire. 83 FR 3020 (Jan. 22, 2018). 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 claims 1-6, 11, and 13 of U.S. Patent No. 7,083,837. 83 FR 4269 (Jan. 30, 2018). The complaint further alleges that a domestic industry exists. The Commission’s notice of investigation named as respondents B&G Foods; Taylor Farms; Alpine Fresh, Inc. of

Miami, Florida; Apio, Inc. of Guadalupe, California; and Glory Foods, Inc. of Columbus, Ohio. The Office of Unfair Import Investigations is not participating in the investigation.

On February 7, 2018, Windham filed a motion to terminate the investigation as to B&G Foods and Taylor Farms under Commission Rule 210.21(a)(1). Order No. 9 at 1 (Feb. 21, 2018). On February 21, 2018, the ALJ issued the subject ID granting the motion. *Id.* at 2. The ALJ found that the requirements of Commission Rule 210.21(a)(1) have been met and that no extraordinary circumstances prevent granting the motion. *Id.* No petitions for review were filed.

The Commission has determined not to review the 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 CFR Part 210).

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', with a stylized flourish at the end.

Lisa R. Barton
Secretary to the Commission

Issued: March 15, 2018