

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

**In the Matter of**

**CERTAIN VAGINAL RING BIRTH  
CONTROL DEVICES**

**Inv. No. 337-TA-768**

**NOTICE OF INVESTIGATION**

AGENCY: U.S. International Trade Commission

ACTION: Institution of investigation pursuant to 19 U.S.C. § 1337

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 25, 2011, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, on behalf of Femina Pharma Incorporated of Miami, Florida. Letters supplementing the complaint were filed on March 11 and 15, 2011. The complaint alleges violations of 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 vaginal ring birth control devices by reason of infringement of claim 1 of U.S. Patent No. 6,086,909 (“the ‘909 patent”). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, D.C. 20436, telephone 202-205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 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>.

FOR FURTHER INFORMATION CONTACT: Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

**AUTHORITY:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.10 (2010).

**SCOPE OF INVESTIGATION:** Having considered the complaint, the U.S. International Trade Commission, on March 23, 2011, ORDERED THAT –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain vaginal ring birth control devices that infringe claim 1 of the '909 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to Commission Rule 210.50(b)(1), 19 C.F.R. § 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties and other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Femina Pharma Incorporated  
3470 E. Coast Ave.,  
Suite H502  
Miami, FL 33137

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Merck & Co., Inc.  
One Merck Drive  
Whitehouse Station, NJ 08889

Schering Plough Corporation  
2000 Galloping Hill Road  
Kenilworth, NJ 07033

Organon USA, Inc.

100 Rodolphe Street  
Durham, North Carolina 27712

N.V. Organon  
Molenstraat 110  
Oss, Netherlands  
5340 BH

CVS Caremark Corporation  
One CVS Drive  
Woonsocket, RI 02895

CVS Pharmacy, Inc.  
One CVS Drive  
Woonsocket, RI 02895

Wal-Mart Stores, Inc.  
702 S.W. 8<sup>th</sup> St.  
Bentonville, AR 72716

Walgreens Co.  
200 Wilmont RD  
Deerfield, IL 60015

The Canamerican Drugs Inc.  
d/b/a  
[www.77Canadapharmacy.com](http://www.77Canadapharmacy.com)  
[www.medcentercanada.com](http://www.medcentercanada.com)  
[www.tigerdrugs.com](http://www.tigerdrugs.com)  
77 Canada Pharmacy  
8-1421 St. James Street  
Winnipeg, MB  
R3H 0Y9  
Canada

The Canamerican Global Inc.  
d/b/a  
[www.canamericanglobal.com](http://www.canamericanglobal.com)  
77 Canada Pharmacy  
8-1421 St. James Street  
Winnipeg, MB  
R3H 0Y9  
Canada

Canadian Med Service  
d/b/a  
[www.canadianmedservices.com](http://www.canadianmedservices.com)  
77 Canada Pharmacy  
8-1421 St. James Street  
Winnipeg, MB  
R3H 0Y9  
Canada

Panther Meds Inc.  
d/b/a  
[www.panthermeds.com](http://www.panthermeds.com)  
77 Canada Pharmacy  
8-1421 St. James Street  
Winnipeg, MB  
R3H 0Y9  
Canada

Canada Drugs Online  
d/b/a  
[www.Canadadrugsonline.com](http://www.Canadadrugsonline.com)  
Unit #202A,  
8322-130th Street, Surrey,  
British Columbia, Canada V3W 8J9

Drug World Canada  
d/b/a  
[www.drugworldcanada.com](http://www.drugworldcanada.com)  
Unit #202A,  
8322-130th Street, Surrey,  
British Columbia, Canada V3W 8J9

CanDrug Health Solutions Inc.  
d/b/a  
www.candrug.com  
Unit #202A,  
8322-130th Street, Surrey,  
British Columbia, Canada V3W 8J9

Big Mountain Drugs  
d/b/a  
www.bigmountaindrugs.com  
Unit #202A,  
8322-130th Street, Surrey,  
British Columbia, Canada V3W 8J9

BestBuyRx.com  
d/b/a  
www.bestbuyrx.com  
Unit #202A,  
8322-130th Street, Surrey,  
British Columbia, Canada V3W 8J9

Blue Sky Drugs  
d/b/a  
www.Blueskydrugs.com  
Unit #202A,  
8322-130th Street, Surrey,  
British Columbia, Canada V3W 8J9

ABC Online Pharmacy  
d/b/a  
www.abconlinepharmacy.com  
200-7382 Winston Street  
Burnaby, British Columbia  
V5A 2G9 Canada

Canadadrugs.com LP  
d/b/a  
www.Canadadrugs.com  
24 Terracon Place  
Winnipeg, Manitoba  
Canada R2J 4G7

North Drug Store  
d/b/a  
www.northdrugstore.com  
266 Graham Avenue,  
P.O. Box 1074 Station Main,  
Winnipeg, Manitoba,  
R3C 2X4 Canada

Canada Pharmacy  
d/b/a  
www.CanadaPharmacy.com  
477 Peace Portal Dr Suite #180  
Blaine, WA 98230

(c) The Commission investigative attorney, party to this investigation, is the Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(4) For the investigation so instituted, the Honorable Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.13. Pursuant to 19 C.F.R. §§ 201.16(d)-(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

James R. Holbein  
Acting Secretary to the Commission

Issued: March 23, 2011