

**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 A JOINT MOTION TO TERMINATE THE
INVESTIGATION BASED ON A SETTLEMENT AND LICENSE AGREEMENT;
TERMINATION OF THE INVESTIGATION**

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. 48) granting a joint motion to terminate the above-captioned investigation based on a settlement and license agreement. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Esq., 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 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>. 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. and Acasti Pharma Inc., both of Laval, Quebec, 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, by reason of infringement of one or more claims of U.S.

Patent Nos. 8,278,351 and 8,383,675. The Commission's notice of investigation named as respondents Aker BioMarine AS of Oslo, Norway; Aker BioMarine Antarctic USA, Inc. of Issaquah, Washington; Aker BioMarine Antarctic AS of Stamsund, Norway (collectively, "the Aker Respondents"); Olympic Seafood AS of Fosnavag, Norway; Olympic Biotec Ltd. of New Zealand; Avoca, Inc. of Merry Hill, North Carolina; Rimfrost USA, LLC of Merry Hill, North Carolina; Bioriginal Food & Science Corp. of Saskatoon, Saskatchewan, Canada (collectively, "the Olympic Respondents"); Enzymotec Ltd. of Industrial Zone K'far Baruch, Israel; and Enzymotec USA, Inc. of Morristown, New Jersey (collectively, "the Enzymotec Respondents").

The Olympic Respondents were terminated from the investigation on the basis of a settlement agreement on November 5, 2013 (Order No. 31, affirmed by the Commission on December 17, 2013). The Aker Respondents were terminated from the investigation on the basis of a settlement agreement on December 17, 2013 (Order No. 40, not reviewed by the Commission on January 15, 2014).

On May 2, 2014, Complainants and the Enzymotec Respondents filed a joint motion to terminate the investigation based on a settlement and license agreement. On May 13, 2014, the ALJ issued the subject ID (Order No. 48) granting the joint motion to terminate the investigation. No petitions for review were filed.

After considering the subject ID and the relevant portions of the record, the Commission has determined not to review the subject ID. The Commission agrees with the ALJ that the joint motion to terminate the investigation complies with the Commission's rules for termination and that the settlement does not adversely affect the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers.

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 C.F.R. Part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: June 12, 2014