

Dated: January 8, 1999.

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INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-403]

Certain Acesulfame Potassium and Blends and Products Containing Same; Notice of Commission Determinations Not To Review an Initial Determination Finding No Violation of Section 337 of the Tariff Act of 1930 and Not To Review an Order Denying a Motion for Sanctions

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has made a final determination of no violation of section 337 of the Tariff Act of 1930, as amended, in the above-captioned investigation. The Commission determined not to review an initial determination (ID) of the presiding administrative law judge (ALJ) finding no violation of section 337 and not to review ALJ Order No. 23 which denied a motion for sanctions.

FOR FURTHER INFORMATION CONTACT: Cynthia P. Johnson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3098. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on November 14, 1997, based on a complaint filed by Nutrinova Nutrition Specialties and Food Ingredients GmbH of Frankfurt am Main, Federal Republic of Germany, and Nutrinova Inc., of Somerset, New Jersey (collectively referred to as "complainants"). 62 FR 62070 (1997). The complaint named four respondents—Hangzhou Sanhe Food Company Ltd., of Zhejiang, People's Republic of China; JRS International, Inc., of Garfield, New Jersey; Dingsheng, Inc., of Temple City, California; and WYZ Tech., of Chino, California. Hangzhou Sanhe Food

Additives Factory, of Hangzhou, Zhejiang, Peoples Republic of China was subsequently added as a respondent.

Complainants alleged that respondents had violated section 337 by importing into the United States, selling for importation, and/or selling within the United States after importation certain acesulfame potassium or blends or products containing same by reason of infringement of claims 1, 2, 3, 4 or 5 of U.S. Letters Patent 4,695,629 ("the '629 patent") or claims 1 or 2 of U.S. Letters Patent 4,158,068 ("the '068 patent"). Acesulfame potassium is an artificial sweetener.

The ALJ held a tutorial on the technology of artificial sweeteners and the processes for their manufacture on June 5, 1998. The evidentiary hearing was held from June 29, 1998, to July 10, 1998.

On May 12, 1998, complainants filed a motion seeking the imposition of monetary and non-monetary sanctions against respondents for respondents' failure to provide timely discovery. The motion was supported in part and opposed in part by the Commission investigative attorney (IA) and opposed by respondents. On August 14, 1998, the ALJ issued Order No. 23, denying complainants' motion for sanctions, but offering complainants an opportunity to seek reopening of the record for the purpose of presenting additional facts and arguments relevant to respondents' belatedly-produced discovery. Complainants declined to seek reopening of the record.

On November 20, 1998, the ALJ issued his final ID, in which he concluded that there was no violation of section 337, based on the following findings: (a) claims 1-5 of the '629 patent are not infringed by respondents' accused process; (b) claims 1-2 of the '068 patent are invalid as obvious over the prior art; (c) claims 1-2 of the '068 patent are not infringed by respondents accused product.

On December 3, 1998, complainants filed a petition for review of the ID and Order No. 23, arguing that the ALJ erred in all of his adverse findings relating to failure to impose sanctions and in his infringement analysis of the '629 patent. Complainants did not petition for review of the findings in the ID with respect to the '068 patent. The IA also petitioned for review of the ID and Order No. 23 on policy grounds. On December 10, 1998, respondents filed a response to the petitions for review. The IA also filed a response to complainants' petition for review.

The authority for the Commission's determinations is contained in section

337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR § 210.42). Copies of the ALJ's ID and all other nonconfidential 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.

By order of the Commission.

Issued: January 15, 1999.

Donna R. Koehnke,
Secretary.

[FR Doc. 99-1341 Filed 1-20-99; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-149 (Review)]

Barium Chloride From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of an expedited five-year review concerning the antidumping duty order on barium chloride from China.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on barium chloride from China would be likely to lead to continuation or recurrence of material injury. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: January 7, 1999.

FOR FURTHER INFORMATION CONTACT: Bonnie Noreen (202-205-3167), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter 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 (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background

On January 7, 1999, the Commission determined that the domestic interested party response to its notice of institution (63 F.R. 52750, Oct. 1, 1998) of the subject five-year review was adequate. The Commission also determined that the respondent interested party response was inadequate because no respondent interested party responded to the Commission's notice. The Commission did not find any other circumstances that would warrant conducting a full review.¹ Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

Staff Report

A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on February 4, 1999, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions

As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,² and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before February 9, 1999, and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by February 9, 1999. If comments contain business proprietary information (BPI), they must

conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination

The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. § 1675(c)(5)(B).

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: January 13, 1999.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 99–1347 Filed 1–20–99; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–409]

Certain CD–ROM Controllers, and Products Containing Same—II; Notice of Commission Decision To Extend the Deadline for Determining Whether To Review an Initial Determination

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend by seven (7) days, or until February 3, 1999, the deadline for determining whether to review an initial determination (ID)(Order No. 9) issued by the presiding administrative law judge (“ALJ”) in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: John A. Wasleff, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3094.

SUPPLEMENTAL INFORMATION: This investigation was instituted on May 7, 1998, based on a complaint filed by Oak Technology Inc (“Oak”). 63 Fed. Reg. 26625. Among the respondents is United Microelectronics Corp. (“UMC”). The complaint alleges, inter alia, that

UMC engaged in unlawful activities in violation of section 337 through the unlicensed importation and sale for importation of goods infringing claims 1–5 and 8–10 of U.S. Letters Patent 5,581,715. Oak seeks the imposition of a cease and desist order and an exclusion order.

Complainant Oak filed a previous complaint before the Commission based on the same products and the same patent, naming UMC as a proposed respondent. Prior to institution of an investigation, Oak entered into a settlement/licensing agreement with UMC, and withdrew its complaint as to UMC. Prior to institution of the present investigation, UMC filed a letter with the Commission alleging that all its activities were authorized by the settlement agreement. Oak alleges that the sales and importation activities complained of are outside the provisions of the settlement agreement.

On August 28, 1998, the ALJ issued Order No. 7 terminating the investigation as to UMC for failure to state a section 337 claim. Complainant Oak and OUII filed petitions for review of the ID and UMC responded to those petitions. On October 7, 1998, the Commission reviewed and reversed Order No. 7.

In its opinion, the Commission noted that a motion for summary determination was pending, and stated that if the disposition of that motion came before the Commission, the Commission would “address the matter as necessary and appropriate.” On December 23, 1998, the ALJ issued Order No. 9 granting UMC's motion for summary determination. On December 31, 1998, complainant Oak filed a timely petition for review of the ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) and section 210.42(h)(3) of the Commission's Rules of Practice and Procedure (19 CFR § 210.42(h)(3)).

Copies of the public version of the ID and all other nonconfidential 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. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>).

¹ A record of the Commissioners' votes is available from the Office of the Secretary and at the Commission's web site.

² The Commission has found the response submitted by Chemical Products Corp. to be adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).