

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN VAGINAL RING BIRTH
CONTROL DEVICES**

Investigation No. 337-TA-768

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN
INITIAL DETERMINATION TERMINATING THE INVESTIGATION;
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. 30) of the presiding administrative law judge ("ALJ") terminating the above-captioned investigation based on withdrawal of the complaint.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2310. 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 February 25, 2011, based on a complaint filed by Femina Pharma Incorporated of Miami, Florida. 76 *Fed. Reg.* 17444. The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain vaginal birth control devices by reason of infringement of certain claims of U.S. Patent No. 6,086,909. The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named the following respondents: The Canamerican Drugs Inc., The Canamerican Global, Inc., Canadian Med Service, Panther Meds Inc., Canada Drugs Online, Canadadrugs.com LP, and North Drug Store, collectively of Winnipeg, Manitoba, Canada; Drug World Canada, CanDrug Health Solutions

Inc., Big Mountain Drugs, BestBuyRx.com, and Blue Sky Drugs, collectively of Surrey, British Columbia, Canada; ABC Online Pharmacy of Burnaby, British Columbia, Canada; Canada Pharmacy of Blaine, Washington (collectively, "the non-participating respondents"); and Merck & Co., Inc. of Whitehouse Station, New Jersey; Schering Plough Corporation of Kenilworth, New Jersey; CVS Caremark Corporation ("CVS Caremark") and CVS Pharmacy, Inc., both collectively of Woonsocket, Rhode Island; Wal-Mart Stores, Inc. of Bentonville, Arkansas; Walgreens Co. of Deerfield, Illinois; Organon USA, Inc. of Durham, North Carolina; and N.V. Organon of Oss, Netherlands.

On June 3, 2011, the Commission issued notice of its determination not to review the ALJ's ID granting complainant's and CVS Caremark's joint motion to terminate the investigation as to CVS Caremark. On August 17, 2011, the Commission issued notice of its determination not to review the ALJ's ID finding the non-participating respondents in default.

On January 17, 2012, complainant moved to terminate the investigation as to all respondents, including those previously found in default, on the basis of withdrawal of its complaint. No party opposed the motion.

The ALJ issued the subject ID on January 20, 2012, granting the motion for termination of the investigation. He found that the motion for termination satisfied Commission rule 210.21(a). No party petitioned for review of the ID. The Commission has determined not to review the ID, and the investigation is terminated.

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 sections 210.21 and 210.42(h) of the Commission's Rules of Practice and Procedure, 19 C.F.R. §§ 210.21, 210.42(h).

By order of the Commission.



James R. Holbein
Secretary to the Commission

Issued: February 9, 2012