

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

**In the Matter of**

**CERTAIN PRODUCTS ADVERTISED  
AS CONTAINING CREATINE ETHYL  
ESTER**

**Inv. No. 337-TA-679**

OFC. SECRETARY  
US ITC  
2009 JUN 17 AM 11:15

**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 May 20, 2009, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, on behalf of UNeMed Corporation of Omaha, Nebraska. Supplements to the Complaint were filed on June 5, 2009, June 8, 2009 and June 10, 2009. The complaint, as supplemented, alleges violations of section 337(a)(1)(A) based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain products advertised as containing creatine ethyl ester by reason of false advertising in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B) and the Nebraska Uniform Deceptive Trade Practices Act, R.R.S. Neb. § 87-302 (2008), the threat or effect of which is to destroy or substantially injure an industry in the United States.

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:** Jeffrey T. Hsu, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2579.

**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 (2009).

**SCOPE OF INVESTIGATION:** Having considered the complaint, the U.S. International Trade Commission, on June 15, 2009, 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)(A) 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 products advertised as containing creatine ethyl ester by reason of false advertising, the threat or effect of which is to destroy or substantially injure an industry in the United States;

(2) 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 –

UNeMed Corporation  
986099 Nebraska Medical Center  
Omaha, NE 68198-6099

(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:

Bodyonics, Ltd.  
140 Lauman Lane  
Hicksville, NY 11801

Engineered Sports Technology, Inc.  
4250 Alafaya Trail  
Oviedo, FL 32765

Proviant Technologies, Inc.  
309 West Hensley Road  
Champaign, IL 61822-8401

NRG-X Labs  
10636 West Highway 72 #1001  
Bentonville, AR 72712

San Corporation  
716 North Ventura Road #431  
Oxnard, CA 93030

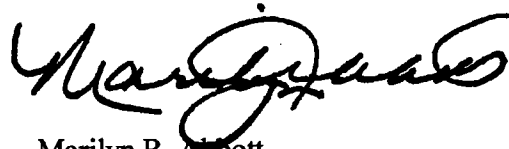
(c) The Commission investigative attorney, party to this investigation, is Jeffrey T. Hsu, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(3) For the investigation so instituted, 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) 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 a respondent.

By order of the Commission.



Marilyn R. Abbott  
Secretary to the Commission

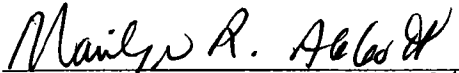
Issued: June 17, 2009

**CERTAIN PRODUCTS ADVERTISED AS CONTAINING  
CREATINE ETHYL ESTER**

337-TA-679

**CERTIFICATE OF SERVICE**

I, Marilyn R. Abbott, hereby certify that the attached **NOTICE OF INSTITUTION** has been served by hand upon the Commission Investigative Attorney, Jeffrey T. Hsu, Esq., and the following parties as indicated, on June 17, 2009.

  
Marilyn R. Abbott, Secretary *JAC*  
U.S. International Trade Commission  
500 E Street, SW  
Washington, DC 20436

**COMPLAINANT:**

UNEMED CORPORATION  
986099 Nebraska Medical Center  
Omaha, Nebraska 68198-6099  
P-402-559-2468

Via Hand Delivery  
 Via Overnight Mail  
 Via First Class Mail  
 Other: \_\_\_\_\_

**COUNSEL FOR COMPLAINANT:**

George C. Summerfield, Esq.  
**STADHEIM & GREAR**  
400 North Michigan Avenue  
Suite 2200  
Chicago, IL 60611  
P-312-755-4400

Via Hand Delivery  
 Via Overnight Mail  
 Via First Class Mail  
 Other: \_\_\_\_\_

**RESPONDENTS:**

BODYONICS, LTD.  
140 Lauman Lane  
Hicksville, NY 11801

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: \_\_\_\_\_

ENGINEERED SPORTS TECHNOLOGY, INC.  
4250 Alafaya Trail  
Oviedo, FL 32765

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: \_\_\_\_\_

PROVIANT TECHNOLOGIES, INC.  
309 West Hensley Road  
Champaign, IL 61822-8401

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: \_\_\_\_\_

NRG-X-LABS  
10636 West Highway 72#1001  
Bentonville, AK 72712

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: \_\_\_\_\_

SAN CORPORATION  
716 North Ventura Road #431  
Oxnard, CA 93030

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: \_\_\_\_\_

**GOVERNMENT AGENCIES:**

Edward T. Hand, Chief  
Foreign Commerce Section  
Antitrust Division  
U.S. Department of Justice  
450 5<sup>th</sup> Street NW – Room 11000  
Washington, DC 20530  
P-202-514-2464

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: \_\_\_\_\_

George F. McCray  
U.S. Bureau of Customs and Border Protection  
Intellectual Property Rights Branch  
Mint Annex Building  
799 9<sup>th</sup> Street, NW  
Washington, DC 20001  
202-325-0082

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: \_\_\_\_\_

Elizabeth Kraus, Deputy Director  
International Antitrust, Office of  
International Affairs  
Federal Trade Commission  
600 Pennsylvania Avenue, Room 498  
Washington, DC 20580  
P-202-326-2649

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: \_\_\_\_\_

Richard Lambert, Esq.  
Office of Technology Development Services  
Dept. of Health & Human Services  
National Institutes of Health  
6610 Rockledge Drive - Room 2800  
MSC 6606  
Bethesda, MD 20892  
P-301-496-2644

- Via Hand Delivery
- Via Overnight Mail
- Via First Class Mail
- Other: \_\_\_\_\_



---

UNITED STATES INTERNATIONAL TRADE COMMISSION

---

WASHINGTON, DC 20436

June 17, 2009

Unemed Corporation  
986099 Nebraska Medical Center  
Omaha, Nebraska 68198-6099

**Re: Certain Products Advertised As Containing Creatine Ethyl Ester  
Inv. No. 337-TA-679**

Dear Sir/Madam:

This letter is to advise you that the U.S. International Trade Commission has instituted an investigation pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Commission's notice of investigation is enclosed.

Sincerely,

A handwritten signature in cursive script that reads "Marilyn R. Abbott". There is a small mark at the end of the signature that looks like a stylized "E" or "A".

Marilyn R. Abbott  
Secretary

Enclosure:

1. Notice of Investigation

---

UNITED STATES INTERNATIONAL TRADE COMMISSION

---

WASHINGTON, DC 20436

June 17, 2009

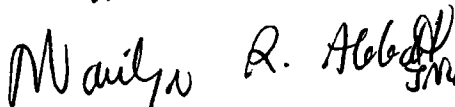
George C. Summerfield  
Stadheim & Gear  
400 North Michigan Avenue  
Suite 2200  
Chicago, Illinois 60611

**Re: Certain Products Advertised As Containing Creatine Ethyl Ester  
Inv. No. 337-TA-679**

Dear Mr. Summerfield:

This letter is to advise you that the U.S. International Trade Commission has instituted an investigation pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). A copy of the Commission's notice of investigation is enclosed.

Sincerely,



Marilyn R. Abbott  
Secretary

Enclosure:

1. Notice of Investigation



---

**UNITED STATES INTERNATIONAL TRADE COMMISSION**

---

WASHINGTON, DC 20436

June 17, 2009

Bodyonics, Ltd.  
140 Lauman Lane  
Hicksville, New York 11801

**Re: Certain Products Advertised As Containing Creatine  
Ethyl Ester  
Inv. No. 337-TA-679**

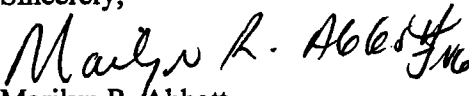
Dear Sir/Madam:

This letter is to advise you that the United States International Trade Commission has instituted an investigation under Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337). **Bodyonics, LTD.** is a named respondent in this investigation.

We are hereby serving you with a copy of the complaint filed and the notice of investigation issued in this matter. Enclosed is a copy of the Code of Federal Regulations.

Please note that the notice requires a response to the allegations in the complaint and the response must be received not later than twenty (20) days after the date of service of the complaint. Failure to file a response may result in inferences being drawn against your interests.

Sincerely,

  
Marilyn R. Abbott  
Secretary

Enclosures:

1. Complaint
2. Notice of Investigation
3. Code of Federal Regulations



---

UNITED STATES INTERNATIONAL TRADE COMMISSION

---

WASHINGTON, DC 20436

June 17, 2009

Engineered Sports Technology, Inc.  
4250 Alafaya Trail  
Oviedo, Florida 32765

**Re: Certain Products Advertised As Containing Creatine  
Ethyl Ester  
Inv. No. 337-TA-679**

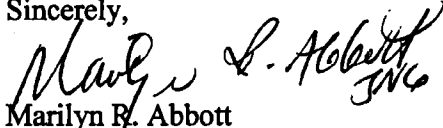
Dear Sir/Madam:

This letter is to advise you that the United States International Trade Commission has instituted an investigation under Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337). **Engineered Sports Technology, Inc.** is a named respondent in this investigation.

We are hereby serving you with a copy of the complaint filed and the notice of investigation issued in this matter. Enclosed is a copy of the Code of Federal Regulations.

Please note that the notice requires a response to the allegations in the complaint and the response must be received not later than twenty (20) days after the date of service of the complaint. Failure to file a response may result in inferences being drawn against your interests.

Sincerely,

  
Marilyn R. Abbott  
Secretary

Enclosures:

1. Complaint
2. Notice of Investigation
3. Code of Federal Regulations



---

UNITED STATES INTERNATIONAL TRADE COMMISSION

---

WASHINGTON, DC 20436

June 17, 2009

Proviant Technologies, Inc.  
309 West Hensley Road  
Champaign, Illinois 61822-8401

**Re: Certain Products Advertised As Containing Creatine  
Ethyl Ester  
Inv. No. 337-TA-679**

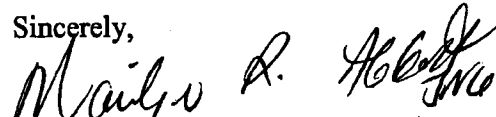
Dear Sir/Madam:

This letter is to advise you that the United States International Trade Commission has instituted an investigation under Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337). **Proviant Technologies, Inc.** is a named respondent in this investigation.

We are hereby serving you with a copy of the complaint filed and the notice of investigation issued in this matter. Enclosed is a copy of the Code of Federal Regulations.

Please note that the notice requires a response to the allegations in the complaint and the response must be received not later than twenty (20) days after the date of service of the complaint. Failure to file a response may result in inferences being drawn against your interests.

Sincerely,

  
Marilyn R. Abbott  
Secretary

Enclosures:

1. Complaint
2. Notice of Investigation
3. Code of Federal Regulations



---

**UNITED STATES INTERNATIONAL TRADE COMMISSION**

---

WASHINGTON, DC 20436

June 17, 2009

NRG-X Labs  
10636 West Highway 72 # 1001  
Bentonville, Arkansas 72712

**Re: Certain Products Advertised As Containing Creatine  
Ethyl Ester  
Inv. No. 337-TA-679**

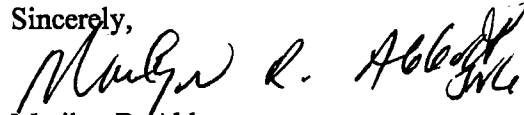
Dear Sir/Madam:

This letter is to advise you that the United States International Trade Commission has instituted an investigation under Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337). **NRG-X Labs** is a named respondent in this investigation.

We are hereby serving you with a copy of the complaint filed and the notice of investigation issued in this matter. Enclosed is a copy of the Code of Federal Regulations.

Please note that the notice requires a response to the allegations in the complaint and the response must be received not later than twenty (20) days after the date of service of the complaint. Failure to file a response may result in inferences being drawn against your interests.

Sincerely,

  
Marilyn R. Abbott  
Secretary

Enclosures:

1. Complaint
2. Notice of Investigation
3. Code of Federal Regulations



---

**UNITED STATES INTERNATIONAL TRADE COMMISSION**

---

WASHINGTON, DC 20436

June 17, 2009

San Corporation  
716 North Ventura Road # 431  
Oxnard, California 93030

**Re: Certain Products Advertised As Containing Creatine  
Ethyl Ester  
Inv. No. 337-TA-679**


Dear Sir/Madam:

This letter is to advise you that the United States International Trade Commission has instituted an investigation under Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337). **San Corporation** is a named respondent in this investigation.

We are hereby serving you with a copy of the complaint filed and the notice of investigation issued in this matter. Enclosed is a copy of the Code of Federal Regulations.

Please note that the notice requires a response to the allegations in the complaint and the response must be received not later than twenty (20) days after the date of service of the complaint. Failure to file a response may result in inferences being drawn against your interests.

Sincerely,

  
Marilyn R. Abbott  
Secretary

Enclosures:

1. Complaint
2. Notice of Investigation
3. Code of Federal Regulations



---

UNITED STATES INTERNATIONAL TRADE COMMISSION

---

WASHINGTON, DC 20436

June 17, 2009

U.S. Bureau of Customs and Border Protection  
Intellectual Property Rights Branch  
Mint Annex Building  
799 9<sup>th</sup> Street, N.W., 7<sup>th</sup> Floor  
Washington, DC 20001

**Re: Certain Products Advertised As Containing Creatine Ethyl Ester  
Inv. No. 337-TA-679**

Dear Sir/Madam:

The Commission has instituted an investigation under section 337 of the Tariff Act of 1930 (19 U.S.C. '337). A copy of the notice of investigation is enclosed. Non-confidential copies of the complaint and any supplements filed in the investigation will be provided upon request. Requests should be directed to Marilyn R. Abbott, Secretary at (202) 205-1802.

If you have questions concerning this investigation, please contact the Commission investigative attorney whose name and telephone number appear in the enclosed notice.

Sincerely,

A handwritten signature in cursive script that reads "Marilyn R. Abbott". To the right of the signature, the initials "JAG" are written in a bold, blocky font.

Marilyn R. Abbott  
Secretary

Enclosure:

1. Notice of Investigation



---

UNITED STATES INTERNATIONAL TRADE COMMISSION

---

WASHINGTON, DC 20436

June 17, 2009

Edward T. Hand, Chief  
Foreign Commerce Section  
Antitrust Division  
U.S. Department of Justice  
450 5th Street, NW-Room 11000  
Washington, DC 20530

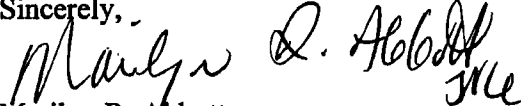
**Re: Certain Products Advertised As Containing Creatine Ethyl Ester  
Inv. No. 337-TA-679**

Dear Mr. Hand:

The Commission has instituted an investigation under section 337 of the Tariff Act of 1930 (19 U.S.C. '337). A copy of the notice of investigation is enclosed. Non-confidential copies of the complaint and any supplements filed in the investigation will be provided upon request. Requests should be directed to Marilyn R. Abbott, Secretary at (202) 205-1802.

If you have questions concerning this investigation, please contact the Commission investigative attorney whose name and telephone number appear in the enclosed notice.

Sincerely,

  
Marilyn R. Abbott  
Secretary

Enclosure:

1. Notice of Investigation



---

UNITED STATES INTERNATIONAL TRADE COMMISSION

---

WASHINGTON, DC 20436

June 17, 2009

Elizabeth Kraus, Deputy Director  
International Antitrust  
Office of International Affairs  
Federal Trade Commission  
600 Pennsylvania Avenue, Room 498  
Washington, DC 20580

**Re: Certain Products Advertised As Containing Creatine Ethyl Ester  
Inv. No. 337-TA-679**

Dear Ms. Kraus:

The Commission has instituted an investigation under section 337 of the Tariff Act of 1930 (19 U.S.C. '337). A copy of the notice of investigation is enclosed. Non-confidential copies of the complaint and any supplements filed in the investigation will be provided upon request. Requests should be directed to Marilyn R. Abbott, Secretary at (202) 205-1802.

If you have questions concerning this investigation, please contact the Commission investigative attorney whose name and telephone number appear in the enclosed notice.

Sincerely,

A handwritten signature in cursive script that reads "Marilyn R. Abbott" with a small mark at the end.

Marilyn R. Abbott  
Secretary

Enclosure:

1. Notice of Investigation



---

UNITED STATES INTERNATIONAL TRADE COMMISSION

---

WASHINGTON, DC 20436

June 17, 2009

Richard Lambert  
Office of Technology Development Services  
Department of Health & Human Services  
National Institute of Health  
6610 Rockledge Drive-Room 2800  
MSC 6606  
Bethesda, MD 20892


**Re: Certain Products Advertised As Containing Creatine Ethyl Ester  
Inv. No. 337-TA-679**

Dear Mr. Lambert:

The Commission has instituted an investigation under section 337 of the Tariff Act of 1930 (19 U.S.C. '337). A copy of the notice of investigation is enclosed. Non-confidential copies of the complaint and any supplements filed in the investigation will be provided upon request. Requests should be directed to Marilyn R. Abbott, Secretary at (202) 205-1802.

If you have questions concerning this investigation, please contact the Commission investigative attorney whose name and telephone number appear in the enclosed notice.

Sincerely,

  
Marilyn R. Abbott  
Secretary

Enclosure:

1. Notice of Investigation