

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

**In the Matter of**

**CERTAIN VAGINAL RING BIRTH  
CONTROL DEVICES**

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

**ORDER NO. 30: INITIAL DETERMINATION GRANTING MOTION TO  
TERMINATE THE INVESTIGATION BASED ON WITHDRAWAL  
OF THE COMPLAINT**

(January 20, 2012)

On January 17, 2012, complainant Femina Pharma Inc. ("Femina") filed a motion seeking to terminate this investigation based on withdrawal of their complaint. (Motion Docket No. 768-046) Femina also seeks to dismiss the defaulting parties. The motion states that the Commission Investigative Staff does not oppose the present motion and the Staff confirmed that position on the record. *See* Tr. at 339:8-9 (January 18, 2012). On January 19, 2012, respondents Merck & Co., Inc., Schering Plough Corporation, Organon USA, Inc., and N.V. Organon, filed a response indicating that they do not oppose me granting Femina's motion to terminate.

Commission Rule 210.21(a)(1) provides, in relevant part, that:

Any party may move at any time prior to the issuance of an initial determination on violation of section 337 of the Tariff Act of 1930 to terminate an investigation in whole or in part as to any or all respondents, on the basis of withdrawal of the complaint or certain allegations contained therein ...

19 C.F.R. § 210.21 (a)(1). Here, Femina moves to withdraw its complaint thereby terminating this investigation in its entirety. Mot. Mem. at 1. Femina asserts that public policy favors granting its motion, because terminating the investigation would conserve Commission

resources. *Id.* at 2. Femina also asserts that there are no extraordinary circumstances that would justify denying the motion to terminate. *Id.* Pursuant to Commission Rule 210.21(a)(1), Femina states that “there are no agreements, written or oral, express or implied between the parties concerning the subject matter of this Motion.” *Id.*

Femina filed its motion prior to the start of the evidentiary hearing in this investigation. Thus, according to Commission precedent, termination of the investigation will be readily granted absence extraordinary circumstances. *See Certain Transport Vehicle Tires*, Inv. No. 337-TA-390, Order No. 17 at 4-5 (Jan. 30, 1997) (Unreviewed Initial Determination) (“in the absence of extraordinary circumstances, termination of the investigation will be readily granted to a complainant during the prehearing stage of an investigation.”). I find Femina’s motion to terminate comports with the Commission’s Rules and I find no extraordinary circumstances that would justify denying the motion. Therefore, it is my Initial Determination to GRANT Femina’s motion to terminate this investigation based on its withdrawal of the complaint. Accordingly, this investigation is hereby terminated in its entirety. This Initial Determination is hereby certified to the Commission.

Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review of the Initial Determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders, on its own motion, a review of the Initial Determination or certain issues herein.

**SO ORDERED.**



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Thomas B. Pender  
Administrative Law Judge

**IN THE MATTER OF CERTAIN VAGINAL RING BIRTH CONTROL 337-TA-768  
DEVICES**

**CERTIFICATE OF SERVICE**

I, James R. Holbein, hereby certify that the attached **PUBLIC ORDER NO. 30 / INITIAL DETERMINATION** has been served upon, **Aarti Shah, Esq.**, Commission Investigative Attorney, and the following parties via first class mail and air mail where necessary on January 20, **2012**.



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