

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN RECOMBINANT FACTOR IX
PRODUCTS**

Inv. No. 337-TA-1066

**ORDER NO. 4: SETTING TARGET DATE, HEARING DATES, AND
PRELIMINARY CONFERENCE**

(September 6, 2017)

On July 7, 2017, the Commission issued a Notice of Investigation in this matter upon a complaint alleging violations of section 337 of the Tariff Act of 1930, as amended, by reason of infringement of certain claims of U.S. Patent No. 9,760,475 (the “’475 patent”), U.S. Patent No. 9,623,091 (the “’091 patent”), and U.S. Patent No. 9,629,903 (the “’903 patent”). The Commission ordered that an investigation be instituted to determine:

whether there is a violation of subsection (a)(1)(B) 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 recombinant Factor IX products by reason of infringement of one or more of claims 1, 2, 4-19, 24, 25, 29, and 34 of the ’475 patent; claims 1-7, 11-16, 18, 19, 21, and 23-27 of the ’091 patent, and claims 1-10, 13-15, and 17-28 of the ’903 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

Notice of Investigation at 2. The Commission further ordered the Administrative Law Judge to “take evidence or other information and hear arguments from the parties or other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue.” *Id.* The Investigation was instituted upon publication of the Notice of Investigation in the *Federal*

Register on Monday, August 14, 2017. 82 Fed. Reg. 37898-99 (2017); *see* 19 C.F.R. § 210.10(b).

The Complainants are Bioverativ Inc., Bioverativ Therapeutics Inc., and Bioverativ U.S. LLC of Waltham, Massachusetts. Notice of Investigation at 2. The Respondents are CSL Behring LLC of King of Prussia, Pennsylvania, CSL Behring GmbH of Marburg, Germany, and CSL Behring Recombinant Facility AG of Bern, Switzerland. *Id.* at 3. The Office of Unfair Import Investigations is also a party in this investigation. *Id.*

Based upon the issues identified in the Complaint and Notice of Investigation, and in consideration of the schedules for other ongoing investigations, the target date for completion of this investigation shall be Friday, December 14, 2018, which is sixteen months after institution of the investigation. *See* 19 C.F.R. § 210.51(a). Accordingly, the initial determination on alleged violation of section 337 shall be due by Tuesday, August 14, 2018. *See* 19 C.F.R. § 210.42(a)(1)(i).

The evidentiary hearing in this investigation shall begin following a pre-hearing conference on Monday, May 15, 2018, and it will conclude by the close of business on Friday, May 18, 2018. *See* 19 C.F.R. § 210.36. Pursuant to Ground Rule 5.2, I have determined that a *Markman* hearing would be beneficial to this investigation, and a *Markman* hearing shall be held on Wednesday, December 20, 2017. The parties may also present technology tutorials on the day of the *Markman* hearing.

The parties shall submit a proposed procedural schedule no later than Friday, September 15, 2017, taking into account the target date and the above-identified dates for hearings. The contents for the procedural schedule are set forth in Ground Rule 2. The parties should make intensive good faith efforts to agree to a procedural schedule, and it is expected that in most

instances the parties will submit a joint proposal. Any proposed procedural schedule should not be filed with the Secretary but served on the Administrative Law Judge pursuant to Ground Rule 1.3 with an electronic copy in Word format pursuant to Ground Rule 1.4.

I will hold a preliminary conference on Tuesday, September 19, 2017, at 11:00 a.m. via telephone. The parties should be prepared to discuss any issues with respect to the ground rules, the protective order, the procedural schedule, discovery, and any other matters that may have surfaced. Counsel for Complainants shall be responsible for the logistics of the teleconference, including arranging for a court reporter and circulating a dial-in number.

SO ORDERED.



Dee Lord
Administrative Law Judge

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER** has been served by hand upon the Commission Investigative Attorney, Monica Bhattacharyya, Esq., and the following parties as indicated, on 9/6/2017



Lisa R. Barton, Secretary
U.S. International Trade Commission
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