

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

**In the Matter of**

**CERTAIN PET FOOD TREATS**

**Inv. No. 337-TA-511**

**NOTICE OF DECISION NOT TO REVIEW AN INITIAL DETERMINATION  
TERMINATING THE INVESTIGATION AS TO RESPONDENT IMS ON THE BASIS  
OF A SETTLEMENT AGREEMENT AND PROPOSED CONSENT ORDER; ISSUANCE  
OF CONSENT ORDER**

**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) issued by the presiding administrative law judge (ALJ) terminating the investigation as to respondent IMS Trading Corp., d/b/a as IMS Pet Industries, Inc. ("IMS") on the basis of a settlement agreement and consent order.

**FOR FURTHER INFORMATION CONTACT:** Andrea Casson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone 202-205-3105. Copies of all 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 SW., Washington, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<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 June 8, 2004, based on a complaint filed by Thomas J. Baumgartner and Hillbilly Smokehouse, Inc., both of Rogers, Arkansas. 69 Fed. Reg. 32044. The complaint alleges violations of section 337 of the Tariff Act of 1930, 337 U.S.C. § 1337, in the importation into the United States, sale for importation, or sale within the United States after importation of certain pet food treats that infringe U.S. Design Patent No. 383,886 ("the '886 patent"). The notice of investigation lists six companies as respondents, including IMS.

On January 10, 2005, complainants and IMS jointly moved to terminate the investigation

as to IMS on the basis of a settlement agreement and consent order. On January 21, 2005, the Commission investigative attorney filed a response supporting the motion. On February 2, 2005, the ALJ issued an ID (Order No. 14), granting the joint motion for termination of the investigation as to IMS. No petitions for review of the ID were filed.

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 of the Commission Rules of Practice and Procedure, 19 C.F.R. § 210.42.

By order of the Commission.

Marilyn R. Abbott  
Secretary to the Commission

Issued: February 25, 2005