

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
GRANTING UNITED PET GROUP'S MOTION FOR SUMMARY DETERMINATION
OF NON-INFRINGEMENT**

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) in the above-captioned investigation, granting the motion of United Pet Group, Inc. of Cincinnati, Ohio ("UPG") for summary determination of non-infringement.

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 LLB Holdings, LLC, of Aiea, Hawaii ("LLB"). On August 11, 2004, the ALJ issued Order No. 4, which granted a motion by UPG to intervene in place of LLB. The Commission determined not to review that ID.

On June 23, 2004, the same day that UPG filed its motion to intervene, it also filed a

motion for partial summary determination of non-infringement. Complaints and the Commission investigative attorney filed responses in opposition to UPG's motion for summary determination. On November 22, 2004, the ALJ issued an ID (order No. 10) granting UPG's motion for summary determination. 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 sections 210.19 and 210.42 of the Commission Rules of Practice and Procedure, 19 C.F.R. § § 210.19 and 210.42.

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: December 21, 2004