

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

In the Matter of

**CERTAIN BLOOD CHOLESTEROL
TESTING STRIPS AND ASSOCIATED
SYSTEMS CONTAINING THE SAME**

Investigation No. 337-TA-1116

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION TERMINATING THE INVESTIGATION AS TO CERTAIN
PATENT CLAIMS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined not to review a February 14, 2019 initial determination (“ID”) (Order No. 14) granting the complainant’s unopposed motion to terminate the investigation as to certain patent claims asserted with respect to the complainant’s infringement allegations.

FOR FURTHER INFORMATION CONTACT: Ron Traud, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-3427. Copies of non-confidential 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, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission’s Electronic Docket Information System (“EDIS”) (<https://edis.usitc.gov>). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: On June 5, 2018, the Commission instituted this investigation based on an amended complaint filed on behalf of Polymer Technology Systems, Inc. of Indianapolis, Indiana (“PTS”). 83 FR 26087 (June 5, 2018). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain blood cholesterol testing strips and associated systems containing the same by reason of infringement of one or more of claims 1–3, 5, 10, 13–14, and 17–20 of U.S. Patent No. 7,087,397 (“the ’397 patent”); claims 1–9 and 13–15 of U.S. Patent No. 7,625,721 (“the ’721 patent”); and claims 8–11 of U.S. Patent No. 7,494,818 (“the ’818 patent”). *Id.* The

Commission's Notice of Investigation named as respondents ACON Laboratories, Inc. of San Diego, California; and ACON Biotech (Hangzhou) Co., Ltd., of Hangzhou Zhejiang, China. *Id.* The Office of Unfair Import Investigations was not named as a party in this investigation. *Id.*

The Commission previously terminated the investigation as to claims 10, 13, 14, and 20 of the '397 patent. Order No. 10, *unreviewed*, Notice (Feb. 21, 2019); Order No. 7, *unreviewed*, Notice (Sept. 25, 2018).

On February 1, 2019, PTS filed an unopposed motion withdrawing claim 17 of the '397 patent, claims 2, 3, 13, and 14 of the '721 patent, and claim 10 of the '818 patent as asserted with respect to PTS's infringement allegations. PTS intends to continue to assert the claims for domestic industry purposes.

On February 14, 2019, the presiding administrative law judge issued Order No. 14, the subject ID, which grants the motion. The ID finds that the unopposed motion complied with the Commission's rules for termination and that no extraordinary circumstances prevent termination as to the asserted claims. No party filed a petition seeking review of the ID. The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: March 4, 2019