

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN HUMAN MILK
OLIGOSACCHARIDES AND
METHODS OF PRODUCING
THE SAME**

Investigation No. 337-TA-1120

**NOTICE OF COMMISSION DECISION
TO EXTEND THE TARGET DATE**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend the target date for completion of this investigation until May 19, 2020.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-4716. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://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 21, 2018, based on a complaint, as amended and supplemented, filed on behalf of Glycosyn LLC of Waltham, Massachusetts. *See* 83 Fed. Reg. 28865 (June 21, 2018). The complaint, as amended and supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain human milk oligosaccharides by reason of infringement of claims 1-40 of U.S. Patent No. 9,453,230 ("the '230 patent") and claims 1-28 of U.S. Patent No. 9,970,018 ("the '018 patent"). *See id.* The notice of investigation named Jennewein Biotechnologie GmbH of Rheinbreitbach, Germany as a respondent in this investigation. *See id.* The Office of Unfair Import Investigations is also named as a party to the investigation. *See id.* All asserted claims in the '230 patent and certain claims of the '018 patent were withdrawn during the investigation. *See* Order No. 5 (Aug. 9, 2018), *unreviewed*, Comm'n Notice (Aug. 29, 2018); Order No. 15 (Oct. 30, 2018), *unreviewed*, Comm'n Notice (Nov. 29, 2018); Order No. 17 (Nov. 19, 2018),

unreviewed, Comm'n Notice (Dec. 12, 2018); Order No. 25 (Feb. 8, 2019), *unreviewed*, Comm'n Notice (Feb. 28, 2019).

On September 9, 2019, the administrative law judge issued a final initial determination (“FID”) finding a violation of section 337 based on infringement of claims 1-3, 5, 8, 10, 12, 18, and 24-28 of the '018 patent. The FID also contains a recommended determination (“RD”) recommending that the Commission issue a limited exclusion order (“LEO”) barring entry of articles that infringe the '018 patent. The RD also recommends that the Commission impose a five (5) percent bond during the period of Presidential review. Furthermore, as directed by the Commission, the RD provides findings with respect to the public interest and recommends that the Commission determine that the public interest factors do not preclude entry of the proposed LEO. The complainant did not seek, and the RD does not recommend, issuance of any cease and desist orders.

On January 30, 2020, the Commission issued a notice determining to review the FID in part. *See* 85 Fed. Reg. 6573 (Feb. 5, 2020).

The Commission has determined to extend the target date for completion of this investigation until May 19, 2020.

The Commission's vote for this determination took place on May 18, 2020.

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.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', with a stylized flourish at the end.

Lisa R. Barton
Secretary to the Commission

Issued: May 18, 2020