



INTERNATIONAL TRADE COMMISSION

Inv. No. 337-TA-1019

Certain Krill Oil Products and Krill Meal for Production of Krill Oil Products

Institution of Investigation

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 12, 2016, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Aker BioMarine Antarctic AS of Norway and Aker BioMarine Manufacturing, LLC of Houston, Texas. The complaint alleges violations of 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 krill oil products and krill meal for production of krill oil products by reason of infringement of certain claims of U.S. Patent No. 9,028,877 (“the ’877 patent”); U.S. Patent No. 9,078,905 (“the ’905 patent”); U.S. Patent No. 9,072,752 (“the ’752 patent”); U.S. Patent No. 9,320,765 (“the ’765 patent”); and U.S. Patent No. 9,375,453 (“the ’453 patent”). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order, and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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, S.W., Room 112, Washington, D.C. 20436, telephone (202) 205-2000. Hearing impaired individuals are advised that

information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. 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>.

FOR FURTHER INFORMATION CONTACT: The Office of Docket Services, U.S. International Trade Commission, telephone (202) 205-1802.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.10 (2016).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on September 12, 2016, **ORDERED THAT** –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, 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 krill oil products and krill meal for production of krill oil products by reason of infringement of one or more of claims 1-4, 7-9, 11-13, and 16-18 of the '877 patent; claims 1-4, 6-7, 9-11, 12, and 15-19 of the '905 patent; claims 1, 7, and 11-13 of the '752 patent; claims 1-5, 7, 9-12, 14-15, 19-21, 23, 25-29, 31, 33-36, 38-39, 43-45, and 47 of the '765 patent; and claims 1, 5-10, 12, 14-17, 19-20, 24-26, 28, 30-32, 33-36, 39-43, 46-49, 51-52, 56-58, and 60 of the '453 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Aker BioMarine Antarctic AS

Oksenøyveien 10

P.O. Box 496. N-1327

Lysaker, Norway

Aker BioMarine Manufacturing, LLC

4494 Campbell Rd

Houston, TX 77041

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Olympic Holding AS

Fosnavåg Brygge Holmsildgata 12

Fosnavåg, Norway

Rimfrost AS

Vågsplassen, 6090

Fosnavåg, Norway

Emerald Fisheries AS

Fosnavåg Brygge

6090 Fosnavåg, Norway

Avoca Inc.
841 Avoca Farm Rd.
Merry Hill, NC 27957

Rimfrost USA, LLC
841 Avoca Farm Rd.
Merry Hill, NC 27957

Rimfrost New Zealand Limited
20 Oxford Street
Richmond
Nelson, New Zealand 7020

Bioriginal Food & Science Corp.
102 Melville Street,
Saskatoon, Saskatchewan, Canada S7J 0R1

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and

Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Lisa R. Barton

Secretary to the Commission

Issued: September 12, 2016

[FR Doc. 2016-22296 Filed: 9/15/2016 8:45 am; Publication Date: 9/16/2016]