

Malaysia Sendirian Berhad of Johor, Malaysia (collectively, the "original respondents").

On October 14, 1997, Oak Technology filed a motion pursuant to Commission rule 210.14(b), 19 CFR 210.14(b), to amend the notice of investigation and complaint by adding Wearnes Peripherals International (Private) Ltd. of Singapore ("WPI") as an additional respondent. WPI and the original respondents opposed the motion to amend. The Commission investigative attorney filed a response in support of the motion. Oak Technology was granted leave to reply to WPI's opposition, and WPI was granted leave to file a sur-reply.

On January 23, 1998, the ALJ issued an initial determination (Order No. 5) granting Oak Technology's motion to add WPI as a respondent. No petitions for review were filed. The Commission has determined not to review the subject ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and Commission rule 210.42, 19 CFR 210.42. Copies of the ALJ's ID and all other 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, S.W., Washington, D.C. 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov> or <ftp://ftp.usitc.gov>).

Issued: February 18, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-370 Sanctions Proceeding]

Certain Salinomycin Biomass and Preparations Containing Same; Termination of Sanctions Proceeding; Vacatur of Recommended Determination; Cancellation of Commission Hearing

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission determined to grant a joint motion to terminate the sanctions proceedings and vacate the presiding administrative law judge's (ALJ) recommended determination (RD) on monetary sanctions. The Commission reserved its authority, in an appropriate case, to pursue sanctions on its own initiative under rule 210.4(d)(1)(ii) without regard to whether there has been a private settlement agreement.

FOR FURTHER INFORMATION CONTACT: Jean H. Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-3104.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on February 6, 1995, based on a complaint filed by Kaken Pharmaceutical Co. Inc. (Kaken). On November 6, 1995, the ALJ issued his final initial determination (ID) in this investigation, finding no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, by respondents Hoechst Aktiengesellschaft, Hoechst Veterinar GmbH, and Hoechst-Roussel Agri-Vet Co. (collectively, Hoechst). His determination was based on his findings that the patent at issue was invalid for failure to disclose the best mode of operation and unenforceable due to inequitable conduct during prosecution of the patent before the U.S. Patent and Trademark Office. The ALJ's ID was not reviewed by the Commission and was ultimately upheld on appeal to the U.S. Court of Appeals for the Federal Circuit, *Kaken Pharmaceutical Co. v. USITC*, Appeal Nos. 96-1300, -1302, nonprecedential opinion dated March 31, 1997.

On January 19, 1996, Hoechst filed a motion for sanctions against Kaken, which the Commission referred to the

presiding ALJ for issuance of an RD. Hoechst's motion alleged, *inter alia*, that Kaken committed sanctionable conduct by filing a complaint totally lacking in merit. On May 14, 1997, the ALJ issued his RD in which he recommended that the Commission impose on Kaken and its attorneys joint and several liability for an amount of money equal to double the entire attorneys fees and costs of the Hoechst respondents incurred in both the section 337 investigation on the merits and in the proceeding on sanctions. All parties filed comments on the RD. On August 8, 1997, Kaken and its attorneys requested an opportunity to present oral argument before the Commission and leave to reply to Hoechst's comments. On October 24, 1997, the Commission granted the motion for oral argument and issued notice of a hearing date of December 10, 1997. 62 FR 58746 (Oct. 30, 1997).

On November 5, 1997, Hoechst, Kaken, and Kaken's attorneys filed a joint motion for termination of the sanctions proceedings based on Hoechst's withdrawal of its motion for sanctions. The parties also moved that the RD be vacated. They stated that Hoechst and Kaken have entered into a worldwide settlement agreement with respect to salinomycin that includes the reissue patent that formed the basis of Kaken complaint at the Commission. They stated that, as a result, all issues between Hoechst and Kaken have been fully resolved. On November 17, 1997, the Commission investigative attorney (IA) supported the motion to terminate. On November 21, 1997, the Commission determined to postpone the oral argument indefinitely while it considered the joint motion to terminate. 62 FR 63193 (Nov. 26, 1997).

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337.

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Donna R. Koehnke,

Secretary.

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