

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

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

Inv. No. 337-TA-1120


NOTICE OF INITIAL DETERMINATION ON VIOLATION OF SECTION 337

Administrative Law Judge Cameron Elliot

(September 9, 2019)

On this date, I issued an initial determination on violation of section 337 in the above-referenced investigation. Below are my Initial Determination and the Conclusions of Law from said filing, which are a matter of public record. A complete public version of the Initial Determination will issue when all the parties have submitted their redactions and I have had an opportunity to review such redactions.

SO ORDERED.



Cameron Elliot
Administrative Law Judge

VII. CONCLUSIONS OF LAW

1. The Commission has *in rem* jurisdiction over the Accused Product, 2'-FL.
2. The importation or sale requirement of Section 337 is satisfied.
3. Glycosyn has been shown to practice claims 1-3, 5, 8, 10-14, 18, 22, and 24-28 of U.S. Patent No. 9,970,018.
4. Glycosyn has not been shown to practice claims 9 or 23 of the '018 patent.
5. The domestic industry requirement is satisfied with respect to the '018 patent.
6. Jennewein directly infringes claims 1-3, 5, 8, 10, 12, 18, and 24-28 of the '018 patent.
7. Jennewein does not infringe claim 23 of the '018 patent.
8. No claims of the '018 patent have been shown to be invalid under 35 U.S.C. § 103.
9. No claims of the '018 patent have been shown to be invalid under 35 U.S.C. § 112.
10. The '018 patent has not been shown to be unenforceable.
11. There is a violation of Section 337 with respect to the '018 patent.

VIII. INITIAL DETERMINATION AND ORDER

Based on the foregoing, it is my Initial Determination that there is a violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain human milk oligosaccharides and methods of producing the same, in connection with the asserted claims of U.S. Patent No. 9,970,018.

Furthermore, it is my determination that a domestic industry in the United States exists that practices or exploits the asserted patent.

The undersigned hereby certifies to the Commission this Initial Determination, together with the Record of the hearing in this investigation consisting of the following: the transcript of

the evidentiary hearing, with appropriate corrections as may hereafter be ordered; and the exhibits accepted into evidence in this investigation as listed in the appendices hereto.

Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review pursuant to 19 C.F.R. § 210.43(a) or the Commission, pursuant to 19 C.F.R. § 210.44, orders on its own motion a review of the Initial Determination or certain issues therein.

CERTAIN HUMAN MILK OLIGOSACCHARIDES AND METHODS OF PRODUCING THE SAME

INV. NO. 337-TA-1120

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served by hand upon the Commission Investigative Attorney, **Lisa Murray, Esq.** and the following parties as indicated, on SEP 09 2019



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street SW, Room 112A
Washington, DC 20436

FOR COMPLAINANT GLYCOSYN LLC	
Michael C. Newman, Esq. MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC One Financial Center Boston, MA 02111	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____
FOR RESPONDENT JENNEWEIN BIOTECHNOLOGIE GmbH	
Gary M. Hnath, Esq. MAYER BROWN, LLP 1999 K Street, NW Washington, DC 20006	<input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____