



## UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D.C. 20436

October 27, 2017

Jeffrey M. Telep, Esq.  
KING & SPALDING LLP  
1700 Pennsylvania Avenue, NW  
Suite 200  
Washington, DC 20006-4706

Re: Complaint Filed by Amarin Pharma, Inc. and Amarin Pharmaceuticals Ireland Ltd.  
Concerning Certain Synthetically Produced, Predominantly EPA Omega-3 Products in  
Ethyl Ester or Re-esterified Triglyceride Form (Docket No. 3247)

Dear Mr. Telep:

Under Commission Rules 210.9, 210.10 and 210.12(a)(2), (3) and (8), 19 C.F.R. §§ 210.9, 210.10, 210.12(a)(2), (3) and (8), the Commission has determined not to institute an investigation based on the complaint filed on behalf of Amarin Pharma, Inc. and Amarin Pharmaceuticals Ireland Ltd. (collectively "Amarin") concerning Certain Synthetically Produced, Predominantly EPA Omega-3 Products in Ethyl Ester or Re-esterified Triglyceride Form, and has dismissed the complaint.

Amarin's complaint does not allege an unfair method of competition or an unfair act cognizable under 19 U.S.C. § 1337(a)(1)(A), as required by the statute and the Commission's rules. The Commission notes that the Lanham Act allegations in this case are precluded by the Food, Drug and Cosmetic Act ("FDCA"). The Commission also notes that the Food and Drug Administration is charged with the administration of the FDCA.

Documents relating to this institution determination, including comments from the complainant, proposed respondents, and the public, can be found on the Commission's Electronic Document Information System (EDIS) under Docket Number 3247.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa R. Barton". The signature is fluid and cursive, with the first name "Lisa" being the most prominent part.

Lisa R. Barton  
Secretary to the Commission

cc: Proposed respondents



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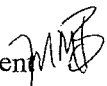
WASHINGTON, DC 20436

CO84-PP-001

October 27, 2017

**CONCURRING MEMORANDUM**

TO: THE SECRETARY<sup>1</sup>

FROM: Commissioner Meredith M. Broadbent 

SUBJECT: Complaint of Amarin Pharma, Inc. concerning Certain Synthetically Produced, Predominantly EPA Omega-3 Products in Ethyl Ester or Re-Esterified Triglyceride Form (Docket No. 3247)

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Commissioner Broadbent concurs with the Commission's finding that Amarin's complaint does not allege an unfair method of competition or an unfair act under section 337(a)(1)(A) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(a)(1)(A). She notes, however, that she does not reach the issue of whether properly pleaded claims based on the Food, Drug, and Cosmetic Act may be cognizable under section 337(a)(1)(A).

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<sup>1</sup> This is a public document to be filed in EDIS.