

GENENCOR INTERNATIONAL INC

Form SC14D9C

February 10, 2005

**SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549**

SCHEDULE 14D-9

**SOLICITATION/RECOMMENDATION STATEMENT PURSUANT TO
SECTION 14(d)(4) OF THE SECURITIES EXCHANGE ACT OF 1934**

Genencor International, Inc.

(Name of Subject Company)

Genencor International, Inc.

(Name of Person Filing Statement)

Common Stock, Par Value \$0.01 Per Share

(Title of Class of Securities)

368709 10 1

(CUSIP Number of Class of Securities)

**Jean-Jacques Bienaime
Chairman, Chief Executive Officer and President
Genencor International, Inc.
925 Page Mill Road
Palo Alto, California 94304
(650) 846-7500**

**(Name, Address, and Telephone Number of Person Authorized to Receive Notices and
Communications on Behalf of Person Filing Statement)**

Copies to:
**Keith Flaum, Esq.
Cooley Godward LLP
5 Palo Alto Square
3000 El Camino Real
Palo Alto, California 94306-2155
(650) 843-5000**

Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

On February 10, 2005, Genencor International, Inc. filed a Current Report on Form 8-K, which contained, among other things, the following information:

Results of Operations and Financial Condition.

On February 10, 2005, Genencor International, Inc. (the Company or Genencor) issued a press release regarding its financial results for the quarter and year ended December 31, 2004. The press release is attached herein as Exhibit 99.1.

Other Events.

On February 4, 2005, the Company, certain of its officers and directors, Danisco A/S (Danisco) and Eastman Chemical Company (Eastman) were named in a purported class action complaint filed in the Court of Chancery of the State of Delaware. The case is captioned *Sloboda v. Genencor International, Inc. et al.*, No. 1072-N. The complaint alleges that the defendants are in possession of material inside information not available to the Company's minority shareholders, and that defendants have acted and are acting contrary to their fiduciary duties in connection with the Acquisition Agreement entered into on January 27, 2005 by the Company, Danisco and DH Subsidiary Inc., an indirect wholly-owned subsidiary of Danisco, (the Acquisition Agreement) and the Stock Purchase Agreement entered into by Danisco and Eastman in connection with the Acquisition Agreement (the Stock Purchase Agreement), which were described in a Current Report on Form 8-K filed by the Company on February 2, 2005. The plaintiff seeks, among other things, to enjoin the proposed acquisition of the Company by Danisco and the transactions contemplated by the Stock Purchase Agreement.

On February 8, 2005, another purported class action complaint was filed against the Company, certain of its officers and directors and Danisco in the Superior Court of the State of California, County of Santa Clara. The case is captioned *Baker v. Genencor International, Inc., et al.*, No. 105CV035309. This complaint alleges that defendants entered into the Acquisition Agreement without having engaged in fair and open negotiations with all potential bidders, without having performed an active market check and/or open auction for sale of the Company, without disclosing to minority shareholders all material information, and that the individuals named as defendants have conflicts of interest, and have acted and are acting contrary to their fiduciary duty to seek to maximize stockholder value. The plaintiff seeks, among other things, disclosure of the Company's fourth quarter 2004 financial results, and to enjoin the proposed acquisition of the Company by Danisco.

Notice to Read Tender Offer Materials

The description of the proposed transaction with Danisco contained herein is neither an offer to purchase nor a solicitation of an offer to sell shares of Genencor. At the time the tender offer contemplated by the Acquisition Agreement is commenced, an indirect wholly-owned subsidiary of Danisco (Danisco's acquisition subsidiary) and Danisco intend to file a Tender Offer Statement on Schedule TO with the Securities and Exchange Commission containing an offer to purchase, forms of letters of transmittal and other documents relating to the transaction and Genencor intends to file a Solicitation/Recommendation Statement on Schedule 14D-9 relating to the transaction with the Securities and Exchange Commission. Danisco's acquisition subsidiary, Danisco and Genencor intend to mail these documents to the stockholders of Genencor. Genencor and Danisco also intend to file a Transaction Statement on Schedule 13E-3 with the Securities and Exchange Commission relating to the transaction. These documents will contain important information about the transaction and stockholders of Genencor are urged read them carefully when they become available. Stockholders of Genencor will be able to obtain a free copy of these documents (when they become available) at the website maintained by the

Securities and Exchange Commission at www.sec.gov. In addition, stockholders will be able to obtain a free copy of these documents (when they become available) from Danisco by contacting Danisco at: Langebrogade 1, P.O. Box 17, DK-1001 Copenhagen K, Denmark, attention: Investor Relations, or from Genencor by contacting Genencor at: 925 Page Mill Road, Palo Alto, CA 94304, attention: Investor Relations.