

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN FLOCKED SWABS,
PRODUCTS CONTAINING FLOCKED
SWABS, AND METHODS OF USING
SAME**

Investigation No. 337-TA-1279

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN
INITIAL DETERMINATION GRANTING HCY'S MOTION TO INTERVENE**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 30) of the presiding Administrative Law Judge ("ALJ") granting non-parties Huanchenyang (Shenzhen) Technology Co., Ltd. and HCY USA LLC's (collectively "HCY's") motion to intervene as respondents in this investigation.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone (202) 205-2392. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: On September 2, 2021, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based on a complaint filed by Copan Italia S.p.A. and Copan Industries, Inc. ("Copan"). 86 FR 49343-44 (Sept. 2, 2021). The complaint alleged a violation 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 flocked swabs, products containing flocked swabs, and methods of using same by reason of infringement of certain claims of U.S. Patent Nos. 9,011,358; 9,173,779; and 10,327,741. The complaint also alleged the existence of a domestic industry. The notice of investigation named Han Chang Medic of Chungnam, Republic of Korea; Wuxi NEST Biotechnology Co., Ltd. of Wuxi, Jiangsu, China; NEST Scientific Inc. of Rahway, New Jersey;

NEST Scientific USA of Rahway, New Jersey; Miraclean Technology Co., Ltd. of Shenzhen, Guangdong, China; Vectornate Korea Ltd. of Jangseong, Republic of Korea and Vectornate USA, Inc. of Mahwah, New Jersey (collectively, “Vectorante”); Innovative Product Brands, Inc. of Highland, California (“IPB”); Thomas Scientific, Inc. of Swedesboro, New Jersey (“Thomas Inc.”); Thomas Scientific, LLC of Owings Mills, Maryland (“Thomas LLC”); Cardinal Health, Inc. of Dublin, Ohio (“Cardinal”); KSL Biomedical, Inc. of Williamsville, New York and KSL Diagnostics, Inc. of Williamsville, New York (collectively, “KSL”); Jiangsu Changfeng Medical Industry Co., Ltd. of Yangzhou, Jiangsu, China; No Borders Dental Resources, Inc., dba MediDent Supplies of Queen Creek, Arizona; BioTeke Corporation (Wuxi) Co., Ltd. of Wuxi, Jiangsu, China; Fosun Pharma USA Inc. of Princeton, New Jersey; Hunan Runmei Gene Technology Co., Ltd. of Changsha, Hunan, China (“Runmei”); VWR International, LLC of Radnor, Pennsylvania (“VWR”); and Slmp, LLC dba StatLab Medical Products of McKinney, Texas as respondents. *Id.* at 49343-44. The Commission’s Office of Unfair Import Investigations (“OUII”) is also named as a party in this investigation. *Id.* at 49344.

Subsequently, the investigation was terminated as to the KSL respondents based on a consent order stipulation and consent order. Order No. 20 (Nov. 15, 2021), *unreviewed by* Notice (Dec. 6, 2021). Also, the investigation was terminated as to the following respondents: Thomas Inc.; Thomas LLC; Cardinal; VWR; Vectornate; and IPB. Orders 21-25 (all issued on November 15, 2021), *unreviewed by* Notice (Dec. 6, 2021). Furthermore, respondent Runmei was found in default. Order No. 27 (Nov. 15, 2021), *unreviewed by* Notice (Dec. 6, 2021).

On November 15, 2021, HCY moved to intervene as respondents in this investigation. On November 26, 2021, Copan filed an opposition to the motion and the Commission Investigative Staff filed a response in support of HCY’s motion. On December 1, 2021, HCY filed a reply memorandum in support of the motion. No other responses were received.

On December 7, 2021, the ALJ issued the subject ID granting HCY’s motion. The ID noted that Fed. R. Civ. P. 24 “provides some guidance in determining whether intervention in a particular matter is appropriate.” ID at 6 (citing *Certain Electronic Devices with Image Processing Systems, Components Thereof, and Associated Software*, Inv. No. 337-TA-724, Comm’n Op. at 57 (Dec. 21, 2011) (EDIS Doc. ID 467105)). The ID noted that “[b]ased on the factors found in Federal Rule 24, a party’s motion to intervene is most persuasive where (1) the motion is timely; (2) the movant has an interest relating to the property or transaction which is the subject of the action; (3) the movant is so situated that the disposition of the action may as a practical matter impair or impede the movant’s ability to protect that interest; (4) the movant is not adequately represented by existing parties; and (5) the intervention will not unduly delay or prejudice the adjudication of the original parties’ rights.” *Id.* (citing *Electronic Devices*, Comm’n Op. at 57). The ID found that each of the factors identified in *Certain Electronic Devices* weighs in favor of permitting intervention. *Id.* at 7-9. No party petitioned for review of the ID.

The Commission has determined not to review the subject ID. Huachenyang (Shenzhen) Technology Co., Ltd. and HCY USA LLC are now respondents in this investigation.

The Commission vote for this determination took place on January 6, 2022.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR Part 210.

By order of the Commission.

Issued: January 6, 2022.



Lisa R. Barton,
Secretary to the Commission.