

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 TERMINATING INVESTIGATION
AS TO HCY USA, LLC**

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. 35) of the presiding Administrative Law Judge (“ALJ”) granting respondent Huanchenyang (Shenzhen) Technology Co., Ltd.’s (“HCY’s”) unopposed motion to terminate HCY USA, LLC (“HCY USA”) from the 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,” or “Complainants”). 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 (“the ’358 patent”); 9,173,779 (“the ’779 patent”); and 10,327,741 (“the ’741 patent”). The complaint also alleged the existence of a domestic industry. The notice of investigation

named Han Chang Medic of Chungnam, Republic of Korea (“HCM”); 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”); Stellar Scientific, LLC of Owings Mills, Maryland (“Stellar”); 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 (“MediDent”); 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 Nov. 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). Also, HCY and HCY USA were allowed to intervene as respondents in this investigation. Order No. 30 (Dec. 7, 2021), *unreviewed by* Notice (Jan. 6, 2021).

Also, on December 15, 2021, the ALJ issued an ID (Order No. 31) finding respondent HCM and respondent MediDent in default. Likewise, on December 15, 2021, the ALJ issued an ID (Order No. 32) granting Complainants’ motion to terminate the investigation as to claim 7 of the ’358 patent, claims 5 and 19 of the ’779 patent, and claim 8 of the ’741 patent. In addition, also on December 15, 2021, the ALJ issued an ID (Order No. 33) granting, *inter alia*, a joint motion to terminate this investigation as to respondent Stellar based upon settlement filed by Complainants and Stellar. The Commission determined not to review all three IDs by Notice (Jan. 10, 2022).

On January 10, 2022, respondent HCY filed an unopposed motion to terminate HCY USA from the investigation. According to HCY, the inclusion of HCY USA as a movant to the motion to intervene was an “inadvertent error” arising from “a misunderstanding” on the part of HCY’s counsel. HCY states that HCY USA has been dissolved and no longer exists, that HCY has never had a corporate relationship with HCY USA, that HCY does not have any corporate parents, subsidiaries, or affiliates in the United States, and that HCY does not have any employees in the United States. *Mot.* at 2.

On January 24, 2022, the ALJ issued the subject ID granting HCY's motion. The ID found that HCY's motion to terminate complies with the requirements of Commission rule 210.21(a)(1). Order No. 30 at 3 (citing 19 CFR 210.21(a)(1)). The ID found that there is good cause to terminate HCY USA from the investigation. *Id.* No party petitioned for review of the ID.

The Commission has determined not to review the subject ID. Accordingly, HCY USA has been terminated.

The Commission vote for this determination took place on February 16, 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.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', enclosed within a large, loopy oval shape.

Lisa R. Barton
Secretary to the Commission

Issued: February 16, 2022