

**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 CERTAIN
CLAIMS OF THE ASSERTED PATENTS**

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. 37) of the presiding Administrative Law Judge (“ALJ”) terminating the investigation as to certain claims of the asserted patents.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., 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 claims 1, 6-9, 11-14, 16-19, and 21-22 of U.S. Patent No. 9,011,358 (“the ’358 patent”); claims 1, 4-6, 8, 9, 11-13, 16-20, and 22-24 of U.S. Patent No. 9,173,779 (“the ’779 patent”); and claims 1, 3, 5, 7-10, 18, and 20 of U.S. Patent No. 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; Thomas Inc.; Thomas LLC; Cardinal; VWR; Vectornate; IPB; and Stellar. Order No. 20 (Nov. 15, 2021), *unreviewed by* Comm’n Notice (Dec. 6, 2021); Order Nos. 21-25 (all issued on Nov. 15, 2021), *unreviewed by* Comm’n Notice (Dec. 6, 2021); Order No. 33, *unreviewed by* Comm’n Notice (Jan. 10, 2022). Furthermore, respondents Runmei; HCM; and MediDent were found in default. Order No. 27 (Nov. 15, 2021), *unreviewed by* Comm’n Notice (Dec. 6, 2021); Order No. 31, *unreviewed by* Comm’n Notice (Jan. 10, 2022). Also, Huanchenyang (Shenzhen) Technology Co., Ltd. and HCY USA, LLC (“HCY USA”) were allowed to intervene as respondents in this investigation. Order No. 30 (Dec. 7, 2021), *unreviewed by* Notice (Jan. 6, 2021). In addition, the investigation was terminated as to claim 7 of the ’358 patent, claims 5 and 19 of the ’779 patent, and claim 8 of the ’741 patent. Order No. 32, *unreviewed by* Comm’n Notice (Jan. 10, 2022). Furthermore, on January 24, 2022, the ALJ issued an ID (Order No. 35) terminating respondent HCY USA from the investigation.

On January 13, 2022, Complainants filed an unopposed motion to terminate the investigation as to claims 9 and 21 of the ’358 patent and claim 11 of the ’779 patent based on Copan’s withdrawal of its allegations in the complaint with respect to these claims. Mot. at 1-2.

On January 28, 2022, the ALJ issued the subject ID granting the motion. The ID found that no extraordinary circumstances prevent terminating claims 9 and 21 of the ’358 patent and claim 11 of the ’779 patent from this investigation. ID at 3. The ID further found that the termination of the investigation as to these claims is in the public interest, as public and private resources will be conserved. *Id.* (citing *Certain Power Supplies*, Inv. No.

337-TA-646, Order No. 18 (Jan. 5, 2009), *unreviewed by* Notice (Jan 29, 2009)). No party petitioned for review of the ID.

The Commission has determined not to review the subject ID. Accordingly, claims 9 and 21 of the '358 patent and claim 11 of the '779 patent have been terminated from this investigation.

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 flourish.

Lisa R. Barton
Secretary to the Commission

Issued: February 16, 2022