

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN BLOOD CHOLESTEROL
TESTING STRIPS AND ASSOCIATED
SYSTEMS CONTAINING THE SAME**

Investigation No. 337-TA-1116

LIMITED EXCLUSION ORDER

The Commission has determined that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the unlawful importation into the United States, sale for importation into the United States, or sale within the United States after importation by Respondents ACON Biotech (Hangzhou) Co., Ltd. of Hangzhou, China, and ACON Laboratories, Inc., of San Diego, California (collectively, “Respondents”), of blood cholesterol testing strips and associated systems containing the same covered by one or more of claim 19 of U.S. Patent Nos. 7,087,397 (“the ’397 patent”) and claims 1, 4, 6, 8, and 15 of U.S. Patent No. 7,625,721 (“the ’721 patent”).

Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that the appropriate form of relief is a limited exclusion order prohibiting the unlicensed entry of covered blood cholesterol testing strips and associated systems containing the same, manufactured for or on behalf of, or imported by or on behalf of, Respondents or any of their affiliated companies, parents, subsidiaries, or other related business entities, or its successors or assigns.

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. § 1337(d) do not preclude the issuance of the limited exclusion order, and that the

bond during the Presidential review period shall be in the amount of zero percent of the entered value of the articles in question.

Accordingly, the Commission hereby **ORDERS** that:

1. Blood cholesterol testing strips and associated systems containing the same covered by one or more of claim 19 of the '397 patent and claims 1, 4, 6, 8, and 15 of the '721 patent, that are manufactured abroad by or on behalf of, or are imported by or on behalf of Respondents, or any of their affiliated companies, parents, subsidiaries, or other related business entities, or its successors or assigns ("covered articles"), are excluded from entry for consumption into the United States, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption, for the remaining term of each patent, except under license of the patent owner or as provided by law.

2. Notwithstanding paragraph 1 of this Order, the covered articles are entitled to entry into the United States for consumption, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption under bond in the amount of zero percent of the entered value of such articles pursuant to subsection (j) of Section 337 of the Tariff Act, as amended (19 U.S.C. § 1337(j)), and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (70 Fed. Reg. 43,251), from the day after this Order is received by the United States Representative, and until such time as the United States Trade Representative notifies the Commission that the Commission's determination is approved, disapproved, or if no action is taken but, in any event, not later than sixty (60) days after the date of receipt of this Order by the United States Trade Representative. All entries of covered articles made pursuant to this paragraph are to be reported to U.S. Customs and Border Protection ("CBP"), in advance of the date of the entry, pursuant to procedures CBP establishes.

3. At the discretion of CBP and pursuant to the procedures it establishes, persons seeking to import blood cholesterol testing strips and associated systems containing the same that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under paragraph 1 of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate this certification.

4. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to covered articles that are imported by and for the use of the United States, or imported for and to be used for, the United States with the authorization or consent of the Government.

5. The Commission may modify this Order in accordance with the procedures described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

6. The Secretary shall serve copies of this Order upon each party of record in this investigation and CBP.

7. Notice of this Order shall be published in the Federal Register.

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: April 16, 2020

**CERTAIN BLOOD CHOLESTEROL TESTING STRIPS
AND ASSOCIATED SYSTEMS CONTAINING THE SAME**

Inv. No. 337-TA- 1116

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **COMMISSION ORDER** has been served upon the following parties as indicated, on **April 16, 2020**.



Lisa R. Barton, Secretary
U.S. International Trade Commission
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