

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 EXTENDING THE TARGET DATE FOR
COMPLETION OF THE INVESTIGATION**

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. 77) of the presiding Administrative Law Judge (“ALJ”) extending the target date for completion of the investigation to February 28, 2023.

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 as respondents Han Chang Medic of Chungnam, Republic of Korea (“HCM”); Wuxi NEST Biotechnology Co., Ltd. of Wuxi, Jiangsu, China; NEST Scientific Inc. and NEST Scientific USA, both 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, “Vectornate”); Innovative Product Brands, Inc. of Highland, California (“IPB”); Thomas Scientific, Inc. of Swedesboro, New Jersey (“Thomas Inc.”); Thomas Scientific, LLC (“Thomas LLC”) and Stellar Scientific, LLC (“Stellar”), both of Owings Mills, Maryland; Cardinal Health, Inc. of Dublin, Ohio (“Cardinal”); KSL Biomedical, Inc. and KSL Diagnostics, Inc., both 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. (“Fosun”) 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 (StatLab). *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. Huanchenyang (Shenzhen) Technology Co., Ltd. (“HCY”) and HCY USA, LLC were allowed to intervene as respondents in this investigation. Order No. 30 (Dec. 7, 2021), *unreviewed by* Notice (Jan. 6, 2021).

Subsequently, the investigation was terminated as to the KSL respondents, Thomas Inc., Thomas LLC, Cardinal, VWR, Vectornate, IPB, Stellar, HCY, StatLab, and Fosun. 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); Order No. 35 (Jan. 24, 2022), *unreviewed by* Notice (Feb. 16, 2022); Order No. 46 (May 3, 2022), *unreviewed by* Notice (May 27, 2022); Order No. 47 (May 4, 2022), *unreviewed by* Notice (May 27, 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).

The Commission also subsequently terminated 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. Order No. 32 (Dec. 15, 2021), *unreviewed by* Comm’n Notice (Jan. 10, 2022). The Commission also terminated the investigation as to claims 9 and 21 of the ’358 patent and claim 11 of the ’779 patent. Order No. 37 (Jan. 28, 2022), *unreviewed by* Notice (Feb. 16, 2022). The Commission likewise subsequently terminated the investigation as to claim 11 of the ’358 patent and claim 7 of the ’741 patent. Order No. 68 (Jul. 11, 2022), *unreviewed by* Comm’n Notice (Aug. 1, 2022). The Commission also extended the target date for completion of this investigation to February 21, 2023. Order No. 73 (Sep. 30, 2022), *unreviewed by* Comm’n Notice (Oct. 21, 2022).

On October 20, 2022, the ALJ issued the subject ID extending the target date. The ID stated that the ALJ will require additional time to finalize the final initial determination on violation in this investigation. ID at 1. The ID further stated that there is good cause for an extension because the drafting of the final initial determination has been affected by the consideration of post-hearing motions, the ALJ's obligations in other investigations, and certain issues relating to clarification of the record regarding admitted exhibits. *Id.* The ID stated that the new target date for completion of this investigation is Tuesday, February 28, 2023, and the final ID on alleged violation of section of 337 became due on Friday, October 28, 2022. *Id.* at 1-2.

No party petitioned for review of the ID. The Commission has determined not to review the subject ID. Accordingly, the target date is now February 28, 2023.

The Commission vote for this determination took place on November 10, 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.



Katherine M. Hiner
Acting Secretary to the Commission

Issued: November 10, 2022