

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN IN VITRO FERTILIZATION
PRODUCTS, COMPONENTS THEREOF,
AND PRODUCTS CONTAINING THE SAME**

Inv. No. 337-TA-1196

**NOTICE OF COMMISSION DECISION NOT TO REVIEW AN INITIAL
DETERMINATION PARTIALLY TERMINATING THE INVESTIGATION
AS TO AN UNSERVED RESPONDENT**

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. 8) of the presiding Chief Administrative Law Judge (“Chief ALJ”) partially terminating the investigation as to respondent General Plastik Drug Stores of Istanbul Suadiye, Turkey (“General Plastik” or “Unserviced Respondent”), based on the withdrawal of the complaint allegations as to that respondent.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-4716. 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 April 16, 2020, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based on a complaint filed by complainant EMD Serono, Inc. of Rockland, Massachusetts (“Complainant”). *See* 85 FR 21267-68 (Apr. 16, 2020). The complaint, as amended and supplemented, alleges a violation of section 337 based on the importation into the United States, the sale for importation, and the sale within the United States after importation of certain *in vitro* fertilization products, components thereof, and products containing same (collectively, “Gray Market IVF Products”), by reason of infringement of U.S. Trademark Registration Nos. 4,689,651; 1,772,761; 3,777,170; 3,389,332; 3,816,320; 1,972,079; 3,604,207; and 3,185,427; unfair methods of competition and unfair acts in the importation and sale of Gray Market IVF Products by reason of false designation of source; and unfair methods of competition and unfair acts in the importation and sale of the Gray Market IVF Products by reason of false advertising.

See id. The notice of investigation names General Plastik (the Unserved Respondent) as a respondent in this investigation. *See id.* The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. *See id.*

On October 6, 2020, Complainant filed an unopposed motion (“Motion”) to terminate the investigation as to the Unserved Respondent based on the withdrawal of the complaint allegations as to that respondent. On October 7, 2020, OUII filed a response in support of the Motion.

On October 13, 2020, the Chief ALJ issued the subject ID (Order No. 8) granting the Motion. In accordance with Commission Rule 210.21(a)(1), 19 CFR 210.21(a)(1), Complainant represents that “[t]here are no agreements—written or oral, express or implied—between [Complainant and the Unserved Respondent] concerning the subject matter of this Investigation.” *See ID* at 1. In addition, the ID notes that Complainant “has been unable to serve the Complaint and the Notice of Investigation on [the Unserved Respondent].” *See id.* Furthermore, the ID finds that “no extraordinary circumstances exist that would prevent the requested termination of this Investigation as to [the Unserved Respondent].” *See id.* at 2.

No petition for review of the subject ID was filed. The Commission has determined not to review the ID.

The Commission vote for this determination took place on October 26, 2020.

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.



Lisa R. Barton
Secretary to the Commission

Issued: October 26, 2020