

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 COMMISSION DECISION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING A JOINT MOTION TO TERMINATE THE
INVESTIGATION AS TO RESPONDENTS KSL BASED ON A CONSENT ORDER
STIPULATION AND CONSENT ORDER; ISSUANCE OF A CONSENT ORDER**

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. 20) of the presiding Administrative Law Judge (“ALJ”) terminating investigation as to respondents KSL Biomedical, Inc. of Williamsville, New York and KSL Diagnostics, Inc. of Williamsville, New York (collectively, “KSL”) based on a consent order stipulation and consent order. Respondents KSL are terminated from the investigation and a consent order is issued to KSL.

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 (“section 337”), based on a complaint filed by Copan Italia S.p.A. and Copan Industries, Inc. (collectively, “Copan”). 86 FR 49343-44 (Sep. 2, 2021). The complaint alleges 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; 9,173,779; and 10,327,741. The complaint also alleges the existence of a domestic industry. The notice of investigation names KSL; Han Chang Medic of Chungnam, Republic of Korea; 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; Vectornate USA, Inc. of Mahwah, New Jersey; Innovative Product Brands, Inc. of Highland, California; Thomas Scientific, Inc. of Swedesboro, New Jersey; Thomas Scientific, LLC of Owings Mills, Maryland; Cardinal Health, Inc. of Dublin, Ohio; Jiangsu Changfeng Medical Industry Co., Ltd. of Yangzhou, Jiangsu, China; No Borders Dental Resources, Inc., dba MediDent Supplies of Queen Creek, Arizona; BioTeke Corporation (Wuxi) Co., Ltd. of Wuxi, Jiangsu, China; Fosun Pharma USA Inc. of Princeton, New Jersey; Hunan Runmei Gene Technology Co., Ltd. Changsha, Hunan, China; VWR International, LLC of Radnor, Pennsylvania; 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.

On October 15, 2021, complainants Copan and respondents KSL filed a second corrected joint motion to terminate this investigation as to KSL based upon entry of a Consent Order (“Second Corrected Motion”). In support of the Second Corrected Motion, Copan and KSL submitted corrected versions of KSL’s Consent Order Stipulation and Proposed Consent Order. On October 15, 2021, OUII filed a response in support of the parties’ first corrected joint motion to terminate the investigation as to KSL. OUII’s support of the motion was contingent on Copan and KSL correcting the claims listed in the motion, Consent Order Stipulation, and Proposed Consent Order to conform with the claims identified in the notice of investigation. OUII’s Response at 2 n. 1. The Second Corrected Motion addresses OUII’s concerns. No other party filed a response to any version of Copan and KSL’s joint motion to terminate the investigation as to KSL.

On November 15, 2021, the ALJ issued the subject ID granting the joint motion. The ID finds that the consent order stipulation submitted by the parties complies with the requirements of Commission Rule 210.21(c)(3), 19 CFR 210.21(c)(3). *Id.* at 3. The ID also finds that the consent order submitted by the parties complies with the requirements of Commission Rule 210.21(c)(4), 19 CFR 210.21(c)(4). *Id.* at 4. The ID further finds that termination of this investigation as to KSL does not impose any undue burdens on the public health and welfare, competitive conditions in the United States economy, production of like or directly competitive articles in the United States, or United States consumers. *Id.* at 5. No party petitioned for review of the ID.

The Commission has determined not to review the subject ID. The investigation is terminated as to respondents KSL, and the Commission has issued a consent order to KSL.

The Commission has determined not to review the subject ID.

The Commission vote for this determination took place on December 6, 2021.

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', written in a cursive style.

Lisa R. Barton
Secretary to the Commission

Issued: December 6, 2021