

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN LIQUID TRANSFER
DEVICES WITH AN INTEGRAL VIAL
ADAPTER**

Inv. No. 337-TA-1362

NOTICE OF INSTITUTION OF INVESTIGATION

Institution of Investigation Pursuant to 19 U.S.C. 1337

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 6, 2023, under section 337 of the Tariff Act of 1930, as amended, on behalf of West Pharmaceutical Services, Inc. of Exton, Pennsylvania and West Pharma. Services IL, Ltd. of Ra'anana, Israel. A supplement to the complaint was filed on April 21, 2023. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain liquid transfer devices with an integral vial adapter by reason of the infringement of: (1) certain claims of U.S. Patent No. 10,688,295 (“the ’295 patent”); U.S. Design Patent No. D767,124 (“the D’124 patent”), U.S. Design Patent No. D765,837 (“the D’837 patent”), and U.S. Design Patent No. D630,732 (“the D’732 patent”); and (2) U.S. Trademark Registration No. 5,810,583 (“the ’583 mark”). The complaint further alleges that an industry in the United States exists or is in the process of being established as required by the applicable Federal Statute.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, telephone (202) 205-2560.

SUPPLEMENTARY INFORMATION:

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission’s Rules of Practice and Procedure, 19 C.F.R. 210.10 (2023).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on May 5, 2023, **ORDERED THAT** –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended,

(a) an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) 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 products identified in paragraph (2) by reason of infringement of one or more of claim 1 of the ’295 patent; the claim of the D’124 patent; the claim of the D’837 patent; the claim of the D’732 patent, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337; and

(b) an investigation be instituted to determine whether there is a violation of subsection (a)(1)(C) 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 products identified in paragraph (2) by reason of infringement of the ’583 mark, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission’s Rules of Practice and Procedure, 19 C.F.R. 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “liquid transfer devices that have a trifurcated connector body, with one end including an integral vial adapter, and wherein the integral vial adapter has a diameter of 13mm or 20mm and may only be used with a vial”;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

West Pharmaceutical Services, Inc.
530 Herman O. West Drive
Exton, PA 19341

West Pharma. Services IL, Ltd.
4 Hasheizaf St.
Ra'anana 4366411, Israel

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Advcare Medical, Inc.
No. 36, Sinsing St.,
Shulin District
New Taipei City, Taiwan 23877

Dragon Heart Medical Devices Co.,
Ltd.
28 Ruliang Road, Baihe Town,
Kaiping City, Guangdong Province,
China 529375

Dragon Heart Medical, Inc.
901 South Rohlwing Rd Unit H,
Addison, IL 60101

Summit International Medical
Technologies, Inc.
101 Constitution Blvd.
Franklin, MA 02038

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.13. Pursuant to 19 C.F.R. 201.16(e) and 210.13(a), as amended in 85 Fed. Reg. 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainants of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'L.R. Barton', written in a cursive style.

Lisa R. Barton
Secretary to the Commission

Issued: May 8, 2023