

**UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.**

**In the Matter of**

**CERTAIN POTASSIUM CHLORIDE  
POWDER PRODUCTS**

**Investigation No. 337-TA-1013**

**NOTICE OF COMMISSION DECISION NOT TO REVIEW AN INITIAL  
DETERMINATION GRANTING IN-PART COMPLAINANTS' MOTION  
FOR SUMMARY DETERMINATION SEEKING TO DISMISS  
RESPONDENTS' FIFTH AFFIRMATIVE DEFENSE**

**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. 7) of the presiding administrative law judge ("ALJ") granting in-part Complainants' motion for summary determination seeking to dismiss Respondents' fifth affirmative defense.

**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 are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.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:** The Commission instituted Investigation No. 337-TA-1013 on July 27, 2016, based on a complaint filed by Complainants Lehigh Valley Technologies, Inc. of Allentown, Pennsylvania; Endo Global Ventures of Hamilton, Bermuda; Endo Ventures Limited, of Dublin, Ireland; and Generics Bidco I, LLC (d/b/a Qualitest Pharmaceuticals and Par Pharmaceutical) of Huntsville, Alabama. *See* 81 FR 49263 (July 27, 2016). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), based upon the importation into the United States, or the sale of certain potassium chloride powder products by reason of false advertising, the threat or effect of which is to destroy or substantially injure an industry in the United States. *See id.* The notice of investigation identified Viva Pharmaceutical Inc. of Richmond, British Columbia, Canada; Virtus Pharmaceuticals, LLC of Tampa, Florida; and Virtus Pharmaceuticals OPCO II, LLC, of

Nashville, Tennessee as respondents in this investigation. *See id.* The Office of Unfair Import Investigations is also a party to this investigation. *See id.*

On September 21, 2016, Complainants filed a motion for summary determination seeking to dismiss Respondents' fifth affirmative defense (Invalidity of Complainants' NDA and Unclean Hands Based On Misconduct Before FDA). On October 3, 2016, Respondents and the Commission Investigative Attorney filed responses to Complainants' motion for summary determination.

On October 25, 2016, the ALJ issued the ID (Order No. 7) granting in-part Complainants' motion for summary determination but only to the extent that Respondents' fifth affirmative defense seeks a determination with respect to the validity or invalidity of Complainants' New Drug Applications ("NDA"). The ALJ otherwise denied Complainants' motion for summary determination.

No petition for review of the ID was filed, and the Commission has determined not to review the ID.

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: November 29, 2016