

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN GABAPENTIN
IMMUNOASSAY KITS AND TEST
STRIPS, COMPONENTS THEREOF, AND
METHODS THEREFOR**

Investigation No. 337-TA-1239

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING A JOINT MOTION TO TERMINATE
RESPONDENT CONFIRM BIOSCIENCES, INC. BASED ON SETTLEMENT**

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. 13) of the presiding administrative law judge (“ALJ”) granting a joint motion to terminate Confirm Biosciences, Inc. based on settlement. Confirm Biosciences, Inc. is hereby terminated from the investigation.

FOR FURTHER INFORMATION CONTACT: Lynde Herzbach, Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 205-3228. 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 January 25, 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 ARK Diagnostics, Inc. of Fremont, California (“ARK”). *See* 86 FR 6918-19. The complaint, as supplemented, alleges a violation of section 337 based upon the importation into the United States, sale for importation, or sale after importation into the United States of certain gabapentin immunoassay kits and test strips, components thereof, and methods therefor by reason of infringement of certain claims of U.S. Patent Nos. 8,828,665 and 10,203,345. *Id.* The complaint further alleges that a domestic industry exists. *Id.* The notice of investigation names fourteen respondents, including Confirm

Biosciences, Inc. of San Diego, California (“Confirm Bio”). *See id.* The complaint and notice of investigation were later amended to add two more respondents. Order No. 8 (March 9, 2021), *unreviewed by Comm’n Notice* (March 24, 2021).

On March 19, 2021, ARK and Confirm Bio filed a joint motion to terminate this investigation with respect to Confirm Bio based on settlement.

On April 5, 2021 the ALJ issued the subject ID granting the motion. *See* Order No. 13 (Apr. 5, 2021). The subject ID finds that the joint motion and settlement agreement satisfy the requirements of Commission Rule 210.21(b)(1) (19 CFR 210.21(b)(1)). The ID also finds that termination of Confirm Bio would not be contrary to the public interest.

No party petitioned for review of the subject ID.

The Commission has determined not to review the subject ID (Order No. 13). Confirm Bio is hereby terminated from the investigation.

The Commission vote for this determination took place on April 19, 2021.

While temporary remote operating procedures are in place in response to COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the complainant complete service for any party/parties without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

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: April 19, 2021