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 TERMINATING THE INVESTIGATION AS TO CERTAIN RESPONDENTS BASED ON PARTIAL WITHDRAWAL OF THE COMPLAINT

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. 21) of the presiding administrative law judge ("ALJ") terminating the investigation as to Respondents Hangzhou AllTest Biotech Co., Ltd. of Hangzhou, China and Acro Biotech, Inc. of Cucamonga, California (collectively, "AllTest") and Zhejiang Orient Gene Biotech Co, Ltd. of Zhejiang, China and Healgen Scientific, LLC of Houston, Texas (collectively, "Healgen") based on partial withdrawal of the complaint. AllTest and Healgen are 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 AllTest and Healgen. *See id*. The complaint and notice of investigation were later amended to add two respondents. Order No. 8 (March 9, 2021), *unreviewed by* 86 FR 16640-41 (March 30, 2021).

On May 27, 2021, ARK filed a motion to terminate the investigation as to AllTest and Healgen based on partial withdrawal of the complaint. ARK represented that AllTest did not oppose the motion. On June 3, 2021, Healgen filed a response to the motion, stating that Healgen agrees the investigation should be terminated as to them but with prejudice. On June 10, 2021, ARK filed an unopposed motion for leave to file a reply in support of its motion.

On June 14, 2021, the ALJ issued the subject ID granting ARK's motion to terminate. *See* Order No. 21 (June 14, 2021). The ID finds that the motion complies with Commission Rule 210.21(a) (19 CFR 210.21(a)) and was made before the issuance of any ID on violation of section 337, and that there are no extraordinary circumstances that warrant denying the motion. The ID also grants ARK's unopposed motion to file a reply. No party petitioned for review of the subject ID.

The Commission has determined not to review the subject ID (Order No. 21). The Commission notes that it would be premature at this time for the Commission to decide the effect, if any, of this termination on a future complaint that might be filed. Accordingly, the Commission need not and does not now decide what action it may take, or what conditions may apply, should ARK file another complaint against Healgen based on the same or similar alleged violations of section 337. Nor does the Commission now decide whether and how, if a new investigation were instituted against Healgen based on the same or similar allegations, the record from the instant investigation may be used in such future investigation.

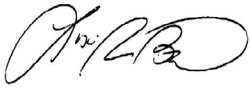
AllTest and Healgen are hereby terminated from the investigation.

The Commission vote for this determination took place on July 1, 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: July 1, 2021