

**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 FINDING KAPPA CITY BIOTECH, SAS IN DEFAULT**

**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. 16) of the presiding administrative law judge (“ALJ”) finding respondent Kappa City Biotech, SAS of Montlucon, France (“Kappa City”) in default.

**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](mailto: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 (“NOI”) names fourteen respondents, including Kappa City and Shanghai Chemtron Biotech Co., Ltd of Shanghai, China (“Shanghai Chemtron”). *See id.* The complaint and NOI were later amended to add two additional respondents. Order No. 8 (March 9, 2021), *unreviewed by* Comm’n Notice (March 24, 2021).

The complaint and NOI were served on Kappa City and Shanghai Chemtron, but they did not respond.

On March 8, 2021, ARK filed a motion pursuant to Commission Rule 210.16 (19 CFR 210.16) for: (1) an order directing Kappa City and Shanghai Chemtron to show cause as to why they should not be found in default for failing to respond to the complaint and NOI; and (2) an ID that finds Kappa City and Shanghai Chemtron in default upon their failure to show cause.

On March 25, 2021, the ALJ issued Order No. 10 requiring Kappa City and Shanghai Chemtron to show cause as to why they should not be found in default for failing to respond to the complaint and NOI by the close of business on April 16, 2021. *See* Order No. 10 (March 25, 2021). Kappa City did not respond to the order to show case. Shanghai Chemtron filed a response on April 15, 2021.

On April 30, 2021, the ALJ issued the subject ID (Order No. 16) finding Kappa City in default pursuant to Commission Rule 210.16 (19 CFR 210.16) for failure to respond to the complaint, NOI, and order to show cause. *See* Order No. 16 (April 30, 2021). The ID also finds that due to Shanghai Chemtron’s response, it is not appropriate to find Shanghai Chemtron in default at this time. *Id.*

No party petitioned for review of the subject ID.

The Commission has determined not to review Order No. 16. Kappa City has been found to be in default.

The Commission vote for this determination took place on May 18, 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.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton  
Secretary to the Commission

Issued: May 18, 2021