UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of **CERTAIN BOTULINUM TOXIN PRODUCTS AND PROCESSES FOR MANUFACTURING OR RELATING TO SAME**	**Investigation No. 337-TA-1313**

NOTICE OF A COMMISSION DETERMINATION TO REVIEW IN PART AND, ON REVIEW, TO AFFIRM WITH MODIFICATIONS A FINAL INITIAL DETERMINATION FINDING NO VIOLATION OF SECTION 337; AND TO DENY A REQUEST FOR ORAL ARGUMENT; TERMINATION OF INVESTIGATION

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part and, on review, to affirm with modification a final initial determination ("Final ID") of the presiding administrative law judge ("ALJ"). The Commission has also determined to deny the complainant's request for oral argument. This investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Ronald A. Traud, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 205-3427. 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: The Commission instituted this investigation on May 5, 2022, based on a complaint filed on behalf of Medytox Inc. of the Republic of Korea ("Medytox"). 87 FR 26782, 26873 (May 5, 2022). The complaint alleged violations of subsection (a)(1)(A) of section 337 based on the importation into the United States or the sale of certain botulinum toxin products and processes for manufacturing or relating to the same by reason of theft and conversion and misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States. *Id.* The notice of investigation named as respondents Hugel, Inc. of the Republic of Korea; Hugel America, Inc. of Irvine, California (together, "Hugel"); and Croma Pharma GmbH of Leobendorf, Austria ("Croma," and together with Hugel, "Respondents"). *Id.* The Office of Unfair Import Investigations ("OUII") is participating in this investigation. *Id.*

On February 6, 2024, the investigation was terminated as to Medytox's misappropriation of trade secrets allegations. Order No. 39 (Jan. 22, 2024), *unreviewed by* Comm'n Notice, (Feb. 6, 2024).

On June 10, 2024, the ALJ issued the Final ID. On June 24, 2024, Medytox filed a petition for Commission review of the Final ID that also included a request for oral argument, and Respondents filed a contingent petition for Commission review of the Final ID. On July 2, 2024, or July 8, 2024, the parties filed responses to the petitions. On July 10, 2024, the private parties filed their public interest statements pursuant to 19 CFR 210.50(a)(4). Issues not raised in the petitions for review are deemed to have been abandoned (including Respondents' assertion in their public interest statement but omitted from their petition for review that Medytox's alleged unfair act of conversion lacks a nexus to importation of the accused products). *See* 19 CFR 210.43.

Having reviewed the record of the investigation, including the Final ID, the parties' submissions to the ALJ, and the petitions for review and responses thereto, the Commission has determined to review the Final ID in part. Specifically, the Commission has determined to review the Final ID's findings and conclusions regarding jurisdiction, conversion, importation, and the domestic industry and injury requirements. The Commission has determined not to review the remainder of the Final ID.

On review, the Commission modifies the Final ID's finding that the Commission has jurisdiction over this investigation by clarifying that the Commission has statutory authority. Additionally, the Commission affirms, with modifications, the Final ID's conclusion that Medytox did not show by a preponderance of the evidence that Respondents converted Medytox's property. Further, the Commission takes no position on whether Medytox satisfied the domestic industry and injury requirements and whether Medytox satisfied the importation requirement. The Commission issues its opinion herewith setting forth its reasoning. The Commission has also determined to deny the complainant's request for oral argument. This investigation is terminated.

The Commission vote for this determination took place on October 10, 2024.

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: October 10, 2024