

of Osaka, Japan ("Kaneka"), and supplemented on June 24 and 27, 2011. 76 FR 42729 (July 19, 2011). The complaint alleged violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the sale for importation, importation, or sale after importation into the United States of certain coenzyme Q10 products by reason of infringement of certain claims of the '340 patent. The Commission's notice of investigation named as respondents Zhejiang Medicine Co., Ltd. of Zhejiang, China; ZMC-USA, LLC of The Woodlands, Texas; Xiamen Kingdomway Group Co. of Xiamen, China; Pacific Rainbow International Inc. of City of Industry, California; MGC of Tokyo, Japan; Maypro Industries, Inc. of Purchase, New York ("Maypro Inc."); and Shenzhen Biology & Technology Co., Ltd. of Beijing, China.

On January 12, 2012, the Commission issued notice of its determination not to review an ID granting a motion to amend the complaint and notice of investigation to add a new respondent, Mitsubishi Gas Chemical America, Inc. of New York, New York and to replace respondent Maypro Inc. with Maypro Industries, LLC of Purchase, New York. An evidentiary hearing was held from July 9–13, 2012.

On September 27, 2012, the presiding ALJ (Judge Rogers) issued a final initial determination ("final ID" or "ID") finding no violation of section 337. The ALJ also issued a recommended determination on remedy and bonding.

Specifically, the ALJ found that the imported products were not shown to be manufactured by processes covered by the asserted claims. The ALJ found that Kaneka satisfied the economic prong of the domestic industry requirement but failed to satisfy the technical prong of the domestic industry requirement. The ALJ found that the asserted claims were not shown to be invalid.

On October 10, 2012, Kaneka filed a petition for review of the final ID. The Respondents and the Commission investigative attorney ("IA") filed contingent petitions for review. On October 18, 2012, each party filed a response (with Kaneka filing separate responses to the Respondents and the IA).

Having reviewed the final ID, the petitions for review, and the record in this investigation, the Commission has determined the following: (1) To review and affirm (a) the finding that MGC does not satisfy the 70 mole % limitation, and (b) the claim construction of "inert gas atmosphere" with respect to the asserted claims of the '340 patent; (2) to review and vacate the finding that the asserted claims of the '340 patent are

not invalid under the new matter prohibition of 35 U.S.C. § 132; and (3) not to review the remainder of the final initial determination of the ALJ, including the ALJ's finding that certain asserted claims of '340 patent are not invalid under 35 U.S.C. 112. This action terminates the investigation.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of section 210.42(h) of the Commission's Rules of Practice and Procedure (19 CFR 210.42(h)).

By order of the Commission.

Issued: November 29, 2012.

**Lisa R. Barton,**

*Acting Secretary to the Commission.*

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree under the Comprehensive Environmental Response, Compensation and Liability Act and Proposed Stipulated Judgment and Permanent Injunction Under the Resource Conservation and Recovery Act

On November 28, 2012, the Department of Justice lodged a proposed Consent Decree and Stipulated Judgment and Permanent Injunction with the United States District Court for the District of Utah in the lawsuit entitled *United States v. Parish Chemical Company and Uintah Pharmaceutical Corporation*, Civil Action No. 09-804.

This action involves the claim of the United States under Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9607(a), for reimbursement of its unreimbursed response costs ("CERCLA Claim") incurred in response to releases and/or threatened releases of hazardous substances at the Parish Chemical Company ("PCC") chemical manufacturing facility located at 145 N. Geneva Road, Vineyard Utah ("PCC Facility"). This action also involves multiple claims of the United States under the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 *et seq.* ("RCRA"), to obtain injunctive relief and civil penalties ("RCRA Claims") for multiple violations of RCRA at the PCC Facility. The Consent Decree provides for the entry of a judgment in the amount of \$908,348.57 against the Defendants, and obligates the Defendants to transfer

possession of the PCC facility into a trust to resolve the United States' CERCLA Claim. The Stipulated Judgment and Permanent Injunction provide for a \$100,000 civil penalty to be adjudged against PCC, and the entry of a permanent injunction against PCC to resolve the United States' RCRA Claims.

The publication of this notice opens a period for public comment on the proposed Consent Decree and Stipulated Judgment and Permanent Injunction. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States versus Parish Chemical Company and Uintah Pharmaceutical Corporation*, Civil Action No. 09-804., D.J. Ref. No. 90-11-2-1215/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail ....	<i>pubcomment-ees.enrd@usdoj.gov.</i>
By mail .....	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

During the public comment period, the proposed Consent Decree and Stipulated Judgment and Permanent Injunction may be examined and downloaded at this Justice Department Web site: [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). We will provide a paper copy of the proposed Consent Decree and Stipulated Judgment and Permanent Injunction upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library, U.S. DOJ—  
ENRD, P.O. Box 7611, Washington,  
DC 20044-7611.

Please enclose a check or money order for \$13.75 (25 cents per page reproduction cost) payable to the United States Treasury.

**Robert Brook,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

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