

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN TADALAFIL OR ANY SALT OR
SOLVATE THEREOF, AND PRODUCTS
CONTAINING SAME**

Inv. No. 337-TA-539

**NOTICE OF COMMISSION DECISION NOT TO REVIEW AN INITIAL
DETERMINATION FINDING FIVE RESPONDENTS 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”) issued by the presiding administrative law judge (“ALJ”) finding five respondents in default.

FOR FURTHER INFORMATION CONTACT: Rodney Maze, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3065. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.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: This patent-based section 337 investigation was instituted by the Commission based on a complaint filed by Lilly ICOS LLC (“Lilly”) of Wilmington, DE. 70 *Fed. Reg.* 25601 (May 13, 2005). The complainant alleged violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain tadalafil or any salt or solvate thereof, and products containing same by reason of infringement of claims 1-4, 6-8, 12, and 13 of U.S. Patent No.

5,859,006. The complaint and notice of investigation named ten respondents.

On September 12, 2005, the Commission issued a notice indicating that it had determined not to review an ID (Order No. 5) finding respondents Santovittorio Holdings Ltd. d/b/a Inhousepharmacy.co.uk of El Dorado, Panama, Stop4Rx of Port-au-Prince, Haiti, Rx Mex-Com, S.A. de C.V. of Colonia Las Brisas, Mexico, and www.Nudewfds.info of New Orleans, LA, in default.

On September 16, 2005, Lilly filed a motion for a show cause order and entry of a default determination against non-responding respondents Budget Medicines Pty Ltd. of Sydney, Australia, Generic Cialis Pharmacy of Managua, Nicaragua, Cutprice Pills of Scottsdale, AZ, Allpills.us of Beverly Hills, CA, and Pharmacy4u.us of New York, NY (collectively “the non-responding respondents”). On September 28, 2005, the Commission investigative attorney filed a response in support of Lilly’s motion. On September 29, 2005, the ALJ issued a show cause order (Order No. 7) requesting the non-responding respondents to show cause why they should not be found in default for failing to respond to the Complaint and Notice of Investigation.

On October 17, 2005, the ALJ issued an ID (Order No. 9) finding the non-responding respondents in default. The ALJ stated that the non-responding respondents failed to respond to the Complaint, the Notice of Investigation, and the show cause order. Moreover, the ALJ found that pursuant to Commission Rule 210.16(b)(3), the non-responding respondents have waived their right to appear, to be served with documents, and to contest the allegations at issue in the investigation. No petitions to review the ID were filed. The Commission has determined not to review this ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, and Commission Rule 210.42, 19 C.F.R. § 210.42.

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: November 17, 2005