complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: January 13, 2011.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2011–1705 Filed 1–26–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–385 (Third Review)]

Granular Polytetrafluoroethylene Resin From Italy

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the adequacy phase of the subject five-year review concerning the antidumping duty order on granular polytetrafluoroethylene resin ("granular PTFE resin") from Italy.

DATES: *Effective Date:* January 21, 2011.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the U.S. International Trade Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the U.S. International Trade Commission ("Commission") should contact the Office of the Secretary at 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 review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On November 1, 2010, the Commission published its notice of institution and the Department of Commerce ("Commerce") published its notice of initiation for the subject five-year reviews concerning the antidumping duty orders on granular PTFE resin from Italy and Japan (75 FR 67082–67083 and 67105–67108, November 1, 2010). However, Commerce's notice concerning the initiation of the review on granular PTFE resin from Italy was incorrectly published.[1]

On November 22, 2010, Commerce notified the Commission that it did not receive a notice of intent to participate in the reviews of the antidumping duty orders on granular PTFE from Italy and Japan, and that it intended to revoke those antidumping duty orders not later than 90 days after the November 1, 2010, **Federal Register** notice of initiation.[2] In that letter, Commerce noted that the initiation of review for granular PTFE resin from Italy was incorrectly published in the **Federal Register**. The **Federal Register** published a correction of the initiation notice on January 12, 2011 (76 FR 2083). On January 13, 2011, Commerce notified the Commission that it does not intend to issue a final determination revoking the antidumping duty order on granular PTFE resin from Italy because of the error in publication concerning the initiation of that review.[3] Commerce also notified the Commission that, although it has extended its deadline for domestic parties to submit a notice of intent to participate in its review of the order concerning granular PTFE resin from Italy to no later than fifteen days from the date of publication of its correction notice, the initiation date of the subject review concerning Italy remains November 1, 2010.

In light of these circumstances and to permit parties additional time to respond to the notice of institution, the Commission has determined to exercise its authority to extend its review period concerning the order on granular PTFE resin from Italy by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).[4] The Commission's new schedule for the adequacy phase of the subject review is as follows: Entries of appearance and administrative protective order ("APO") applications are due February 17, 2011; Responses to the 13 items requested in the Commission's notice of institution (75 FR 67105, November 1, 2010) are to be filed with the Secretary to the Commission not later than February 28, 2011; and party comments on the adequacy of responses may be filed with the Commission by April 11, 2011.

For further information concerning the conduct of this review and rules of general application, consult the Commission's institution notice (75 FR 67105, November 1, 2010) and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: January 21, 2011.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2011–1707 Filed 1–26–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–695]

Certain Silicon Microphone Packages and Products Containing the Same; Notice of Commission Determination To Review in Part an Initial Determination; On Review Taking No Position on Two Issues and Vacating the Conclusion of No Domestic Industry; Termination of the Investigation With a Finding of No Violation

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 the initial determination ("ID")

[1] While Commerce's **Federal Register** notice of November 1, 2010, correctly identified a review on granular PTFE resin from Japan, it did not correctly identify the review of the order on granular PTFE resin from Italy. Instead, the notice incorrectly described the review as pertaining to an order concerning certain cut-to-length carbon quality steel plate.

[2] Letter from Edward Yang, Senior Director, AD/CVD Operations, China/NME Unit, Department of Commerce to Catherine DeFilippo, November 22, 2010.

[3] Commerce's January 13, 2011, letter does not indicate a change concerning its intent to revoke the order concerning granular PTFE resin from Japan. Letter from Susan Kuhbach, Office Director, AD/CVD Operations, Office 1, Department of Commerce to Catherine DeFilippo, January 12, 2011.

[4] Since Commerce has not notified the Commission of a change in its position concerning the intent to revoke the order concerning granular PTFE resin from Japan, the Commission's change in the schedule of the adequacy phase concerning granular PTFE resin applies to only the order concerning Italy.

issued by the presiding administrative law judge ("ALJ") on November 22, 2010, finding no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in this investigation. On review, the Commission has determined to take no position on two issues, to vacate the finding of no domestic industry, and to terminate this investigation with a finding of no violation.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–2532. 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, SW., Washington, DC 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: The Commission voted to institute this investigation on December 16, 2009, based on a complaint filed by Knowles Electronics LLC of Itasca, Illinois ("Knowles"). 74 FR 68,077 (Dec. 22, 2009). The complaint named as the sole respondent Analog Devices Inc. of Norwood, Massachusetts ("Analog"). The accused products are certain microphone packages. Knowles asserts claim 1 of U.S. Patent No. 6,781,231, and claims 1, 2, 7, 16–18, and 20 of U.S. Patent No. 7,242,089.

Knowles filed with its complaint in this investigation a motion for temporary relief that requested that the Commission issue a temporary limited exclusion order and temporary cease and desist order. The ALJ denied Knowles' request for temporary relief in an initial determination ("TEO ID"). Initial Determination on Complainant's Motion for Temporary Relief (Mar. 24, 2010). In the TEO ID, the ALJ found that all but one of the asserted patent claims were likely anticipated by U.S. Patent No. 6,324,907 to Halteren. (Some of these same claims were also found to be likely anticipated by U.S. Patent No. 6,594,369 to Une.) The remaining claim, while not invalid, was held not likely infringed. For these reasons, there was no patent claim for which Knowles demonstrated a likelihood of success on the merits (i.e., as to both validity and infringement).

The TEO ID also found that Knowles had not demonstrated irreparable harm. In particular, the ID found that Analog's sales of accused microphone packages had not caused Knowles lost sales, had not damaged Knowles' relationships with its customers, and otherwise had no proven detrimental effect on Knowles. The ALJ found, *inter alia,* that these two factors (likelihood of success and irreparable harm) precluded temporary relief here.

On review of the TEO ID to the Commission, the Commission noted that the absence of irreparable harm was dispositive, and determined to review the TEO ID in order simultaneously to take no position on the ALJ's findings of likelihood of success. 75 FR 30,430 (June 1, 2010). The Commission's decision enabled "the ALJ to assess the merits" at the final ID stage "unburdened by Commission impressions that may have been formed on a limited temporary-relief record." *Id.* at 30,431.

On November 22, 2010, the ALJ issued his final Initial Determination ("ID"). The ID found that all of the asserted patent claims are invalid under 35 U.S.C. 102 and 103. More specifically, the ID found claim 1 of the '231 patent to be anticipated under 35 U.S.C. 102(a) by Halteren. In the alternative, the ID found claim 1 of the '231 patent to be obvious under 35 U.S.C. 103(a) over Halteren in view of U.S. Patent No. 7,003,127 (Sjursen), or in the alternative over U.S. Patent No. 4,533,795 (Baumhauer) in view of Sjursen. The ALJ found claims 1, 2, 7, 16, 17, 18 and 20 of the '089 patent to be obvious over Halteren in view of Une, or in the alternative over Halteren in view of U.S. Patent No. 7,080,442 (Kawamura).

The ID found that Analog infringed all of the asserted patent claims. The ID further found that if any of the patent claims had been valid that Knowles had demonstrated the existence of a domestic industry relating to the articles protected by the patents. 19 U.S.C. 1337(a)(1)(B), (a)(2). However, the ID concluded that because Knowles had not demonstrated the existence of a valid patent claim that there could be no domestic industry.

On December 6, 2010, Knowles petitioned for review of the ID. The petition challenged certain of the ALJ's claim constructions, and based substantially on those claim constructions argued, *inter alia,* that the prior art did not anticipate or render obvious any of the asserted patent claims. That same day, Analog filed a contingent petition for review. Analog's petition raised theories of anticipation and obviousness that the ALJ rejected, and made, *inter alia,* noninfringement arguments based on disputed claim constructions. The Commission investigative attorney filed a response in support of the ID, and each of the private parties opposed the other's petition in its entirety.

Having examined the record of this investigation, including the ALJ's ID, the petitions for review, and the responses thereto, the Commission has determined to review the ID in part. In particular the Commission has determined to review and take no position on the construction of the term "attached" in claims 1 and 7 of the '089 patent. The only dispute, raised by Knowles in its petition, is whether the ALJ was correct to find that the prosecution history requires a certain meaning for "attached" and whether that meaning is narrower than the ordinary meaning of the term. Construction of the term is not now necessary because the infringement, invalidity, and domestic industry arguments do not turn on the difference between the ALJ's construction and Knowles' proposed construction.

The Commission also has determined to review and take no position on whether a certain journal article by Premachandran, *Si-based Microphone Testing Methodology & Noise Reduction,* Proceedings of SPIE, vol. 4019, at 588–92 (2000), is prior art under 35 U.S.C. 102 for either of the asserted patents. The ID did not rule any patent claim invalid as a result of this article.

The Commission has determined to review and vacate the ID's conclusion that the technical prong of the domestic industry requirement, 19 U.S.C. 1337(a)(2) & (a)(3), is not met where all the asserted patent claims are found invalid. It is Commission practice not to couple an analysis of domestic industry to a validity analysis. *See, e.g., Certain Removable Electronic Cards and Electronic Card Reader Devices and Products Containing Same,* Inv. No. 337–TA–396, Comm'n Op. at 17 (Aug. 13, 1998) ("before considering the validity of claim 8 of the '464 patent and possible infringement of it, we address whether the required domestic industry exists or is in the process of being established"); *Certain Encapsulated Integrated Circuit Devices and Products Containing Same,* Inv. No. 337–TA–501 (remand), Initial Determination at 104–105 (Nov. 9, 2005), *review denied,* Notice, 75 FR 43553, 43554 (July 26, 2010). The only instance in which the

Commission has recognized such a connection involved invalidity for indefiniteness, 35 U.S.C. 112 ¶ 2, and the Commission did so in that context because indefiniteness there made it impossible for the complainant to demonstrate whether a patent claim was practiced. Notice, *Certain Video Graphics Display Controllers and Products Containing Same,* Inv. No. 337–TA–412, 64 FR 40042, 40043 (July 23, 1999). There is no such difficulty with regard to invalidity under 35 U.S.C. 102 and 103. Thus, under the technical prong, the complainant bears the burden of proving that its domestic industry practices a claim of each asserted patent. The Commission has determined not to review the remainder of the ID's domestic industry analysis, which found the existence of a domestic industry without regard to the validity of the asserted patent claims.

The Commission has determined not to review the remainder of the ID. Accordingly, the Commission has terminated this investigation with a finding of no violation.

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 sections 210.42–46 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–46).

Issued: January 21, 2011.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2011–1706 Filed 1–26–11; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 10–56]

Kermit B. Gosnell, M.D.; Decision and Order

On April 30, 2010, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Kermit B. Gosnell, M.D. (Respondent), of Philadelphia, Pennsylvania. The Show Cause Order proposed the revocation of Respondent's DEA Certificates of Registration, AG4676992 and BG9223176, and the denial of any pending applications to renew or modify the registrations, on the ground that Respondent lacked authority to handle controlled substances in Pennsylvania and Delaware, the States in which he maintained the respective registrations. Show Cause Order, at 1 (citing 21 U.S.C. 824(a)(3)).

Respondent, acting *pro se,* timely requested a hearing, and the matter was placed on the docket of the Agency's Administrative Law Judges (ALJ). Thereafter, the ALJ issued an order directing the parties to file prehearing statements in the matter.

In lieu of a prehearing statement, the Government filed a Motion for Summary Disposition. Summ. Disp. Mot., at 1. Therein, the Government contended that Respondent had previously voluntarily surrendered his DEA registration, BG9223176, thereby negating the need for any further action regarding that registration; with regard to registration, AG4676992, the Government contended that Respondent lacks authority to handle controlled substances in Pennsylvania, the jurisdiction in which he is licensed to practice medicine and is registered with the DEA. *Id.* at 1–2.

In support of its motion, the Government attached an Affidavit (dated June 16, 2010) of a DEA Diversion Investigator (DI), who stated that Respondent's Delaware medical license and controlled substances license were suspended and that Respondent had surrendered DEA registration, BG9223176. DI Aff., at 1–2. The DI further stated that Respondent holds DEA registration, AG4676992, at the location of 3801 Lancaster Avenue, Philadelphia, Pa., that this registration will expire by its terms on September 30, 2010; and that Respondent's Pennsylvania medical license was then suspended. *Id.* at 2. In support of its motion, the Government also attached a copy of the Order of Temporary Suspension and Notice of Hearing issued to Respondent by the Commonwealth of Pennsylvania Department of State, State Board of Medicine, dated February 22, 2010, which ordered the temporary suspension of Respondent's Pennsylvania medical license effective on the service of the order.

The Government thus contended that because Respondent "currently lacks authority to handle controlled substances in" Pennsylvania, he "is not authorized to possess a DEA registration in that state." Summ. Disp. Mot., at 1 (citing 21 U.S.C. 801(21), 823(f), 824(a)(3)). The Government therefore requested that the ALJ grant its motion and recommend to me that Respondent's registration, AG4676992, be revoked.[1]

On July 8, 2010, the ALJ issued an order which granted Respondent until July 16, 2010, to file a response to the Government's motion. Respondent, however, failed to file a prehearing statement, a response to the Government's motion, or any other documents or information, other than his Request for Hearing. Accordingly, on July 20, 2010, the ALJ granted the Government's Motion, finding that there were no disputed facts regarding Respondent's loss of state authority to handle controlled substances in the State in which he held a DEA registration, and, further, that he had waived his right to a hearing under 21 CFR 1301.43(d). The ALJ recommended that Respondent's DEA registration be revoked and that any pending applications be denied. The Respondent did not file exceptions to the decision. The ALJ then forwarded the record to my office for final agency action.

I adopt the ALJ's finding that Respondent has waived his right to participate in the proceeding by failing to file a pleading in response to the Government's motion. ALJ at 4. However, I reject the ALJ's recommended decision because I conclude that this case is now moot.

The DI's affidavit establishes that Respondent's Philadelphia registration was due to expire on September 30, 2010. According to the Agency's registration record for Respondent, of which I take official notice,[2] Respondent has not submitted a renewal application, let alone a timely one, which would have kept his registration in effect pending the issuance of this Order. I therefore find that Respondent's registration expired on September 30, 2010.

It is well settled that "[i]f a registrant has not submitted a timely renewal application prior to the expiration date, then the registration expires and there is nothing to revoke." *Ronald J. Riegel,* 63 FR 67132, 67133 (1998); *see also William W. Nucklos,* 73 FR 34330 (2008). Because Respondent's registration has expired and there is no pending application to act upon, I conclude that this case is now moot.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 21 CFR 0.100(b) and 0.104, I order that the Order to Show Cause issued to

[1] The Government further requested that the ALJ issue an order staying any further filings pending resolution of its motion.

[2] Under the Administrative Procedure Act (APA), an agency "may take official notice of facts at any stage in a proceeding—even in the final decision." U.S. Dept. of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979).