

## ITC To Probe Drug Cos. Accused Of Using Medytox Secrets

By **Jasmin Jackson**

*Law360 (May 2, 2022, 8:07 PM EDT)* -- The U.S. International Trade Commission announced Monday that it has agreed to investigate Medytox's claims that anti-wrinkle drug imports allegedly use the medical aesthetic provider's proprietary biotechnology.

The ITC said in a notice that it will assess whether Korean drugmaker Hugel Inc., Austrian manufacturer Croma Pharma GmbH and their U.S.-based joint venture swiped trade secrets from Medytox Inc. to produce and import competing anti-wrinkle treatments known as Botulax and Letybo.

The watchdog's investigation — which was assigned to Administrative Law Judge Clark S. Cheney — will determine whether to issue a limited exclusion order banning the accused cosmetic drugs.

Medytox filed its ITC complaint in March and contended that the respondents, including their joint venture Hugel America Inc., stole Medytox's proprietary strain of bacteria to produce the rival products.

The medical aesthetic provider said in the filing that a professor had given Hugel's chief operating officer access to the allegedly poached strain after visiting a lab run by Medytox's CEO Hyun Ho Jung.

Medytox has licensed the high-grossing proprietary biotechnology to pharmaceutical giant Evolus Inc. for the production of anti-wrinkle drug Jeuveau, which Evolus said in its latest annual report raked in nearly \$100 million.

According to the ITC complaint, Hugel and Croma's alleged unfair competition in the multibillion-dollar anti-wrinkle treatment industry also warranted a cease-and-desist order, which would halt the sale and advertisement of the disputed products in the U.S.

This is not the first ITC investigation over allegedly infringing imports involving Medytox's bacteria strain.

The ITC launched a separate investigation on behalf of Allergan PLC and Korean partner Medytox in February 2019. The commission held in December 2020 that drugmaker Daewoong Pharmaceuticals Co. Ltd. misappropriated Medytox's proprietary technology and barred Daewoong's disputed imports for 21 months.

The latest ITC investigation will determine whether Hugel and Croma violated Section 337 of the Tariff Act of 1930, which prohibits importation through theft and trade secrets misappropriation.

Counsel for Medytox did not immediately respond to requests for comment Monday.

Representatives for Hugel and Croma could not immediately be reached for comment Monday.

Medytox is represented by David Bilsker, Alex Lasher, Nina Tallon, Steve Cherny and James Baker of Quinn Emanuel Urquhart & Sullivan LLP.

Counsel information for Hugel and Croma was not immediately available Monday.

The investigation is In the Matter of Certain Botulinum Toxin Products and Processes for Manufacturing or Relating to Same, investigation number 337-TA-1313, at the U.S. International Trade Commission.

--Additional reporting by Dave Simpson. Editing by Stephen Berg.

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