LLC of Alexandria, Virginia. A supplement to the complaint was filed on July 16, 2013. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain wireless devices, including mobile phones and tablets by reason of infringement of certain claims of U.S. Patent No. 8,149,124 (''the '124 patent'') and U.S. Patent No. 8,466,795 (''the '795 patent''). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the 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 at *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.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2013).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on July 29, 2013, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain wireless devices, including mobile phones and tablets by reason of infringement of one or more of claims 1–5, 7–17, and 19–21 of the '124 patent and claims 1–33 of the '795 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Pragmatus Mobile, LLC, 601 King Street, Suite 200, Alexandria, VA 22314.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Pantech Co., Ltd., 1–2, DMC Sangam-don Mapo-gu, Seoul, Republic of Korea;

Pantech Wireless, Inc., 5607 Glenridge Drive, Suite 500, Atlanta, GA 30342.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the 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: July 30, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–18735 Filed 8–2–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act, Emergency Planning and Community Right-to-Know Act, and Oil Pollution Act

Notice is hereby given that on July 31, 2013, a proposed Consent Decree in *United States* v. *Delta Fuels, Inc. and Knight Enterprises, Inc.,* Civil Action No. 3:13–CV–00455, was lodged with the United States District Court for the Northern District of Ohio.

In this action, the United States brought claims against Delta Fuels, Inc. and Knight Enterprises, Inc. (''Defendants'') alleging violations of Sections 311(c) and (j) of the Clean Water Act (''CWA''), 33 U.S.C. 1321(c) and (j); Section 312(a) of the Emergency Planning and Community Right-To-Know Act of 1986 (''EPCRA''), 42 U.S.C. 11022(a); and Section 1002(a) of the Oil Pollution Act, 33 U.S.C. 2702(a). The allegations in the Complaint relate to a November 25, 2005 overflow of approximately 103,000 gallons of gasoline (the ''Spill'') from an aboveground storage tank at a bulk petroleum storage and distribution facility (the ''Facility'') owned by Delta Fuels, Inc. The United States spent approximately $4,354,768 from the Oil Spill Liability Trust Fund responding to the Spill. In the Complaint, the United States sought reimbursement of these response costs as well as a civil penalty for alleged CWA and EPCRA violations.

The proposed Consent Decree resolves all pending claims against Defendants in this action on an ability-to-pay basis. Under the terms of the proposed Consent Decree, Defendants will reimburse the United States $1,747,500 plus interest in four annual installments. Defendants will also pay a civil penalty of $582,500 plus interest in two installments. Finally, Defendants will conduct extensive injunctive relief at the Facility designed to ensure environmental compliance.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, and either emailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S.

Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Delta Fuels, Inc. and Knight Enterprises, Inc.,* Civil Action No. 3:13–CV–00455 (N.D. Ohio), D.J. Ref. No. 90–5–1–1–09158.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html*. We will provide a paper copy of the Consent Decree 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 $14.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

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

[FR Doc. 2013–18812 Filed 8–2–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 11–69]

Tyson D. Quy, M.D.; Decision and Order

On March 26, 2012, Administrative Law Judge (ALJ) Gail A. Randall issued the attached Recommended Decision (hereinafter, cited as R.D.). Neither party filed exceptions to the Recommended Decision.

Having reviewed the record in its entirety, I have decided to adopt the ALJ's rulings, findings of fact, and conclusions of law except as discussed below.[1] While I reject two of the ALJ's conclusions of law, I nonetheless agree with her ultimate conclusions of law.[2] I therefore adopt the ALJ's recommended sanction.

Accordingly, Respondent's application to renew his registration will be granted, subject to the following conditions, which shall remain in effect for a period of three years.

1. Respondent shall be restricted to prescribing controlled substances and shall not administer or dispense any controlled substances. Respondent shall not prescribe controlled substances to himself or any family member. Respondent is further prohibited from obtaining controlled substances from a manufacturer, distributor, or pharmacy, whether the controlled substances are obtained by ordering them from a manufacturer, distributor, or pharmacy, or provided to him by a manufacturer, distributor, or pharmacy as a sample.

Respondent shall not, however, be prohibited from obtaining a prescription for a controlled substance from another practitioner for a legitimate medical condition and filling any such prescription at a pharmacy.

2. Respondent shall comply with all terms and conditions of the Order Accepting Voluntary Submittal to Jurisdiction issued by the Oklahoma State Board of Medical Licensure and Supervision. Any violation of the terms of the aforesaid order shall be grounds for the suspension or revocation of Respondent's DEA Certificate of Registration.

3. Respondent shall notify the nearest DEA field office of any violation of the Order Accepting Voluntary Submittal to Jurisdiction within seventy-two (72) hours of committing any such violation and shall also agree to authorize the Oklahoma State Board of Medical Licensure and Supervision to report any violations on his part of the aforesaid order to the nearest DEA field office.

4. Respondent shall consent to unannounced inspections of his registered location by DEA personnel and waives his right to require agency personnel to obtain an Administrative Inspection Warrant prior to conducting an inspection of his registered location.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that the application of Tyson D. Quy, M.D., to

[1] I do not adopt the ALJ's legal conclusion that Respondent's *nolo contendere* plea to the state law offense of driving while under the influence of drugs (DUI), *see* Okla. Stat. tit. 47, § 11–902; constitutes a conviction of an offense under a ''law[] relating to the manufacture, distribution or dispensing of controlled substances.'' R.D. at 20. While DEA has long held that a plea of *nolo contendere* constitutes a conviction even where adjudication is withheld, *see Kimberly Maloney,* 76 FR 60922 (2011) (discussing cases); a DUI conviction, even when it involves the ingestion of a controlled substance, is too attenuated from the acts of manufacture, distribution or dispensing of controlled substances for the underlying offense to be deemed a ''law[] relating to the manufacture, distribution, or dispensing of controlled substances.'' 21 U.S.C. 823(f)(3). *Cf. Jeffery M. Freesemann,* 76 FR 60873, 60887 (2011) (holding that conviction for state law offense of transporting a controlled substance does not relate to the manufacture, distribution or dispensing of controlled substances); *Alvin Darby,* 75 FR 26993, 27000 n.32 (2010) (holding that conviction for offense of simple possession does not relate to the manufacture, distribution, or dispensing of controlled substances); *Super Rite Drugs,* 56 FR 46014, 46015 (1991) (accord). While there is agency precedent to the contrary, *see Jeffery Martin Ford,* 68 FR 10750, 10753 (2003), interpreting this provision as encompassing offenses such as simple possession, DUI, and transportation effectively reads the ''relating to'' phrase out of the statute. However, as has been made clear in other cases, the Agency can consider a DUI offense, when the underlying facts establish that the registrant was under the influence of a controlled substance, under factor five. *Cf. Tony Bui,* 75 FR 49979, 49989 (2010) (''DEA has long held that a practitioner's self-abuse of a controlled substance is a relevant consideration under factor five and has done so even when there is no evidence that the registrant abused his prescription writing authority) (citing *David E. Trawick,* 53 FR 5326, 5327 (1988)).

The ALJ also concluded that Respondent violated the CSA (and state law) when he purchased Xanax ''from an Internet pharmacy and presumably without a legitimate prescription.'' R.D. at 20 (citing 21 U.S.C. 829(e)(1) & Okla. Stat. tit. 63, § 2–309(B)(1)). As for federal law, section 829(e)(1) provides that ''[n]o controlled substance that is a prescription drug . . . may be *delivered, distributed,* or *dispensed* by means of the Internet without a valid prescription.'' 21 U.S.C. 829(e)(1) (emphasis added). However, no evidence was offered that Respondent committed any of the prohibited acts (such as a dispensing by writing a prescription for himself) which are enumerated in the statute. Nor is there any evidence that Respondent purchased the Xanax from a foreign pharmacy, and therefore, imported the drug in violation of federal law. *See* 21 U.S.C. 957. I therefore do not adopt the ALJ's conclusion that he violated section 829(e)(1). Nonetheless, the evidence shows that while Respondent told two different stories as to how he obtained the Xanax, he never claimed that he obtained it pursuant to a valid prescription. Accordingly, his admitted possession of the drug violated federal law. *See* 21 U.S.C. 844(a) (''It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice . . .'').

As for the ALJ's legal conclusion that Respondent violated Oklahoma Stat. tit. 63, § 2–309(B)(l); this provision prohibits only dispensing without a prescription and not the purchasing of a controlled substance. *See id.* (''no controlled dangerous substance included in Schedule III or IV, which is a prescription drug . . . may be dispensed without a written or oral prescription''). Here again, I reject the ALJ's conclusion because there is no evidence that Respondent dispensed the Xanax to himself.

[2] Because there is no evidence that Respondent diverted controlled substances to others and this is a first offense, I conclude that consideration of the Agency's deterrence interests is not warranted. *See Kimberly Maloney,* 76 FR 60922, 60923 (2011).

Finally, with respect to the ALJ's discussion of the amount of time that has elapsed since Respondent's unlawful conduct, *see* R.D. at 21, I have previously expressed my disagreement with the ALJ's apparent view that there is no minimum period of time for which an applicant or registrant must demonstrate his/her sobriety. *See Stephen L. Reitman,* 76 FR 60889, 60890 (2011) (rejecting ALJ's reasoning that ''nine months is not such a short recovery period that it should serve as grounds for revocation'') (other citation omitted). However, in *Reitman,* I noted that additional time had passed since the closing of the record and that no evidence had been presented (through a motion for reconsideration based on newly discovered evidence) that the respondent had relapsed. *Id.* Likewise here, more than two years have now passed since Respondent entered treatment and there is no evidence that he has relapsed. Accordingly, I conclude that Respondent has demonstrated his sobriety for a sufficient period to support continuing his registration, subject to the conditions set forth above.