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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**  
**FORM 8-K/A**

**CURRENT REPORT**  
**Pursuant to Section 13 OR 15(d) of The Securities Exchange Act of 1934**

March 17, 2022 (March 17, 2022)  
Date of Report (date of earliest event reported)

**CUMBERLAND PHARMACEUTICALS INC.**  
**(Exact name of registrant as specified in its charter)**

**Tennessee**  
(State or other jurisdiction of incorporation or  
organization)

**001-33637**  
(Commission File Number)

**62-1765329**  
(I.R.S. Employer Identification No.)

**2525 West End Avenue, Suite 950 Nashville, Tennessee 37203**  
**(Address of Principal Executive Offices)**  
**(615) 255-0068**

Registrant's telephone number, including area code

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, no par value	CPIX	NASDAQ Global Select Market

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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## EXPLANATORY NOTE

On December 31, 2021, Cumberland Pharmaceuticals, Inc. (the Company or Cumberland) signed and entered into a definitive agreement (the "Agreement") to acquire the rights to Sancuso® (the "Product") from Kyowa Kirin, Inc. (KKI). On January 3, 2022, Cumberland acquired from KKI the assets, related to the manufacture, marketing and sale of KKI's proprietary medicine, Sancuso® (the "Acquisition") described in the previously announced Asset Purchase Agreement dated December 31, 2021. Pursuant to Item 9.01(a)(4) and Item 9.01(b) of Form 8-K, this Amendment No. 1 to Form 8-K is being filed to amend and supplement the Company's Current Report on Form 8-K, filed on January 6, 2022, to include the required historical audited and unaudited financial statements of Sancuso and the related pro forma financial information not later than 71 calendar days after January 6, 2022, the date that the initial Current Report on Form 8-K was required to have been filed to report the completion of the Asset Purchase of Sancuso. Except as provided herein, this Amendment No. 1 effects no other changes to the original Form 8-K.

## FORWARD-LOOKING STATEMENTS

This Amendment, including the Exhibits attached hereto, contains "forward-looking statements" and information within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, which are subject to the "safe harbor" created by those sections. These forward-looking statements include, but are not limited to, statements concerning our future financial position, future revenues, and projected costs, savings and synergies. The words "anticipates," "believes," "estimates," "expects," "future", "intends," "may," "plans," "pro forma", "projects," "will," "would" and similar expressions are intended to identify forward-looking statements, although not all forward-looking statements contain these identifying words. We may not actually achieve the expectations disclosed in our forward-looking statements, and you should not place undue reliance on our forward-looking statements. These forward-looking statements involve known and unknown risks and uncertainties that could cause our actual results, performance or achievements to differ materially from those expressed or implied by the forward-looking statements, including, without limitation: market conditions; competition; an inability of manufacturers or partners to supply the Company's products on a timely basis, failure of manufacturers to comply with regulations applicable to pharmaceutical manufacturers; maintaining an effective sales and marketing infrastructure; product sales; management of our growth and integration of our acquisitions; our ability to successfully integrate the Product into the Company's business, as well as other risks discussed in the "Risk Factors" section of the Company's most recent Annual Report on Form 10-K, and other filings with the SEC. Readers of this Amendment No. 1 to Form 8-K are cautioned not to place undue reliance on forward-looking statements contained herein, which speak only as of the date stated, or if no date is stated, as of the date of this Current Report. The Company undertakes no obligation to publicly update or revise the forward-looking statements contained herein to reflect changes events or circumstances after the date of this release, unless required by law.

We describe assumptions, which management believes are reasonable, underlying the pro forma adjustments in the Unaudited Pro Forma Condensed Combined Financial Statements (Combined Cumberland and Sancuso Product Line of Kyowa Kirin, Inc.) and the accompanying notes. These assumptions should also be read in conjunction with the unaudited pro forma financial statements. It is important to note that the assumptions do not reflect the expected future significant cost savings, benefits or synergies from the Acquisition.

### Item 9.01 Financial Statements and Exhibits

#### (a) Financial Statements of Business Acquired.

The following audited special purpose financial statements of the Sancuso product line of KKI are filed as Exhibit 99.1 attached hereto and are incorporated herein by reference: (i) Audited Special Purpose Statement of Assets Acquired and Liabilities Assumed as of December 31, 2020; (ii) Audited Special Purpose Statement of Revenues and Direct Expenses for the year ended December 31, 2020; and (iii) the notes related thereto, including the Independent Auditor's Report contained therein.

The following unaudited special purpose financial statements of the Sancuso product line of KKI are filed as Exhibit 99.2 attached hereto and are incorporated herein by reference: (i) Unaudited Special Purpose Statement of Assets Acquired and Liabilities Assumed as of September 30, 2021; (ii) Unaudited Special Purpose Statement of Assets and Liabilities assumed as of September 30, 2021; and (iii) the notes related thereto.

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(b) Pro Forma Financial Information.

The following unaudited pro forma condensed combined financial information (of Cumberland and the Sancuso product line) and related notes is filed as Exhibit 99.3 and incorporated in its entirety herein by reference: (i) Unaudited Pro Forma Condensed Combined Balance Sheet as of September 30, 2021; and (ii) Unaudited Pro Forma Condensed Combined Statement of Income for the year ended December 31, 2020, and for the nine months ended September 30, 2021; and (iii) the notes related thereto.

(d) Exhibits. The following exhibits are filed herewith:

<u>Exhibit No.</u>	<u>Description</u>
<a href="#"><u>2.1</u></a>	<a href="#"><u>Asset Purchase Agreement, dated December 31, 2021, by and among Cumberland Pharmaceuticals Inc., and Kyowa Kirin, Inc.*</u></a>
<a href="#"><u>23.1</u></a>	<a href="#"><u>Consent of Independent Auditors</u></a>
<a href="#"><u>99.1</u></a>	<a href="#"><u>Audited special purpose financial statements of Sancuso Product Line of Kyowa Kirin Inc. as of and for the fiscal year ended December 31, 2020</u></a>
<a href="#"><u>99.2</u></a>	<a href="#"><u>Unaudited special purpose financial statements of Sancuso Product Line of Kyowa Kirin, Inc. as of and for the nine-month period ended September 30, 2021</u></a>
<a href="#"><u>99.3</u></a>	<a href="#"><u>Unaudited pro forma condensed combined financial information (of Cumberland and the Sancuso Product Line) as of and for the nine-month period ended on September 30, 2021 and the year period ended December 31, 2020</u></a>

\* Previously filed with the Current Report on Form 8-K, filed on January 6, 2022.

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**Consent of Independent Auditors**

We hereby consent to the incorporation by reference in the Registration Statements on Form S-3 (No. 333-251308) and Form S-8 (No. 333-164376) of Cumberland Pharmaceuticals Inc. of our report dated March 17, 2022, relating to the special purpose financial statements of the SANCUSO Product Line of Kyowa Kirin, Inc., which appears in this Current Report on Form 8-K/A of Cumberland Pharmaceuticals Inc.

**/s/ Bodwell Vasek Wells DeSimone LLP**

Dallas, Texas  
March 17, 2022

**REPORT OF INDEPENDENT AUDITORS**

To the Management of  
Kyowa Kirin, Inc.

We have audited the accompanying special purpose financial statements of the SANCUSO Product Line (“SANCUSO”) of Kyowa Kirin, Inc. (the “Company”), which comprise the special purpose statement of assets acquired and liabilities assumed as of December 31, 2020, and the related special purpose statement of revenue and direct expenses for the year then ended, and the related notes to the special purpose financial statements.

**Management’s Responsibility for the Special Purpose Financial Statements**

Management is responsible for the preparation and fair presentation of these special purpose financial statements in accordance with accounting principles generally accepted in the United States of America (“GAAP”); this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the special purpose financial statements that are free from material misstatement, whether due to fraud or error.

**Auditor’s Responsibility**

Our responsibility is to express an opinion on these special purpose financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the special purpose financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor’s judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity’s preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity’s internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

**Opinion**

In our opinion, the special purpose financial statements referred to above present fairly, in all material respects, the assets acquired and liabilities assumed of the SANCUSO Product Line of Kyowa Kirin, Inc. as of December 31, 2020, and the results of its revenue and direct expenses for the year then ended in conformity with GAAP.

**Emphasis of Matter**

The accompanying special purpose financial statements and related notes were prepared in connection with the Company’s transaction related to the SANCUSO Product Line, as described in Note A, and were prepared in accordance with an SEC waiver received by the buyer, for the purposes of the buyer complying with Rule 3-05 of the Securities and Exchange Commission’s Regulation S-X. These special purpose financial statements are not intended to be a complete presentation of the financial position or results of operations of the SANCUSO Product Line of Kyowa Kirin, Inc. Our opinion is not modified with respect to this matter.

/s/ **Bodwell Vasek Wells DeSimone LLP**

Dallas, Texas  
March 17, 2022

**SANCUSO® PRODUCT LINE OF KYOWA KIRIN, INC.**  
**Special Purpose Statement of Assets Acquired and Liabilities Assumed**

	<u>December 31, 2020</u>
Assets acquired	
Current assets:	
Inventories	\$ 620,426
Prepaid expenses	1,486,992
Total current assets	<u>2,107,418</u>
Intangible assets, net	22,915,834
Net assets acquired	<u>\$ 25,023,252</u>

See accompanying notes to special purpose financial statements.

**SANCUSO® PRODUCT LINE OF KYOWA KIRIN, INC.**  
**Special Purpose Statement of Revenue and Direct Expenses**

	<b>Year Ended December 31, 2020</b>
Net product revenue	\$ 16,171,293
Direct expenses:	
Cost of goods sold	2,160,987
Selling and marketing	4,636,827
Research and development	1,126,548
General and administrative	328,176
Amortization	5,728,958
Total direct expenses	13,981,496
Excess of revenue over direct expenses	\$ 2,189,797

See accompanying notes to special purpose financial statements.



NOTES TO SPECIAL PURPOSE FINANCIAL STATEMENTS

December 31, 2020

**A. Nature of Business**

Kyowa Kirin, Inc. (“Kyowa Kirin”, the “Company”, or “we” and other similar pronouns) is a global specialty pharmaceutical company that strives to create and deliver novel medicines with life-changing value. SANCUSO® (the “SANCUSO Product”) is the first and only FDA-approved prescription patch for the prevention of nausea and vomiting in patients receiving certain types of chemotherapy treatment. The active drug in SANCUSO, granisetron, slowly dissolves in the thin layer of adhesive that sticks to the patient’s skin and is released into their bloodstream over several days, working continuously to prevent chemotherapy-induced nausea and vomiting (CINV).

On December 31, 2021, Cumberland Pharmaceuticals Inc. (“Cumberland”) signed and entered into a definitive agreement (the “Agreement”) to acquire the U.S. rights to SANCUSO from Kyowa Kirin. Under the terms of the Agreement, Cumberland acquired the U.S. rights to SANCUSO and assumed full commercial responsibility for the product – including its marketing, promotion, distribution, manufacturing and medical support activities.

The financial terms of the acquisition included a \$13.5 million payment to Kyowa Kirin upon closing, up to \$3.5 million in milestones and tiered royalties ranging from 10% to 5% on U.S. net product sales for ten years. Kyowa Kirin will retain international rights, continuing to deliver the product to address oncology patients’ needs throughout the rest of the world.

The Company retained financial responsibility for any liabilities relating to products sold prior to transaction closing, and Cumberland assumed financial responsibility for any liabilities relating to products sold on or after transaction closing.

**B. Summary of Significant Accounting Policies**

**Basis of Accounting**

The accompanying special purpose financial statements (the “Financial Statements”) were prepared to present the net assets sold pursuant to the Agreement and the revenue and direct expenses related to the net assets sold. The Financial Statements will be included in an 8-K filing of Cumberland as required by Rule 3-05, *Significant Acquisition Carveout Financial Statement Reporting Requirements*, of the US Securities and Exchange Commission’s (“SEC”) Regulation S-X. The basis of accounting describes how these Financial Statements have been prepared.

NOTES TO SPECIAL PURPOSE FINANCIAL STATEMENTS *(continued)***B. Summary of Significant Accounting Policies****Basis of Accounting**

The accompanying special purpose statements of assets acquired and liabilities assumed as of December 31, 2020, and of revenue and direct expenses for the year then ended of the Company's SANCUSO Product represent an incomplete presentation of the Company's assets, liabilities, revenues and expenses and are therefore not intended to represent the financial condition or results of operations of the Company. These Financial Statements are based upon the Agreement and relief from SEC Rule 3-05 obtained by Cumberland from the SEC. The statement of assets acquired and liabilities assumed only presents the assets acquired and liabilities assumed in accordance with the Agreement, and the statement of revenue and direct expenses presents only those revenues and estimated expenses related directly to the SANCUSO Product to be acquired. The statement of revenue and direct expenses excludes costs not directly involved with the revenue producing activity, such as overhead, interest and taxes. The funding and management of the Company's operations (including the SANCUSO Product) are performed on a consolidated basis; accordingly, costs of funding the operations, including debt and related interest expense were not allocated to the SANCUSO Product. The Company also maintains its tax functions on a consolidated basis; accordingly, tax expense was not allocated to the SANCUSO Product. The Financial Statements were derived from the historical accounting records of the Company and were prepared in accordance with the basis of accounting described in these notes, which is in accordance with accounting principles generally accepted in the United States of America ("GAAP").

As the SANCUSO Product has historically been managed as a part of the Company and has not been accounted for on a stand-alone basis, it is not practicable to prepare complete financial statements, including these accompanying notes, related to the SANCUSO Product. As a result, these Financial Statements may not be indicative of the complete financial condition or results of operations of the SANCUSO Product on a stand-alone basis. In addition, certain costs and expenses presented in these special purpose financial statements have been allocated by the Company based on a specific identification basis or, when specific identification was not practicable, a proportional cost allocation method (primarily headcount), depending on the nature of the services rendered. The allocations and estimates used to derive the amounts in the statement of revenue and direct expenses are based in part on judgments and assumptions that the Company believes are reasonable, but may not necessarily be indicative of the costs that would have been incurred if the SANCUSO Product had been operated on a stand-alone basis for the period presented.

**Use of Estimates**

The preparation of these Financial Statements requires management to make certain estimates and assumptions that affect the reported amounts of assets, revenue and expenses. Such estimates and assumptions are made in conformity with GAAP. Actual outcomes and results could differ from these estimates and assumptions. These Financial Statements include allocations and estimates that are not necessarily indicative either of the costs and assets that would have resulted if the SANCUSO Product had been operated as a separate business, or of the future results of the SANCUSO Product. The Financial Statements presented are not indicative of the financial condition or results of operations of the SANCUSO Product going forward because of the omission of various operating expenses. The Company based its estimates on historical experience and other relevant assumptions that the Company believes to be reasonable under the circumstances.

## NOTES TO SPECIAL PURPOSE FINANCIAL STATEMENTS (continued)

**B. Summary of Significant Accounting Policies – continued****Inventories**

Inventories consist of raw materials and finished goods related to the production of the SANCUSO Product. Raw materials include the SANCUSO Product's active pharmaceutical ingredient ("API") and other raw materials. Finished goods include third-party manufacturing costs and labor and indirect costs we incur in the production process. We determine the cost of inventory using the average-cost method.

We assess our inventory levels each reporting period and write-down inventory that is expected to be at risk for expiration, that has a cost basis in excess of its expected net realizable value and inventory quantities in excess of expected requirements. In evaluating the sufficiency of our inventory reserves or liabilities for firm purchase commitments, we also take into consideration our firm purchase commitments for future inventory production. If we were to decide to cancel our manufacturing commitment, such cancellation would trigger the payment of a cancellation fee. If we project to have excess inventories and that it would be more cost-efficient to pay the cancellation fee, we may accrue the cancellation fee as a liability. Our assessment of excess inventories, including future firm purchase commitments, requires management to utilize judgement in formulating estimates and assumptions that we believe to be reasonable under the circumstances. Actual results may differ from those estimates and assumptions. As of December 31, 2020, no accrued liability related to excess inventory purchase commitments was recorded.

When we recognize a loss on such inventory or firm purchase commitments, it establishes a new, lower cost basis for that inventory, and subsequent changes in facts and circumstances will not result in the restoration or increase in that newly established cost basis. If inventory with a lower cost basis is subsequently sold, it will result in higher gross margin for those sales. In 2020, the Company recognized no charges arising from excess inventory.

**Intangible Assets**

On July 1, 2019, the Company entered into a confirmatory assignment of patents and trademarks agreement that included all intangible product rights for the SANCUSO Product for \$31.5 million. The value of the intangible product rights is being amortized on a straight-line basis over the remaining lives of such intangible product rights, which end on December 31, 2024. The Company evaluates its long-lived assets including definite lived and indefinite lived intangible assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of these assets is measured by comparison of their carrying amounts to future undiscounted cash flows that the assets are expected to generate. If long-lived assets are considered to be impaired, the impairment to be recognized equals the amount by which the carrying value of the asset exceeds its fair market value and is recorded in the period the determination was made. Based upon management's assessment, there was no impairment of long-lived assets at December 31, 2020.

At December 31, 2020, the Company's intangible assets future amortization expense will be \$5.7 million each year for 2021, 2022, 2023 and 2024.

## NOTES TO SPECIAL PURPOSE FINANCIAL STATEMENTS (continued)

**B. Summary of Significant Accounting Policies – continued****Revenue Recognition**

The Company recognizes revenue when control of the promised goods is transferred to the customer in an amount that reflects the consideration the Company expects to receive in exchange for those goods.

*Product Sales*

The Company recognizes revenue upon shipment to the customer as that is when the customer obtains control of the promised goods. The Company typically extends credit terms to customers based on their creditworthiness and generally do not receive advance payments. As such, the Company records accounts receivable at the time of shipment, when the right to the consideration becomes unconditional. Accounts receivable from customers are typically due within 30 – 60 days of invoicing.

*Performance Obligations*

Product sales do not include multiple performance obligations.

*Judgments*

The Company considers several factors in determining that control transfers to the customer upon delivery of goods. These factors include that legal title transfers to the customer, the Company has a present right to payment, and the customer has assumed the risks and rewards of ownership at the time of shipment. During the year ended December 31, 2020, product returns were not significant.

*Shipping and Handling Costs*

Costs for shipping and handling activities are recorded as cost of sales and are expensed as incurred.

**Research and Development Expenses**

Research and development expenses are recorded in the period that services are rendered or goods are received. Research and development expenses consist of fees paid to related third parties that conduct certain research and development activities on our behalf.

**C. Prepaid Expenses**

Prepaid expenses consisted of the following at December 31, 2020:

Prescription drug user fee amendments (PDUFA)	\$ 252,324
Production facility fee advance	1,234,668
	<hr/>
	\$ 1,486,992
	<hr/> <hr/>

## NOTES TO SPECIAL PURPOSE FINANCIAL STATEMENTS (continued)

**D. Inventories**

Inventories consisted of the following at December 31, 2020:

Raw materials	\$ 446,614
Finished goods	<u>173,812</u>
	<u><u>\$ 620,426</u></u>

**SANCUSO® PRODUCT LINE OF KYOWA KIRIN, INC.**  
**Special Purpose Statement of Assets Acquired and Liabilities Assumed**  
**(Unaudited)**

	September 30, 2021 2020
Assets acquired	
Current assets:	
Inventories	\$ 1,223,776
Prepaid expenses	369,413
Total current assets	1,593,189
Intangible assets, net	18,619,115
Net assets acquired	\$ 20,212,304

See accompanying notes to special purpose financial statements.

**SANCUSO® PRODUCT LINE OF KYOWA KIRIN, INC.**  
**Special Purpose Statement of Revenue and Direct Expenses**  
**Unaudited**

	<b>Nine Months Ended September 30, 2021</b>
Net product revenue	\$ 9,619,070
Direct expenses:	
Cost of goods sold	1,455,129
Selling and marketing	1,907,522
General and administrative	252,324
Amortization	4,296,719
Total direct expenses	7,911,694
Excess of revenue over direct expenses	\$ 1,707,376

See accompanying notes to special purpose financial statements.

NOTES TO SPECIAL PURPOSE FINANCIAL STATEMENTS

September 30, 2021

**A. Nature of Business**

Kyowa Kirin, Inc. (“Kyowa Kirin”, the “Company”, or “we” and other similar pronouns) is a global specialty pharmaceutical company that strives to create and deliver novel medicines with life-changing value. SANCUSO® (the “SANCUSO Product”) is the first and only FDA-approved prescription patch for the prevention of nausea and vomiting in patients receiving certain types of chemotherapy treatment. The active drug in SANCUSO, granisetron, slowly dissolves in the thin layer of adhesive that sticks to the patient’s skin and is released into their bloodstream over several days, working continuously to prevent chemotherapy-induced nausea and vomiting (CINV).

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The financial terms of the acquisition included a \$13.5 million payment to Kyowa Kirin upon closing, up to \$3.5 million in milestones and tiered royalties ranging from 10% to 5% on U.S. net product sales for ten years. Kyowa Kirin will retain international rights, continuing to deliver the product to address oncology patients’ needs throughout the rest of the world.

The Company retained financial responsibility for any liabilities relating to products sold prior to transaction closing, and Cumberland assumed financial responsibility for any liabilities relating to products sold on or after transaction closing.

**B. Summary of Significant Accounting Policies**

**Basis of Accounting**

The accompanying special purpose financial statements (the “Financial Statements”) were prepared to present the net assets sold pursuant to the Agreement and the revenue and direct expenses related to the net assets sold. The Financial Statements will be included in an 8-K filing of Cumberland as required by Rule 3-05, *Significant Acquisition Carveout Financial Statement Reporting Requirements*, of the US Securities and Exchange Commission’s (“SEC”) Regulation S-X. The basis of accounting describes how these Financial Statements have been prepared.



## NOTES TO SPECIAL PURPOSE FINANCIAL STATEMENTS (continued)

**B. Summary of Significant Accounting Policies****Basis of Accounting**

The accompanying special purpose statements of assets acquired and liabilities assumed as of September 30, 2021, and of revenue and direct expenses for the nine months then ended of the Company's SANCUSO Product represent an incomplete presentation of the Company's assets, liabilities, revenues and expenses and are therefore not intended to represent the financial condition or results of operations of the Company. These Financial Statements are based upon the Agreement and relief from SEC Rule 3-05 obtained by Cumberland from the SEC. The statement of assets acquired and liabilities assumed only presents the assets acquired and liabilities assumed in accordance with the Agreement, and the statement of revenue and direct expenses presents only those revenues and estimated expenses related directly to the SANCUSO Product to be acquired. The statement of revenue and direct expenses excludes costs not directly involved with the revenue producing activity, such as overhead, interest and taxes. The funding and management of the Company's operations (including the SANCUSO Product) are performed on a consolidated basis; accordingly, costs of funding the operations, including debt and related interest expense were not allocated to the SANCUSO Product. The Company also maintains its tax functions on a consolidated basis; accordingly, tax expense was not allocated to the SANCUSO Product. The Financial Statements were derived from the historical accounting records of the Company and were prepared in accordance with the basis of accounting described in these notes, which is in accordance with accounting principles generally accepted in the United States of America ("GAAP").

As the SANCUSO Product has historically been managed as a part of the Company and has not been accounted for on a stand-alone basis, it is not practicable to prepare complete financial statements, including these accompanying notes, related to the SANCUSO Product. As a result, these Financial Statements may not be indicative of the complete financial condition or results of operations of the SANCUSO Product on a stand-alone basis. In addition, certain costs and expenses presented in these special purpose financial statements have been allocated by the Company based on a specific identification basis or, when specific identification was not practicable, a proportional cost allocation method (primarily headcount), depending on the nature of the services rendered. The allocations and estimates used to derive the amounts in the statement of revenue and direct expenses are based in part on judgments and assumptions that the Company believes are reasonable, but may not necessarily be indicative of the costs that would have been incurred if the SANCUSO Product had been operated on a stand-alone basis for the period presented.

**Use of Estimates**

The preparation of these Financial Statements requires management to make certain estimates and assumptions that affect the reported amounts of assets, revenue and expenses. Such estimates and assumptions are made in conformity with GAAP. Actual outcomes and results could differ from these estimates and assumptions. These Financial Statements include allocations and estimates that are not necessarily indicative either of the costs and assets that would have resulted if the SANCUSO Product had been operated as a separate business, or of the future results of the SANCUSO Product. The Financial Statements presented are not indicative of the financial condition or results of operations of the SANCUSO Product going forward because of the omission of various operating expenses. The Company based its estimates on historical experience and other relevant assumptions that the Company believes to be reasonable under the circumstances.

## NOTES TO SPECIAL PURPOSE FINANCIAL STATEMENTS (continued)

**B. Summary of Significant Accounting Policies – continued****Inventories**

Inventories consist of raw materials and finished goods related to the production of the SANCUSO Product. Raw materials include the SANCUSO Product's active pharmaceutical ingredient ("API") and other raw materials. Finished goods include third-party manufacturing costs and labor and indirect costs we incur in the production process. We determine the cost of inventory using the average-cost method.

We assess our inventory levels each reporting period and write-down inventory that is expected to be at risk for expiration, that has a cost basis in excess of its expected net realizable value and inventory quantities in excess of expected requirements. In evaluating the sufficiency of our inventory reserves or liabilities for firm purchase commitments, we also take into consideration our firm purchase commitments for future inventory production. If we were to decide to cancel our manufacturing commitment, such cancellation would trigger the payment of a cancellation fee. If we project to have excess inventories and that it would be more cost-efficient to pay the cancellation fee, we may accrue the cancellation fee as a liability. Our assessment of excess inventories, including future firm purchase commitments, requires management to utilize judgement in formulating estimates and assumptions that we believe to be reasonable under the circumstances. Actual results may differ from those estimates and assumptions. As of December 31, 2020, no accrued liability related to excess inventory purchase commitments was recorded.

When we recognize a loss on such inventory or firm purchase commitments, it establishes a new, lower cost basis for that inventory, and subsequent changes in facts and circumstances will not result in the restoration or increase in that newly established cost basis. If inventory with a lower cost basis is subsequently sold, it will result in higher gross margin for those sales. In 2021, the Company recognized no charges arising from excess inventory.

**Intangible Assets**

On July 1, 2019, the Company entered into a confirmatory assignment of patents and trademarks agreement that included all intangible product rights for the SANCUSO Product for \$31.5 million. The value of the intangible product rights is being amortized on a straight-line basis over the remaining lives of such intangible product rights, which end on December 31, 2024. The Company evaluates its long-lived assets including definite lived and indefinite lived intangible assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of these assets is measured by comparison of their carrying amounts to future undiscounted cash flows that the assets are expected to generate. If long-lived assets are considered to be impaired, the impairment to be recognized equals the amount by which the carrying value of the asset exceeds its fair market value and is recorded in the period the determination was made. Based upon management's assessment, there was no impairment of long-lived assets at September 30, 2021.

At September 30, 2021, the Company's intangible assets future amortization expense will be \$1.4 million for the three months ended December 31, 2021, and \$5.7 million each year for 2022, 2023, and 2024.

NOTES TO SPECIAL PURPOSE FINANCIAL STATEMENTS *(continued)***B. Summary of Significant Accounting Policies – continued****Revenue Recognition**

The Company recognizes revenue when control of the promised goods is transferred to the customer in an amount that reflects the consideration the Company expects to receive in exchange for those goods.

*Product Sales*

The Company recognizes revenue upon shipment to the customer as that is when the customer obtains control of the promised goods. The Company typically extends credit terms to customers based on their creditworthiness and generally do not receive advance payments. As such, the Company records accounts receivable at the time of shipment, when the right to the consideration becomes unconditional. Accounts receivable from customers are typically due within 30 – 60 days of invoicing.

*Performance Obligations*

Product sales do not include multiple performance obligations.

*Judgments*

The Company considers several factors in determining that control transfers to the customer upon delivery of goods. These factors include that legal title transfers to the customer, the Company has a present right to payment, and the customer has assumed the risks and rewards of ownership at the time of shipment. During the nine months ended September 30, 2021, product returns were not significant.

*Shipping and Handling Costs*

Costs for shipping and handling activities are recorded as cost of sales and are expensed as incurred.

**Research and Development Expenses**

Research and development expenses are recorded in the period that services are rendered or goods are received. Research and development expenses consist of fees paid to related third parties that conduct certain research and development activities on our behalf.

**C. Prepaid Expenses**

Prepaid expenses consisted of the following at September 30, 2021:

Prescription drug user fee amendments (PDUFA)	\$ 369,413
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NOTES TO SPECIAL PURPOSE FINANCIAL STATEMENTS (continued)

**D. Inventories**

Inventories consisted of the following at September 30, 2021:

Raw materials	\$ -
Finished goods	<u>1,223,776</u>
	<u><u>\$ 1,223,776</u></u>

## UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL STATEMENTS

The Unaudited Pro Forma Condensed Combined Financial Statements (referred to as the “pro forma financial statements”) presented below are derived from the historical consolidated financial statements of Cumberland Pharmaceuticals, Inc. (“Cumberland” or the “Company”) and the SANCUSO Product Line of Kyowa Kirin, Inc. (“Kyowa Kirin”).

On December 31, 2021, Cumberland signed and entered into a definitive agreement (the “Agreement”) to acquire the U.S. rights to SANCUSO® (the “SANCUSO Product”) from Kyowa Kirin (the “Acquisition”). Under the terms of the Agreement, Cumberland acquired the U.S. rights to the SANCUSO Product and assumed full commercial responsibility for the product – including its marketing, promotion, distribution, manufacturing and medical support activities. The SANCUSO Product is the first and only FDA-approved prescription patch for the prevention of nausea and vomiting in patients receiving certain types of chemotherapy treatment.

The Unaudited Pro Forma Condensed Combined Statements of Operations presented below (the “pro forma statements of operations”) for the year ended December 31, 2020 and the nine months ended September 30, 2021, give effect to the Acquisition as if it was consummated on January 1, 2020. The Unaudited Pro Forma Condensed Combined Balance Sheet gives effect to the Acquisition as if it occurred on September 30, 2021. The unaudited pro forma financial statements are provided for informational purposes only and are not necessarily indicative of operating results that would have been achieved had the Acquisition been completed as of January 1, 2020 and do not intend to project the future financial results of Cumberland following the Acquisition.

The historical consolidated financial information has been adjusted in the pro forma financial statements to give effect to certain pro forma events that are: (i) directly attributable to the Acquisition; (ii) expected to have a continuing impact on the Company’s combined results; and (iii) factually supportable. The basis and estimates underlying the pro forma adjustments are described in the accompanying notes, which should be read in connection with the pro forma financial statements.

In accordance with Accounting Standards Codification (“ASC”) 805, *Business Combinations* (“ASC 805”) as updated by Accounting Standards Update 2017-01 (“ASU 2017-01”), the Acquisition is being accounted for as a business combination with Cumberland acquiring the SANCUSO Product assets. As of the date of this report, we have not completed the valuation necessary to arrive at the final estimates of fair value of the SANCUSO Product’s assets acquired, the contingent consideration and the related purchase price allocation. However, Cumberland believes that the Acquisition meets the definition of a business under the accounting guidance in ASC 805, as amended. Additionally, for purposes of these pro forma financial statements, preliminary allocation estimates based on information known to management as of the date of this report have been included. The final fair value of the assets acquired, the contingent consideration and the liabilities assumed as of the date of the Acquisition may differ materially from the information presented herein.

The pro forma financial statements reflect the following transactions, which took place in 2021: (i) the Acquisition; and (ii) the use of \$13.5 million of cash to make the initial payment for the Acquisition.

We describe the assumptions, which management believes are reasonable, underlying the pro forma adjustments in the accompanying notes. These assumptions should also be read in conjunction with these

unaudited pro forma financial statements. It is important to note that these assumptions do not reflect the future significant cost savings, benefits or synergies from the Acquisition.

You should also read this information in conjunction with:

Audited consolidated financial statements of Cumberland as of and for the fiscal year ended December 31, 2020, included in Cumberland's Annual Report on Form 10-K for the fiscal year ended December 31, 2020, filed with the SEC on March 12, 2021;

Audited special purpose financial statements of the SANCUSO Product line of Kyowa Kirin as of and for the fiscal year ended December 31, 2020, together with the notes thereto and the independent auditors' report thereon, included as Exhibit 99.1 to this Form 8-K/A;

Unaudited consolidated financial statements of Cumberland as of and for the nine months ended September 30, 2021, included in Cumberland's Quarterly Report on Form 10-Q for the nine months ended September 30, 2021, filed with the SEC on November 12, 2021;

Unaudited special purpose financial statements of the SANCUSO Product line of Kyowa Kirin as of September 30, 2021 and for the nine months ended September 30, 2021, included as Exhibit 99.2 to this Form 8-K/A; and

Unaudited Pro Forma Condensed Combined Financial Statements (Combined Cumberland and SANCUSO Product line of Kyowa Kirin) and the accompanying notes.

**Unaudited Pro Forma Condensed Combined Balance Sheet**  
As of September 30, 2021

	Cumberland Historical	Sancuso Historical	Pro Forma Adjustments	Pro Forma Combined
<b>ASSETS</b>				
Current assets:				
Cash and cash equivalents	\$ 25,843,231	\$ —	\$ (13,500,000) (a)	\$ 12,343,231
Accounts receivable, net	9,850,530	—	—	9,850,530
Inventories, net	10,262,769	1,223,776	—	11,486,545
Other current assets	1,259,098	369,413	—	1,628,511
<b>Total current assets</b>	<b>47,215,628</b>	<b>1,593,189</b>	<b>(13,500,000)</b>	<b>35,308,817</b>
Non-current inventories	9,476,737	—	—	9,476,737
Property and equipment, net	493,488	—	—	493,488
Intangible assets, net	24,918,830	18,619,115	(769,337) (b)	42,768,608
Goodwill	882,000	—	—	882,000
Operating lease right-of-use	1,282,275	—	—	1,282,275
Other assets	3,301,816	—	—	3,301,816
<b>Total assets</b>	<b>\$ 87,570,774</b>	<b>\$ 20,212,304</b>	<b>\$ (14,269,337)</b>	<b>\$ 93,513,741</b>
<b>LIABILITIES AND EQUITY</b>				
Current liabilities:				
Accounts payable	\$ 9,233,383	\$ —	\$ —	\$ 9,233,383
Operating lease current liabilities	1,094,187	—	—	1,094,187
Other current liabilities	7,617,913	—	1,200,000 (c)	8,817,913
<b>Total current liabilities</b>	<b>17,945,483</b>	<b>—</b>	<b>1,200,000</b>	<b>19,145,483</b>
Revolving line of credit	15,000,000	—	—	15,000,000
Operating lease non-current liabilities	229,605	—	—	229,605
Other long-term liabilities	7,749,421	—	4,742,967	12,492,388
<b>Total liabilities</b>	<b>40,924,509</b>	<b>—</b>	<b>5,942,967</b>	<b>46,867,476</b>
Commitments and contingencies				
Equity:				
Shareholders' equity:				
Common stock-no par value	48,612,935	—	—	48,612,935
Retained earnings	(1,790,903)	20,212,304	(20,212,304) (d)	(1,790,903)
<b>Total shareholders' equity</b>	<b>46,822,032</b>	<b>20,212,304</b>	<b>(20,212,304)</b>	<b>46,822,032</b>
Noncontrolling interests	(175,767)	—	—	(175,767)
<b>Total equity</b>	<b>46,646,265</b>	<b>20,212,304</b>	<b>(20,212,304)</b>	<b>46,646,265</b>
<b>Total liabilities and equity</b>	<b>\$ 87,570,774</b>	<b>\$ 20,212,304</b>	<b>\$ (14,269,337)</b>	<b>\$ 93,513,741</b>

See accompanying Notes to Pro Forma Condensed Combined Financial Statements.

**Unaudited Pro Forma Condensed Combined Statements of Income**  
**For the Nine Months Ended September 30, 2021**

	Cumberland Historical	Sancuso Historical	Pro Forma Adjustments	Pro Forma Combined
<b>Revenues:</b>				
Net product revenue	\$ 26,855,753	\$ 9,619,070	\$ —	\$ 36,474,823
Other revenue	809,429	—	—	809,429
Net revenues	27,665,182	9,619,070	—	37,284,252
<b>Costs and expenses:</b>				
Cost of products sold	5,486,005	1,455,129	—	6,941,134
Selling and marketing	11,709,445	1,907,522	—	13,616,967
Research and development	4,071,638	—	—	4,071,638
General and administrative	6,367,438	252,324	—	6,619,762
Amortization	3,354,080	4,296,719	(1,619,252) (e)	6,031,547
Total costs and expenses	30,988,606	7,911,694	(1,619,252)	37,281,048
Operating income (loss)	(3,323,424)	1,707,376	1,619,252	3,204
Interest income	19,411	—	—	19,411
Other income	2,187,140	—	—	2,187,140
Interest expense	(70,297)	—	—	(70,297)
Income (loss) from continuing operations before income taxes				
Taxes	(1,187,170)	1,707,376	1,619,252	2,139,458
Income tax (expense) benefit	(22,375)	—	—	(22,375)
Net income (loss) from continuing operations	(1,209,545)	1,707,376	1,619,252	2,117,083
Discontinued operations	1,491,004	—	—	1,491,004
Net income (loss)	281,459	1,707,376	1,619,252	3,608,087
Net loss at subsidiary attributable to noncontrolling interests	58,651	—	—	58,651
Net income (loss) attributable to common shareholders	\$ 340,110	\$ 1,707,376	\$ 1,619,252	\$ 3,666,738
<b>Earnings (loss) per share attributable to common shareholders:</b>				
Basic	\$ 0.02			\$ 0.25
Diluted	\$ 0.02			\$ 0.24
<b>Weighted-average common shares outstanding:</b>				
Basic	14,939,919			14,939,919
Diluted	15,139,904			15,139,904

See accompanying Notes to Pro Forma Condensed Combined Financial Statements.



**Unaudited Pro Forma Condensed Combined Statements of Income**  
**For the Year Ended December 31, 2020**

	Cumberland Historical	Sancuso Historical	Pro Forma Adjustments	Pro Forma Combined
<b>Revenues:</b>				
Net product revenue	\$ 35,840,673	\$ 16,171,293	\$ —	\$ 52,011,966
Other revenue	1,600,461	—	—	1,600,461
Net revenues	37,441,134	16,171,293	—	53,612,427 2,427
<b>Costs and expenses:</b>				
Cost of products sold	8,653,020	2,160,987	—	10,814,007
Selling and marketing	14,765,465	4,636,827	—	19,402,292
Research and development	5,773,825	1,126,548	—	6,900,373
General and administrative	10,196,299	328,176	—	10,524,475
Amortization	4,434,120	5,728,958	(2,159,002 ) (e)	8,004,076
Total costs and expenses	43,822,729	13,981,496	(2,159,002 )	55,645,223
Operating income (loss)	(6,381,595 )	2,189,797	2,159,002	(2,032,796 )
Interest income	75,345	—	—	75,345
Interest expense	(263,627 )	—	—	(263,627 )
Income (loss) before income taxes	(6,569,877 )	2,189,797	2,159,002	(2,221,078 )
Income tax (expense) benefit	(55,902 )	—	—	(55,902 )
Net income (loss)	(6,625,779 )	2,189,797	2,159,002	(2,276,980 )
Discontinued operations, net of tax	3,206,875	—	—	3,206,875
Net income (loss)	(3,418,904 )	2,189,797	2,159,002	929,895
Net loss at subsidiary attributable to noncontrolling interests	79,496	—	—	79,496
Net income (loss) attributable to common shareholders	\$ (3,339,408 )	\$ 2,189,797	\$ 2,159,002	\$ 1,009,391
<b>Earnings (loss) per share attributable to common shareholders:</b>				
Basic	\$ (0.22 )			\$ 0.07
Diluted	\$ (0.22 )			\$ 0.07
<b>Weighted-average common shares outstanding:</b>				
Basic	15,162,184			15,162,184
Diluted	15,162,184			15,359,794

See accompanying Notes to Pro Forma Condensed Combined Financial Statements.

**Notes to Unaudited Pro Forma Condensed Combined Financial Statements**

The pro forma adjustments described below are based on our preliminary estimates and assumptions that are subject to change. The final purchase price allocation may vary based on final valuations and analyses of the fair value of the acquired assets and assumed liabilities. Cumberland is in the process of working with its advisors to complete the purchase price allocation for the value of intangible assets, useful life of the intangible assets, the fair value of the earnout, and the fair value of the future royalty payments. Accordingly, the pro forma adjustments are preliminary and have been made solely for illustrative purposes.

The following adjustments have been reflected in the unaudited pro forma condensed combined financial information:

*Adjustments to the Unaudited Pro Forma Condensed Combined Balance Sheet*

(a) Preliminary purchase price consideration:

Cash payment upon closing	\$	13,500,000
Expected cash payment during 2023-2024		1,500,000
Fair value of royalty payments		4,442,967
Total fair value of consideration transferred	\$	<u>19,442,967</u>

The Company paid \$13,500,000 at closing. The estimated \$1,500,000 liability reflects the following: \$1,000,000 payment upon the successful technology approval and FDA approval of the transition of the Kindeva manufacturing site from Minnesota to their facility in Northridge California which is expected in 2023; a \$500,000 payment for the transfer of the NDA to the Company, which is expected in 2024; and a onetime payment of \$2,000,000 upon the attainment of \$20,000,000 of annual net sales. Based on our current projections, the Company does not expect the \$20,000,000 of annual sales milestone to be reached.

The fair value of royalty payments reflects the estimated fair value of the future net sales royalty payments under the agreement. As part of the Acquisition, Cumberland will pay tiered royalties up to 10% on future U.S. net sales of the SANCUSO Product. Cumberland has accounted for the transaction as a business combination in accordance with ASC 805 and as a result the future royalty payments are required to be recognized at the acquisition-date fair value as part of the acquisition consideration.

(b) Reflects the preliminary fair value of \$17,849,778 for identifiable intangible assets. The identifiable intangible assets include U.S. Food and Drug Administration Orange Book listed patents. The intangible assets are being amortized using the straight-line amortization method over their currently estimated useful life of five years.

(c) Reflects the current and noncurrent components of the fair value of the milestone and future royalty payment liabilities of \$5,942,967 described in Note (a). The Company estimated the current portion of the milestone and future royalty payments to be \$1,200,000 and the estimated noncurrent portion to be \$4,742,967.

(d) Reflects the elimination of the SANCUSO Product historical equity accounts.

*Adjustments to the Unaudited Pro Forma Condensed Combined Statements of Operations*

(e) Reflects the decrease in amortization expense from the preliminary valuation of the SANCUSO Product intangible assets acquired described in Note (b). The intangible assets are being amortized over their currently estimated useful life of ten years.

These pro forma financial statement adjustments do not reflect any reductions for transaction costs that resulted from the Acquisition nor do they consider any in-process research and development assets. Cumberland did not identify any transaction costs or in-process research and development costs that would require capitalization or inclusion in these pro forma adjustments.

***Cost savings related to synergies***

The combined pro forma financial information does not reflect the realization of any expected cost savings or other synergies from the acquisition of SANCUSO Product. We expect that there will be future significant cost savings in the selling, marketing, general and administrative expenses through the synergies of Cumberland promoting the product with its existing and expected planned infrastructure. Cumberland also expects to experience significant future improvements in the costs of research and development, compared to historical experience. Although the Company believes such cost savings and other synergies will be realized following the asset acquisition, there can be no assurance that these cost savings or any other synergies will be fully achieved.

***Preliminary purchase price allocation and assumptions***

As noted previously, the pro forma adjustments are based on our preliminary estimates and assumptions that are subject to change. The final fair value of the contingent consideration and the final purchase price allocation may vary based on final valuations and analyses of the fair value of the acquired assets and assumed liabilities. Cumberland is in the process of working with its advisors to complete the purchase price allocation and is further evaluating the step-up in value of intangible assets, the useful life of the intangible assets, the fair value of the earnout, and the fair value of the future royalty payments. Cumberland agreed to pay tiered royalties up to 10% on future U.S. net sales of the SANCUSO Product. As part of the purchase price allocation Cumberland must recognize the estimated fair value of these tiered royalties as contingent consideration. Under ASC 805, the resulting liability is required to be remeasured at fair value through net income (loss) at the end of each reporting period.