

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

In the Matter of

**CERTAIN LITHIUM METAL OXIDE  
CATHODE MATERIALS, LITHIUM-  
ION BATTERIES FOR POWER TOOL  
PRODUCTS CONTAINING SAME, AND  
POWER TOOL PRODUCTS WITH  
LITHIUM-ION BATTERIES  
CONTAINING SAME**

**Investigation No. 337-TA-951**

**NOTICE OF COMMISSION DETERMINATION TO EXTEND THE  
WHETHER-TO-REVIEW DATE FOR THIS INVESTIGATION**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to extend the date for the Commission to determine whether to review the Administrative Law Judge's ("ALJ") final initial determination ("ID") until May 11, 2016.

**FOR FURTHER INFORMATION:** Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-3042. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on March 30, 2015, based on a complaint filed by BASF Corporation of Florham Park, New Jersey and UChicago Argonne LLC of Lemont, IL (collectively, "Complainants"). 80 *Fed. Reg.* 16696 (Mar. 30, 2015). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain lithium metal oxide cathode materials, lithium-ion batteries for power tool products containing same, and power tool products

with lithium-ion batteries containing same by reason of infringement of one or more of claims 1-4, 7, 13, and 14 of U.S. Patent No. 6,677,082 (“the ’082 patent”) and claims 1-4, 8, 9, and 17 of U.S. Patent No. 6,680,143 (“the ’143 patent”). *Id.* The notice of investigation named the following respondents: Umicore N.V. of Brussels, Belgium; Umicore USA Inc. of Raleigh, North Carolina (collectively, “Umicore”); Makita Corporation of Anjo, Japan; Makita Corporation of America of Buford, Georgia; and Makita U.S.A. Inc. of La Mirada, California (collectively, “Makita”). *Id.* The Office of Unfair Import Investigations is a party to the investigation. The Commission later terminated the investigation as to Makita based on a settlement agreement. See Notice (Nov. 20, 2015); Order No. 32 (Nov. 5, 2015).

On February 29, 2016, the ALJ issued his final ID, finding a violation of section 337 by Umicore in connection with claims 1-4, 7, 13, and 14 of the ’082 patent and claims 1-4, 8, 9, and 17 of the ’143 patent.

On March 14, 2016, Umicore filed a petition for review of the ID. Also on March 14, 2016, the Commission investigative attorney petitioned for review of the ID’s finding that a laches defense fails as a matter of law in section 337 investigations. Further on March 14, 2016, Complainants filed a contingent petition for review of the ID. On March 22, 2016, the parties filed responses to the petitions for review.

The Commission has determined to extend the date for whether to review the final ID until May 11, 2016.

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 Part 210 of the Commission’s Rules of Practice and Procedure (19 C.F.R. Part 210).

By order of the Commission.



Lisa R. Barton  
Secretary to the Commission

Issued: April 29, 2016