

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN ZERO-MERCURY-ADDED
ALKALINE BATTERIES, PARTS
THEREOF, AND PRODUCTS
CONTAINING SAME**

Inv. No. 337-TA-493

NOTICE OF INVESTIGATION

AGENCY: U.S. International Trade Commission

ACTION: Institution of investigation pursuant to 19 U.S.C. §1337

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 28, 2003, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. §1337, on behalf of Energizer Holdings, Inc. and Eveready Battery Company, Inc., both of St. Louis, Missouri. Letters supplementing the complaint were filed on May 1, 9, and 20, 2003. The complaint as supplemented alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain zero-mercury-added alkaline batteries, parts thereof, and products containing same by reason of infringement of claims 1-12 of U.S. Patent No. 5,464,709. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue a permanent general exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint and supplements, except for any confidential information contained therein, are 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., Room 112, Washington, D.C. 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 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>.

FOR FURTHER INFORMATION CONTACT: Benjamin D. M. Wood, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-205-2582.

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 C.F.R. §210.10 (2002).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on May 27, 2003, 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 zero-mercury-added alkaline batteries, parts thereof, or products containing same by reason of infringement of one or more of claims 1-12 of U.S. Patent No. 5,464,709, 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 complainants are–

Energizer Holdings, Inc.
533 Maryville University Drive
St. Louis, Missouri 63141

Eveready Battery Company, Inc.
533 Maryville University Drive
St. Louis, Missouri 63141

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

Atico International U.S.A., Inc.
501 South Andrews Avenue
P.O. Box 14368
Fort Lauderdale, Florida 33302

Sichuan Changhong Electric Company, Ltd.
35 East Mianxing Road
Hightech Park
Mianyang, Sichuan 621000
China

Changhong Battery Company
35 East Mianxing Road
Hightech Park
Mianyang, Sichuan 621000
China

Chung Pak Battery Works
7/f Chung Pak Comm Building
2 Cho Uyen Street
Yau Tong, Kowloon
Hong Kong

Dorcy International, Inc.
2700 Port Road
Columbus, Ohio 43217-1136

FDK Corporation
Hamagomu Building
5-36-11, Shinbashi
Minato-Ku
Tokyo 105-8677 Japan

FDK Energy Co., Ltd.
614 Washizu
Kosai-Shi
Shizuoka-ken 431-0431 Japan

Fujian Nanping Nanfu Battery Co., Ltd.
109 Industry Road
Nanping, Fujian 353000
China

Golden Million Enterprises, Inc.
1201 Broadway, Suite 601
New York, New York 10001

Golden Power Industries, Ltd.
Flat C, 20/F, Block 1
Tai Ping Industrial Centre
57 Ting Kok Road
Tai Po, N.T.
Hong Kong

Gold Peak Industries, Ltd.
8/F, Gold Peak Building
30 Kwai Wing Road
Kwai Chung N.T.
Hong Kong

GP Industries Limited
97 Pioneer Road
Singapore 639579

GP Batteries International, Ltd.
50 Gul Crescent
629543, Singapore

Gold Peak Industries (North America), Inc.
11235 West Bernardo Court
San Diego, California 92127-1638

Guangdong Chaoan Zhenglong Enterprise Co., Ltd
Huaqiao Industrial Zone
Caitang
Chaozhou City, Guangdong 515644
China

Guangzhou Tiger Head Battery
Group Co., Ltd.
568 Huangpu Street Middle Section
Guangzhou 510655
China

Hi-Watt Battery Industry Company, Ltd.
21 Tung Yuen Street
Yau Tong Bay, Kowloon
Hong Kong

Maxell Corporation of America
22-08 Route 208
Fair Lawn, New Jersey 07410

Monster Cable Products, Inc.
455 Valley Drive
Brisbane, California 94005

Ningbo Baowang Battery Co., Ltd.
No. 66 Keji Road, Science Technological
Industry Zone
Ninghai, Ningbo 315600
China

PT International Chemical
Industrial Co., Ltd.
Jl. Daan Mogot Km. 9
Cengkareng, Jakarta 11470
Indonesia

The Mazel Company
d/b/a The Powerhouse Group
31000 Aurora Road
Solon, Ohio 44139

Universal Battery Corporation
4300 Wiley Post Road
Addison, Texas 75001

Winner International, L.L.C.
32 West State Street
Sharon, Pennsylvania 16146

Zhejiang 3-Turn Battery Co., Ltd.
Huailu Industrial Park of Dongyang
Zhejiang 322104
China

Zhongyin Ningbo Battery Co., Ltd.
No. 99, Dahetou St. Duantang
Ningbo Zhejiang, 315011
China

International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Charles E. Bullock is designated as 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 C.F.R. §210.13. Pursuant to 19 C.F.R. §§201.16(d) and 210.13(a), such responses will be considered by the Commission if received no 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 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 to authorize the administrative law judge and the Commission, without further notice to that respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against that respondent.

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: May 27, 2003