

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

In the Matter of

**CERTAIN MULTI-STAGE FUEL
VAPOR CANISTER SYSTEMS AND
ACTIVATED CARBON COMPONENTS
THEREOF**

Investigation No. 337-TA-1140

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN
INITIAL DETERMINATION GRANTING IN PART A MOTION FOR
SUMMARY DETERMINATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 29) issued by the presiding administrative law judge (“ALJ”), granting in part a motion for summary determination.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436, telephone (202) 708-5468. 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, SW., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://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 December 14, 2018, based on a complaint filed by Ingevity Corp. and Ingevity South Carolina, LLC, both of North Charleston, South Carolina (together, “Ingevity”). 83 FR 64356 (Dec. 14, 2018). The complaint, as supplemented, 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 multi-stage fuel vapor canister systems and activated carbon components thereof by reason of infringement of certain claims of U.S. Patent No.

RE38,844. *Id.* The Commission's notice of investigation named as respondents MAHLE Filter Systems North America, Inc. of Murfreesboro, Tennessee; MAHLE Filter Systems Japan Corp. of Saitama, Japan; MAHLE Sistemas de Filtracion de Mexico de C.V. of Monterrey, Mexico; MAHLE Filter Systems Canada, ULC of Tilbury, Canada; Kuraray Co., Ltd. of Tokyo, Japan and Kuraray America, Inc. of Houston, Texas (together, Kuraray); and Nagamine Manufacturing Co., Ltd. of Manno, Japan. *Id.* The Commission subsequently amended the notice of investigation to add Calgon Carbon Corporation as a respondent and to remove Kuraray. Order No. 5 (Feb. 26, 2019), *not reviewed* Notice (Mar. 21, 2019). The Office of Unfair Import Investigations is not participating in this investigation. *Id.*

On September 19, 2019, Ingevity moved for summary determinations on many issues, including summary determination that the respondents failed to show that certain prior art rendered invalid any asserted claims under 35 U.S.C. 102(a), (b), and (f), and that respondents failed to establish their asserted defenses of unclean hands, waiver, estoppel, laches, and acquiescence.

On October 10, 2019, the ALJ issued the subject ID and granted-in-part Ingevity's motion for summary determination. The ALJ found that the respondents failed to present evidence under 35 U.S.C. 102(f), and did not oppose Ingevity's motion for summary determination with respect to the remaining defenses set forth above. Accordingly, the ALJ granted summary determination of legal insufficiency with respect to the following defenses: (1) invalidity under 35 U.S.C. 102(a), (b) and (f); (2) unclean hands; (3) waiver; (4) estoppel; (5) laches; and (6) acquiescence. The ALJ denied the remainder of the summary determination motion. No party petitioned for review of the subject ID.

The Commission has determined not to review the subject ID.

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 CFR part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: October 31, 2019