

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN POUCH-TYPE BATTERY
CELLS, BATTERY MODULES, AND
BATTERY PACKS, COMPONENTS
THEREOF, AND PRODUCTS
CONTAINING THE SAME**

Investigation No. 337-TA-1179

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING COMPLAINANTS' MOTION TO AMEND THE
COMPLAINT AND NOTICE OF INVESTIGATION AND TERMINATE THE
INVESTIGATION AS TO CERTAIN CLAIMS BASED ON WITHDRAWAL OF THE
COMPLAINT**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined not to review an initial determination (“ID”) (Order No. 53) of the presiding chief administrative law judge (“CALJ”) granting complainants’ corrected motion (1) for leave to amend the complaint and notice of investigation to reflect the respondents’ corporate reorganization and (2) to withdraw allegations concerning certain claims of U.S. Patent No. 10,121,994 (“the ’994 patent”) from the complaint.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 205-2392. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.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 under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”) on October 9, 2019, based on a complaint filed by SK Innovation Co., Ltd. of Seoul, Republic of Korea and SK Battery America, Inc. of Atlanta, Georgia (collectively, “SK”). 84 FR 54173-74 (Oct. 9, 2019). The complaint alleges a violation 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

pouch-type battery cells, battery modules, and battery packs, components thereof, and products containing the same by reason of infringement of claims 1-36 of the '994 patent. The complaint named as respondents LG Chem, Ltd. of Seoul, Republic of Korea, and LG Chem Michigan, Inc. of Holland, Michigan (collectively, "LG"). The Commission's Office of Unfair Import Investigations ("OUII") also was named as a party. Subsequently, the investigation was terminated in part based on withdrawal of the complaint as to claims 8, 9, 17, 26, 27, and 35 of the '994 patent. Order No. 23 (March 25, 2020), *unreviewed by* Notice (Apr. 22, 2020). Further, the Commission determined that the economic prong of the domestic industry is satisfied. Order No. 51 (Dec. 14, 2020), *reviewed*, and on review, *affirmed with modified reasoning by* Notice (Jan. 14, 2021).

On January 4, 2021, SK filed a corrected motion for leave to amend the complaint and notice of investigation to reflect a reorganization of respondent LG Chem, Ltd. ("LGC") in which (i) certain business functions were transferred to a newly created subsidiary named LG Energy Solution, Ltd., and (ii) respondent LG Chem Michigan Inc. was renamed LG Energy Solution Michigan, Inc. SK also moved to terminate the investigation in part with respect to claims 1, 2, 4, 7, 10-14, 16, 18, 21, 23, 28, 29-32, 34, and 36 of the '994 patent based on withdrawal of the allegations in the complaint as to those claims. Respondents did not oppose the motion. Mot. at 3. On January 6, 2021, OUII advised the presiding CALJ that it does not object to the motion and will not be filing a response.

On January 11, 2021, the CALJ issued the subject ID granting SK's motion pursuant to Commission Rules 210.14(b) and 210.21(a)(1), 19 CFR §§ 210.14(b), 210.21(a)(1). The ID finds that good cause exists for amending the complaint and notice of investigation due to the recent change in corporate structure. ID at 2. The ID finds that amending the complaint and notice of investigation to reflect LGC's recent corporate reorganization will aid in the development of this investigation and serve the public interest by apprising the public of the correct entities involved. The ID finds that the proposed amendments do not unnecessarily prejudice the public interest or the rights of the parties to the investigation. The ID further finds that no extraordinary circumstances exist that would prevent the requested partial termination of this investigation. *Id.* at 4. No party petitioned for review of the ID.

The Commission has determined not to review the subject ID. Claims 1, 2, 4, 7, 10-14, 16, 18, 21, 23, 28, 29-32, 34, and 36 of the '994 patent are terminated from this investigation.

The Commission vote for this determination took place on February 8, 2021.

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.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', with a stylized flourish at the end.

Lisa R. Barton
Secretary to the Commission

Issued: February 8, 2021