

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 RESCHEDULE THE DATE FOR
THE PUBLIC HEARING FOR NOVEMBER 17, 2016, AND TO EXTEND THE
TARGET DATE FOR COMPLETION OF 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 reschedule the date for the public hearing from September 20, 2016, to November 17, 2016; and to extend the target date for completion of this investigation until December 16, 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 (<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 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.* Makita was subsequently terminated from the investigation. The Office of Unfair Import Investigations is a party to the investigation.

On February 29, 2016, the Administrative Law Judge issued his final initial determination (“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.

On May 11, 2016, the Commission determined to review the final ID in part, and requested briefing on certain issues under review. 81 *Fed. Reg.* 30548-50 (May 17, 2016). At that time, Umicore’s request for a Commission hearing was granted pursuant to Commission rule 210.45 (19 C.F.R. § 210.45). *Id.* On May 23, 2016, the parties filed submissions to the Commission’s questions. On June 3, 2016, the parties filed responses to the initial submissions.

In the notice of review, the Commission granted Umicore’s request for a Commission hearing and stated that details on the hearing would be forthcoming. On July 8, 2016, the Commission announced that the hearing would be held on Tuesday, September 20, 2016. The Commission has determined to reschedule the hearing for Thursday, November 17, 2016, at 10:00 a.m. in the USITC Main Hearing Room. A notice providing the scope and details of the hearing will be forthcoming.

The target date for completion of this investigation is currently October 14, 2016. The Commission has determined to extend the target until December 16, 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: September 15, 2016