

**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 THE SAME,
AND POWER TOOLS PRODUCTS
WITH LITHIUM-ION BATTERIES
CONTAINING SAME**

Investigation No. 337-TA-951

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW
AN INITIAL DETERMINATION GRANTING A
JOINT MOTION TO TERMINATE THE INVESTIGATION AS TO RESPONDENTS
MAKITA CORPORATION, MAKITA CORPORATION OF AMERICA, AND
MAKITA U.S.A. INC. BASED ON A SETTLEMENT AGREEMENT**

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. 32) granting a joint motion to terminate the investigation as to respondents Makita Corporation, Makita Corporation of America, and Makita U.S.A. Inc. based on a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Lucy Grace D. Noyola, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-3438. 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, Illinois (collectively, “Complainants”). 80 *Fed. Reg.*

16695 (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 metal-ion batteries for power tool products containing same, and power tool products with lithium-ion batteries containing same by reason of infringement of certain claims of U.S. Patent No. 6,677,082 and U.S. Patent No. 6,680,143. *Id.* at 16696. The notice of investigation names as respondents Umicore N.V. of Brussels, Belgium; Umicore USA Inc. of Raleigh, North Carolina; Makita Corporation of Aichi, Japan; Makita Corporation of America of Buford, Georgia; and Makita U.S.A. Inc. of La Mirada, California. *Id.* The Office of Unfair Import Investigations (OUII) also was named as a party to the investigation. *Id.*

On October 27, 2015, Complainants and Makita Corporation, Makita Corporation of America, and Makita U.S.A. Inc. (collectively, “Makita Respondents”) filed a joint motion to terminate the investigation with respect to the Makita Respondents based on a settlement agreement. Respondents Umicore N.V. and Umicore USA Inc. do not oppose the motion. On November 3, 2015, the OUII filed a response supporting the motion.

On November 5, 2015, the presiding administrative law judge (“ALJ”) issued an ID, Order No. 32, granting the motion. The ALJ found that the parties complied with Commission rule 210.50(b)(1) by filing a confidential version of the motion with a confidential version of the settlement agreement, by filing a public version of the motion with a public version of the settlement agreement, and by stating that there are no other agreements concerning the subject matter of this investigation. The ALJ found that the termination is not contrary to the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers. The ALJ further found that termination as to the Makita Respondents is in the public interest and will conserve public and private resources. No petitions for review were filed.

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 C.F.R. Part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: November 20, 2015