

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN PORTABLE BATTERY JUMP
STARTERS AND COMPONENTS
THEREOF**

Investigation No. 337-TA-1256

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW TWO INITIAL
DETERMINATIONS GRANTING COMPLAINANT'S MOTION TO AMEND THE
COMPLAINT AND NOTICE OF INVESTIGATION AND JOINT MOTIONS
TERMINATING THE INVESTIGATION AS TO SEVERAL RESPONDENTS BASED
ON SETTLEMENT**

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: (1) an initial determination ("ID") (Order No. 13) of the presiding administrative law judge ("ALJ") granting complainant's unopposed motion to amend the complaint and notice of investigation ("NOI") to substitute certain corporate entities named as respondents; to add two respondents; and to withdraw certain infringement allegations; and (2) an ID (Order No. 14) granting an unopposed joint motion to terminate the investigation as to respondent Lowe's Companies, Inc. and proposed new respondent Lowe's Home Centers, LLC (collectively, "Lowe's"), both of Mooresville, North Carolina based on settlement; and an unopposed joint motion to terminate the investigation as to respondent O'Reilly Automotive, Inc. and proposed new respondents Ozark Purchasing, LLC; O'Reilly Automotive Stores, Inc.; and O'Reilly Auto Enterprises, LLC (collectively, "O'Reilly"), all of Springfield, Missouri based on settlement. Respondents Lowe's and O'Reilly are terminated from the investigation.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436, telephone (202) 708-2310 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, telephone 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 23, 2021, based on a complaint filed by The NOCO Company (“NOCO”) of Glenwillow, Ohio. 86 FR 15496-98 (Mar. 23, 2021). The complaint, as amended and supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain portable battery jump starters and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 9,007,015 and 10,604,024 (“the ’024 patent”), and U.S. Trademark Registration Nos. 4,811,656 and 4,811,749. The complaint further alleges the existence of a domestic industry. The Commission’s NOI named forty-four (44) respondents, including: Lowe’s Companies, Inc.; O’Reilly Automotive, Inc.; Halo2Cloud, LLC of Hartford, Connecticut, QVC, Inc. of Chester, Pennsylvania, and Zagg Co. Rrd Gst of Plainfield, Indiana (collectively, “HALO”); Anker Technology (UK) Ltd. of Birmingham, United Kingdom; Shenzhen Dingjiang Technology Co., Ltd. and Shenzhen Topdon Technology Co., Ltd. (collectively “Shenzhen”), both of Shenzhen, China; and Winplus North America, Inc. of Costa Mesa, California. The Office of Unfair Import Investigations is participating in the investigation.

On April 21, 2021, NOCO moved to amend the complaint and NOI as follows: (1) substitute Lowe’s Home Centers, LLC, for presently named respondent Lowe’s Companies, Inc.; (2) substitute O’Reilly Automotive Stores, Inc., O’Reilly Auto Enterprises, LLC, and Ozark Purchasing, LLC for presently named respondent O’Reilly Automotive, Inc.; (3) substitute Anker Innovations Ltd. (HK) of Birmingham, United Kingdom for presently named respondent Anker Technology (UK) Ltd.; (4) substitute ZAGG Inc. of Midvale, Utah for presently named respondent Zagg Co. Rrd Gst; (5) substitute Shenzhen Dingjiang Technology Co., Ltd. (d/b/a Shenzhen Topdon Technology Co., Ltd. and Topdon Technology Co., Ltd.) of Shenzhen, China for presently named respondents Shenzhen; and (6) add additional respondents ADC Solutions Auto, LLC d/b/a Type-S and Winplus NA, LLC, both of Costa Mesa, California, which are related to presently named respondent Winplus North America, Inc. NOCO also moved to withdraw infringement allegations as to HALO’s accused products with respect to the ’024 patent and correct certain typographical and clerical errors.

On April 22, 2021, NOCO and Lowe’s jointly moved to terminate the investigation as to Lowe’s based on a settlement agreement between NOCO and Lowe’s that resolves all issues between these parties. On the same date, NOCO and O’Reilly jointly moved to terminate the investigation as to O’Reilly based on a settlement agreement between NOCO and O’Reilly that resolves all issues between these parties. Both motions were unopposed.

On April 23, 2021, the ALJ issued the subject IDs. Order No. 13 grants NOCO’s unopposed motion to amend the complaint and notice of investigation as described above. The ID finds that the motion satisfies Commission Rule 210.14(b) (19 CFR 210.14(b)) because good cause exists to amend the complaint and NOI as detailed in NOCO’s motion. Order No. 14 grants the unopposed joint motions to terminate the investigation as to Lowe’s and O’Reilly based on settlement. The IDs find that the joint motions satisfy the requirements of Commission Rule 210.21(b) (19 CFR 210.21(b)) and that terminating the investigation as to

Lowe's and O'Reilly is not contrary to the public interest. No party petitioned for review of either ID.

The Commission has determined not to review the subject IDs. The complaint and NOI are amended as detailed in NOCO's motion. In addition, Lowe's and O'Reilly are terminated from the investigation.

The Commission vote for this determination took place on May 17, 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: May 18, 2021