

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

**In the Matter of**

**CERTAIN PORTABLE BATTERY JUMP  
STARTERS AND COMPONENTS  
THEREOF (III)**

**Investigation No. 337-TA-1360**

**NOTICE OF COMMISSION DETERMINATION TO REVIEW IN PART AND,  
ON REVIEW, TO AFFIRM WITH MODIFICATION A FINAL INITIAL  
DETERMINATION FINDING NO VIOLATION OF SECTION 337;  
TERMINATION OF THE INVESTIGATION**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review in part and, on review, to affirm with modification the presiding administrative law judge's ("ALJ") final initial determination ("FID") finding no violation of section 337 of the Tariff Act of 1930, as amended. The investigation is terminated with a finding of no violation.

**FOR FURTHER INFORMATION CONTACT:** Lynde Herzbach, Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 205-3228. 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](mailto: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:** On April 18, 2023, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), based on a complaint filed by The NOCO Company of Glenwillow, Ohio ("NOCO"). See 88 FR 23688 (Apr. 18, 2023). The complaint, as amended, alleges violations 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 portable battery jump starters and components thereof by reason of the infringement of certain claims of U.S. Patent Nos. 9,770,992; 10,328,808; 10,981,452; 11,254,213; and 11,447,023. *Id.* The complaint also alleges violations of section 337 based upon the importation into the United States, or in the sale of certain portable battery jump starters and components thereof by reason of common law trade dress infringement, false designation of origin, and false advertising and unfair competition, the

threat or effect of which is to destroy or substantially injure an industry in the United States. *Id.* The complaint also alleges that a domestic industry exists. *Id.* The Commission severed the complaint into two separate investigations: the present investigation directed to the trade dress infringement, false designation of origin, false advertising, and unfair competition allegations; and a related investigation, Inv. No. 337-TA-1359, involving the patent infringement allegations.

The notice of investigation names seven respondents, including: Shenzhen Carku Technology Co., Ltd. of Guangdong, China; Aukey Technology Co., Ltd. of Shenzhen, China; Metasee LLC of Pearland, Texas (“Metasee”); Ace Farmer LLC of Houston, Texas; Shenzhen Konghui Trading Co., Ltd., d/b/a Hulkman Direct of Guangdong, China (“Hulkman Direct”); HULKMAN LLC of Santa Clara, California; and Shenzhenshi Daosishangmao Youxiangongsi, d/b/a/ Fanttik Direct of Guangdong, China (“Fanttik Direct”) (collectively, “Respondents”). *Id.* The Office of Unfair Import Investigations is also named as a party. *Id.*

On May 17, 2024, the presiding ALJ issued the FID, finding no violation of section 337 in the importation into the United States, or in the sale of certain portable battery jump starters and components thereof. Specifically, the FID finds that: 1) Respondents did not engage in false advertising under 15 U.S.C. 1125(a)(1); 2) Respondents did not falsely designate the origin of their products or cause unfair competition; 3) Respondents do not infringe the X Design Trade Dress; 4) NOCO has demonstrated that it has a domestic industry; and 5) NOCO has not demonstrated substantial injury or a threat of substantial injury to its domestic industry.

The FID includes the ALJ’s recommended determination (“RD”) on remedy, the public interest, and bonding should the Commission find a violation of section 337. Specifically, the RD recommends, if the Commission finds a violation, issuing a limited exclusion order directed to certain portable battery jump starts and components thereof imported, sold for importation, and/or sold after importation by respondents. The RD also recommends issuing cease and desist orders directed to Metasee, Hulkman Direct, and Fanttik Direct. The RD recommends that a one hundred percent (100%) bond be set for any importations of Respondents’ products, which are found to violate section 337, during the period of Presidential review.

On May 28, 2024, the Commission published its post-RD *Federal Register* notice seeking submissions on public interest issues raised by the relief recommended by the ALJ should the Commission find a violation. 89 FR 46160-61 (May 28, 2024). No responses were submitted in response to the notice. The parties did not file any public interest submissions pursuant to Commission Rule 210.50(a)(4), 19 CFR 210.50(a)(4).

On May 31, 2024, Respondents filed a contingent petition for review contending that the FID is correct in all material respects and solely contesting the RD, should it become relevant. Neither NOCO nor OUII filed a petition for review. NOCO’s failure to file a petition for review constitutes abandonment of all issues decided adversely to it in the FID. 19 CFR 210.43(b)(2), (b)(4). On June 5, 2024, prior to the deadline for the filing of responses, Respondents withdrew their contingent petition. *See* June 5, 2024 letter from Kevin J. Patariu (EDIS Doc. ID 823040).

The Commission, having reviewed the record in this investigation, has determined to review in part and, on review, to affirm with modification the FID's finding of no violation. In particular, the Commission has determined to review the FID's jurisdiction findings. On review, the Commission notes that it interprets the ALJ's use of "in personam jurisdiction" as a shorthand to refer to the Commission's statutory authority to investigate a particular respondent's accused articles that are imported into the United States or sold after importation, and interprets the ALJ's use of "*in rem* jurisdiction" as a shorthand to refer to its statutory authority to investigate the importation into the United States or the sale of such articles. The Commission has also determined to review, and on review, take no position regarding the following findings in the FID: 1) the interstate commerce findings (FID at 103-105); 2) that NOCO has demonstrated that it has a domestic industry (FID at 136-149); and 3) that NOCO has not demonstrated substantial injury or a threat of substantial injury to its domestic industry (FID at 149-171). The Commission has determined not to review the remainder of the FID.

The investigation is terminated with a finding of no violation of section 337.

The Commission vote for this determination took place on July 22, 2024.

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: July 22, 2024