electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal at (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the above-referenced investigation on January 7, 2004, under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, based on a complaint filed by Jens Ole Sorensen and Jens E. Sorensen, as Trustee of the Sorensen Research and Development Trust. 69 FR 937. The Commission named Daimler-Chrysler AG of Stuttgart, Bade-Wuerttemberg, Germany and Mercedes-Benz USA, LLC of Montvale, New Jersey as respondents. *Id.*

On July 9, 2004, the ALJ issued an ID granting a motion filed by respondents for summary determination of non infringement. Complainants petitioned for review of the ID on July 22, 2004. On July 28, 2004, complainants filed a motion to supplement their petition. Respondent and the Commission investigative attorney filed separate oppositions to complainants' petition for review on July 29, 2004. Complainants filed a motion for leave to file a reply to the oppositions to their petition on August 5, 2004.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and section 210.42 (h) of the Commission's Rules of Practice, 19 CFR 210.75(h).

Issued: August 20, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–19408 Filed 8–24–04; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–493]

Certain Zero-Mercury-Added Alkaline Batteries, Parts Thereof, and Products Containing Same; Notice of Commission Determination To Review a Final Initial Determination Finding a Violation of Section 337; Schedule for Filing Written Submissions on the Issues Under Review and on Remedy, the Public Interest, and Bonding

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in its entirety the final initial determination (ID) issued by the presiding administrative law judge (ALJ) on June 2, 2004, finding a violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Wayne Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3090. Copies of the ALJ's ID and all other nonconfidential 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, SW., Washington, DC 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 June 2, 2003, based on a complaint filed by Energizer Holdings, Inc. and Eveready Battery Company, Inc., both of St. Louis, Missouri. 68 FR 32771 (June 2, 2003). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain zero-mercury-added alkaline batteries, parts thereof, and products containing same by reason of infringement of claims 1–12 of U.S. Patent No. 5,464,709 (''the '709 patent''). The complaint and notice of investigation named twenty-six respondents and were later amended to include an additional firm as a respondent. The investigation has been terminated as to claims 8–12 of the '709 patent. Several respondents have been terminated from the investigation for various reasons.

On June 2, 2004, the ALJ issued his final ID finding a violation of section 337. He also recommended the issuance of remedial orders. A number of the remaining respondents have petitioned for review of the ID. Complainants and the Commission investigative attorney have filed oppositions to those petitions.

Having examined the record in this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined to review the final ID in its entirety.

On review, the Commission requests briefing based on the evidentiary record. While the Commission has determined to review the final ID in its entirety, it is particularly interested in briefing on the issues of claim construction and indefiniteness, especially with respect to the following terms of claim 1 of the '709 patent: ''said zinc anode''; ''has a gel expansion of less than 25%''; and ''after being discharged for 161 minutes to 15% depth of discharge at 2.88A''. In addressing the question of claim construction, each party should (1) Specifically identify those portions of the claim language, specification, and prosecution history (and other evidence, if appropriate) which support the construction it advocates, (2) state how the construction it advocates is supported by an adequate written description and enabling disclosure, and (3) demonstrate that the construction it advocates falls within the ambit of permissible claim construction, as opposed to impermissible redrafting of claim language. The Commission is also interested in receiving answers to the following questions:

1. With respect to the term ''after being discharged'' in claim 1, what is being discharged?
2. Whether and to what extent disclaimed claims 8–12 may be used in construing the remaining claims.
3. Whether and to what extent the prosecution history of the corresponding European patent (RX–4) may be used to construe the claims of the '709 patent.
4. What is meant by the term ''depth of discharge'' in claim 1?
5. Whether and how the asserted claims may be construed to cover rechargeable batteries.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article

from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, *see In the Matter of Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

Written Submissions: The parties to the investigation are requested to file written submissions on the issues under review. The submissions should be concise and thoroughly referenced to the record in this investigation. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the June 2, 2004, recommended determination by the ALJ on remedy and bonding. Complainants and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. The written submissions and proposed remedial orders must be filed no later than close of business on September 3, 2004. Reply submissions must be filed no later than the close of business on September 13, 2004. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* section 201.6 of the Commission's Rules of Practice and Procedure, 19 CFR 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

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 sections 210.42-.46 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–.46).

Issued: August 19, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–19407 Filed 8–24–04; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed modified Consent Decree in *United States* v. *Holly Ridge Associates, L.L.C.*, No. 7:01–CV–36–BO(3) was lodged with the United States District Court for the Eastern District of North Carolina on August 11, 2004.

This proposed modified Consent Decree concerns a complaint filed by the United States against Defendants Holly Ridge Associates, L.L.C. and John A. Elmore, pursuant to section 301(a) of the Clean Water Act, 33 U.S.C. 1311(a), to obtain injunctive relief from and impose civil penalties against the Defendants for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed modified Consent Decree resolves these allegations by requiring the Defendants to restore the impacted areas and perform mitigation and to pay a civil penalty. The Consent Decree also provides for the Defendants to perform a supplemental environmental project.

The Department of Justice will accept written comments relating to this proposed modified Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Martin F. McDermott, United States Dep't of Justice, Environment & Natural Resources Division, Environmental Defense Section, P.O. Box 23986, Washington, DC 20226–3986 and refer to *United States* v. *Holly Ridge Associates, L.L.C.*, DJ #90–5–1–1–16618.

The proposed modified Consent Decree may be examined at the Clerk's Office, United States District Court for the Eastern District of North Carolina, 310 New Bern Ave., Raleigh, North Carolina 27601. In addition, the proposed Consent Decree may be viewed at *http://www.usdoj.gov/enrd/open.html.*

Stephen Samuels,

Assistant Chief, Environmental Defense Section, Environment & Natural Resources Division.

[FR Doc. 04–19484 Filed 8–24–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with 28 CFR 50.7 and section 122 of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9622, the Department of Justice gives notice that a proposed consent decree, in *United States, et al.,*v. *City of Waukegan, Illinois, et al.,* Civil No. 04 C 5172 (N.D. Ill.), was lodged with the United States District Court for the Northern District of Illinois on August 11, 2004, pertaining to the Waukegan Manufactured Gas & Coke Plant Site (the ''Site''), Operable Unit #2 of the Outboard Marine Corporation Superfund Site located in Waukegan, Lake County, Illinois. The proposed consent decree would resolve the United States' civil claims under sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, against the Settling Defendants, two current owners of portions of the Site, and three former owners and operators of the Site.

Under the proposed Consent Decree Performing Settling Defendants, General Motors Corp. (''GM'') and North Shore Gas Co. (''North Shore''), are obligated to finance and perform the remedial action at the Site selected by U.S.