

pursuant to Commission Rule 210.42(h)(3), 19 CFR 210.42(h)(3).

On August 12, 2019, the ALJ issued her “Initial Determination on Violation of Section 337 and Recommended Determination on Remedy and Bond,” finding a violation of section 337. The ID finds that a violation of section 337 occurred in the importation into the United States, the sale for importation, or the sale within the United States after importation, of certain powered cover plates that infringe the asserted claims of the ’361 patent by Enstant/Vistek. *See id.* at 125–26. The ID also finds, *inter alia*, that “Respondents Enstant and Vistek filed a motion for summary determination of non-infringement (“Redesign SD Motion”) of [the ’361 patent] by Redesign Models P001 (Smart Wall Plate Charger, Decor Outlet, with USB charger) and P002 (Smart Wall Plate Charger, Duplex Outlet with USB charger).” ID at 14. Further, the ID states that “Enstant’s and Vistek’s Redesign SD Motion was effectively rendered moot by rulings on Motions in Limine” *Id.*

In her Recommended Determination (“RD”), the ALJ recommended that the Commission should issue a General Exclusion Order, Cease and Desist Orders, and impose a one hundred percent bond during the period of Presidential Review. *Id.* at 126.

On August 26, 2019, Participating Respondents Enstant/Vistek jointly filed a timely petition for review of various portions of the ID. The IA likewise timely filed a petition for review of the ID in part. On September 3, 2019, Snappower timely filed a response to Enstant/Vistek’s and the IA’s petitions for review. The IA likewise timely filed a response to Enstant/Vistek’s petition for review.

Having examined the record in this investigation, including the final ID, the petitions for review, and the responses thereto, the Commission has determined to review the final ID in part. In particular, the Commission has determined: (1) To review the final ID’s finding that Enstant/Vistek’s redesign summary determination motion is moot, *see id.* at 14–15, and on review, to remand the final ID on this issue; (2) to review the ID’s finding that Complainant’s R&D investment with respect to the ’361 patent is substantial under Section 337 (a)(3)(C), ID at 97, and on review, to take no position with regard to this determination; (3) to review, and on review to strike, the third paragraph on page 56 of the ID; and (4) to correct the ID’s misstatements regarding the asserted claims of the ’361 patent, *see id.* at 3–4, Table 1; *id.* at 125 ¶¶ 3, 6, to the effect that the asserted

claims of the ’361 patent include claims 1, 4, 10, 14, 21, 23, and 24. The Commission has determined not to review the remainder of the 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 CFR part 210.

By order of the Commission.

Issued: October 11, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–22754 Filed 10–17–19; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1123]

Certain Carburetors and Products Containing Such Carburetors; Commission Decision To Review in Part an Initial Determination Finding Complainant Failed To Satisfy the Economic Prong of the Domestic Industry Requirement; 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 the administrative law judge’s (“ALJ”) initial determination (“ID”), which grants respondents’ motion for summary determination that the complainant failed to satisfy the economic prong of the domestic industry requirement as to U.S. Patent Nos. 6,394,424 (“the ’424 patent”); 6,439,547 (“the ’547 patent”); 6,533,254 (“the ’254 patent”); and 7,070,173 (“the ’173 patent”). On review, the Commission affirms with modification the ID’s finding that respondents are entitled to summary determination that the complainant failed to satisfy the domestic industry requirement. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Lynde Herzbach, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3228. 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 SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at <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 July 20, 2018, based on a complaint filed by Walbro, LLC (“Walbro”) of Tucson, Arizona. 83 FR 34614–615 (July 20, 2018). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“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 carburetors and products containing such carburetors by reason of infringement of one or more claims of the ’424 patent; the ’547 patent; the ’254 patent; the ’173 patent, and U.S. Patent No. 6,540,212 (“the ’212 patent”). *Id.* The complaint also alleges that an industry in the United States exists as required by 19 U.S.C. 1337(a)(2). 83 FR 34614–615. The notice of investigation names thirty-five (35) respondents. *Id.* The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. *Id.*

The Commission previously terminated the ’212 patent from the investigation. Order No. 72 (Aug. 5, 2019), *not reviewed*, Notice (Aug. 22, 2019).

On June 25, 2019, respondents *Amazon.com, Inc.*; *Lowe’s Companies, Inc.*; *Menard, Inc.*; *Techtronic Industries Co. Ltd.*; *The Home Depot, Inc.*; *Tractor Supply Company*; *Walmart, Inc.*; and *Zhejiang Ruixing Carburetor Manufacturing Co., Ltd.* (collectively, “Respondents”), as well as *Cabela’s LLC* and *Thunderbay Products*, filed a motion for summary determination that Walbro failed to satisfy the economic prong of the domestic industry requirement. ID at 1. On July 12, 2019, Walbro opposed the motion. *Id.* OUII did not submit a response to the motion. *Id.*

On August 7, 2019, the Commission terminated *Cabela’s LLC* from the investigation due to settlement. Order No. 75 (Aug. 7, 2019), *not reviewed*, Notice (Aug. 22, 2019). On July 10, 2019, the Commission also terminated *Thunderbay Products* from the

investigation based on a stipulated consent order and entry of a consent order. Order No. 65 (July 10, 2019), *not reviewed*, Notice (July 23, 2019).

On August 12, 2019, the ALJ issued the subject ID granting Respondents' motion for summary determination that Walbro failed to satisfy the economic prong of the domestic industry requirement. *See* ID.

On August 22, 2019, Walbro filed a petition for review of the ID.

On August 29, 2019, Respondents and OUII both filed responses to Walbro's petition for review.

The Commission has determined to review the subject ID in part. First, the Commission notes that Walbro's petition states that it no longer asserts the '547 patent in this investigation; and Walbro has abandoned its claim of a domestic industry with respect to the '547 patent by failing to seek Commission review. *See* Walbro petition at 1; *see also* 19 CFR 210.43(b)(2). Second, the Commission affirms the ID's finding that respondents are entitled to summary determination that Walbro failed to satisfy the domestic industry requirement. However, the Commission declines to adopt certain statements on pages 4, 5, and 6 in the ID that could be misinterpreted as applying a minimum threshold and as inconsistent with the flexible approach to domestic industry analysis. The investigation is terminated.

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.

Issued: October 11, 2019.

Lisa Barton,

Secretary to the Commission.

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DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Second Amendment To Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act and the Resource Conservation and Recovery Act

On October 10, 2019, the Department of Justice and the State of California on behalf of the California Department of Toxic Substances Control and Toxic Substances Control Account ("DTSC") lodged a proposed amendment

("Amendment 2") to a Consent Decree with the United States District Court for the Central District of California ("Court") in the matter of *United States of America and State of California on behalf of the Department of Toxic Substances Control and Toxic Substances Control Account vs. Abex Aerospace et al.*, Civil Action No. 2:16-cv-02696 (C.D. Cal.). This Amendment 2 amends Appendices D, E, and F of the Consent Decree previously approved by the Court on March 31, 2017 (for which the Court also approved an amendment on April 5, 2018, "Amendment 1"); that Consent Decree pertains to environmental contamination at Operable Unit 2 ("OU2") of the Omega Chemical Corporation Superfund Site (Site) in Los Angeles County, California. Amendment 2 is for the purpose of adding additional settling parties to the Consent Decree, and follows the mechanisms that the previously approved Consent Decree sets forth for adding additional settlers.

The Consent Decree resolves certain claims under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9606, 9607, and Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. 6973, as well as related state law claims, in connection with environmental contamination at OU2. Amendment 2 does the following:

(a) Adds the following parties, each of which has owned or operated a facility within the commingled OU2 groundwater plume area, as Settling Cash Defendants:

- Exxon Mobil Oil Corporation, together with related entities Mobil Foundation Inc.; General Petroleum Corporation; and Mobil Oil Corporation; and
- Continental Heat Treating Inc., together with related entities Tower Industries, Inc.; Continental Development Co., L.P.; James Stull, an individual; Metallurgical Group, Inc. (formerly Smith Heat Treating, Inc.); 10643 Norwalk, LLC; The Anna A. Hathaway Revocable Trust; The Estate of Anna A. Hathaway; J Benjamin Hathaway; James G. Stull Living Trust; and James C. Stull Irrevocable Trust.

These parties are "Certain Noticed Parties" within the meaning of Paragraph 75 and Appendix G of the Consent Decree.

(b) Moves the following parties who were previously denoted as Settling Work Defendants in Appendix E of the Consent Decree to the category of Settling Cash Defendants in Appendix D of the Consent Decree: Alpha Therapeutic Corporation; American Standard, Inc.; Arlon Products Inc.;

Astro Aluminum Treating Co. Inc.; Atlantic Richfield; BP Amoco Chemical Company; Gulfstream Aerospace Corporation; Hitachi Home Electronics; Howmet Aluminum Casting, Inc.; Johns Manville Celite Corporation; Kimberly Clark Worldwide Inc., Fullerton Mill; Kinder Morgan Liquids Terminals LLC; Luxfer USA Limited by British Alcan Aluminum plc; Metropolitan Water District of Southern California; NBC/Universal City Studios; Pacific Bell Telephone Company; Pfizer Inc.; Scripto-Tokai Corporation; Sempra Energy Solutions; Signet Armorlite, Inc.; Sonoco Products Company; Texaco Inc.; Texas Instruments Incorporated; The Sherwin-Williams Company; Union Oil of California; Weber Aircraft Corporation; and Yort, Inc. This is the process described in Paragraph 79 of the Consent Decree.

(c) Adds as Settling Cash Defendants two parties that had previously resolved their liability associated with the Omega Chemical Corporation facility: Kennedy-Wilson Properties and Radiant Technologies.

This Amendment 2 requires the additional settling parties in category (a) to pay \$4,700,000 into Qualified Settlement Funds, as provided for in Paragraph 27(a) of the Consent Decree. The parties in category (b) are pre-existing settling parties under this Consent Decree, and their movement from the Settling Work Defendants to Settling Cash Defendants category does not require them to pay money to the United States and DTSC. The parties in category (c) are parties that have previously resolved their liability within the group of generators at the Omega Chemical Corporation facility, and are not required to pay money to the United States and DTSC.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America and State of California on behalf of the Department of Toxic Substances Control and Toxic Substances Control Account vs. Abex Aerospace et al.*, D.J. Ref. No. 90-11-3-06529/10. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov