

Also, during the course of the investigation, Complainants withdrew their allegations with respect to claims 7–9, 11–14, 16–19, 21, and 22 of the '358 patent, claims 4–6, 8, 11–13, 16–20, and 22–24 of the '779 patent, and claims 5, 7–9, and 20 of the '741 patent, and the investigation was terminated as to these claims. Thus, claims 1 and 6 of the '358 patent, claims 1 and 9 of the '779 patent, and claims 1, 3, 10, and 18 of the '741 patent remain in the investigation.

On October 28, 2022, the ALJ issued a final ID, finding no violation of section 337 in this investigation. Specifically, the final ID terminated claim 18 of the '741 patent after Complainants did not proceed with this claim at the hearing. With respect to the remaining asserted claims of the '358, '779, and '741 patents, the final ID found no violation based on Complainants' failure of proof with respect to infringement and the technical prong of the domestic industry requirement. The final ID also determined that the asserted patent claims have not been shown to be invalid. The final ID further found that if the asserted domestic industry products satisfy the technical prong of the domestic industry requirement, Complainants have shown that the economic prong of the domestic industry requirement is satisfied with respect to all the asserted patents under section 337(a)(3)(A). On November 14, 2022, the ALJ issued a recommended determination on remedy, the public interest, and bonding.

Also on November 14, 2022, Complainants, Respondents, and OUII filed separate petitions for review of the final ID. On November 22, 2022, they filed separate replies to the petitions for review.

No submissions were received in response to the Commission's notice soliciting submissions from the public on the public interest issues raised by the recommended determination. 87 FR 70863 (Nov. 21, 2022).

Having reviewed the record of the investigation, including the final ID, the Claim Construction Order, and the parties' submissions, the Commission has determined to review in part the final ID and, on review, affirm the final ID's finding of no violation of section 337 with the supplemental reasoning discussed below. In particular, the Commission has determined to review and adopt the ALJ's claim constructions, including the term "perpendicularly" in the '358 and '779 patent claims and the term "oriented manner" in the '741 patent claims, based on the reasoning provided in the Claim Construction Order and the final ID. The Commission supplements the ID's construction of the

term "perpendicularly" with the inventor's statements during prosecution at RX–0309.0270–0271, which further supports the ID's finding at page 50 that the fibers of prior art Griffiths were not flocked in an ordered arrangement normal to the surface although Griffiths employs electrostatic flocking. Copan does not challenge the final ID's findings that Respondents' accused products do not infringe and that the domestic industry products do not practice these limitations under the ALJ's claim constructions. Having failed to show that its alleged domestic industry products practice any of the asserted patents, Copan has necessarily failed to show the existence of a domestic industry under section 337(a)(3) for the asserted patents. Accordingly, the Commission has determined to review and take no position on the economic prong of the domestic industry requirement.

The Commission has also determined to review and adopt the final ID's findings that the JCM accused products do not infringe and that Copan's domestic industry products do not practice the absorption "by capillarity" limitations of the '358 and '779 patents based on the reasoning provided in the final ID. The Commission supplements the ID's reasoning with the inventor's statements made during prosecution of the '779 patent. In particular, in an August 11, 2014 reply to an office action from June 11, 2014, the inventor argued that a "brush" disclosed in the prior art, Hedberg (U.S. Patent No. 5,623,941) (RX–0141), "does not provide an appreciable capillary action of the fiber layer, since the quantity of liquid collected *by dipping the brush in a liquid* (please note that a collection of liquid by dipping a device into the liquid does not require a capillary action, since also a spoon can collect liquid when dipped into a liquid container, despite the fact that a spoon evidently has no capillary action) was easily lost by the swab, thus showing the absence of a capillary effect" JX–0005.1555 (emphasis in original). The Commission finds the inventor's statements during prosecution further support the ID's finding that Dr. Michielsen's testing, which included collecting liquid after dipping an accused swab into beet juice, did not reliably show liquid absorbed solely by capillarity. *See, e.g.*, ID at 103. Thus, the Commission finds the record evidence supports the ID's finding that Dr. Michielsen's testing does not show, by a preponderance of the evidence, that the absorption "by capillarity" limitation is met by the JCM accused

products and Copan's domestic industry products. *See* ID at 103–106, 111, 128–29, 131.

Among other findings, the Commission has determined not to review the final ID's findings that BioTeke's redesigned products should be adjudicated and are not infringing and that the asserted claims have not been shown to be invalid.

In addition, the Commission corrects a typographical error on page 151 of the ID. The sentence should read as follows: "the evidence does *not* show, clearly and convincingly, obviousness of any asserted claim"

Accordingly, the Commission has determined to affirm the ID's finding of no violation of section 337 with the supplemental reasoning discussed above. The investigation is terminated in its entirety.

The Commission vote for this determination took place on March 17, 2023.

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: March 17, 2023.

Lisa Barton,

Secretary to the Commission.

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INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Amended Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received an amended complaint entitled *Certain Portable Battery Jump Starters and Components Thereof, DN 3669*; the Commission is soliciting comments on any public interest issues raised by the amended complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Designated Secretary Name, Acting/Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be

accessed on the Commission's Electronic Document Information System (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 United States International Trade Commission (USITC) at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (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 has received an amended complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of The NOCO Company on March 14, 2023. The original complaint was filed on February 13, 2023 and a notice of receipt of complaint; solicitation of comments relating to the public interest published in the **Federal Register** on February 21, 2023. The amended complaint alleges violations of section 337 of the Tariff Act of 1930 (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 portable battery jump starters and components thereof. The amended complaint names as respondents: Shenzhen Winplus Shenzhen Pinwang Industrial Technology Co., Ltd. of China; Tacklife Tools (Kushigo Limited also d/b/a "Shenzhen Take Tools Co. Ltd.") of China; and Gooloo Technologies LLC of China. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the amended complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due, notwithstanding § 201.14(a) of the Commission's Rules of Practice and Procedure. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number ("Docket No. 3669") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic Filing Procedures).¹ Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS,

¹ Handbook for Electronic Filing Procedures: https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.

<https://edis.usitc.gov>.) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at EDIS3Help@usitc.gov.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,² solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.³

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: March 20, 2023.

Lisa R. Barton,

Secretary to the Commission.

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² All contract personnel will sign appropriate nondisclosure agreements.

³ Electronic Document Information System (EDIS): <https://edis.usitc.gov>.