

**UNITED STATES INTERNATIONAL TRADE COMMISSION**

**Washington, D.C.**

**In the Matter of**

**CERTAIN LITHIUM METAL OXIDE CATHODE  
MATERIALS, LITHIUM-ION BATTERIES FOR POWER  
TOOL PRODUCTS CONTAINING SAME, AND POWER  
TOOL PRODUCTS WITH LITHIUM-ION BATTERIES  
CONTAINING SAME**

**Inv. No. 337-TA-951**

**ORDER NO. 3: REGARDING TARGET DATE, CASE MANAGEMENT  
CONFERENCE, AND PROCEDURAL SCHEDULE**

(April 2, 2015)

By publication of a notice in the Federal Register on March 30, 2015, the U.S.

International Trade Commission ordered that:

Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain lithium metal oxide cathode materials, lithium-ion batteries for power tool products containing same, and power tool products with lithium-ion batteries containing same by reason of infringement of one or more of claims 1-4, 7, 8, 13, and 14 of the '082 patent and claims 1-4, 8, 9, and 17 of the '143 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

80 F.R. 16696 (March 30, 2015).

The Complainants in this Investigation are BASF Corporation and UChicago Argonne LLC, and the Respondents are Umicore N.V., Umicore USA Inc., Makita Corporation, Makita Corporation of America, and Makita U.S.A. Inc. The Office of Unfair Import Investigations is also a party in this Investigation.

The target date for this Investigation shall be June 30, 2016, which is fifteen months from the date that the Notice of Investigation was published in the Federal Register. *See* 19 C.F.R. § 210.51(a). Consequently, any final initial determination would be due by Monday, February 29, 2016. *See* 19 C.F.R. § 210.42(a)(1)(i).

**Initial Case Management Conference**

Pursuant to Ground Rule 6, I will hold the initial case management conference in this Investigation on **Monday, April 27, 2015 at 10:00 AM ET**. The conference will be held telephonically. Complainant shall be responsible for setting up the teleconference number, ensuring a court reporter is present to transcribe the call, and filing the transcript of the teleconference on EDIS. As set forth in Ground Rule 6.3, each party shall submit a case management statement two (2) business days prior to the scheduled initial case management conference on **Wednesday, April 22, 2015** by the close of business.

**Procedural Schedule**

I hereby order that the Procedural Schedule attached hereto as Appendix A is now in effect. A technology tutorial will commence at 9:00 AM ET on Wednesday, July 1, 2015. The tutorial shall be immediately followed by a *Markman* hearing, which shall conclude no later than 4:45 PM ET on Thursday, July 2, 2015. The pre-hearing conference in this Investigation shall commence at 9:00 AM ET on Friday, October 23, 2015, and shall conclude no later than 11:45 AM that day. The Hearing in this Investigation shall commence at 9:00 AM ET on Monday, October 26, 2015, and shall conclude no later than 11:45 AM ET on Friday, October 30, 2015.

The parties shall meet and confer to jointly propose deadlines for those events in the Procedural Schedule where no deadline is indicated, including deadlines for the Commission Investigative Staff. The parties may also propose modifications to the listed deadlines. Further, the parties may jointly propose including additional deadlines, including deadlines for the Commission Investigative Staff. The parties shall submit a joint procedural schedule at the same time the parties submit their initial case management statements.

**SO ORDERED.**

A handwritten signature in black ink, reading "Thomas B. Pender", with a long horizontal flourish extending to the right.

Thomas B. Pender  
Administrative Law Judge

**APPENDIX A**

<b>PROCEDURAL SCHEDULE, CASE NO. 337-TA-951</b>	
<b>Event</b>	<b>Date</b>
Deadline for Propounding Ground Rule 6.2 Interrogatories	Monday, April 20, 2015
Initial Case Management Conference	Monday, April 27, 2015
File identification of expert witnesses, including their expertise and curriculum vitae	
Deadline for Ground Rule 7.1 Disclosure of Priority Dates and Dates of Conception/Reduction to Practice	Monday, May 11, 2015
Exchange list of claim terms for construction	Friday, May 15, 2015
Exchange proposed claim constructions	Friday, May 22, 2015
File joint claim construction chart	Friday, May 29, 2015
First settlement conference	
Submit first settlement conference joint report	
File initial claim construction briefs	Wednesday, June 10, 2015
Deadline for Ground Rule 7.2 Disclosure of Products	Friday, June 12, 2015
File reply claim construction briefs	Wednesday, June 24, 2015
Deadline for Ground Rule 7.3 Disclosure of Domestic Industry Contentions	Friday, June 26, 2015
Technology Tutorial	Wednesday, July 1, 2015
Markman Hearing	Thursday, July 2, 2015
Deadline for Ground Rule 7.4 Disclosure of Infringement Contentions	Friday, July 24, 2015
Deadline for Ground Rule 7.5 Disclosure of Invalidity Contentions	Friday, July 24, 2015
Issue Order Construing Terms (*tentative date*)	Friday, July 31, 2015
Fact discovery cutoff and completion	Friday, July 31, 2015

**PROCEDURAL SCHEDULE, CASE NO. 337-TA-951**

<b>Event</b>	<b>Date</b>
Second settlement conference	
Submit second settlement conference joint report	
Serve initial expert reports	Friday, August 14, 2015
Deadline for filing summary determination motions	Monday, August 24, 2015
Serve rebuttal expert reports	Friday, August 28, 2015
Expert discovery cutoff and completion	Friday, September 11, 2015
Third settlement conference	
Submit third settlement conference joint report	
File requests for receipt of evidence without a witness	
Serve proposed exhibit lists	
Serve proposed direct exhibits (including witness statements), with available proposed physical and demonstrative exhibits	
File objections to proposed direct exhibits (including witness statements)	
File responses to objections to proposed direct exhibits (including witness statements)	
Serve proposed rebuttal exhibits (including witness statements), with available proposed rebuttal physical and demonstrative exhibits	
File pre-hearing statements and briefs	Friday, September 25, 2015
Submit on electronic media proposed direct and proposed rebuttal exhibits (including witness statements) with available proposed direct and proposed rebuttal physical and demonstrative exhibits	Friday, September 25, 2015
Deadline for filing motions in limine	
File objections to proposed rebuttal exhibits (including witness statements)	
File responses to objections to proposed rebuttal exhibits (including witness	

**PROCEDURAL SCHEDULE, CASE NO. 337-TA-951**

<b>Event</b>	<b>Date</b>
statements)	
File responses to motions in limine	Friday, October 09, 2015
Pre-hearing conference	Friday, October 23, 2015
Hearing	Monday, October 26, 2015 through Friday, October 30, 2015
File initial post-hearing briefs and final exhibit lists	Friday, November 13, 2015
Submit final direct and rebuttal exhibits (including witness statements) with direct and rebuttal physical and demonstrative exhibits	Friday, November 13, 2015
File reply post-hearing briefs	Friday, November 27, 2015
Initial Determination Due	Monday, February 29, 2016
Target date for completion of investigation	Thursday, June 30, 2016

**IN THE MATTER OF CERTAIN LITHIUM METAL  
OXIDE CATHODE MATERIALS, LITHIUM-ION BATTERIES  
FOR POWER TOOL PRODUCTS CONTAINING SAME, AND  
POWER TOOL PRODUCTS WITH LITHIUM-ION BATTERIES  
CONTAINING SAME**

**337-TA-951**

CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **PUBLIC ORDER NO. 03** has been served upon the **Commission Investigative Attorney, Sarah Sladic, Esq.**, and the following parties as indicated on APR 02 2015 2015.



Lisa R. Barton, Secretary  
U.S. International Trade Commission  
500 E Street, SW, Room 112A  
Washington, DC 20436

**FOR COMPLAINANTS BASF CORPORATION & UCHICAGO ARGONNE, LLC:**

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**FOR RESPONDENTS UMICORE N.V. & UMICORE USA NC.**

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**FOR RESPONDENTS MAKITA CORPORATION, MAKITA CORPORATION OF  
AMERICA & MAKITA U.S.A. INC.**

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