

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN NICKEL METAL HYDRIDE
CONSUMER BATTERIES,
COMPONENTS THEREOF, AND
CONSUMER ELECTRONIC
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-579

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION TERMINATING 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 not to review the initial determination (“ ID”) of the presiding administrative law judge (“ALJ”) terminating the above-captioned investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“section 337”).

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3065. 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, S.W., Washington, D.C. 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: On August 29, 2006, the Commission instituted the above-captioned investigation, based on a complaint filed July 26, 2006, and supplemented August 17, 2006, on behalf of Ovonic Battery Company, Inc. (Rochester Hills, Michigan)(“Ovonic”). 71 Fed. Reg. 51,211 (August 29, 2006). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 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 nickel metal hydride consumer batteries, components thereof, and consumer electronic components containing same by reason of infringement of one or more of claims 11-13, 18, and 19 of U.S. Patent No. 5,536,591. The complaint named as respondents

Varta Aktiengesellschaft (Hanover, Germany) (“Varta AG”); Varta Microbattery GmbH (Ellwangen, Germany); and Varta Microbattery, Inc. (New York).

On September 26, 2006, respondents submitted a motion under Commission Rules 210.15 and 210.21(a)(2), (d) to terminate the investigation based on an arbitration agreement. Ovonic opposed the motion; the Commission investigative attorney supported it. On May 30, 2007, the ALJ issued the subject ID (Order No. 4), granting the motion to terminate. No petitions for review were filed. The Commission has determined not to review the subject ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and sections 210.21(d), 210.42(c), and 210.42(h)(3) of the Commission’s Rules of Practice and Procedure (19 CFR §§ 210.21(d), 210.42(c), (h)(3)).

By order of the Commission.

/s/
Marilyn R. Abbott
Secretary to the Commission

Issued: June 27, 2007