

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN CARBURETORS AND
PRODUCTS CONTAINING SUCH
CARBURETORS**

Inv. No. 337-TA-1123

**ORDER NO. 50: INITIAL DETERMINATION GRANTING-IN-PART COMPLAINANT
WALBRO LLC'S MOTION TO AMEND THE COMPLAINT AND
NOTICE OF INVESTIGATION**

(April 25, 2019)

On March 14, 2019, Complainant Walbro LLC ("Walbro") moved (1123-037) to amend the Complaint and Notice of Investigation. Respondents Huayi Carburetor Factory, Cabela's Incorporated, and Techtronic Industries Co. Ltd. of Hong Kong d/b/a Techtronic Industries Power Equipment do not oppose the motion and the remaining Respondents take no position. (Mot. at 1.) Huayi Mechanical and Electrical Co. Ltd. and Techtronic Industries (Dongguan) Co. Ltd. do not oppose amending the Complaint and Notice of Investigation to name them as Respondents. The Commission Investigative Staff ("Staff") supports the motion. (Staff Resp. at 1.)

Walbro seeks leave to amend the Complaint and Notice of Investigation to: (1) substitute "Huayi Mechanical and Electrical Co., Ltd." for the originally named Respondent "Huayi Carburetor Factory" and to update the address to "No. 32, Xinghuo Industrial Zone, Fuding City, Fujian Province 355200, P.R. China"; (2) correct the corporate name of Respondent Cabela's Incorporated to "Cabela's LLC"; (3) substitute "Techtronic Industries (Dongguan) Co. Ltd." for currently named Respondent Techtronic Industries Co. Ltd. of Hong Kong d/b/a Techtronic Industries Power Equipment; and (4) update contact information for Walbro's counsel. (Mot. at 2.) Walbro explains that "[t]he proposed amendments are in the best interests of the pending

Investigation” and “are necessary to avoid prejudicing the public interest and the rights of the parties to the Investigation.” (*Id.*)

Staff asserts that Walbro “has met its burden of demonstrating that (i) good cause exists for its proposed amendments, and (ii) its proposed amendments will not prejudice the rights of the parties in this investigation or the public interest.” (Staff Resp. at 3.) Staff notes that “granting the requested relief appears to the Staff to be appropriate.” (*Id.* at 4.)

Commission Rule 210.14(b) governs amendments to the Complaint and Notice of Investigation post-institution. It reads, *inter alia*:

After an investigation has been instituted, the complaint or notice of investigation may be amended only by leave of the Commission for good cause shown and upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties to the investigation. . . . If the proposed amendment of the complaint would require amending the notice of investigation, the presiding administrative law judge may grant the motion only by filing with the Commission an initial determination. All other dispositions of such motions shall be by order.

19 C.F.R. § 210.14(b).

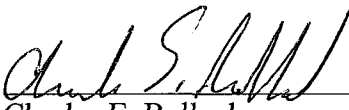
The undersigned finds that good cause exists for amending the complaint to change the names of Cabela’s Incorporated and to substitute Respondents Huayi Mechanical and Electrical Co. Ltd. and Techtronic Industries (Dongguan) Co. Ltd. for Respondents Huayi Carburetor Factory, and Techtronic Industries Co. Ltd. of Hong Kong d/b/a Techtronic Industries Power Equipment. Specifically, the undersigned agrees that amending the Complaint and Notice of Investigation to reflect the proper names of the Respondents will aid in the development of the Investigation and is necessary to avoid prejudicing the public interest and rights of the parties to the Investigation.

The undersigned declines to grant the motion with respect to Walbro’s request to change counsel’s address. As Staff notes, “such a change is made normally through a notice of appearance.” (Staff Resp. at 1 n.1.) As such, it is unnecessary to grant the motion as to this request.

Accordingly, it is the initial determination of the undersigned that Complainant's motion (1123-037) to amend the Complaint and Notice of Investigation be granted-in-part. This Initial Determination, along with supporting documentation, is hereby certified to the Commission.

Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review of the Initial Determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders, on its own motion, a review of the Initial Determination or certain issues herein.

SO ORDERED.



Charles E. Bullock
Chief Administrative Law Judge

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Certificate of Service – Page 1

I, Lisa R. Barton, hereby certify that the attached **ORDER NO. 50** has been served by hand upon the Commission Investigative Attorney, Vu Bui, Esq., and the following parties as indicated, on **April 25, 2019**.



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

| | |
|---------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>On Behalf of Complainant Walbro, LLC:</u> | |
| Richard W. Hoffmann, Esq. REISING ETHINGTON, PC 755 W. Big Beaver Rd., Suite Troy, MI 48084 | <input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____ |
| <u>RESPONDENTS:</u> | |
| <u>On Behalf of Lowe's Companies, Inc.:</u> | |
| Joshua B. Pond, Esq. KILPATRICK TOWNSEND & STOCKTON LLP 607 14 TH Street, NW, Suite 900 Washington, DC 20005 | <input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____ |
| <u>On Behalf of Respondent Amazon.com, Inc.:</u> | |
| Stefani E. Shanberg, Esq. MORRISON & FOERSTER LLP 425 Market Street San Francisco, CA 94105 | <input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____ |
| <u>On Behalf of Respondent MTD Products, Inc.:</u> | |
| Kathryn L. Clune, Esq. CROWELL & MORING LLP 1001 Pennsylvania Avenue, NW Washington, DC 20004-2595 | <input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____ |

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| <u>On Behalf of Respondents Techtronic Industries Co. Ltd. d/b/a Techtronic Industries Power Equipment and The Home Depot Inc.:</u> | |
| Sean C. Cunningham, Esq. DLA PIPER LLP (US) 401 B Street, Suite 1700 San Diego, California 92101 | <input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____ |
| <u>On Behalf of Respondents Kmart Corporation and Sears, Roebuck and Company:</u> | |
| Eric S. Namrow, Esq. MORGAN, LEWIS & BOCKIUS LLP 1111 Pennsylvania Avenue, NW Washington, DC 20004-2541 | <input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____ |
| <u>On Behalf of Respondent Zhejiang Ruixing Carburetor Manufacturing Co., Ltd. and Thunderbay Products:</u> | |
| P. Andrew Riley, Esq. MEI & MARK LLP 818 18 th Street, NW, Suite 410 Washington, DC 20006 | <input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____ |
| <u>On Behalf of Respondent Generac Power Systems, Inc.:</u> | |
| Steven M. Auvil, Esq. SQUARE PATTON BOGGS (US) LLP 4900 Key Tower, 127 Public Square Cleveland, Ohio 44114 | <input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____ |
| <u>On Behalf of Respondent Walmart Inc.:</u> | |
| Rett Snotherly, Esq. LEVI & SNOTHERLY, PLLC 1101 Connecticut Avenue, NW, Suite 450 Washington, DC 20036 | <input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____ |
| <u>On Behalf of Respondent Cabela's Inc.:</u> | |
| Kecia J. Reynolds, Esq. PHILLSBURY WINTHROP SHAW PITTMAN LLP 1200 Seventeenth St., NW Washington, DC 20036 | <input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____ |
| <u>On Behalf of Respondent Tractor Supply Company:</u> | |
| Daniel E. Yonan, Esq. STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C. 1100 New York Avenue, NW Washington, DC 20005 | <input type="checkbox"/> Via Hand Delivery <input checked="" type="checkbox"/> Via Express Delivery <input type="checkbox"/> Via First Class Mail <input type="checkbox"/> Other: _____ |

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