

PUBLIC VERSION

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

In the Matter of

**CERTAIN CARBURETORS AND
PRODUCTS CONTAINING SUCH
CARBURETORS**

Investigation No. 337-TA-1123

COMMISSION OPINION

On August 12, 2019, the presiding administrative law judge (“ALJ”) issued an initial determination (“ID”) (Order No. 77) granting respondents’ motion for summary determination that complainant Walbro, LLC (“Walbro”) failed to satisfy the economic prong of the domestic industry requirement under section 337(a)(3) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(a)(3) (“section 337”).

Having considered the ID and the parties’ submissions, the Commission has determined to review the ID in part. On review, the Commission affirms with modified reasoning the ID’s conclusion that respondents are entitled to summary determination that Walbro’s activities and investments are not significant or substantial as a matter of law. Thus, Walbro cannot satisfy the domestic industry requirement with respect to articles protected by U.S. Patent Nos. 6,394,424 (“the ’424 patent”); 6,533,254 (“the ’254 patent”); and 7,070,173 (“the ’173 patent”) (collectively, the “Asserted Patents”).¹ As discussed below, the Commission declines to adopt

¹ We note that Walbro filed a petition for review that states Walbro no longer asserts the ’547 patent. *See* Complainant Walbro’s Petition for Review (Aug. 22, 2019) (“WPet.”) at 1. In addition, Walbro’s petition does not include any evidence related to the ’547 patent and addresses only the ’424 patent, ’254 patent, and ’173 patent. *See, e.g., id.* at 5-7, 11-12, 14-19. Under Commission Rule 210.43(b) “[a]ny issue not raised in a petition for review will be deemed to have been abandoned by the petitioning party and may be disregarded by the Commission” 19 C.F.R. § 210.43(b). Therefore, Walbro has abandoned the asserted claims of the ’547 patent by failing to seek Commission review, and this Opinion does not summarize

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certain statements in the ID's analysis of the domestic industry arguments that may be interpreted as requiring a minimum investment threshold or suggesting a focus on facts other than the patented articles. Because respondents are entitled to summary determination that Walbro failed to satisfy the domestic industry requirement, the Commission finds that respondents have not violated section 337 with respect to the Asserted Patents.

I. BACKGROUND

The Commission instituted this investigation on July 20, 2018, based on a complaint filed by Walbro of Tucson, Arizona. 83 *Fed. Reg.* 34614-615 (July 20, 2018). The complaint, as supplemented, alleges violations of 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 '254 patent, the '173 patent, and U.S. Patent Nos. 6,439,547 ("the '547 patent") and 6,540,212.² *Id.* The complaint also alleges that an industry related to articles protected by the Asserted Patents exists in the United States. *Id.* 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.*

On June 25, 2019, respondents Amazon.com, Inc. of Seattle, Washington; Cabela's LLC³ of Sidney, Nebraska; Lowe's Companies, Inc. of Mooresville, North Carolina; Menard, Inc. of

or review the ID's findings with respect to the '547 patent. *See* WPet. at 1; 19 C.F.R. § 210.43(b)(2); *see also* *Broadcom Corp. v. U.S. Int'l Trade Comm'n*, 542 F.3d 894, 901 (Fed. Cir. 2008) (finding that an appellant had waived an argument not presented in a petition for review to the Commission).

² The Commission terminated U.S. Patent No. 6,540,212 from the investigation on August 5, 2019. Order No. 72 (Aug. 5, 2019), *not reviewed*, Notice (Aug. 22, 2019).

³ The Commission later terminated Cabela's LLC from the investigation due to settlement. Order No. 75 (Aug. 7, 2019), *not reviewed*, Notice (Aug. 22, 2019).

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Eau Claire, Wisconsin; Techtronic Industries Co. Ltd. of Kwai Chung, Hong Kong; The Home Depot, Inc. of Atlanta, Georgia; Thunderbay Products⁴ of Clayton, Wisconsin; Tractor Supply Company of Brentwood, Tennessee; Walmart, Inc. of Bentonville, Arkansas; and Zhejiang Ruixing Carburetor Manufacturing Co., Ltd. of Zhejiang, China (collectively, “Respondents”) filed a motion seeking summary determination that Walbro failed to satisfy the economic prong of the domestic industry requirement.⁵ ID at 1. On July 12, 2019, Walbro opposed the motion.⁶ *Id.* OUII did not submit a response to the motion. *Id.*

On August 12, 2019, the ALJ issued the subject ID granting Respondents’ motion. *See* ID. For purposes of summary determination, the ID assumes that Walbro’s calculations of its investments are correct. *Id.* at 2. The ID analyzes the available evidence⁷ for each of the Asserted Patents and calculates the percentages of Walbro’s domestic industry investments compared to Walbro’s U.S. sales and worldwide sales of the domestic industry products. *Id.* at 5-6. The ID finds that Walbro’s investments, when considered in context, are not significant or substantial. *Id.* at 5-7.

On August 22, 2019, Walbro filed a petition for review of the ID. *See* WPet. As noted above, Walbro abandoned the asserted claims of the ’547 patent. *Id.* at 1; 19 C.F.R.

⁴ The Commission later 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).

⁵ Respondents’ Motion for Summary Determination That Walbro Fails to Satisfy the Domestic Industry Economic Prong and Memorandum of Points and Authorities Supporting the Motion (June 25, 2019) (“Resp. Mem.”).

⁶ Complainant Walbro’s Opposition to Respondents’ Motion for Summary Determination That Walbro Fails to Satisfy the Domestic Industry Prong (July 12, 2019) (“WOpp.”); Walbro’s Responses to Respondents’ Statement of Undisputed Facts (July 12, 2019) (“Walbro’s Responses to SUF”).

⁷ The ID notes that discovery is closed and, therefore, Walbro cannot provide additional evidence. ID at 5.

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§ 210.43(b)(2). On August 29, 2019, Respondents and OUII both filed responses to Walbro's petition for review.⁸

II. LEGAL STANDARDS

A. Standard of Review of the ID

The Commission may review an ID either upon petition by one of the parties or on its own motion. *See* 19 C.F.R. §§ 210.43, 210.44. The Commission will grant a petition for review, in whole or in part, where it appears:

- (i) that a finding or conclusion of material fact is clearly erroneous;
- (ii) that a legal conclusion is erroneous, without governing precedent, rule or law, or constitutes an abuse of discretion; or
- (iii) that the determination is one affecting Commission policy.

19 C.F.R. § 210.43(b)(1), 210.43(d)(2).

The Commission's review will encompass those issues for which at least one participating Commissioner has voted for review. *See* 19 C.F.R. § 210.43(d)(3). Any issue that is not raised in a petition for review is deemed to have been abandoned by the petitioning party and may be disregarded by the Commission, unless the Commission chooses to review the issue on its own initiative. *See* 19 C.F.R. § 210.43(b)(2).

Once the Commission determines to review an initial determination, its review is conducted *de novo*. *Certain Polyethylene Terephthalate Yarn and Prods. Containing Same*, Inv. No. 337-TA-457, Comm'n Op. at 9 (June 18, 2002). Upon review, the "Commission has 'all the powers which it would have in making the initial determination,' except where the issues are

⁸ Respondents' Opposition to Complainant's Petition for Review (August 29, 2019) ("Resp. Opp."); Response of the Office of Unfair Import Investigations to Complainant Walbro, LLC's Petition for Review (August 29, 2019) ("IAResponse").

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limited on notice or by rule.” *Certain Flash Memory Circuits and Prods. Containing Same*, Inv. No. 337-TA-382, USITC Pub. 3046, Comm’n Op. at 9-10 (July 1997) (quoting *Certain Acid-Washed Denim Garments and Accessories*, Inv. No. 337-TA-324, Comm’n Op. at 5 (Nov. 1992)). Commission practice in this regard is consistent with the Administrative Procedure Act. *Certain EPROM, EEPROM, Flash Memory, and Flash Microcontroller Semiconductor Devices and Prods. Containing Same*, Inv. No. 337-TA-395, Comm’n Op. at 6 (Dec. 11, 2000) (“EPROM”); *see also* 5 U.S.C. § 557(b).

With respect to the issues under review, “the Commission may affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, the initial determination of the administrative law judge.” 19 C.F.R. § 210.45(c). Further, the Commission “may take no position on specific issues or portions of the initial determination,” and “may make any findings or conclusions that in its judgment are proper based on the record in the proceeding.” *Id.* This rule reflects the fact that the Commission is not an appellate court, but is the body responsible for making the final agency decision. On appeal, only the Commission’s final decision is at issue. *See Spansion, Inc. v. Int’l Trade Comm’n*, 629 F.3d 1331, 1349 (Fed. Cir. 2010); *EPROM* at 6 (citing *Fischer & Porter Co. v. U.S. Int’l Trade Comm’n*, 831 F.2d 1574, 1576-77 (Fed. Cir. 1987)).

B. Standards for Summary Determination

Under Commission Rule 210.18, summary determination “shall be rendered if pleadings and any depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a summary determination as a matter of law.” 19 C.F.R. § 210.18(b); *see also DeMarini Sports, Inc. v. Worth, Inc.*, 239 F.3d 1314, 1322 (Fed. Cir. 2001); *Wenger Mfg, Inc. v. Coating Machinery Systems, Inc.*, 239 F.3d 1225, 1231 (Fed. Cir. 2001). “[I]n deciding a motion

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for summary judgment, ‘the evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in his favor.’” *Liebel-Flarsheim Co. v. Medrad, Inc.*, 481 F.3d 1371, 1377 (Fed. Cir. 2007) (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986)).

A party moving for summary determination “has the initial responsibility of identifying the legal basis of its motion, and of pointing to those portions of the record that it believes demonstrate the absence of a genuine issue of material fact.” *See Novartis Corp. v. Ben Venue Labs., Inc.*, 271 F.3d 1043, 1046 (Fed. Cir. 2001) (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986)). A respondent seeking summary determination that a complainant cannot establish that its investments and activities are sufficient to satisfy the domestic industry requirement may meet its initial burden “either by providing evidence that would preclude a finding” that the complainant’s investments are significant or substantial “or by showing that the evidence on file fails to establish a material issue of fact essential to” the complainant’s case. *Cf. Novartis*, 271 F.3d at 1046 (discussing the legal standards for summary judgment); *see also* 19 U.S.C. § 1337(a)(3) (requiring “significant” or “substantial” investments or employment). Once the respondent “has made this showing, the burden shifts to the nonmovant [(i.e., the complainant)] to designate specific facts showing that there is a genuine issue for trial.” *Id.* (citing *Celotex*, 477 U.S. at 324).

The trier of fact should “assure itself that there is no reasonable version of the facts, on the summary judgment record, whereby the nonmovant could prevail, recognizing that the purpose of summary judgment is not to deprive a litigant of a fair hearing, but to avoid an unnecessary trial.” *EMI Group North America, Inc. v. Intel Corp.*, 157 F.3d 887, 891 (Fed. Cir. 1998). “In other words, ‘[s]ummary judgment is authorized when it is quite clear what the truth is,’ [citations omitted], and the law requires judgment in favor of the movant based upon facts

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not in genuine dispute.” *Paragon Podiatry Laboratory, Inc. v. KLM Laboratories, Inc.*, 984 F.2d 1182, 1185 (Fed. Cir. 1993).

C. The Domestic Industry Requirement

Under Commission precedent, the domestic industry requirement of section 337 consists of an “economic prong” and a “technical prong.” *See, e.g., Alloc, Inc. v. Intl Trade Comm’n*, 342 F.3d 1361, 1375 (Fed. Cir. 2003). To satisfy the technical prong, a complainant must show that its products practice the asserted patents. *See Crocs, Inc. v. Int’l Trade Comm’n*, 598 F.3d 1294, 1307 (Fed. Cir. 2010) (discussing 19 U.S.C. § 1337(a)(2)).

The economic prong of the domestic industry requirement is satisfied when it is determined that sufficient economic activities and investments set forth in subparagraphs (A), (B), or (C) of section 337(a)(3) have taken place or are taking place with respect to the articles protected by the asserted patent. *Certain Variable Speed Wind Turbines & Components Thereof*, Inv. No. 337-TA-376, Comm’n Op. at 21 (Nov. 1996) (“*Wind Turbines*”).

Section 337(a)(3) provides that:

[A]n industry in the United States shall be considered to exist if there is in the United States, with respect to the articles protected by the patent, copyright, trademark, mask work, or design concerned—

- (A) significant investment in plant and equipment;
- (B) significant employment of labor or capital; or
- (C) substantial investment in its exploitation, including engineering, research and development, or licensing.

19 U.S.C. § 1337(a)(3). Satisfaction of any one subparagraph is sufficient to meet the domestic industry requirement. *Wind Turbines*, Comm’n Op. at 15.

The Federal Circuit has clarified that “qualitative factors alone are insufficient to show ‘significant investment in plant and equipment’ and ‘significant employment of labor or capital’ under prongs (A) and (B) of the § 337 domestic industry requirement.” *Lelo Inc. v. Int’l Trade*

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Comm’n, 786 F.3d 879, 885 (Fed. Cir. 2015). There is no threshold monetary amount that a complainant must meet. *See Certain Stringed Musical Instruments and Components Thereof*, Inv. No. 337-TA-586, *Comm’n Op.* at 25-26 (May 16, 2008) (“*Stringed Musical Instruments*”) (“We emphasize that there is no minimum monetary expenditure that a complainant must demonstrate to qualify as a domestic industry under the ‘substantial investment’ requirement of this section.”); *Certain Male Prophylactic Devices*, Inv. No. 337-TA-546, *Comm’n Op.* at 39 (Aug. 1, 2007) (“*Male Prophylactics*”) (“[T]here is no mathematical threshold test.”). Rather, the inquiry depends on “the facts in each investigation, the article of commerce, and the realities of the marketplace.” *Certain Printing & Imaging Devices & Components Thereof*, Inv. No. 337-TA-690, *Comm’n Op.* at 27 (Feb. 17, 2011) (“*Printing Devices*”). “The determination takes into account the nature of the investment and/or employment activities, the industry in question, and the complainant’s relative size.” *Id.* Thus, evidence to “substantiate the significance of [a complainant’s] activities with respect to the [domestic industry articles protected by the asserted patent]” is required. *Certain Solid State Storage Drives, Stacked Elecs. Components, & Prods. Containing Same*, Inv. No. 337-TA-1097, *Comm’n Op.* at 33 (June 29, 2018).

As the Federal Circuit noted in *Lelo*, the Commission “[has] found that the word ‘significant’ denote[s] ‘an assessment of the *relative* importance of the domestic activities.’” *Lelo*, 786 F.3d at 883-84 (emphasis added) (quoting *Certain Concealed Cabinet Hinges and Mounting Plates*, Inv. No. 337-TA-289, 1990 WL 10608981, *Comm’n Op.* at 11 (Jan. 8, 1990) (“*Cabinet Hinges*”)). In *Certain Optoelectronic Devices*, the Commission stated the following regarding the context of a complainant’s domestic expenditures:

As we held in *Certain Printing and Imaging Devices*, whether investment activities are significant or substantial “is not evaluated according to any rigid mathematical formula,” but rather, “entails ‘an examination of the facts in each investigation, the article of commerce, and the realities of the marketplace.’”

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Certain Printing and Imaging Devices and Components Thereof, Inv. No. 337-TA-690, Comm’n Op. at 27 (Feb. 17, 2011) (“*Printing Devices*”) (quoting *Certain Male Prophylactic Devices*, Inv. No. 337-TA-546, Comm’n Op. at 39 (Aug. 1, 2007)). There are a number of factors and approaches taken by the Commission in making this determination. For example, comparing complainant’s domestic expenditures to its foreign expenditures is one of the possible factors that the Commission could but, contrary to Respondents’ argument, is not required to consider. *Id.* at 27-28. *Accord*, *Certain Encapsulated Integrated Circuit Devices and Products Containing Same*, Inv. No. 337-TA-501, Comm’n Op. at 33 (Apr. 4, 2014).

Certain Optoelectronic Devices for Fiber Optic Communications, Inv. No. 337-TA-860, Comm’n Op. at 18-19 (May 9, 2014). Beyond using sales for allocating the absolute amount of investments, the Commission has also compared those investments to sales of protected articles in order to consider the context of a complainant’s domestic industry investments among other evidence. *See, e.g., Certain Automated Teller Machines, ATM Modules, Components Thereof and Products Containing Same*, Inv. No. 337-TA-972, Final ID at 190-91 (Feb. 1, 2017) (public version) (“*Automated Teller Machines*”), *unreviewed on ’010 patent findings*, Notice at 3 (Jan. 30, 2017) (finding low quantitative proportion of field service labor investments compared to sales revenues and manufacturing costs, and that qualitative evidence weighs against the significance of the investments in view of discontinuation of the module that practices the ’010 patent product, decline in the number of in-service ATMs using the module, and that the service performed doesn’t relate to the ’010 patent); *Certain Table Saws Incorporating Active Injury Mitigation Technology and Components Thereof*, Inv. No. 337-TA-965, Order No. 10, ID at 17 (Apr. 27, 2016) (public version) (finding quantitative significance of labor costs based on the fact that these costs account for 11 percent to 19 percent of complainant’s gross sales, and that nearly half of all labor costs supported R&D, in addition to qualitative significance of the claimed labor to continued development, improvement, production and sales of DI products), *not reviewed*, Notice (Apr. 21, 2016).

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In *Lelo*, the Federal Circuit noted that the Commission found the complainant's investments were quantitatively "modest," which the court took to mean "insignificant." *Lelo*, 786 F.3d at 885. The court agreed with the Commission's finding that investment and employment under subparagraphs (A) and (B) were modest and insignificant, but said the Commission erred when it "disregarded the quantitative data to reach its domestic industry finding based on qualitative data." *Id.* "Qualitative factors cannot compensate for quantitative data that indicate insignificant investment and employment." *Id.* It then reversed the Commission's determination and held that the complainant did not satisfy the domestic industry requirement of section 337. *Id.*

III. WALBRO'S DOMESTIC INDUSTRY EVIDENCE

For each of the Asserted Patents, Walbro claims the existence of a domestic industry under section 337(a)(3), subparagraphs (A), (B), and (C). WPet. at 18-20; *see also* WOpp. at 13-19. As the ID notes, for purposes of summary determination, it assumes that Walbro's calculations of its investments are correct. ID at 2; *see also Liebel-Flarsheim*, 481 F.3d at 1377. Further, for purposes of their Motion for Summary Determination, Respondents do not take issue with the ID's assumption that Walbro's domestic industry investments are correct and properly allocated. Resp. Opp. at 16.

Walbro claims 193 carburetors are part of its domestic industry ("DI carburetors"), and Walbro further alleges that each of the DI carburetors practices only one patent. Resp. Mem. at 2; WOpp. Ex. B; Walbro's Responses to SUF at ¶ 9; *see also* Resp. Mem. at 3 (citing Resp. Mem. Ex. E at 1008:16-20).⁹

⁹ A carburetor is a component that mixes air and fuel in a small gasoline engine. *See* Compl. at 18. Carburetors are used in a wide variety of products, such as chainsaws, leaf

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Walbro's domestic industry allegations rely on both quantitative and qualitative factors. WOpp. at 9-19; WPet. at 18-20. Walbro calculates its domestic industry investments using a sales-based allocation for each Asserted Patent. WPet. at 12-20; Resp. Mem. at 3-7; *see also* ID at 4-7. Walbro's sales-based allocations are calculated "by determining the percentage of revenue attributed to the domestic industry products from FY2010 to FY2018 compared to Walbro's total revenue over that same period."¹⁰ Walbro's Responses to SUF ¶ 15; WOpp. Ex. A (Van Allen Declaration) at 3-4; WPet. at 12-20. Walbro then multiplied these percentages by Walbro's aggregated expenses to calculate an allocated investment amount for each patent. *Id.*

Walbro's investments include employee salaries, equipment expenses, and facility expenses. WPet. at 12-20; Resp. Mem. at 3-7; *see also* ID at 4-7. While Respondents do not take issue with the ID's assumption that Walbro's calculations of its investments are correct, they "submit that Walbro's domestic industry allegations are actually far less significant than those already found insignificant" in the ID. Resp. Opp. at 16. Respondents' motion argues that Walbro's investments are too attenuated from the DI carburetors and improperly include unrelated investments. Resp. Mot. at 11-16. For example, Respondents argue that for Walbro's equipment expenses, Walbro includes purchases made in 1968 and through the intervening decades, but Walbro allegedly does not take into account any depreciation of the equipment. *Id.* at 5; *see also* WOpp. Ex. A. However, for purposes of reviewing the ID's grant of summary determination in this investigation, the Commission will accept, *arguendo*, that all of Walbro's

blowers, law trimmers, electricity generators, and dirt bikes. *Id.*; *see also* Notice of Institution of Investigation.

¹⁰ In other words, Walbro divided the total sales revenue for articles allegedly protected by the Asserted Patents by Walbro's total revenue for all products in order to obtain an allocation percentage for each Asserted Patent. Walbro's Responses to SUF ¶ 15; WOpp. Ex. A (Van Allen Declaration) at 3-4; WPet. at 12-20.

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claimed expenses are cognizable investments pursuant to Federal Circuit precedent. *See Liebel-Flarsheim*, 481 F.3d at 1377.

Walbro also includes expenditures relating to its calibration activities in both its quantitative factors, including investment dollar amounts under subparagraphs (A), (B), and (C), and its qualitative factors. WOpp. at 12, 13, 17, 19; *see also id.* at 9-12; Walbro's Responses to SUF ¶¶ 52-70.¹¹ For example, in Walbro's petition, several headings in the section regarding Walbro's quantitative investments include calibration activities, such as the following:

- Walbro's **Calibration Activities** Require Significant Investment in Plant and Equipment Under Section 337(a)(3)(A)
- Walbro's **Calibration Activities** Require Significant Investment in Labor Under Section 337(a)(3)(B)
- Walbro's **Calibration Activities** Require Significant Investments in Exploitation of Engineering, Research & Development Under Section 337(a)(3)(C)

WPet. at 11-17 (emphasis added). As further described below, Walbro's investments in subparagraphs (A), (B), and (C) as stated in Chart A (WOpp. at 18; ID at 4) include amounts of quantitative investments in calibration activities. *See* WOpp. at 13, 16-17, 19; WPet. at 12-17, 19 ("a significant portion of Walbro's domestic investments and activities relate to the carburetor calibration work").

¹¹ Walbro contends that "[c]alibration is the iterative process by which Walbro's engineers develop and adjust the prototypes for a carburetor are adjusted (sic), often dozens of times, until they are able to meet specific criteria of emissions compliance and satisfactory engine performance over a wide range of engine speeds, temperatures, and differing altitudes at which the engines operate." WPet. at 9. Walbro further argues that "calibration is vital to the development and manufacturing of carburetors" and is allegedly necessary to produce a saleable product. *Id.* at 9-11.

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Chart A¹² (shown below) summarizes Walbro's domestic industry investments for each Asserted Patent according to subparagraphs (A), (B), and (C):

Chart A: Walbro's Domestic Industry Investments

Sections 337(a)(3)(A), (B), and (C)	'424 Patent	'173 Patent	'254 Patent
Plant & Equipment	██████	██████	██████
Labor & Capital	██████	██████	██████
Engineering, Research and Development	██████	██████	██████
TOTAL	██████	██████	██████

WPet. at 5, 18; ID at 4. Walbro's opposition argues the allegedly relevant domestic expenditures "are significant in absolute terms." *Id.* Yet, other than the sales-based allocation of its investments, Walbro fails to provide any other context for its domestic industry investments. WPet. at 18-20; Resp. Mem. at 3-7; *see also* ID at 4-7.

Walbro also relies on qualitative factors, such as the declining carburetor industry and the "essentiality" of its calibration activities. WPet. at 19-20, 26-31; WOpp. at 19-20; ID at 7. However, Walbro did not provide any comparisons or explanations of added value for its alleged qualitative factors. *Id.*

Walbro's opposition also provides Walbro's U.S. sales of DI carburetors and worldwide sales of DI carburetors. WOpp. at 16, 19-20; Walbro's Responses to SUF at ¶ 37 (citing WOpp. Ex. A, VanAllen Decl. at ¶¶ 7-10). From 2010 to 2018, Walbro's global sales of all products was ██████. *Id.* In that same time period, Walbro's global sales of DI carburetors was

¹² This opinion uses the charts in Walbro's petition for consistency. *See* WPet. at 5-7, 18; *see also* ID at 4-6. In addition, as noted in Walbro's petition, the financial data for the '547 patent, which appears in the corresponding tables in the ID, has been deleted in the tables in Walbro's petition. WPet. at 5, n.1.

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██████████ in the original equipment manufacturer market and ██████████ in the aftermarket.

Id. Walbro allocated its global sales of DI carburetors for that time period as follows:

Chart D: Global Sales of DI Carburetors

'424 Patent	'173 Patent	'254 Patent
██████████	██████████	██████████

WPet. at 6; WOpp. Ex. A (VanAllen Decl.) at ¶ 8; *see also* ID at 6. From 2010 to 2018, Walbro's total U.S. sales of DI carburetors was ██████████, which it allocated to each Asserted Patent as follows:

Chart B: U.S. Sales of DI Carburetors

'424 Patent	'173 Patent	'254 Patent
██████████	██████████	██████████

WPet. at 5; WOpp. Ex. A (VanAllen Decl.) at ¶ 8; *see also* ID at 5. However, Walbro does not use the DI sales information, or any other information, to provide further context for its domestic industry investments. *Id.*

IV. ANALYSIS

The Commission affirms the ID's conclusion that respondents are entitled to summary determination as a matter of law that Walbro's alleged investments¹³ in the articles protected by the Asserted Patents are insignificant and insubstantial. However, because the ID includes certain statements that could be misinterpreted as implementing new legal standards, the Commission declines to adopt certain statements in the ID's analysis, as discussed below.

¹³ For purposes of summary determination, the ID assumes that Walbro's calculations of its investments are correct. ID at 2. As noted above, Respondents do not take issue with the ID's assumption for purposes of summary determination. Resp. Opp. at 16.

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A. Walbro's Alleged Investments are Insignificant and Insubstantial

The ID recognizes that “it is inappropriate to rely on the numbers [in Chart A] in their absolute terms” and correctly finds that Walbro’s investments must be viewed in their proper context. *Id.* at 4. The ALJ evaluated the available evidence and found two pieces of relevant data to provide context as to whether Walbro’s domestic industry investments are “significant” or “substantial”: (1) Walbro’s U.S. sales of the DI carburetors; and (2) Walbro’s worldwide sales of the DI carburetors. *Id.* at 5-6.

The ID first analyzes the quantitative factors. *Id.* at 3-7. For each of the asserted patents, the ID calculates: (1) the percentage of Walbro’s domestic industry investments compared to its U.S. sales of DI carburetors (Chart C); and (2) the percentage of Walbro’s domestic industry investments compared to its worldwide sales of DI carburetors (Chart E). *Id.* at 3-7.

Chart C: Percentage of U.S. Investments Compared to U.S. Sales

	'424 Patent	'173 Patent	'254 Patent
Plant & Equipment	████	████	████
Labor & Capital	████	████	████
Engineering, Research and Development	████	████	████

Chart E: Percentage of U.S. Investments Compared to [Worldwide] Sales¹⁴

	'424 Patent	'173 Patent	'254 Patent
Plant & Equipment	████	████	████
Labor & Capital	████	████	████
Engineering, Research and Development	████	████	████

¹⁴ There is a typo in the ID’s title of Chart E. ID at 6. The title in the ID is, “Chart E: Percentage of U.S. Investments Compared to U.S. Sales.” *Id.* However, from the context of the analysis, it is clear that Chart E actually shows a comparison to worldwide sales of DI carburetors. *Id.*

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See ID at 5-6; WPet. at 6-7. The ID uses sales of DI carburetors to provide context to the absolute values of Walbro's investments. *Id.* at 4-6 (citing WOpp. at 18-19; Walbro's Responses to SUF ¶ 37). The ID notes that Walbro does not provide, or appear to possess, evidence of its foreign-related investments for the Asserted Patents. *Id.* at 3, 5 n.5.

Regarding Chart C (percentage of U.S. investments compared to U.S. sales), the ID finds that the majority of Walbro's investments are [REDACTED] of its U.S. sales of DI carburetors. ID at 5. The ID finds that "such investments^[15] are not significant or substantial." *Id.* at 6. The ID further notes that only Walbro's investments in labor and capital (for subparagraph (B)) are [REDACTED] as compared to U.S. sales of DI carburetors. ID at 6. The ID finds these investments in labor and capital are not significant, however, when viewed in light of Walbro's worldwide sales of DI carburetors. *Id.*

Chart E lists the calculated percentages of Walbro's domestic investments compared to the worldwide sales of DI carburetors. ID at 6-7. The ID finds that the labor and capital percentages for products protected by the '424 patent, '173 patent, and '254 patent are [REDACTED] of worldwide sales of DI carburetors. *Id.* at 7.

Based on the information outlined above, the ID finds that Walbro's investments are neither "significant" nor "substantial." *Id.* at 6-7. The ID declines to address the qualitative factors Walbro raised because it had already concluded that Walbro's investments were quantitatively insignificant. *Id.* at 7.

¹⁵ The ID appears to be referring to Walbro's investments in "Plant & Equipment" and "Engineering, Research and Development," because those investments comprise [REDACTED] of U.S. sales and the next paragraph specifically states, "[o]nly Walbro's investments in labor and capital are [REDACTED]." ID at 5-6.

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As discussed below, we agree with the ID's conclusion that Walbro's domestic investments with respect to the Asserted Patents are not significant or substantial when considered in light of the only contextual information in the record, *i.e.*, Walbro's U.S. sales and worldwide sales of DI carburetors.

1. Walbro's Reliance on Absolute Values of Investments Without Context is Insufficient

Walbro's reliance on the numerical amounts, which the ID refers to as "absolute values," of its domestic investments fails to evaluate significance based on any context of Walbro's operations, the marketplace, or the industry in question. *See* ID at 3-5. The Commission must assess the *relative* importance of the domestic activities. *Lelo*, 786 F.3d at 883; *Cabinet Hinges*, Comm'n Op. at 32. Here, the ID's comparison of Walbro's U.S. and global sales of the DI carburetors provides some context to analyze whether Walbro's investments are significant or substantial. *Id.*; *see also* ID at 3-7.

Walbro used a sales-based allocation to determine its domestic industry investments as to each patent. WOpp. at 13-17. The use of a sales-based allocation is one acceptable way to determine the numerical value of domestic industry investments for each Asserted Patent. *See* 19 U.S.C. § 1337(a)(3); *Certain Mobile Device Holders and Components Thereof*, Inv. No. 337-TA-1028, Comm'n Op. at 18-19 (Mar. 22, 2018). However, Walbro has cited no case in which the Commission determined the quantitative significance of a complainant's domestic industry investments based solely on the absolute value of those investments. *See* WPet.; *see also* *Certain Collapsible Sockets for Mobile Electronic Devices and Components Thereof*, Comm'n Op. at 20, n.13 (July 9, 2018) ("*Collapsible Sockets*") (noting that OUII pointed to no instances in which the Commission has determined the quantitative significance of each of the asserted

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investments based solely on the absolute values of investments determined using a sales-based allocation).

As noted above, the Commission has instead sought to place the value of domestic investments in the context of the relevant marketplace, such as by comparing a complainant's domestic expenditures to its foreign expenditures or considering the value added to the product from a complainant's activities in the United States. Here, it was appropriate for the ID to consider how Walbro's U.S. expenditures are attributable to its protected articles compared to its U.S. and worldwide sales of these products, and to decline to find quantitative significance based solely on the absolute value of the domestic industry investments devoid of any context. *See* ID at 3-4.

2. Walbro Failed to Provide Any Evidence Other Than Sales of DI Carburetors to Use for Context

As prior Commission opinions recognize, "the magnitude of the investment cannot be assessed without consideration of the nature and importance of the complainant's activities to the patented products in the context of the marketplace or industry in question." *Printing Devices*, Comm'n Op. at 31. For example, in *Printing Devices*, the Commission found complainant's employment of labor devoted to the service and repair of its domestic industry products was insufficient to support its claim that those expenses were "significant" because it failed to show a comparison of its domestic industry activities with its foreign activities. *Id.* at 32. The Commission found the complainant in that case also failed to submit "evidence to show how its domestic activities add any value to the completed saleable product, or to demonstrate the nature and relative importance of its activities to the articles protected by the patent (in view of the relevant industry or marketplace)." *Id.*

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The Commission has considered, among other things, the value added to the article in the United States by the domestic activities. *See, e.g., Cabinet Hinges*, Comm’n Op. at 32 (“‘significance’ as used in the statute denotes an assessment of the relative importance of the domestic activities”). The Commission has also assessed the relative domestic contribution to the protected article by comparing complainant’s product-related domestic activities to its product-related foreign activities. *See, e.g., Male Prophylactics*, Comm’n Op. at 43 (finding that complainant’s undertakings, measured on a comparative basis, created meaningful value added to the unfinished imported product). Depending upon the particular company, industry, and marketplace in question, other contextual facts could be relevant in assessing whether the domestic industry investments and activities with respect to the protected articles are quantitatively significant or substantial.

In this case, Walbro failed to submit evidence or arguments to substantiate the nature and significance of its domestic activities with respect to the DI carburetors. *See generally* WOpp.; WPet. Walbro failed to provide context of the company’s operations, the marketplace, or the industry in question necessary to understand whether the value of its domestic activities is significant or substantial. *Id.* Nor does Walbro demonstrate whether and to what extent its domestic activities add value to its imported products. *Id.* Walbro further failed to provide any evidence related to its foreign activities. ID at 3.

Walbro’s failure to submit such evidence and arguments means the Commission’s assessment of quantitative significance or substantiality is limited to the only available evidence of record – Walbro’s sales of DI carburetors.

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3. Walbro's Sales of the DI Carburetors Provide Context to Assess Whether Walbro's Domestic Industry Investments are Significant or Substantial

In its petition, Walbro argues that the “expenditures [in Chart A] are quantitatively significant” and “[t]he expenditures are also quantitatively significant relative to Walbro’s overall operations.” WPet. at 18. Walbro then cites the U.S. sales of DI carburetors to allegedly “show the relative importance of Walbro’s expenditures as they are directly tied to the development and production of carburetors practicing the asserted patents.” *Id.* Thus, Walbro does not dispute that the U.S. sales of DI carburetors are useful measures by which the “relative importance” or “significance” of Walbro’s investments in the domestic industry can be evaluated. *Id.*

The Commission has previously used sales of protected articles in order to consider the context of a complainant’s domestic industry investments. *See, e.g., Automated Teller Machines*, Final ID at 190-91 (public version) (proportion of labor to revenue for domestic industry product was too low and not quantitatively significant); *Certain Table Saws*, Inv. No. 337-TA-965, Order No. 10, ID at 17 (public version) (finding quantitative significance of labor costs amounting to 11 percent to 19 percent of complainant’s gross sales). Further, Walbro’s petition recognizes “the word ‘significant’ denote[s] ‘*an assessment of the relative importance of the domestic activities*,’” yet Walbro failed to provide such an assessment. WPet. at 23 (emphasis in original) (citing *Lelo*, 786 F.3d at 883). In fact, it was not until the ID that any assessment of the domestic investments was conducted, and such assessment was the result of the ALJ’s own review of the available evidence.

In the record of this investigation, Walbro’s U.S. and worldwide sales of DI carburetors provide the only option with which to analyze the significance of Walbro’s domestic investments. The ID’s calculated percentages of Walbro’s investments to its sales of DI

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carburetors are found in Charts C and E in the ID. ID at 5-6. As noted above, the ratios of Walbro's labor and capital investments with respect to the '424, '173, and '254 patents to its U.S. sales of DI carburetors peak [REDACTED], and the ratios of its domestic investments to worldwide sales of DI carburetors peak [REDACTED].¹⁶ *Id.*

Walbro also attempts to rely on the "TOTAL" amount of investments for each Asserted Patent by adding together the three investment values for subparagraphs (A), (B), and (C). WPet. at 18. However, the total of the amounts in the three subparagraphs represents double- and triple-counting of investments included in multiple subparagraph categories. WOpp. at 13-17; WPet. at 12-19. For example, Walbro includes certain capital investments (*see* WOpp. at 13, first chart) as part of its investments under each of subparagraphs (A), (B), and (C). *Id.* at 13-17; WPet. at 12-19. Thus, Walbro's reliance on the total amounts is improper.

4. The ID Did Not Ignore Walbro's Calibration Activities in Considering its Quantitative Factors

Walbro claims the ID fails to properly consider its calibration activities in its quantitative analysis. WPet. at 23-24. However, Walbro's investments as stated in Chart A (WOpp. at 18; ID at 4) include amounts of quantitative investments in calibration activities. *See* WOpp. at 13, 16-17, 19; WPet. at 12-17, 19 ("a significant portion of Walbro's domestic investments and activities relate to the carburetor calibration work").¹⁷

For instance, Walbro's investments in "facilities and equipment" include investments for "engineering, R&D, and *calibration activities*." *Id.* at 17 (emphasis added). Walbro's estimate

¹⁶ As stated above, Walbro's petition for review states that it no longer asserts the '547 patent in this investigation.

¹⁷ Walbro relies on its domestic industry investments related to calibration as both a quantitative and qualitative factor under subparagraphs (A), (B), and (C). WOpp. at 12, 13, 17, 19; *see also id.* at 9-12; Walbro's Responses to SUF ¶¶ 52-70; WPet. at 11-17 (headings describe inclusion of "Calibration Activities").

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of square footage in its Cass City, Michigan facility includes areas of the facility used for “engineering, research, development and *calibration*” of DI carburetors. *Id.* (emphasis added). Walbro’s total capital investment in equipment at the Cass City facility includes equipment for “engineering, R&D, and *calibration*.” *Id.* (emphasis added). Walbro asserts that it “has a group of about [REDACTED] at the Cass City, Michigan facility, who are responsible for the *calibration work* for those customers having a primary place of business in North America and parts of Europe.” WOpp. Ex. A, VanAllen Decl. at ¶ 56. Walbro includes costs associated with the [REDACTED] in its labor and capital investments (subparagraph B) and engineering, research, and development investments (subparagraph C). WOpp. at 11, 14-19. Walbro’s argument, therefore, is inconsistent with the record evidence.

B. The ID Did Not Err in Declining to Consider Walbro’s Qualitative Factors

Walbro argues that the ID failed to give proper weight to the qualitative evidence cited by Walbro in support of its arguments that its economic activities in the United States are “significant.” WPet. at 2-3, 26-28. Walbro asserts that *Lelo* does not stand for the proposition that the qualitative analysis is unnecessary unless a complaint’s domestic investments are quantitatively significant. *Id.* at 2-3. Walbro contends that *Lelo* simply requires “quantitative analysis to determine whether an investment is significant, and prohibit[s] the sole reliance on qualitative evidence *in the absence* of quantitative data.” WPet. at 26 (emphasis in original). Walbro argues that the ID’s approach would mean that qualitative factors regarding the significance of domestic industry activities would never factor into the analysis, since if investments are determined to be insignificant based on quantitative factors, qualitative factors will not be considered. *Id.* at 27. Similarly, Walbro further argues that if investments are determined to be quantitatively significant, there would be no point in going on to consider qualitative factors. *Id.* at 27-28.

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We disagree that the ID errs in declining to evaluate Walbro's qualitative factors, given the ID's quantitative assessment and conclusion that Walbro's investments are insignificant. The Federal Circuit's decision in *Lelo* found that once the Commission had concluded based on a quantitative assessment that a complainant's investments were "insignificant," the Commission could not then disregard that conclusion and use qualitative factors to compensate for the quantitative data that indicated that the investments were not significant. *Lelo*, 786 F.3d at 885. As such, the ID correctly concludes that due to its finding that Walbro's investments are insignificant based on a quantitative assessment, there is no need to evaluate Walbro's cited qualitative factors.

With regard to Walbro's argument that the ID's approach would essentially render qualitative factors useless in assessing whether investments are significant, we disagree that the situation is binary, as Walbro asserts. There may be facts and circumstances where, based on an assessment of quantitative information, it remains unclear whether a complainant's investments are significant or not. In such cases, resorting to qualitative factors that may indicate significance could be relevant to the evaluation. We do not view the Federal Circuit in *Lelo* as precluding the Commission from considering qualitative factors; rather it precludes the Commission from relying on qualitative factors alone to support a finding that investments are significant when quantitative factors show that the complainant's investments are insignificant. In other words, "qualitative factors cannot compensate for quantitative factors that indicate insignificant investment." *Lelo*, 786 F.3d at 885.

The Commission disagrees with Walbro's interpretation of *Lelo*'s holding that "*Lelo* states only that a complainant cannot rely on qualitative evidence alone to satisfy the economic prong, *in the absence* of quantitative evidence." WPet. at 3 (emphasis in original); see *Lelo*, 786

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F.3d at 885; *see also* Resp. Opp. at 10-11; IAResponse at 8-10. There was no absence of quantitative evidence in *Lelo*. *Lelo*, 786 F.3d at 885. Rather, the Federal Circuit noted the Commission's observation that the complainant's investments and employment under subparagraphs (A) and (B) were "quantitatively 'modest,'" which it took to mean "insignificant." *Id.* The Federal Circuit also specifically held that "qualitative factors alone are insufficient." *Id.*

Indeed, the Commission and the Federal Circuit considered evidence as to both quantitative and qualitative factors in arriving at their decisions. The Federal Circuit, however, found under the facts presented in *Lelo* that qualitative factors alone could not demonstrate significance where the quantitative data showed that the complainant's investments were insignificant under section 337(a)(3)(A) or (B). Similarly, in this case, the ID finds that the evidence of record leads to the conclusion that Walbro's investments are insignificant under the statute. Qualitative evidence could not alter this conclusion, and thus need not be considered. This is not to say that qualitative evidence would be irrelevant or bear no weight in all cases, as Walbro contends.

In its petition, Walbro cites several Commission opinions and an order that allegedly support its interpretation of *Lelo*. WPet. at 26-27. As discussed below, each of the cited cases turn on the individual facts presented therein and none supports the conclusion that consideration of qualitative factors are required when quantitative factors show that the investments are undoubtedly insignificant. *See id.*; *see also* Resp. Opp. at 14-15.

For example, Walbro claims that in *Collapsible Sockets* the Commission allegedly determined that, even after *Lelo*, qualitative evidence may still be relied upon to support a finding that a complainant's investments are significant. WPet. at 26 (citing *Collapsible Sockets*, Comm'n Op. at 20). In *Collapsible Sockets*, the Commission considered both qualitative and

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quantitative evidence of record. The Commission first found that “[b]oth the absolute and percentage amounts are quantitatively significant” before confirming that the complainant’s “qualitative evidence, while not sufficient on its own, supports a finding of significant employment of labor and capital.” *Collapsible Sockets*, Comm’n Op. at 20 (emphasis added). The qualitative evidence supported finding the same conclusion as the quantitative analysis, and the Commission specifically noted that the qualitative evidence would not be sufficient on its own. *Id.*

Walbro’s reliance on *LED Lighting* is similarly misplaced. WPet. at 26 (citing *Certain LED Lighting Devices, LED Power Supplies, and Components Thereof*, Inv. No. 337-TA-1081, Order No. 54 (July 24, 2018) (“*LED Lighting*”). In *LED Lighting*, the complainant was a large multi-national corporation that produced detailed quantitative evidence that was allocated according to patent and specific activity. *LED Lighting*, Order No. 54 at 7. The evidence provided enough context such that summary determination of no domestic industry was denied. *Id.* Further, in its final opinion in *LED Lighting*, the Commission took no position on whether the complainants satisfied the economic prong of the domestic industry requirement because the Commission found that the complainants failed to show that respondents infringed the asserted patents. *LED Lighting*, Comm’n Op. at 32.

Here, the ID appropriately declines to address Walbro’s qualitative factors because Walbro’s quantitative investments are insignificant. ID at 4-7; *Lelo*, 786 F.3d at 885. Qualitative factors may be relevant in particular cases but “cannot compensate for quantitative data that indicate insignificant investment and employment.” *Lelo*, 786 F.3d at 885.

Walbro’s argument that the “declining carburetor industry” should have been considered as a qualitative factor is unconvincing. WPet. at 7. If Walbro makes fewer sales due to a

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declining industry but still incurs the same investment costs, then the percentages of its domestic industry investments compared to its sales would increase over time. Walbro did not provide year-by-year information for its investments and never explains how the allegedly “declining carburetor industry” supports its argument that it has made significant or substantial investments in its DI carburetors in the U.S. *See* WPet. at 26-31.

Accordingly, because Walbro’s quantitative investments are insignificant and insubstantial, the qualitative factors need not be addressed. *See* ID at 7.

C. The Commission Declines to Adopt a Minimum Threshold Amount or Percentage in Determining the Significance of DI Investments

The ID states, “[t]he [ALJ] was unable to locate any opinion in the past four years in which the Commission has held that an investment amounting to less than 5% of sales qualified as ‘significant’ or ‘substantial.’” ID at 5-6. We believe that the ID uses that percentage not as a threshold, but as confirmation that its conclusion that Walbro’s low percentages are insignificant comports with Commission precedent. *Id.*; *see also* Resp. Opp. at 8-10; IAResponse at 3-8. Nonetheless, we find it unnecessary to compare other, unnamed Commission opinions¹⁸ to the analysis in this investigation because the domestic industry requirement is analyzed on a case-by-case basis, including “an examination of the facts in each investigation, the article of commerce, and the realities of the marketplace.” *See Male Prophylactic Devices*, Comm’n Op. at 39.

¹⁸ The ID states that “[b]ecause the investment amounts and corresponding percentages are deemed confidential in these opinions, the undersigned cannot cite to any specific opinion to support this statement.” ID at 6, n.6.

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The ID also states in footnote 4 that, “[i]n order for the word ‘significant’ to have any meaning at all, [REDACTED] cannot qualify.” ID at 4, n.4.¹⁹ However, to the extent that this statement could be construed as implementing a minimum threshold amount of investment, the Commission does not adopt it. There is no requirement that proof of the economic prong is dependent on a “minimum monetary expenditure.” *See Certain Video Displays, Components Thereof and Products Containing the Same*, Inv. No. 337-TA-687, Order No. 20 at 5 (May 20, 2010) (quoting *Stringed Musical Instruments*, Comm’n Op. at 25-26).

Accordingly, the Commission declines to adopt the following statements in the ID:

- “The undersigned was unable to locate any opinion in the past four years in which the Commission has held that an investment amounting to less than 5% of sales qualified as ‘significant’ or ‘substantial.’” (ID at 5-6); and
- “In order for the word ‘significant’ to have any meaning at all, [REDACTED] cannot qualify.” (ID at 4, n.4).

However, the determination to decline adopting these statements does not change the ultimate result.

D. Analysis of the Economic Prong Uses a Flexible Approach

The ID correctly observes that “context is particularly important” in a domestic industry analysis. ID at 4. However, the ID goes on to state, “[j]ust as the Commission does not penalize a small business for making only small investments (in terms of dollar amounts), large multinational companies should be expected to invest larger dollar amounts in order for their investments to be deemed ‘significant’ or ‘substantial.’” *Id.* We decline to adopt this statement

¹⁹ We note that the statement in footnote 4 relates to Walbro’s plant and equipment investments for articles protected by the ’547 patent, which Walbro has abandoned in this investigation. ID at 4, n.4; WPet. at 1; 19 C.F.R. § 210.43(b). Yet, regardless of the abandonment of the ’547 patent, any requirement of a minimum threshold amount of investment for an asserted patent is improper.

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insofar as it does not reflect the flexible approach that is used in analyzing whether a complainant has satisfied the domestic industry requirement.

Significance is based on the marketplace conditions regarding the articles protected by the Asserted Patents. The fact that a complainant may have substantial sales of other products is not pertinent to this analysis.

Accordingly, we decline to adopt the ID's statement that "large multinational companies should be expected to invest larger dollar amounts in order for their investments to be deemed 'significant' or 'substantial.'" ID at 4.

V. CONCLUSION

The Commission has determined to affirm, with the modified reasoning detailed above, the ID's conclusion that respondents are entitled to summary determination that Walbro's activities and investments are not significant or substantial to establish the statutory domestic industry requirement with respect to the articles protected by the Asserted Patents. Accordingly, the investigation is terminated with a finding of no violation of section 337.

By order of the Commission.

A handwritten signature in black ink, appearing to read "Lisa R. Barton", with a stylized flourish at the end.

Lisa R. Barton
Secretary to the Commission

Issued: October 28, 2019

**CERTAIN CARBURETORS AND PRODUCTS
CONTAINING SUCH CARBURETORS**

Inv. No. 337-TA-1123

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **Order, Commission** has been served by hand upon the Commission Investigative Attorney, **Vu Bui, Esq.**, and the following parties as indicated, on **October 28, 2019**.



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**CERTAIN CARBURETORS AND PRODUCTS
CONTAINING SUCH CARBURETORS**

Inv. No. 337-TA-1123

Certificate of Service – Page 2

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**CERTAIN CARBURETORS AND PRODUCTS
CONTAINING SUCH CARBURETORS**

Inv. No. 337-TA-1123

Certificate of Service – Page 3

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