

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

**In the Matter of**

**CERTAIN SHORT-WAVELENGTH  
LIGHT EMITTING DIODES, LASER  
DIODES AND PRODUCTS  
CONTAINING SAME**

**Investigation No. 337-TA-640**

**NOTICE OF COMMISSION DECISION TO REVIEW AND REMAND IN PART AN  
INITIAL DETERMINATION OF THE ADMINISTRATIVE LAW JUDGE GRANTING  
COMPLAINANT’S MOTION TO AMEND THE AMENDED COMPLAINT**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review and remand in part the presiding administrative law judge’s (“ALJ”) initial determination (“ID”) (Order No. 33) granting complainant’s motion to amend the amended complaint.

**FOR FURTHER INFORMATION CONTACT:** Daniel E. Valencia, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-1999. 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 at <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:** The Commission instituted this investigation on March 25, 2008, based on a complaint filed by Gertrude Neumark Rothschild of Hartsdale, New York (“Rothschild”). *73 Fed. Reg.* 1575 (March 25, 2008). The complaint, as supplemented, alleges a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. §1337, in the importation, sale for importation, and sale within the United States after importation of certain short-wavelength light emitting diodes, laser diodes and products containing the same by reason of infringement of U.S. Patent No. 5,252,499. The original complaint, as supplemented, named numerous respondents.

On September 2, 2008, Complainant Rothschild filed a motion to amend the amended complaint and notice of investigation to add additional respondents and to clarify the products that are at issue in the investigation. On September 10, 2008, respondent Toshiba Corporation of Japan (“Toshiba”) opposed this motion. On September 19, 2008, the ALJ issued an ID (Order No. 33) granting Rothschild’s motion to amend the complaint. On September 22, 2008, proposed respondent Citizen Electronics Co., Ltd. of Japan (“Citizen”) filed a motion for leave to intervene for the limited purpose of opposing Rothschild’s motion to amend the complaint and notice of investigation. Citizen’s motion was not considered by the administrative law judge when he issued Order No. 33.

On October 1, 2008, respondent Toshiba and proposed respondent Citizen filed a joint petition for review of the administrative law judge’s ID. On October 8, 2008, the Commission investigative attorney and Complainant Rothschild each filed a response to the joint petition.

On October 10, 2008, the Commission extended the deadline for determining whether to review the subject ID by fourteen (14) days to November 3, 2008.

Having examined *inter alia* the administrative law judge’s ID, the joint petition for review, and the responses thereto, the Commission has determined to review and remand the ID in part. Specifically, the Commission has determined to review the issue of whether Citizen was properly added as a respondent to the investigation in light of the fact that Citizen’s response, which the Commission finds to have been timely filed, was not considered by the presiding administrative law judge. On review, the Commission directs the administrative law judge to consider Citizen’s September 22, 2008 response to Complainant’s motion to add Citizen to the investigation. The Commission takes no position on the merits of Citizen’s response. The Commission has determined not to review any other issue decided in Order No. 33.

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 section 210.42(h) of the Commission’s Rules of Practice and Procedure, 19 C.F.R. § 210.42(h).

By order of the Commission.

/s/

Marilyn R. Abbott  
Secretary to the Commission

Issued: October 28, 2008