

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

**In the Matter of**

**CERTAIN LIGHT-EMITTING DIODE  
PRODUCTS, SYSTEMS, AND  
COMPONENTS THEREOF (III)**

**Investigation No. 337-TA-1168**

**NOTICE OF COMMISSION DECISION NOT TO REVIEW AN  
INITIAL DETERMINATION GRANTING IN PART RESPONDENTS' MOTION FOR  
SUMMARY DETERMINATION OF NON-INFRINGEMENT AND THAT THE  
TECHNICAL PRONG OF THE DOMESTIC INDUSTRY REQUIREMENT IS NOT  
SATISFIED AS TO CERTAIN ASSERTED CLAIMS**

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 32) granting in part respondents' motion for summary determination of non-infringement and that the technical prong of the domestic industry requirement is not satisfied as to certain asserted claims.

**FOR FURTHER INFORMATION CONTACT:** Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436, telephone (202) 708-2310. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone 202-205-1810.

**SUPPLEMENTARY INFORMATION:** On June 25, 2019, the Commission instituted *Certain Light-Emitting Diode Products, Systems, and Components Thereof (I)*, Inv. No. 337-TA-1163 ("*Certain LED Products (I)*"), based on a complaint filed by Lighting Science Group Corporation and Health Inc., both of Cocoa Beach, Florida; and Global Value Lighting, LLC of West Warwick, Rhode Island (collectively, "LSG"). 84 FR 29877-79 (June 25, 2019). The complaint, as amended and supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain light-emitting diode products, systems, and components thereof by reason of infringement of certain claims of

U.S. Patent Nos. 7,528,421 (“the ’421 patent”); 7,095,053 (“the ’053 patent”); 7,098,483 (“the ’483 patent”); 8,506,118 (“the ’118 patent”); 8,674,608 (“the ’608 patent”); 8,201,968 (“the ’968 patent”); and 8,967,844 (“the ’844 patent”). The complaint further alleges the existence of a domestic industry. The Commission’s notice of investigation named 23 respondents: Nichia Corp. of Tokushima, Japan; Nichia America Corp. of Wixom, Michigan; Cree, Inc. of Durham, North Carolina; Cree Hong Kong, Ltd. of Shatin, Hong Kong; Cree Huizhou Solid State Lighting Co. Ltd. of Guangdong, China; OSRAM GmbH and OSRAM Licht AG, both of Munich, Germany; OSRAM Opto Semiconductors GmbH of Regensburg, Germany; OSRAM Opto Semiconductors, Inc. of Sunnyvale, California; Lumileds Holding B.V. of Schipol, Netherlands; Lumileds LLC of San Jose, California; Signify N.V. (f/k/a Phillips Lighting N.V.) of Eindhoven, Netherlands; and Signify North America Corporation of Somerset, New Jersey; MLS Co., Ltd. of Zhongshan City, China; LEDVANCE GmbH of Garching, Germany; LEDVANCE LLC of Wilmington, Massachusetts; General Electric Company of Boston, Massachusetts; Consumer Lighting (U.S.), LLC (d/b/a GE Lighting, LLC) and Current Lighting Solutions, LLC, both of Cleveland, Ohio; Acuity Brands, Inc. of Atlanta, Georgia; Acuity Brands Lighting, Inc. of Conyers, Georgia; Leedarson Lighting Co., Ltd. of Xiamen, China; Leedarson America, Inc. of Smyrna, Georgia (all collectively, “Respondents”). The Office of Unfair Import Investigations is not participating in the investigation.

On July 10, 2019, the ALJ, pursuant to Commission Rule 210.14(h), 19 CFR 210.14(h), severed *Certain LED Products (I)* into two investigations. See *Certain LED Products (I)*, Order No. 5 (July 10, 2019). The ALJ specified that all issues relating to whether there is a violation of section 337 based on the allegations of infringement of the ’118 and ’608 patents would be addressed in *Certain LED Products (I)* (the 1163 investigation). *Id.* The ALJ also specified that all issues relating to whether there is a violation of section 337 based on the allegations of infringement of the ’421, ’053, and ’483 patents would be addressed in *Certain Light-Emitting Diode Products, Systems, and Components Thereof (III)*, Inv. No. 337-TA-1168 (“*Certain LED Products (III)*”). *Id.*; see also *Certain LED Products (III)*, Order No. 5 (July 10, 2019).

On November 26, 2019, Respondents moved for summary determination of non-infringement and that the technical prong of the domestic industry requirement is not satisfied with respect to all asserted claims. On February 14, 2020, three days after the ALJ issued a *Markman* Order (Order No. 31) construing certain claims in dispute, LSG filed a notice stipulating that neither infringement nor satisfaction of the technical prong could be shown with respect to claims 11 and 14-16 of the ’483 patent and claims 7 and 11-15 of the ’053 patent.

On the same date, the ALJ issued the subject ID (Order No. 32) granting in part Respondents’ motion for summary determination of non-infringement and that the technical prong of the domestic industry requirement is not satisfied with respect to asserted claims 11 and 14-16 of the ’483 patent and claims 7 and 11-15 of the ’053 patent.

On March 3, 2020, LSG petitioned for review of the subject ID. On March 17, 2020, Respondents filed a joint response in opposition to the petition for review.

Having reviewed the record including the parties' briefing, the Commission has determined not to review the subject ID (including the underlying *Markman* Order with respect to the claim terms that are the subject of LSG's petition).

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 part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton'.

Lisa R. Barton  
Secretary to the Commission

Issued: April 7, 2020