

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 DETERMINATION TO EXTEND THE DEADLINE FOR
DETERMINING WHETHER TO REVIEW AN INITIAL DETERMINATION ON
VIOLATION OF SECTION 337**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend until September 24, 2020, the deadline for determining whether to review the presiding administrative law judge's ("ALJ") initial determination ("ID") on violation of section 337 of the Tariff Act of 1930, as amended, in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Richard P. Hadorn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3179. 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. 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 Investigation No. 337-TA-1163 ("the 1163 investigation"), based on an amended complaint filed by complainants 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 29877-78 (June 25, 2019). The amended complaint alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337) ("section 337"), based on the importation into the United States, the sale for importation, and the sale within the United States after importation of certain light-emitting diodes 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; 8,674,608; 8,201,968; and

8,967,844. *Id.* at 29877. The amended complaint further alleges that a domestic industry exists. *Id.* The notice of investigation names as respondents the following entities: Nichia Corporation of Tokushima, Japan; Nichia America Corporation of Wixom, Michigan; Cree, Inc. of Durham, North Carolina; Cree Hong Kong, Limited 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; Limileds Holding B.V. of Schipol, Netherlands and Lumileds, LLC of San Jose, California (together, “Lumileds”); Signify N.V. (f/k/a Philips Lighting N.V.) of Eindhoven, Netherlands; Signify North America Corporation (f/k/a Philips Lighting 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) of Cleveland, Ohio; Current Lighting Solutions, LLC of Cleveland, Ohio; Acuity Brands, Inc. of Atlanta, Georgia; Acuity Brands Lighting, Inc. of Conyers, Georgia; Leedarsen Lighting Co., Ltd. of Xiamen, China; and Leedarsen America, Inc. of Smyrna, Georgia (collectively, “Respondents”). *Id.* at 29878. The Office of Unfair Import Investigations is not named as a party to this investigation. *Id.*

On July 10, 2019, the ALJ issued Order No. 5 severing the 1163 investigation into two investigations; the present 1168 investigation concerns whether there is a violation of section 337 based on allegations of infringement of the '483, '053, and '421 patents. Order No. 5 at 2 (July 10, 2019).

On January 20, 2020, the Commission terminated this investigation as to claim 7 of the '421 patent. Order No. 18 (Dec. 30, 2019), *unreviewed by* Comm'n Notice (Jan. 29, 2020). On February 7, 2020, the Commission terminated this investigation as to respondents MLS Co., Ltd. and Ledvance GmbH. Order No. 24 (Jan. 14, 2020), *unreviewed by* Comm'n Notice (Feb. 7, 2020). On February 26, 2020, the Commission terminated this investigation as to (i) claims 2 and 10 of the '421 patent, (ii) claims 4, 16-20, 22, and 26-30 of the '053 patent, and (iii) as to Lumileds only, claims 1-5 and 12 of the '053 patent. Order No. 26 (Jan. 29, 2020), *unreviewed by* Comm'n Notice (Feb. 26, 2020).

On April 7, 2020, by declining to review the ALJ's initial determination granting in part Respondents' motion for summary determination on non-infringement and failure to meet the technical prong of the domestic industry requirement, the Commission terminated this investigation as to (i) all asserted claims of the '483 patent and (ii) asserted claims 7 and 11-15 of the '053 patent. Order No. 32 (Feb. 14, 2020), *unreviewed by* Comm'n Notice (Apr. 7, 2020). That determination is currently on appeal. Appeal No. 20-1907 (Fed. Cir.).

On June 26, 2020, the ALJ issued a final ID on violation of section 337. On July 15, 2020, LSG filed a petition for review of the final ID and Respondents filed a contingent-in-part petition for review. On July 28, 2020, the parties filed responses to each other's petitions.

The Commission has determined to extend until September 24, 2020, the deadline for determining whether to review the subject ID.

The Commission vote for this determination took place on August 10, 2020.

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', written in a cursive style.

Lisa R. Barton
Secretary to the Commission

Issued: August 10, 2020