

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

In the Matter of

**CERTAIN LIGHT-EMITTING
DIODES AND PRODUCTS
CONTAINING SAME**

Inv. No. 337-TA-512

**NOTICE OF COMMISSION FINAL DETERMINATION OF NO VIOLATION OF
SECTION 337 AS TO ONE PATENT AND DETERMINATION TO REMAND THE
INVESTIGATION AS TO CERTAIN OTHER PATENTS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined that there is no violation of 19 U.S.C. § 1337 by Dominant Semiconductors Sdn. Bhd. (“Dominant”) with regard to United States Patent No. 6,576,930 and that the Commission has determined to remand the investigation with respect to certain other patents to the presiding administrative law judge.

FOR FURTHER INFORMATION CONTACT: Wayne Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3090, or Michelle Walters, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5468. 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 (<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 based on a complaint filed by Osram GmbH and Osram Opto Semiconductors GmbH, both of Germany (collectively, “Osram”). 69 *Fed. Reg.* 32609 (June 10, 2004). In the complaint, as supplemented and amended, Osram alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain light-emitting diodes and products containing the same by reason of infringement of various claims of United States Patent Nos. 6,066,861, 6,277,301, 6,613,247,

6,245,259, 6,592,780 (collectively, the “Particle Size Patents”), United States Patent No. 6,576,930 (the “‘930 patent”), United States Patent Nos. 6,376,902, 6,469,321, 6,573,580 (collectively, the “Lead Frame Patents”), and United States Patent No. 6,716,673 (the “‘673 patent”).

On May 10, 2005, the presiding administrative law judge (“ALJ”) issued his final initial determination (“ID”) finding the sole remaining respondent Dominant in violation of section 337, but only with respect to the ‘673 patent. The ALJ concluded that the asserted claims of the Particle Size Patents are invalid for indefiniteness, that the ‘930 patent and the Lead Frame Patents are not infringed by Dominant’s accused products, and that Osram does not meet the technical prong of the domestic industry requirement with respect to the ‘930 patent.

On June 24, 2005, the Commission determined to review the ALJ’s findings and conclusions regarding the Particle Size Patents, the ‘930 patent, and the Lead Frame Patents. 70 *Fed. Reg.* 37431 (June 29, 2005). The Commission declined to review the ALJ’s determination of violation of section 337 with respect to the ‘673 patent.

Having examined the record of this investigation, including the ALJ’s final ID and the submissions of the parties, the Commission has (1) determined that the Particle Size Patents are not invalid for indefiniteness with respect to the phrase “mean grain diameter d_{50} ” or the failure to specify the basis for calculating the “mean grain diameter d_{50} ” and particle size distribution as number or volume, construed the asserted claims, and remanded this part of the investigation to the ALJ for the purpose of determining whether there is a violation of section 337; and (2) determined that there is no violation of section 337 with regard to the ‘930 patent. The Commission has extended the target date of the above-captioned investigation to December 12, 2005 and instructed the ALJ to make his determination on remand by October 11, 2005. The parties are invited to file comments on the ALJ’s remand determination within five business days after service of the ALJ’s determination and to file responses to the comments within five business days after service of the comments. The Commission has decided to defer addressing the issue of violation of the Lead Frame Patents, as well as issues relating to remedy, public interest, and bonding, until after the ALJ issues his initial determination on remand regarding the Particle Size Patents.

Further, the Commission has determined to deny Osram’s motion to admit the prosecution history of United States Application No. 10/616,783 into the record. The Commission, however, has determined to grant Dominant’s motion for extension of time to submit its Response of Respondent Dominant Semiconductors Sdn. Bhd. to the Notice of Commission Determination to Review a Final Determination on Violation of Section 337.

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 210.45 of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 210.45).

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: August 10, 2005