

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 TO EXTEND THE DATE FOR
DETERMINING WHETHER 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 to extend the date for determining whether 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 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, SW., 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 Investigation No. 337-TA-1163, *Certain Light-Emitting Diode Products, Systems, and Components Thereof (I)* (“*Certain LED Products (I)*”) on June 25, 2019, 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 *Fed. Reg.* 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 several respondents including LEDVANCE LLC of Wilmington, Massachusetts; Current Lighting Solutions, LLC of Cleveland, Ohio; Lumileds Holding B.V. of Schipol, Netherlands; Lumileds LLC of San Jose, California; Cree, Inc. of Durham, North Carolina; Cree Hong Kong, Ltd. of Shatin, Hong Kong; Cree Huizhou Solid State Lighting Co. Ltd. of Guangdong, China; Acuity Brands, Inc. of Atlanta, Georgia; Acuity Brands Lighting, Inc. of Conyers, Georgia; General Electric Company of Boston, Massachusetts; Consumer Lighting (U.S.), LLC (d/b/a GE Lighting, LLC) of Cleveland, Ohio (collectively, “GE”); Leedarson Lighting Co., Ltd. of Xiamen, China; Leedarson America, Inc. of Smyrna, Georgia (collectively, “Leedarson”); Nichia Corp. of Tokushima, Japan; Nichia America Corp. of Wixom, Michigan; OSRAM GmbH and OSRAM Licht AG, both of Munich, Germany; OSRAM Opto Semiconductors GmbH of Regensburg, Germany; OSRAM Opto Semiconductors, Inc. of Sunnyvale, California; Signify N.V. (f/k/a Phillips Lighting N.V.) of Eindhoven, Netherlands; and Signify North America Corporation of Somerset, New Jersey (all collectively, the “Moving 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) (EDIS Doc. ID Nos. 680780). 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 Investigation No. 1168, *Certain Light-Emitting Diode Products, Systems, and Components Thereof (III)* (“*Certain LED Products (III)*”). *Id.*; see also *Certain LED Products (III)*, Order No. 5 (July 10, 2019) (EDIS Doc. ID No. 681288).

On February 14, 2020, the presiding administrative law judge issued the subject ID (Order No. 32) granting in part the Moving Respondents’ motion for summary determination of non-infringement and that the technical prong of the domestic industry requirement is not satisfied with respect to claims 11, 14, 15, and 16 of the ’483 patent and claims 7, 11, 12, 13, 14, and 15 of the ’053 patent.

On February 18, 2020, Complainants and the Moving Respondents (except for respondents Leedarson and GE) jointly moved to extend the deadlines for petitioning for review of Order No. 32, and any responses thereto, by one week. On February 20, 2020, the

Commission granted the joint motion.

The Commission has determined to extend the deadline for determining whether to review the subject ID to April 7, 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', enclosed within a large, loopy oval flourish.

Lisa R. Barton
Secretary to the Commission

Issued: March 13, 2020