

cease and desist order or both directed against the respondent.

Issued: February 23, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7-3585 Filed 2-28-07; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-585]

In the Matter of Certain Engines, Components Thereof, and Products Containing the Same; Notice of Commission Determination Not To Review ALJ Order No. 6 Granting Complainant's Motion To Amend the Complaint and Notice of Investigation by Adding a Respondent

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") of the presiding administrative law judge ("ALJ") (Order No. 6) granting complainant's motion to amend the complaint and the notice of investigation to add respondent Wuxi Kama Power Co. Ltd. to the investigation.

FOR FURTHER INFORMATION CONTACT:

Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-205-3152. Copies of the ID and all other nonconfidential 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, DC 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. 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>.

SUPPLEMENTARY INFORMATION: On October 19, 2006, the Commission instituted an investigation under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, based on a complaint filed by

American Honda Motor Company, Inc. of Torrance, California, alleging a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain engines, components thereof, and products containing the same by reason of infringement of certain claims of U.S. Patent Nos. 5,706,769 and 6,250,273. 71 FR 61799 (Oct. 19, 2006). The complainant named Wuxi Kipor Power Co., Ltd. of Jiangsu, China as a respondent.

On January 24, 2007, the ALJ issued Order No. 6 granting complainant's motion to amend the complaint and the notice of investigation to add Wuxi Kama Power Co. Ltd. as a respondent to the investigation. No party petitioned for review of Order No. 6, and the Commission has determined not to review it.

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 CFR 210.42(h)).

By order of the Commission.

Issued: February 23, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-556]

In the Matter of Certain High-Brightness Light Emitting Diodes and Products Containing Same; Notice of Commission Decision To Review-in-Part a Final Initial Determination Finding a Violation of Section 337 and To Grant a Motion To Strike

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review-in-part a final initial determination ("ID") of the presiding administrative law judge ("ALJ") finding a violation of section 337 by the respondent's products in the above-captioned investigation. The Commission has also granted respondent's motion to strike complainant's arguments that are based on evidence that was excluded by the ALJ.

FOR FURTHER INFORMATION CONTACT:

Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 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, SW., Washington, DC 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 December 8, 2005, based on a complaint filed by Lumileds Lighting U.S., LLC ("Lumileds") of San Jose, California. 70 FR 73026. The complaint, as amended and supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain high-brightness light emitting diodes ("LEDs") and products containing same by reason of infringement of claims 1 and 6 of U.S. Patent No. 5,008,718 ("the '718 patent"); claims 1-3, 8-9, 16, 18, and 23-28 of U.S. Patent No. 5,376,580 ("the '580 patent"); and claims 12-16 of U.S. Patent No. 5,502,316 ("the '316 patent"). The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named Epistar Corporation ("Epistar") of Hsinchu, Taiwan, and United Epitaxy Company ("UEC") of Hsinchu, Taiwan as respondents.

On April 28, 2006, Lumileds moved to amend the complaint to: (1) Remove UEC as a named respondent, (2) change the complainant's full name from Lumileds Lighting U.S., LLC to Philips Lumileds Lighting Company LLC ("Philips"), and (3) identify additional Epistar LEDs alleged to infringe one or more patents-in-suit. Neither respondent opposed the motion.

On May 15, 2006, the Commission issued a notice determining not to review an ID (Order No. 14) granting the complainant's motion for partial summary determination to dismiss

Epistar's affirmative defense that the '718 claims are invalid.

On August 2, 2006, the still pending motion to amend the complaint was discussed with the parties during the prehearing conference, and the evidentiary hearing was held from August 2–11, 2006. On October 23, 2006, the ALJ issued an ID (Order No. 29) granting Lumileds' motion to amend the complaint, and further ordering that the Notice of Investigation be amended to identify Philips as the complainant and to remove UEC as a named respondent. On November 13, 2006, the Commission published a notice determining not to review Order No. 29. 71 F R 66195.

On December 13, 2006, the Commission issued a notice determining not to review an ID (Order No. 31) extending the target date for this investigation to May 8, 2007, and the deadline for the ALJ's final initial determination to January 8, 2007.

On January 8 and 11, 2007, the ALJ issued his final ID and recommended determinations on remedy and bonding, respectively. The ALJ found a violation of section 337 based on his findings that the respondent's accused products infringe one or more of the asserted claims of the patents at issue. On January 22, 2007, the complainant and the respondent each filed a petition for review of the final ID. On January 29, 2007, all parties, including the Commission investigative attorney, filed responses to the petitions for review.

Upon considering the parties' filings, the Commission has determined to review-in-part the ID. Specifically, with respect to the '718 patent, the Commission has determined to review claim construction of the terms "substrate" and "semiconductor substrate" in claims 1 and 6, and the ALJ's determination that Epistar's GB I, GB II, OMA I, and OMA II LEDs do not infringe the '718 patent. With respect to the '580 and '316 patents, the Commission has determined to review claim construction of the term "wafer bonding" in claims 1–3, 8–9, 16, 18, 23–25, 27 and 28 of the '580 patent and claims 12–14 and 16 of the '316 patent. The Commission has determined not to review the remainder of the ID. On January 25, 2007, the respondent filed a motion to strike certain portions of complainant's petition for review. The Commission has determined to grant this motion to the extent that it concerns arguments that are based on evidence excluded by the ALJ.

On review, with respect to violation, the parties are requested to submit briefing limited to the following issues: the ALJ's addition of the limitation

"must also be a material that provides adequate mechanical support for the LED device" to the construction of the term "substrate," and the implications of this addition for the infringement analysis. In addressing these issues, the parties are requested to cite relevant authority.

In connection with the final disposition of this investigation, the Commission may issue an order that results in the exclusion of the subject articles from entry into the United States. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

When the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) The public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

When the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. See Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The written submissions reference above should be concise and thoroughly referenced to the record in this investigation. Also,

parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should be no more than twenty-five (25) pages and should address the recommended determination by the ALJ on remedy and bonding. The complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. Complainants are also requested to state the dates that the patents at issue expire and the HTSUS numbers under which the accused products are imported. All of the written submissions and proposed remedial orders must be filed no later than close of business on March 5, 2007. Reply submissions must be filed no later than the close of business on March 12. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

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 sections 210.42–46 of the Commission's Rules of Practice and Procedure, 19 CFR 210.42–46.

Issued: February 22, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

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