



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1164]

Certain Light-Emitting Diode Products, Systems, and Components (II); Commission Determination Not to Review an Initial Determination Terminating the Investigation Based on Withdrawal of the Complaint; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (the “Commission”) has determined not to review an initial determination (“ID”) (Order No. 14) terminating the investigation based on withdrawal of the complaint. The investigation is hereby terminated.

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2382. 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 (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission’s Electronic Docket Information System (“EDIS”) (<https://edis.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 this investigation based on a complaint, as amended and supplemented, by Lighting Science Group Corp. of Cocoa Beach, Florida; Healthe, Inc. of Cocoa Beach, Florida; and Global Value Lighting, LLC of West Warwick, Rhode Island (collectively “LSG”). 84 FR 29879-80 (June 25, 2019). The amended complaint alleges violations of 19 U.S.C. 1337, as amended (“Section 337”), based upon the importation into the United States, sale for importation, and sale in the United States after importation of certain light-emitting diode products, systems, and components thereof by reason of infringement of certain asserted claims of U.S. Patent Nos. 7,098,483; 7,095,053; 8,506,118; 7,528,421; 8,674,608; 8,201,968 (“the ’968 patent”); and 8,967,844 (“the ’844 patent”). *Id.* The amended complaint also alleges violations of Section 337 based upon false advertising that threatens to destroy or substantially injure an industry in the United States. *Id.* The amended complaint further alleges the existence of a domestic industry. *Id.* The notice of investigation named eight (8) respondents. *Id.* The Office of Unfair Import Investigations (“OUII”) was also named as a party to the investigation. *Id.*

At institution, the Commission ordered that two separate investigations be instituted based on the amended complaint to further efficient adjudication of the complaint allegations. Investigation No. 337-TA-1164 was instituted to determine whether there was a violation of Section 337 as to LED downlights and LED luminaires by reason of: (1) infringement of one or more of claims 6 and 7 of the ’968 patent and claim 4 of the ’844 patent; and (2) false advertising the threat or effect of which is to destroy or substantially injure an industry in the United States. *Id.* at 29879. Investigation No. 337-TA-1163 was instituted to determine whether there was a violation of Section 337 based on the remainder of the allegations in the amended complaint, subject to further severance by the presiding ALJ. 84 FR 29877-78 (June 25, 2019).

The Commission previously terminated this investigation in part with respect to certain parties, accused products, and the false advertising claim. *See* Order No. 7 (Oct. 7, 2019), *not rev'd*, Comm'n Notice (Oct. 30, 2019) (terminating certain respondents); Order No. 9 (Nov. 6, 2019), *not rev'd*, Comm'n Notice (Dec. 2, 2019) (terminating certain respondents and false advertising allegations); Order No. 11 at 1 (Jan. 16, 2020), *not rev'd*, Comm'n Notice (Feb. 11, 2020) (withdrawing claim 7 of the '968 patent).

On March 5, 2020, the presiding Administrative Law Judge issued the subject ID (Order No. 14) granting LSG's unopposed motion to terminate the investigation in its entirety, pursuant to 19 CFR 210.21(a), based on LSG's withdrawal of its complaint. Order No. 14 at 1 (Mar. 5, 2020). The ID finds no extraordinary circumstances that warrant denying the motion, while LSG asserted that there are no other agreements, written or oral, express or implied, between the parties concerning the subject matter of the investigation. *Id.* at 2. The ID notes that OUII supported the motion and no respondent opposed it. *Id.* at 1. No party petitioned for review of the subject ID.

The Commission has determined not to review the subject ID. The investigation is hereby terminated.

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.

Issued: March 20, 2020

Lisa Barton,

Secretary to the Commission.

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