

**INTERNATIONAL TRADE COMMISSION****[Investigation No. 337-TA-882]****Certain Digital Media Devices, Including Televisions, Blu-Ray Disc Players, Home Theater Systems, Tablets and Mobile Phones, Components Thereof and Associated Software****AGENCY:** U.S. International Trade Commission.**ACTION:** Notice, Institution of investigation pursuant to 19 U.S.C. 1337.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 13, 2013, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Black Hills Media, LLC of Wilmington, Delaware. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain digital media devices, including televisions, blu-ray disc players, home theater systems, tablets and mobile phones, components thereof and associated software, by reason of infringement of U.S. Patent No. 8,028,323 (“the ‘323 patent”), U.S. Patent No. 8,214,873 (“the ‘873 patent”), U.S. Patent No. 8,230,099 (“the ‘099 patent”), U.S. Patent No. 8,045,952 (“the ‘952 patent”), U.S. Patent No. 8,050,652 (“the ‘652 patent”), and U.S. Patent No. 6,618,593 (“the ‘593 patent”). The complaint further alleges that an industry exists in the United States as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

**ADDRESSES:** The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, DC 20436, telephone (202) 205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (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>.

**FOR FURTHER INFORMATION CONTACT:** The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

**Authority:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10 (2012).

**Scope of Investigation:** Having considered the complaint, the U.S. International Trade Commission, on June 11, 2013, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain digital media devices, including televisions, blu-ray disc players, home theater systems, tablets and mobile phones, components thereof and associated software by reason of infringement of one or more of claims 1–5, 10, 11, 13, 14, and 16–18 of the ‘323 patent; claims 1, 2, 5–8, 15–19, 22, 23, 25–27, 30, 31, 34–37, and 44–46 of the 873 patent; claims 1 and 10–12 of the ‘099 patent; claims 1, 2–4, 9–12, and 14 of the ‘952 patent; claims 1, 3, 4, 6, 7, 10, 11, 13, 42–45, 47–50, 52 and 55 of the ‘652 patent; and claims 1, 4, 7, 10 and 13–21 of the ‘593 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Black Hills Media, LLC, 1000 N. West Street, Suite 1200, Wilmington, Delaware 92064.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Samsung Electronics Co. Ltd., 1320-10, Seocho 2-dong Seocho-gu, Seoul, Republic of Korea;

Samsung Electronics America, Inc., 105 Challenger Road, Ridgefield Park, New Jersey 02660;

Samsung Telecommunications America, LLC, 1301 East Lookout Drive, Richardson, Texas 75082;

LG Electronics, Inc., LG Twin Towers, 20 Yeouido-dong, Yeogdeungpo-gu, Seoul 150-721, Republic of Korea; LG Electronics U.S.A., Inc., 1000 Sylvan Avenue, Englewood Cliffs, New Jersey 07632;

LG Electronics MobileComm U.S.A., Inc., 10101 Old Grove Road, San Diego, California 92131;

Panasonic Corporation, 10006 Oaza Kodoma, Kadoma-shi, Osaka 571-8501, Japan;

Panasonic Corporation of North America, One Panasonic Way, Secaucus, New Jersey 07904;

Toshiba Corporation, 1-1, Shibaura 1-Chome, Minato-ku, Tokyo 105-8001, Japan;

Toshiba America Information Systems, Inc. 9740 Irvine Boulevard, Irvine, California 92618;

Sharp Corporation, 22-22 Nagaike-cho, Abeneko-ku, Osaka 545-8522, Japan;

Sharp Electronics Corporation, 1 Sharp Plaza, Mahwah, New Jersey 07495.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: June 13, 2013.

**Lisa R. Barton,**

*Acting Secretary to the Commission.*

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## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-830]

### Certain Dimmable Compact Fluorescent Lamps and Products Containing Same; Termination as to Three Respondents on the Basis of Settlement; Decision To Review an Initial Determination Finding No Violation of Section 337; Schedule for Filing Written Submissions

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to terminate the investigation as to three respondents on the basis of settlement. The Commission has also determined to review in part the final initial determination (“ID”) issued by the presiding administrative law judge (“ALJ”) on February 27, 2013, finding no violation of section 337 of the Tariff Act of 1930 in this investigation.

**FOR FURTHER INFORMATION CONTACT:** Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708-2532. 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 February 27, 2012, based on a complaint filed by Andrzej Bobel and Neptun Light, Inc., both of Lake Forest,

Illinois (collectively, “Neptun”). 77 FR 11587 (Feb. 27, 2012). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended 19 U.S.C. 1337, by reason of the infringement of certain claims of United States Patent Nos. 5,434,480 (“the ‘480 patent”) and 8,035,318 (“the ‘318 patent”). The complaint named numerous respondents, many of whom have been terminated from the investigation on the basis of settlement agreement, consent order, or withdrawal of the complaint. The remaining respondents are Technical Consumer Products, Inc. of Aurora, Ohio; Shanghai Qiangling Electronics Co., Ltd. of Shanghai, China; Zhejiang Qiang Ling Electronic Co. Ltd. of Zhenjiang, China (collectively, “TCP”); U Lighting America Inc. of San Jose, California (“ULA”); and Golden U Lighting Manufacturing (Shenzhen) of Shenzhen, China (“Golden U”). Claim 9 of the ‘480 patent is asserted against ULA and Golden U, and claims 1 and 12 of the ‘318 patent are asserted against TCP.

On February 27, 2013, the ALJ issued his final Initial Determination (“ID”). The ID found no violation of section 337 on the basis of Neptun’s failure to satisfy the economic prong of the domestic industry requirement of section 337. The ALJ also found that respondent TCP’s accused products do not infringe the asserted claims of the ‘318 patent.

On March 12, 2013, Neptun filed a petition for review of the ID; TCP and ULA each filed a contingent petition for review of the ID. On March 20, 2013, Neptun opposed TCP’s and ULA’s petitions, and TCP and ULA each opposed Neptun’s petition. On April 3, 2013, the Commission extended the whether-to-review deadline and the target date by approximately six weeks. Notice (Apr. 3, 2013).

On June 10, 2013, Neptun and TCP filed an unopposed joint motion to terminate the investigation as to TCP on the basis of a settlement agreement between Neptun and TCP. The Commission finds that it is in the public interest to terminate the investigation as to TCP on the basis of settlement, and the Commission grants the joint motion.

Turning to the petitions for review of the ID, having examined the record of this investigation, including the ALJ’s final ID, the petitions for review, and the responses thereto, the Commission has determined to review the ALJ’s finding that Neptun did not satisfy the domestic industry requirement. The Commission has also determined to review the ALJ’s claim construction of “integrated into” in claim 9 of the ‘480 patent, as well as the ALJ’s finding of

infringement insofar as the finding is based upon that construction. The Commission has determined not to review the remainder of the ID.

In connection with the Commission’s review, the parties are asked to respond only to the questions enumerated below. For all other matters under review, the Commission finds the extensive briefing before the ALJ and the petitions for review to be sufficient. Each party should address questions 1–4 in its opening brief, and may respond to each other’s arguments in reply. Neptun should address question 5 in its opening brief, with ULA addressing question 5 in ULA’s reply brief.

(1) What is the plain and ordinary meaning of “integrated into” (include citations to the record where you made such arguments to the ALJ)? In the context of an electronic circuit, does the construction of “integrated into” as “in some way connected to” render superfluous that claim term, including the word “into”?

(2) Whether the specification of the ‘480 patent (including the passages cited in ULA’s petition for review at pages 26–32) supports a construction of “integrated into” in which the boosting circuit uses downstream rectified current to perform boosting. If not, explain whether you contend that the specification limits the term “integrated into” to something other than its plain and ordinary meaning.

(3) Whether the prosecution history of the ‘480 patent permits a construction of “integrated into” in which the boosting circuit is downstream from the rectifier, and where the rectifier itself does not perform boosting.

(4) Whether the boosting circuit in ULA’s accused products uses downstream rectified current to perform boosting, and whether ULA’s products meet the “integrated into” claim limitation, literally or under the doctrine of equivalents.

(5) Which of complainants’ asserted expenses constitute investments that fall under 19 U.S.C. 1337(a)(3)(C), such as investments in engineering, research and development, or licensing? Please identify and provide a reasonable estimate, based on the evidence of record, of the portion of these expenses that are associated with the exploitation of the ‘480 patent. Please explain, qualitatively, how these expenses—and the underlying activities that these expenses reflect—relate to exploitation of the ‘480 patent.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the