

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

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

Investigation No. 337-TA-556

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW
AN INITIAL DETERMINATION GRANTING COMPLAINANT'S MOTION FOR
PARTIAL SUMMARY DETERMINATION TO DISMISS AN AFFIRMATIVE
DEFENSE**

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") (Order No. 14) of the presiding administrative law judge ("ALJ") granting complainant's motion for partial summary determination to dismiss an affirmative defense.

FOR FURTHER INFORMATION: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 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, S.W., Washington, D.C. 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 December 8, 2005, 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 Lumileds Lighting U.S., LLC of San Jose, California ("Lumileds"), alleging a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain high-brightness light emitting diodes or products containing same by reason of infringement of one or more 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, and claims 12-16 of U.S. Patent No. 5,502,316. 70 *Fed. Reg.* 73026 (2005). The complainant named Epistar Corporation (“Epistar”) of Hsinchu, Taiwan and United Epitaxy Company (“UEC”) of Hsinchu, Taiwan as respondents.

On March 10, 2006, complainant Lumileds filed its Motion for Partial Summary Determination to Dismiss Epistar’s Affirmative Defense That The ‘718 Patent Claims Are Invalid. On April 13, 2006, the ALJ issued an ID (Order No. 14) granting Lumileds’ motion.

On April 20, 2006, Epistar filed a petition for review of Order No. 14. On April 27, 2006, complainant Lumileds filed its opposition to Epistar’s petition. On the same day, the Commission investigative attorney filed his response in opposition to Epistar’s petition.

The Commission has determined to deny Epistar’s petition and not to review Order No. 14.

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 of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 210.42).

By order of the Commission.

/s/
Marilyn R. Abbott
Secretary to the Commission

Issued: May 15, 2006