

**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 (Remand)**

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL  
DETERMINATION TERMINATING THE INVESTIGATION**

**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. 5) of the presiding administrative law judge (“ALJ”) terminating the above-captioned investigation under section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) based on withdrawal of the complaint.

**FOR FURTHER INFORMATION CONTACT:** Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., 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, S.W., 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 this investigation on December 8, 2005, based on a complaint filed by Lumileds Lighting U.S., LLC of San Jose, California. *70 Fed. Reg.* 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 and products containing same by reason of infringement of claims 1 and 6 of U.S. Patent No. 5,008,718, 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. The complaint further alleged the existence of a domestic industry. The Commission’s notice of investigation named Epistar Corporation of Hsinchu, Taiwan, and United Epitaxy Company of Hsinchu, Taiwan as respondents. Subsequently, respondents merged under the name Epistar Corporation (“Epistar”).

The Commission terminated this investigation on May 9, 2007, finding a violation of section 337 and issuing a limited exclusion order directed to Epistar. Epistar appealed the Commission's determination to the U.S. of Appeals for the Federal Circuit. The Court issued its opinion on May 22, 2009, affirming in part, reversing in part, and remanding the investigation to the Commission. *See Epistar Corp. v. United States Int'l Trade Comm'n*, 566 F.3d 1321 (Fed. Cir. 2009).

On August 5, 2009, complainant moved to withdraw its complaint and terminate the investigation in its entirety.

The ALJ issued the subject ID on August 18, 2009, granting the motion for termination of the investigation. No party petitioned for review of the ID pursuant to 19 C.F.R. § 210.43(a), and the Commission found no basis for ordering a review on its own initiative pursuant to 19 C.F.R. § 210.44. The Commission has determined not to review the ID, and accordingly the investigation is 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 sections 210.21 and 210.42(h), (i) of the Commission's Rules of Practice and Procedure, 19 C.F.R. §§ 210.21, 210.42(h), (i).

By order of the Commission.

/s/

Marilyn R. Abbott

Secretary to the Commission

Issued: September 2, 2009