UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.  

In the Matter of  
CERTAIN LED LIGHT DEVICES, LED POWER SUPPLIES, AND COMPONENTS THEREOF  
Investigation No. 337-TA-1081  

LIMITED EXCLUSION ORDER  

The Commission has previously found Respondent MSi Lighting, Inc. of Boca Raton, Florida ("Respondent") in default for failing to respond to a Notice of Investigation and a Complaint that alleged a violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), with respect to the unlawful importation into the United States and sale within the United States after importation of certain LED lighting devices, LED power supplies, and components thereof by reason of infringement of U.S. Patent No. 7,038,399 ("the '399 patent").  

Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that the appropriate form of relief includes a limited exclusion order prohibiting the unlicensed entry of covered LED lighting devices, LED power supplies, and components thereof manufactured for or on behalf of, or imported by or on behalf of, Respondent or any of its affiliated companies, parents, subsidiaries, or other related business entities, or its successors or assigns.  

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. § 1337(g) do not preclude the issuance of the limited exclusion order, and that the bond during the Presidential review period shall be in the amount of three percent of the entered value of the articles in question.
Accordingly, the Commission hereby ORDERS that:

1. LED lighting devices, LED power supplies, and components thereof that infringe claims 1, 2, 4, and 5 of the '399 patent and that are manufactured abroad by or on behalf of, or are imported by or on behalf of Respondent, or any of its affiliated companies, parents, subsidiaries, or other related business entities, or its successors or assigns ("covered articles"), are excluded from entry for consumption into the United States, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption, for the remaining term of each patent, except under license of the patent owner or as provided by law.

2. Notwithstanding paragraph 1 of this Order, the covered articles are entitled to entry into the United States for consumption, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption under bond in the amount of three percent of the entered value of such articles pursuant to subsection (j) of Section 337 of the Tariff Act, as amended (19 U.S.C. § 1337(j)), and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (70 Fed. Reg. 43,251), from the day after this Order is received by the United States Representative, and until such time as the United States Trade Representative notifies the Commission that this action is approved or disapproved but, in any event, not later than sixty (60) days after the date of receipt of this Order by the United States Trade Representative. All entries of covered articles made pursuant to this paragraph are to be reported to U.S. Customs and Border Protection ("CBP"), in advance of the date of the entry, pursuant to procedures CBP establishes.

3. At the discretion of CBP and pursuant to the procedures it establishes, persons seeking to import certain LED lighting devices, LED power supplies, and components thereof that are potentially subject to this Order may be required to certify that they are familiar with
the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under paragraph 1 of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate this certification.

4. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to covered articles that are imported by and for the use of the United States, or imported for and to be used for, the United States with the authorization or consent of the Government.

5. The Commission may modify this Order in accordance with the procedures described in section 210.76 of the Commission’s Rules of Practice and Procedure, 19 C.F.R § 210.76.

6. The Secretary shall serve copies of this Order upon each party of record in this investigation and CBP.

7. Notice of this Order shall be published in the Federal Register.

By order of the Commission.

Lisa R. Barton
Secretary to the Commission

Issued: July 1, 2019
CERTAIN LED LIGHTING DEVICES, LED POWER SUPPLIES, AND COMPONENTS THEREOF

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached ORDER has been served upon the following parties as indicated, on July 1, 2019.

Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112
Washington, DC 20436

On Behalf of Complainants Philips Lighting North America Corp. and Philips Lighting Holding B.V.:

C. Brandon Rash, Esq.
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP
901 New York Avenue, N.W.
Washington, DC 20001

☐ Via Hand Delivery
☒ Via Express Delivery
☐ Via First Class Mail
☐ Other: ___________

On Behalf of Respondents Lowe's Companies, Inc. and LG Sourcing, Inc.:

V. Jim Adduci, Esq.
ADDCI, MASTRIANI & SCHAUMBERG, LLP
1133 Connecticut Avenue, NW, 12th Floor
Washington, DC 20036

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On Behalf of Respondent Satco Products, Inc.:

Robert S. Rigg, Esq.
VEDDER PRICE PC
222 North LaSalle Street
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Daniel E. Yonan, Esq.
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CERTAIN LED LIGHTING DEVICES, LED POWER SUPPLIES, AND COMPONENTS THEREOF

Certificate of Service – Page 2

Respondent:

MSi Lighting, Inc.
622 Banyan Trail, Suite 200
Boca Raton, FL 33431

/

□ Via Hand Delivery
☒ Via Express Delivery
□ Via First Class Mail
□ Other: _______________
UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, DC

In the Matter of  
INVESTIGATION NO. 337-TA-1081  
CERTAIN LED LIGHTING DEVICES, LED POWER SUPPLIES, AND COMPONENTS THEREOF

ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED THAT MSi Lighting, Inc. of Boca Raton, Florida, cease and desist from conducting any of the following activities in the United States: importing, selling, offering for sale, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of LED devices, LED power supplies, and components thereof that infringe claims 1, 2, 4, and 5 of U.S. Patent Nos. 7,038,399 ("the '399 patent") in violation of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

I.

DEFINITIONS

As used in this Order:

(A) "Commission" shall mean the United States International Trade Commission.

(B) "Complainants" shall mean Signify North America Corp. and Signify Holding B.V.

(C) "Respondent" shall refer to MSi Lighting, Inc. of Boca Raton, Florida.

(D) "Person" shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority-
owned or controlled subsidiaries, successors, or assigns.

(E) "United States" shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms "import" and "importation" refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term "covered products" shall mean LED devices, LED power supplies, and components thereof that infringe one or more of claims 1, 2, 4, and 5 of the '399 patent.

II.

APPLICABILITY

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, distributors, controlled (whether by stock ownership or otherwise) and majority owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, infra, for, with, or otherwise on behalf of Respondent.

III.

CONDUCT PROHIBITED

The following conduct of Respondent in the United States is prohibited by this Order.

For the remaining term of the '399 patent, Respondent shall not:

(A) import or sell for importation into the United States covered products;

(B) market, distribute, sell, or otherwise transfer (except for exportation) imported covered products in the United States;

(C) advertise imported covered products;

(D) solicit U.S. agents or distributors for imported covered products; or
(E) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of imported covered products.

IV.

**CONDUCT PERMITTED**

Notwithstanding any other provision of this Order, Respondent shall be permitted to engage in specific conduct otherwise prohibited by the terms of this Order if, in a written instrument, the owner of the relevant '399 patent licenses or authorizes such specific conduct; or such specific conduct is related to the importation or sale of covered products by or for the United States.

V.

**REPORTING**

For purposes of this reporting requirement, the reporting periods shall commence on January 1 of each year and shall end on the subsequent December 31. The first report required under this section shall cover the period from the date of issuance of this order through December 31, 2019. This reporting requirement shall continue in force until Respondent has truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission: (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period; and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period.

When filing written submissions, Respondent must file the original document electronically on or before the deadlines stated above and submit eight (8) true paper copies to
the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission’s
Rules of Practice and Procedure, 19 CFR 210.4(f). Submissions should refer to the investigation
number (Inv. No. 337-TA-1081) in a prominent place on the cover pages and/or the first page. (See
Handbook for Electronic Filing Procedures,
questions regarding filing should contact the Secretary (202-205-2000). If Respondent desires to
submit a document to the Commission in confidence, it must file the original and a public version
of the original with the Office of the Secretary and serve a copy of the confidential version on
Complainant’s counsel.¹

Any failure to make the required report or the filing of any false or inaccurate report shall
count as a violation of this Order, and the submission of a false or inaccurate report may be

VI.

RECORD-KEEPING AND INSPECTION

(A) For the purpose of securing compliance with this Order, Respondent shall retain
any and all records relating to the sale, offer for sale, marketing, or distribution in the United
States of covered products, made and received in the usual and ordinary course of business,
whether in detail or in summary form, for a period of three (3) years from the close of the fiscal
year to which they pertain.

(B) For the purposes of determining or securing compliance with this Order and for no
other purpose, and subject to any privilege recognized by the federal courts of the United States,

¹ Complainants must file a letter with the Secretary identifying the attorney to receive the
reports or bond information. The designated attorney must be on the protective order entered in
the investigation.
and upon reasonable written notice by the Commission or its staff, authorized representatives of the Commission shall be permitted access and the right to inspect and copy in Respondent’s principal offices during office hours, and in the presence of counsel or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

VII.

**SERVICE OF CEASE AND DESIST ORDER**

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in subparagraph VII (A) of this Order, a copy of the Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII (A) and VII (B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII (B) and VII (C) shall remain in effect until the '399 patent has expired.
VIII.

CONFIDENTIALITY

Any request for confidential treatment of information obtained by the Commission pursuant to Sections VI of the Order should be in accordance with section 201.6 of the Commission’s Rules of Practice and Procedure, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

IX.

ENFORCEMENT

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.75, including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, 19 U.S.C. § 1337(f), and any other action that the Commission deems appropriate. In determining whether Respondent is in violation of this Order, the Commission may infer facts adverse to Respondent if Respondent fails to provide adequate or timely information.

X.

MODIFICATION

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.
XI.

**BONDING**

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 FR 43251 (July 21, 2005), subject to Respondent posting a bond in the amount of three (3) percent of the entered value for the covered products. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this Order are subject to the entry bond as set forth in the exclusion order issued by the Commission, and are not subject to this bond provision.

The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The bond and any accompanying documentation are to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) Respondent must serve a copy of the bond and any accompanying documentation on Complainants' counsel.²

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves

² *See* Footnote 1.
this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By order of the Commission.

Lisa R. Barton
Secretary to the Commission

Issued: July 1, 2019
PUBLIC CERTIFICATE OF SERVICE

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On Behalf of Respondent Satco Products, Inc.:

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