

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

In the Matter of

**CERTAIN LED PHOTOGRAPHIC
LIGHTING DEVICES AND
COMPONENTS THEREOF**

Inv. No. 337-TA-804

GENERAL EXCLUSION ORDER

The Commission has determined that there is a violation of section 337 of the Tariff Act of 1930, as amended, (19 U.S.C. § 1337) in the unlawful importation and sale of certain LED photographic lighting devices and components thereof that infringe claims 1, 57, 58, and 60 of U.S. Patent No. 7,972,022 patent (“the ‘022 patent”) and claims 1-2, 5, 16, 18-19, 25, and 27 of U.S. Patent No. 7,318,652 patent (“the ‘652 patent”). Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determinations on the issues of remedy, the public interest, and bonding. The Commission has determined that a general exclusion from entry for consumption is necessary to prevent circumvention of an exclusion order limited to products of the named respondents and because there is a pattern of violation of section 337 and it is difficult to identify the source of infringing products. Accordingly, the Commission has determined to issue a general exclusion order prohibiting the unlicensed importation of infringing LED photographic lighting devices and components thereof.

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. § 1337(d) do not preclude issuance of the general exclusion order, and that there shall be

a bond in the amount of 43 percent for all covered products during the period of Presidential review.

Accordingly, the Commission hereby **ORDERS** that:

1. LED photographic lighting devices and components thereof covered by one or more of claims 1, 57, 58, and 60 of the '022 patent and/or claims 1-2, 5, 16, 18-19, 25, and 27 of the '652 patent are excluded from entry into the United States for consumption, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption, for the remaining terms of the patents, except under license of the patent owner or as provided by law.

2. Notwithstanding paragraph 1 of this Order, the aforesaid LED photographic lighting devices and components thereof 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 a bond in the amount of 43 percent of the entered value for the covered products pursuant to subsection (j) of section 337 of the Tariff Act of 1930, 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.* 43251), from the day after this Order is received by the United States Trade Representative and until such time as the United States Trade Representative notifies the Commission that this Order is approved or disapproved but, in any event, not later than sixty (60) days after the date of receipt of this Order.

3. At the discretion of U.S. Customs and Border Protection ("CBP") and pursuant to procedures it establishes, persons seeking to import LED photographic lighting devices 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 the certification.

4. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to LED photographic lighting devices and components thereof 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 Commission Secretary shall serve copies of this Order upon each party of record in this investigation and upon the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and U.S. Customs and Border Protection.

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

By order of the Commission.

A handwritten signature in black ink, appearing to read "Lisa R. Barton", enclosed within a large, loopy oval shape.

Lisa R. Barton
Acting Secretary to the Commission

Issued: January 17, 2013

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, DC

_____))
In the Matter of)

CERTAIN LED PHOTOGRAPHIC)
LIGHTING DEVICES AND COMPONENTS)
THEREOF)
_____)

Inv. No. 337-TA-804

CONSENT ORDER

On September 7, 2011, the United States International Trade Commission instituted Investigation No. 337-TA-804 under Section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337), as amended, based on a Complaint filed by Complainants Litepanels, Inc. and Litepanels, Ltd. (“Litepanels”) that alleged unfair acts in the importation into the United States, the sale for importation into the United States, and the sale within the United States after importation of certain LED photographic lighting devices and components thereof that infringe U.S. Patent Nos. 7,972,022; 7,510,290; 7,429,117; 7,318,652; and 6,948,823 in violation of 19 U.S.C. § 1337 by multiple Respondents including Fotodiox, Inc., Yuyao Lishuai Photo-Facility Co., Ltd., Yuyao Fotodiox Photo Equipment, Co. Ltd., and Yuyao Lily Collection Co., Ltd. (collectively, the “Fotodiox Respondents”) and Ikan International Corp. (“Ikan”) (collectively the “Consenting Respondents”). *See* 74 Fed. Reg. 55416 (Sep. 7, 2011).

Litepanels and Consenting Respondents are parties to a Patent License & Settlement Agreement dated November 15, 2012 (“License and Settlement Agreement”).

Litepanels and Consenting Respondents have executed a stipulation which manifests the Consenting Respondents’ consent to the entry of this Consent Order and to the waivers and other requirements of 19 C.F.R. § 210.21(c).

The Commission having reviewed the Joint Motion to Terminate the Investigation with respect to the Consenting Respondents Based Upon Consent Order, and having duly considered all comments filed, **HEREBY ORDERS THAT:**

1. Litepanels, Inc. is a Delaware corporation with corporate offices at 16152 Saticoy Street, Van Nuys, California, 91406. Litepanels, Ltd. is a limited company organized and existing under the laws of the United Kingdom and Wales with its corporate offices located at One Wheatfield Way, Kingston Upon Thames, Surrey, U.K. "Litepanels" shall mean Litepanels, Inc. and Litepanels, Ltd., and each of its past and present subsidiaries, affiliates, agents and anyone acting on its behalf.

2. Respondent Yuyao Fotodiox Photo Equipment Co., Ltd. ("Fotodiox China") is a corporation organized and existing under the laws of China having corporate offices located at No. 31 Rongchuang Road, Lizhou Industrial Zone, Lizhou District, Yuyao City, Zhejiang Province, China. Fotodiox China shall mean past and present subsidiaries, agents and anyone acting on its behalf.

3. Respondent Yuyao Lishuai Photo-Facility Co., Ltd. ("Yuyao Lishuai") is a corporation organized and existing under the laws of China having corporate offices located at No. 31 Rongchuang Road, Lizhou Industrial Zone, Lizhou District, Yuyao City, Zhejiang Province, China. Yuyao Lishuai shall mean past and present subsidiaries, agents and anyone acting on its behalf.

4. Respondent Fotodiox, Inc. is an Illinois corporation with corporate offices located at 3805 Hawthorn Ct., Waukegan, Illinois 60087. Fotodiox, Inc. shall mean past and present subsidiaries, agents and anyone acting on its behalf.

5. Respondent Yuyao Lily Collection Co., Ltd. ("Yuyao Lily") is located at No. 7 North Donghanmen Road, Yuyao, China 315400. Yuyao Lily shall mean past and present subsidiaries, agents and anyone acting on its behalf.

6. Respondent Ikan International Corp. is located at 3903 Stoney Brook Drive, Houston, Texas 77063. Ikan shall mean past and present subsidiaries, agents and anyone acting on its behalf.

7. The "'022 Patent" means U.S. Patent No. 7,972,022.

8. The "'290 Patent" means U.S. Patent No. 7,510,290.

9. The "'117 Patent" means U.S. Patent No. 7,429,117.

10. The "'652 Patent" means U.S. Patent No. 7,318,652.

11. The "'823 Patent" means U.S. Patent No. 6,948,823.

12. Litepanels filed a Complaint before the International Trade Commission ("Commission"), *Certain LED Photographic Lighting Devices and Components Thereof*, 337-TA-804.

13. On September 7, 2011 the Commission instituted this investigation to determine, *inter alia*, whether the Consenting Respondents have violated Section 337(a)(1)(B)(i) in the importation, sale for importation and/or sale after importation into the United States of certain accused products that infringe the '022, '290, '117, '652, or the '823 Patents. On October 12, 2011, the Consenting Respondents filed their separate Responses to the Complaint, denying the allegations that the Consenting Respondents violated Section 337.

14. On September 7, 2012, the Administrative Law Judge issued an Initial Determination finding that a violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, has occurred with respect to certain of the asserted claims, and that no violation

of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, has occurred with respect to certain of the asserted claims.

15. The Consenting Respondents admit that the Commission has *in rem* jurisdiction over the accused products that the Consenting Respondents imported into the United States, knowingly sold for importation into the United States, or sold after importation into the United States as of September 7, 2011 and that the Commission has *in personam* jurisdiction over them.

16. All rights to judicial review or otherwise challenge or contest the validity of the Consent Order are hereby expressly waived by Litepanels and the Consenting Respondents.

17. Litepanels and the Consenting Respondents shall cooperate with and will not seek to impede by litigation or other means the Commission's efforts to gather information under Subpart I of Part 210 of title 19 of the Code of Federal Regulations.

18. Enforcement, modification and revocation of this Consent Order shall be carried out pursuant to Subpart I of Part 210 of Title 19 of the Code of Federal Regulations.

19. The Consenting Respondents shall not challenge the validity or enforceability of claims 1, 57-58, and 60 of the '022 Patent, claims 1, 2, 5, 16, 18, 19, 25 and 27 of the '652 Patent, or claim 19 of the '823 Patent in any administrative or judicial proceeding to enforce this Consent Order.

20. This Consent Order shall not apply to any claim of the '022, '290, '117, '652, or the '823 Patents except claims 1, 57-58, and 60 of the '022 Patent, claims 1, 2, 5, 16, 18, 19, 25 and 27 of the '652 Patent, and claim 19 of the '823 Patent; to any such claim that has expired; or to any such claim that has been found or adjudicated invalid or unenforceable by the Commission or a court or agency of competent jurisdiction, provided that such finding or judgment has become final and nonreviewable.

21. This Consent Order does not constitute an admission by Consenting Respondents that they have committed any unfair act. This Consent Order and any admissions made therein may not be used by any party for any purpose in this or any dispute or legal proceeding other than in connection with the enforcement of the terms of this Consent Order.

22. Following the effective date of the License & Settlement Agreement in this investigation, the Consenting Respondents shall not import into the United States, or sell after importation into the United States, or knowingly sell for importation into the United States any LED photographic lighting devices that infringe claims 1, 57-58, and 60 of the '022 Patent, claims 1, 2, 5, 16, 18, 19, 25 and 27 of the '652 Patent, or claim 19 of the '823 Patent during the term of this Consent Order set forth in Paragraph 24 below, except in accordance with the terms of the License and Settlement Agreement.

23. The Consenting Respondents will not contest the legal conclusions or findings of fact determined by the Commission in any final determination of this investigation including in any proceeding to enforce this Consent Order; provided, however, that notwithstanding this or any other provision of this Consent Order, in any enforcement action to enforce this Consent Order, Respondents are not precluded from arguing that products not expressly covered by the legal conclusions and findings of fact in any final determination by the Commission are non-infringing. In addition, in any enforcement action to enforce this Consent Order, Respondents are not precluded from raising a licensing defense with respect to any of their products.

24. The term of this Consent Order shall be from the date the Consent Order issues to the earlier of (i) the expiration date of the last to expire of claims 1, 57-58, and 60 of the '022 Patent, claims 1, 2, 5, 16, 18, 19, 25 and 27 of the '652 Patent, and claim 19 of the '823 Patent or (ii) the date on which the last of the following claims are found or adjudicated invalid or

unenforceable by the Commission or a court or agency of competent jurisdiction, provided that such finding or judgment has become final and nonreviewable: claims 1, 57-58, and 60 of the '022 Patent, claims 1, 2, 5, 16, 18, 19, 25 and 27 of the '652 Patent, and claim 19 of the '823 Patent.

BY ORDER OF THE COMMISSION

Date: 1-17-2013

A handwritten signature in black ink, appearing to read "Lisa R. Barton", written over a horizontal line.

Lisa R. Barton
Acting Secretary to the Commission

**CERTAIN LED PHOTOGRAPHIC LIGHTING DEVICES
AND COMPONENTS THEREOF**

Inv. No. 337-TA-804

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served by hand upon, the Commission Investigative Attorney, Mareesa A. Frederick, Esq., and the following parties as indicated on **January 17, 2013**.



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

**On Behalf of Complainants Litepanels, Ltd. and Litepanels,
Inc.:**

William D. Belanger, Esq.
PEPPER HAMILTON LLP
19th Floor, High Street Tower
125 High Street
Boston, MA 02110

() Via Hand Delivery
() Via Overnight Delivery
(☒) Via First Class Mail
() Other: _____

**On Behalf of Respondents Flolight, LLC, Prompter People,
Inc., IKAN Corporation and Advanced Business Computer
Services, LLC (d/b/a Cool Lights USA):**

William G. Shaw, Jr., Esq.
LAW OFFICE OF WILLIAM G. SHAW, JR.
1118 W. Harris Road, Suite 101
Arlington, TX 76001

() Via Hand Delivery
() Via Overnight Delivery
(☒) Via First Class Mail
() Other: _____

**On Behalf of Respondents Fotodiox Inc., Yuyao Lishuai Photo-
Facility Co., Ltd., Yuyao Fotodiox Photo Equipment Co., Ltd.
and Yuyao Lily Collection Co., Ltd.:**

Merritt R. Blakeslee, Esq.
THE BLAKESLEE LAW FIRM
1250 Connecticut Avenue, NW, Suite 700
Washington, DC 20036

() Via Hand Delivery
() Via Overnight Delivery
(☒) Via First Class Mail
() Other: _____

**CERTAIN LED PHOTOGRAPHIC LIGHTING DEVICES
AND COMPONENTS THEREOF**

Inv. No. 337-TA-804

Certificate of Service – Page 2

Respondent:

Stellar Lighting Systems
1500 Los Angeles Street, Suite 4
Los Angeles, CA 90015

- () Via Hand Delivery
- () Via Overnight Delivery
- (☒) Via First Class Mail
- () Other: _____