

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

In the Matter of

**CERTAIN ACTIVE MATRIX OLED
DISPLAY DEVICES AND COMPONENTS
THEREOF**

Investigation No. 337-TA-1243

**NOTICE OF COMMISSION DECISION TO REVIEW AND, UPON REVIEW,
TO REMAND AN INITIAL DETERMINATION GRANTING AN UNOPPOSED JOINT
MOTION FOR PARTIAL TERMINATION OF THE INVESTIGATION AS TO
CERTAIN RESPONDENTS BASED ON SETTLEMENT**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review an initial determination (“ID”) (Order No. 17) of the presiding administrative law judge (“ALJ”) granting an unopposed joint motion for partial termination of the investigation as to respondents BOE Technology Group Co., Ltd. and Beijing BOE Display Technology Co., Ltd. of Beijing, China, and respondent BOE Technology America, Inc. of Santa Clara, California (collectively “BOE”), based on settlement. Upon review, the Commission has determined to remand the ID to the ALJ to require Complainant to provide a properly-redacted copy of the supplemental agreement between Complainant and a non-party and/or adequate justification for Complainant’s redactions.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-4716. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://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: On February 2, 2021, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based on a complaint filed by Solas OLED Ltd. of Dublin, Ireland (“Solas” or “Complainant”). *See* 86 FR 7878-79 (Feb. 2, 2021). The complaint, as amended and supplemented, alleges a violation 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

active matrix OLED display devices and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 7,573,068 and 7,868,880. *See id.* In addition to the BOE respondents, the notice of investigation names the following respondents: Samsung Electronics Co., Ltd. of Suwon-si, South Korea; Samsung Electronics America, Inc. of Ridgefield Park, New Jersey; and Samsung Display Co., Ltd. of Yongin-si, South Korea. *See id.* The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. *See id.*

On July 26, 2021, Complainant and the BOE respondents filed an unopposed joint motion for partial termination of the investigation as to the BOE respondents based on a release agreement. On August 5, 2021, OUII filed a response in support of the joint motion, provided that the moving parties file any supplemental agreement as necessary. On August 6, 2021, Complainant filed a copy of a supplemental agreement with a non-party as an exhibit to the joint motion. On August 18, 2021, Complainant also filed a public copy of the supplemental agreement, but that copy was redacted in its entirety.

On August 20, 2021, the ALJ issued the subject ID (Order No. 17) granting the joint motion for partial termination as to the BOE respondents. In accordance with Commission Rule 210.21(b)(1), 19 CFR 210.21(b)(1), the motion includes public and confidential versions of the release agreement. *See ID* at 2. In addition, as noted in the ID, the motion includes a statement that “there are no other agreements, written or oral, express or implied, between Solas and BOE concerning the subject matter of the Investigation.” *See id.* at 3. Furthermore, in accordance with Commission Rule 210.50(b)(2), 19 CFR 210.50(b)(2), the ID finds “no evidence indicating that terminating this investigation based on the various settlement agreements would be contrary to the public interest.” *See id.*

The ID notes that the supplemental agreement between Complainant and the non-party was “redacted in its entirety without written justification” but the ID finds that Commission Rule 210.21(b)(1) “implies that only agreements ‘between the parties’ need be identified.” *See id.* at 2 n.1 (citing 19 CFR 210.21(b)(1)). Thus, the ID “excuse[s] [the lack of justification for redacting the supplemental agreement in its entirety].” *See id.*

No petition for review of the subject ID was filed.

The Commission has determined to review the subject ID, and upon review, to remand the ID to the ALJ for further consideration. Specifically, the Commission finds that Complainant was required to file a copy of the supplemental agreement and a properly-redacted copy of that agreement. Commission Rule 210.21(b)(1) provides that “[t]he motion for termination by settlement shall contain copies of the licensing or other settlement agreements, ***any supplemental agreements, any documents referenced in the motion or attached agreements***, and a statement that there are no other agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation.” *See* 19 CFR 210.21(b)(1) (emphasis added). The supplemental agreement is sufficiently related to the release agreement between the parties and to the subject matter of this investigation such that its disclosure both in confidential and in redacted form is required under Commission Rule 210.21(b)(1). As noted in the ID, the supplemental agreement was redacted in its entirety without justification. Thus, the Commission

remands the ID to the ALJ to require Complainant to provide a properly-redacted copy of the supplemental agreement and/or an adequate justification for Complainant's redactions.

The Commission's vote for this determination took place on September 16, 2021.

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 part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

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

Lisa R. Barton
Secretary to the Commission

Issued: September 16, 2021