

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN DIMMABLE COMPACT
FLUORESCENT LAMPS AND PRODUCTS
CONTAINING SAME**

**Investigation No. 337-TA-830
(Enforcement/Modification)**

**NOTICE OF COMMISSION DECISION NOT TO REVIEW AN
INITIAL DETERMINATION EXTENDING THE TARGET DATE**

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 the presiding administrative law judge's ("ALJ") initial determination ("ID") extending from March 14, 2014 to April 10, 2014 the target date for completion of the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2532. 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 an investigation on February 27, 2012, based on a complaint filed by Andrzej Bobel and Neptun Light, Inc., both of Lake Forest, Illinois (collectively, "Neptun"). 77 Fed. Reg. 11587 (Feb. 27, 2012). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended 19 U.S.C. § 1337. More specifically, the complaint alleged that the importation into the United States, the sale for importation, and the sale within the United States after importation of certain dimmable compact fluorescent lamps ("CFLs") and products containing the same infringe, *inter alia*, claim 9 of United States Patent Nos. 5,434,480 ("the '480 patent"). The complaint named numerous respondents, including MaxLite, Inc. of Fairfield, New Jersey ("MaxLite"). On July 25, 2012,

the Commission terminated the investigation with respect to MaxLite and entered a consent order preventing MaxLite from importing dimmable CFLs that infringe claim 9 of the '480 patent.

On February 6, 2013, MaxLite petitioned the Commission under Commission Rule 210.76 for modification of the consent order on the basis of a recent decision by the U.S. District Court for the Northern District of Illinois that MaxLite's dimmable CFLs are subject to a covenant not to sue, and thus do not infringe claim 9 of the '480 patent. On February 18, 2013, complainants filed a complaint requesting that the Commission institute a formal enforcement proceeding under Commission Rule 210.75(b) to investigate a violation of the consent order.

On April 12, 2013, the Commission determined to institute consolidated formal enforcement and modification proceedings to determine whether MaxLite is in violation of the July 25, 2012, consent order issued in the investigation, what, if any, enforcement measures are appropriate, and whether to modify the consent order. 78 *Fed. Reg.* 24233 (Apr. 24, 2013). Soon thereafter, the ALJ set a ten-month target date. Order No. 3 at 1 (May 21, 2013) (target date of February 26, 2014).

In October 2013, the Federal government shut down for sixteen days, and the Commission tolled investigation deadlines accordingly. See Notice of Possible Shutdown of Commission's Investigative Activities, available at <http://www.usitc.gov/documents/shutdown2013plan.pdf> (Sept. 30, 2013). As a result of the tolling, the target date had been March 14, 2014, with a final initial determination due by December 12, 2013.

On November 5, 2013, the ALJ issued the subject ID extending the target date by approximately one month, to April 10, 2014. Order No. 7 at 1. Based on this new date, the final ID is due by January 10, 2014. See *id.*

No petitions for review of the ID were filed. The Commission has determined not to review the ID.

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.



Lisa R. Barton
Acting Secretary to the Commission

Issued: November 25, 2013