

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN FILAMENT LIGHT-EMITTING
DIODES AND PRODUCTS CONTAINING
SAME (II)**

Investigation No. 337-TA-1220

**NOTICE OF COMMISSION DECISION TO REVIEW IN PART A FINAL INITIAL
DETERMINATION; COMMISSION FINAL DETERMINATION FINDING NO
VIOLATION OF SECTION 337; TERMINATION OF INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part a final initial determination (“FID”) of the presiding Acting Chief Administrative Law Judge (“ALJ”). On review, the Commission finds no violation of section 337 of the Tariff Act of 1930 (“section 337”), as amended, in this investigation. The investigation is terminated.

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>. 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 October 5, 2020, 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 The Regents of the University of California (“Complainant”). *See* 85 FR 62761-62 (Oct. 5, 2020). The complaint, as 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 filament light-emitting diodes and products containing the same by reason of infringement of certain claims of U.S. Patent Nos. 9,240,529 (“the ’529 patent”); 9,859,464 (“the ’464 patent”); 10,593,854 (“the ’854 patent”); 10,644,213 (“the ’213 patent”); and 10,658,557 (“the ’557 patent”) (collectively, “the Asserted Patents”). *See id.* The notice of investigation names the following respondents (collectively, “Respondents”): Home Depot Product Authority, LLC; Home Depot U.S.A., Inc.; and The Home Depot, Inc. of Atlanta, Georgia; General Electric Company of

Boston, Massachusetts; Consumer Lighting (U.S.) LLC, d/b/a GE Lighting of Cleveland, Ohio; Savant Systems, Inc. of Hyannis, Massachusetts (“Savant Systems”); Feit Electric Company, Inc. (“Feit”) of Pico Rivera, California; Satco Products, Inc. of Brentwood, New York; IKEA Supply AG of Pratteln, Switzerland; IKEA U.S. Retail LLC of Conshohocken, Pennsylvania; and IKEA of Sweden AB of Almhult, Sweden (collectively, “IKEA”). *See id.* The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. *See id.*

On November 5, 2020, the ALJ granted non-party Signify North America Corp.’s motion to intervene in this investigation. *See* Order No. 14 (Nov. 5, 2020), *unreviewed by* Comm’n Notice (Nov. 30, 2020). On November 16, 2020, the ALJ granted non-party Global Value Lighting LLC’s motion to intervene in this investigation. *See* Order No. 15 (Nov. 16, 2020), *unreviewed by* Comm’n Notice (Dec. 8, 2020).

On June 29, 2021, the Commission terminated the investigation as to the ’213 patent in its entirety; claim 9 of the ’529 patent; claim 10 of the ’464 patent; claims 2 and 6 of the ’854 patent; and claim 2 of the ’557 patent. *See* Order No. 37 (June 15, 2021), *unreviewed by* Comm’n Notice (June 29, 2021).

On September 16, 2021, the Commission terminated respondent Savant Systems from the investigation. *See* Order No. 47 (Aug. 27, 2021), *unreviewed by* Comm’n Notice (Sept. 16, 2021).

On November 19, 2021, the ALJ issued the FID finding no violation of section 337. Specifically, the FID finds that Complainant failed to establish infringement of the asserted claims of the remaining Asserted Patents by the Respondents. The FID also finds the asserted claims of the remaining Asserted Patents to be invalid. The ALJ further finds that the economic prong of the domestic industry requirement is satisfied as to all remaining Asserted Patents, but that the technical prong is not satisfied with respect to the ’854 and ’557 patents.

On December 3, 2021, Complainant filed a petition for Commission review of the FID. Complainant petitions for Commission review of the FID’s findings, including, with respect to: (1) claim construction; (2) infringement; (3) invalidity for anticipation and/or obviousness under 35 U.S.C. § 102 or 103, respectively; and (4) the technical prong of the domestic industry requirement. On the same day, Feit, the other respondents, and OUII each filed contingent petitions for review of the FID, including, with respect to the economic prong of the domestic industry requirement. On December 13, 2021, the parties filed responses to each other’s petition.


Having examined the record of this investigation, including the FID and the parties’ submissions, the Commission has determined to review in part, and upon review, to affirm the FID’s determination of no violation of section 337. Specifically, as explained in the Commission Opinion issued concurrently herewith, the Commission has determined to review and, on review, to: (1) affirm with modification the FID’s claim construction findings with respect to the term “sapphire”; (2) affirm with modification the FID’s non-infringement findings as to all remaining Asserted Patents; (3) affirm with modification the FID’s findings on the technical prong of the domestic industry requirement as to all remaining Asserted Patents; (4) affirm with modification the FID’s invalidity findings over Yamazaki (Japanese Patent Application Publication No. 2003-

249692 (RX-828)) or Minato (Japanese Patent No. JP 2001-126515 (RX-723)) as to all remaining Asserted Patents, except that the Commission has determined to reverse the FID's finding that the asserted claims of the '854 and '557 patents are anticipated by Minato; (5) take no position with respect to the FID's invalidity findings over Okamoto (Japanese Patent No. JP 2000-277808 (RX-720)), Uemura (U.S. Patent No. 6,310,364 (RX-779)) as a primary reference, and Tamaoki (U.S. Patent No. 6,961,190 (RX-724)); and (6) take no position as to the economic prong of the domestic industry requirement. The Commission adopts all findings in the FID that are not inconsistent with the Commission's determination.

The Commission's vote for this determination took place on February 16, 2022.

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.



Lisa R. Barton
Secretary to the Commission

Issued: February 16, 2022