

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN ORGANIC LIGHT-
EMITTING DIODE DISPLAY
MODULES AND COMPONENTS
THEREOF**

Investigation No. 337-TA-1378

**NOTICE OF A COMMISSION DETERMINATION TO REVIEW IN PART A FINAL
INITIAL DETERMINATION FINDING A VIOLATION OF SECTION 337; REQUEST
FOR WRITTEN SUBMISSIONS ON THE ISSUES UNDER REVIEW AND ON
REMEDY, THE PUBLIC INTEREST, AND BONDING**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined to review in part a final initial determination (“FID”) issued by the presiding Administrative Law Judge (“ALJ”), finding a violation of section 337 of the Tariff Act of 1930, as amended. The Commission requests written submissions from the parties on the issues under review and from the parties, interested government agencies, and other interested persons on the issues of remedy, the public interest, and bonding, under the schedule set forth below.

FOR FURTHER INFORMATION CONTACT: Namo Kim, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3459. 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: The Commission instituted this investigation on December 6, 2023, based on a complaint filed by Samsung Display Company, Ltd. of the Republic of Korea (“SDC”). 88 FR 84829 (Dec. 6, 2023). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337) (“section 337”), in the importation into the United States, or in the sale of certain organic light-emitting diode display modules and components thereof by reason of misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure a domestic industry (“DI”) or to prevent the establishment of an industry in the United States. *Id.*

The Commission’s notice of investigation named the following as respondents: BOE Technology Group Co., Ltd. of Beijing, China; Mianyang BOE Optoelectronics Technology Co., Ltd. of Mianyang, China; Ordos Yuansheng Optoelectronics Co., Ltd. of Inner Mongolia Autonomous Region, China; Chengdu BOE Optoelectronics Technology Co., Ltd. of Chengdu, China; Chongqing BOE Optoelectronics Technology Co., Ltd. of Chongqing, China; Wuhan BOE Optoelectronics Technology Co., Ltd. of Wuhan, China; BMOT f/k/a Kunming BOE Display Technology of Yunnan Dianzhong New Area, China; and BOE Technology America Inc. of Santa Clara, California (collectively, “Respondents”). *Id.* The Office of Unfair Import Investigations (“OUII”) is participating in the investigation. *Id.*

On June 17, 2025, the Commission amended the complaint and notice of investigation to reflect the change in the name of respondent BMOT to Yunnan Invensight Optoelectronics Technology Co., Ltd. Order No. 63 (May 27, 2025); *unreviewed by* Notice (June 17, 2025).

On October 23, 2024, the ALJ granted in part SDC’s motion *in limine* 1, precluding Respondents from introducing any argument or evidence that the manufacturing processes for Respondents’ micro-OLED products materially differ from their main OLED lines. That same day, the ALJ also granted in part SDC’s motion for sanctions based on spoliation of evidence, imposing certain non-monetary sanctions against Respondents (collectively, “the ALJ’s Sanctions Orders”).

On July 11, 2025, the ALJ issued the FID finding a violation of section 337. Specifically, the FID finds that Respondents misappropriated the asserted trade secrets under the category of TS I, TS II, TS IV, and TS VII, but that Respondents did not misappropriate the asserted trade secret under the category TS III. The FID also finds that the statute of limitations provision in the Defense Trade Secret Act, 35 U.S.C. 1836(d), (“DTSA SOL”) is inapplicable to section 337 investigations and, even if applicable, Respondents failed to show that the DTSA SOL would time-bar SDC’s claims of trade secrets misappropriation. Lastly, the FID finds that a DI exists, and that the threat or effect of Respondents’ trade secrets misappropriation is to substantially injure that DI or to prevent the establishment of such an industry in the United States.

The FID also includes a Recommended Determination (“RD”) recommending, should the Commission find a violation of section 337, that the Commission issue: (1) a limited exclusion order (“LEO”) directed to Respondents’ “OLED display modules, OLED display panels, and components of OLED display modules or panels” manufactured using the misappropriated trade secrets with a duration of 15 years and 0.5 months; and (2) cease-and-desist orders against any of Respondents found to be in violation. The RD further recommends that the Commission set a bond in the amount of one hundred percent (100%) during the period of Presidential review. On August 11, 2025, the ALJ issued an order correcting typographical errors in the FID and the recommended duration of the LEO from 15 years and 0.5 months to 14 years and 8 months. Order No. 70 (Aug. 11, 2025).

On July 14, 2025, the Commission issued a post-RD notice seeking submissions on public interest issues raised by the relief recommended by the ALJ should the Commission find a violation. 90 FR 33395-96 (July 17, 2025).

On August 11, 2025, Robert D. Atkins from Information Technology and Innovation Foundation filed a statement in response to the *Federal Register* notice in support of excluding imports of OLED displays made by Respondents. On August 12, 2025, members of the House of Representatives Select Committee on the Chinese Communist Party filed a statement in response to the *Federal Register* notice in support of excluding imports of OLED displays made by Respondents. On the same day, SDC filed a statement on the public interest pursuant to Commission Rule 210.50, 19 CFR 210.50. Respondents did not file a public interest statement, and no other submissions were received.

On July 25, 2025, Respondents petitioned for Commission review of (1) the ALJ's Sanctions Orders, (2) the FID's findings with respect to the DTSA SOL, (3) the FID's findings with respect to the existence of a DI and injury or threat of injury thereto, and (4) the FID's findings of trade secrets misappropriation. No other petitions were filed. On August 4, 2025, SDC and OUII filed respective responses to Respondents' petition.

Having reviewed the record of the investigation, including the FID and the parties' submissions, the Commission has determined to review the FID in part as well as the ALJ's Sanctions Orders. Specifically, the Commission has determined to review (1) the ALJ's Sanctions Orders, (2) the FID's findings with respect to the applicability of the DTSA SOL, and (3) the FID's findings with respect to the existence of a DI and injury or threat of injury thereto and the prevention of the establishment of such an industry in the United States. The Commission has determined not to review the remainder of the FID.

In connection with its review, the Commission requests that the parties brief their positions on the following questions with citations to the existing evidentiary record:

1. Please explain whether and how much SDC, prior to filing the complaint in this investigation, has invested in any OLED R&D and/or manufacturing apart from eMagin Corp. ("eMagin") and Samsung Display America Lab ("SDAL") either in the United States or globally.
2. How should the Commission define the DI for purposes of the Commission's consideration of the nature and significance of the DI's investments and whether an industry in the United States is substantially injured or threatened with substantial injury? Should the DI be defined as an industry for OLED displays or should it be two industries comprised of micro-OLEDs and all other OLED displays? What are the implications for the Commission's analysis and any potential remedies based on how the U.S. industry is defined?
3. What are the realities of the marketplace that the Commission should consider in analyzing whether the DI requirement is satisfied?
4. Please explain the nature and significance of each of eMagin's and SDAL's DI investments in the context of SDC's domestic and global OLED operations.

5. Please explain the causal nexus between Respondents' unfair acts and the alleged actual or threatened injury with respect to eMagin and SDAL specifically, rather than a nexus between the unfair acts and any injury to SDC more generally. Should the Commission find actual or threatened injury solely with respect to eMagin, please explain whether and why such finding would support a violation of section 337 and, if there is such a violation, whether the scope of the requested remedial orders should be limited to micro-OLEDs.
6. Please explain the appropriate duration of any remedial orders, should the Commission find a violation of section 337 and determine to issue remedial orders based on the FID's findings that Respondents misappropriated the asserted trade secrets under the category of TS I, TS II, TS IV, and TS VII.

In answering the above briefing questions, the parties should specifically point to where in their arguments before the ALJ and in their petition for review or responses thereto where these issues were addressed and the corresponding record evidence discussed. In seeking briefing on these issues, the Commission will not excuse any party's noncompliance with Commission rules and the ALJ's procedural requirements, including requirements to present issues and arguments in submissions to the ALJ and/or in petitions for Commission review. Any such attempts will be regarded as waived. Additionally, the parties are invited to brief only the discrete issues requested above. The parties are not to brief other issues on review, which are adequately presented in the parties' existing filings.

In connection with the final disposition of this investigation, the statute authorizes issuance of, *inter alia*, (1) an exclusion order that could result in the exclusion of the subject articles from entry into the United States; and/or (2) cease and desist orders that could result in the respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm'n Op. at 7-10 (Dec. 1994).

The statute requires the Commission to consider the effects of that remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion order and cease and desist orders would have on: (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission's determination. See Presidential Memorandum of July 21, 2005, 70 FR 43251

(July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

WRITTEN SUBMISSIONS: The parties to the investigation are requested to file written submissions on the issues identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding.

In the initial submission, Complainant is also requested to identify the remedy sought and Complainant and OUII are requested to submit proposed remedial orders for the Commission's consideration. Complainant is further requested to provide the HTSUS subheadings under which the accused products are imported, and to supply the identification information for all known importers of the products at issue in this investigation. All initial written submissions from the parties and/or third parties/interested government agencies, and proposed remedial orders from the parties must be filed no later than close of business on **September 25, 2025**. All reply submissions must be filed no later than the close of business on **October 2, 2025**. Opening submissions from the parties are limited to **75** pages. Reply submissions from the parties are limited to **45** pages. All submissions from third parties and/or interested government agencies are limited to **10** pages. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above pursuant to 19 CFR 210.4(f). Submissions should refer to the investigation number ("Inv. No. 337-TA-1378") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf). Persons with questions regarding filing should contact the Secretary, (202) 205-2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed with the Commission and served on any parties to the investigation within two business days of any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the

programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

The Commission vote for this determination took place on September 11, 2025.

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 stroke.

Lisa R. Barton
Secretary to the Commission

Issued: September 11, 2025