

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, DC**

IN THE MATTER OF

CERTAIN LIGHTING CONTROL DEVICES
INCLUDING DIMMER SWITCHES AND
PARTS THEREOF (IV)

Investigation No. 337-TA-_____

**COMPLAINT OF LUTRON ELECTRONICS CO., INC.
UNDER SECTION 337 OF THE TARIFF ACT OF 1930**

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TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	THE PATENTS-AT-ISSUE	2
	A. United States Patent No. 5,637,930.....	2
	B. United States Patent No. 5,248,919	3
	C. Foreign Counterpart Patents	4
	1. The '930 Patent.....	4
	2. The '919 Patent.....	5
	D. Licensees Under the '930 and '919 Patents	5
	E. Non-Technical Description of the Patented Technologies	5
	1. The '930 Patent.....	5
	2. The '919 Patent.....	6
III.	THE PARTIES.....	7
	A. Complainant.....	7
	B. Proposed Respondents	8
	1. Pass & Seymour.....	8
	2. AH Lighting.....	8
	3. Wenzhou Huir.....	9
	4. American Top	9
	5. Big Deal Electric.....	9
	6. Diode LED	10
	7. Elemental LED.....	10
	8. Westgate.....	11
	9. Zhejiang Yuelong.....	11
	10. Zhejiang Lux.....	11

IV.	THE PRODUCTS-AT-ISSUE.....	12
A.	Lutron's Products	12
1.	Lutron's Innovative Maestro® Products	12
2.	Lutron's RadioRA® Products	13
3.	Lutron's Diva® Product.....	13
B.	Proposed Respondents' Infringing Products	14
1.	Pass & Seymour.....	14
2.	AH Lighting/Wenzhou Huir	15
3.	American Top/Big Deal Electric	16
4.	Elemental LED/Diode LED.....	18
5.	Westgate/Zhejiang Yuelong.....	19
6.	Westgate/Zhejiang Lux.....	21
V.	UNLAWFUL ACTS OF THE RESPONDENTS' INFRINGEMENT OF THE '930 PATENT.....	22
A.	Infringement of the '930 Patent.....	22
1.	Pass & Seymour.....	22
2.	AH Lighting	23
3.	Wenzhou Huir.....	23
4.	American Top	23
5.	Big Deal Electric.....	23
6.	Diode LED	24
7.	Elemental LED.....	24
8.	Westgate.....	24
9.	Zhejiang Yuelong.....	25
10.	Zhejiang Lux.....	25

B.	Infringement of the '919 Patent.....	26
1.	Westgate.....	26
2.	Zhejiang Lux.....	26
VI.	SPECIFIC INSTANCES OF IMPORTATION AND SALE	26
VII.	RELATED LITIGATION	29
VIII.	DOMESTIC INDUSTRY	31
A.	Technical Prong	32
1.	The '930 Patent.....	32
2.	The '919 Patent.....	32
B.	Economic Prong.....	32
1.	Significant Investment in Plant and Equipment.....	32
2.	Significant Employment of Labor and Capital	33
3.	Substantial Investment in Exploiting the Patents-at-Issue Through Engineering and Research and Development	34
IX.	GENERAL EXCLUSION ORDER.....	34
X.	RELIEF	40

EXHIBITS TO THE COMPLAINT

- | | |
|------------------|------------------------------------------------------------------------------|
| Exhibit 1 | U.S. Patent No. 5,637,930 |
| Exhibit 2 | Reexamination Certification for U.S. Patent No. 5,637,930 |
| Exhibit 3 | Assignments for U.S. Patent No. 5,637,930 |
| Exhibit 4 | U.S. Patent No. 5,248,919 |
| Exhibit 5 | Assignment for U.S. Patent No. 5,248,919 |
| Exhibit 6 | INTENTIONALLY LEFT BLANK |
| Exhibit 7 | American Top's and Big Deal Electric's Registrations and Contact Information |
| Exhibit 8 | Diode LED Home Page and Product Catalog page 27 |
| Exhibit 9 | Declaration of Don Smith regarding Importation (CONFIDENTIAL) |
-
- | | |
|-----|-----------------------------------------------------------|
| 9-A | Invoice and Order Confirmation for Pass & Seymour Dimmers |
| 9-B | Pass & Seymour's Products Page |
| 9-C | Pass & Seymour's Electric Supplies' Product Page |
| 9-D | Photographs of Pass & Seymour Harmony Dimmer |
| 9-E | Photographs of Pass & Seymour Harmony Dimmer Packaging |
| 9-F | Pass & Seymour Harmony Dimmer Installation Instructions |
| 9-G | Invoice and Packing List for AH Lighting Dimmers |
| 9-H | AH Lighting's Online Catalog |
| 9-I | Lamps One's Product Page |
| 9-J | Photographs of AH Lighting Dimmer and Label |
| 9-K | Photographs of AH Lighting Dimmer Packaging |
| 9-L | AH Lighting Dimmer Installation Instructions |
| 9-M | Invoice for American Top's TD3L Decorator Dimmer |
| 9-N | American Top's Advertisement |
| 9-O | Photographs of TD3L Decorator Dimmer |

- 9-P Photographs of TD3L Decorator Dimmer Packaging
- 9-Q TD3L Decorator Dimmer Installation Instructions
- 9-R Invoice for Reign Rocker Slide Dimmers
- 9-S Elemental LED Product Webpage
- 9-T Photographs of Reign Rocker Slide Dimmer
- 9-U Photographs of Reign Rocker Slide Dimmer Packaging
- 9-V Email from Tim Wells
- 9-W Article Referring to Wells as "Elemental LED Project Manager"
- 9-X Reign Rocker Slide Dimmer Installation Instructions

Exhibit 10 UL Certification for E225133

Exhibit 11 Declaration of Mark Scott Flotho regarding Importation (CONFIDENTIAL)

- 11-A Invoice and Receipt for Westgate 56311 Dimmers
- 11-B Westgate 2010 Product Catalog
- 11-C Photographs of Westgate Decorator Dimmer 56311
- 11-D Photographs of Westgate Decorator Dimmer 56311 Packaging
- 11-E Westgate Decorator Dimmer 56311 Installation Instructions
- 11-F Photograph of Westgate Smart Dimmer
- 11-G Photograph of Westgate Smart Dimmer Packaging
- 11-H UL Online Certification for Westgate Smart Dimmer
- 11-I Westgate Smart Dimmer Installation Instructions

Exhibit 12 UL Certification E312733

Exhibit 13 UL Certification E250099

- Exhibit 14** Claim Chart Demonstrating Infringement of U.S. Patent No. 5,637,930 by Pass & Seymour
- 14-A Pass & Seymour Harmony Dimmer Insert
 - 14-B Pass & Seymour Harmony Dimmer Information Sheet
 - 14-C Sketch of Pass & Seymour Harmony Dimmer
- Exhibit 15** Claim Chart Demonstrating Infringement of U.S. Patent No. 5,637,930 by AH Lighting and Wenzhou Huir
- 15-A AH Lighting Dimmer Insert
 - 15-B AH Lighting Dimmer Package
 - 15-C Sketch of AH Lighting Dimmer
- Exhibit 16** Claim Chart Demonstrating Infringement of U.S. Patent No. 5,637,930 by American Top and Big Deal Electric
- 16-A TD3L Decorator Dimmer Insert
 - 16-B TD3L Decorator Dimmer Package
 - 16-C Sketch of TD3L Decorator Dimmer
- Exhibit 17** Claim Chart Demonstrating Infringement of U.S. Patent No. 5,637,930 by Elemental LED and Diode LED
- 17-A REIGN Rocker Slide Dimmer Insert
 - 17-B Reign Product Information Sheet
 - 17-C Sketch of REIGN Rocker Slide Dimmer
- Exhibit 18** Elemental LED About LED Innovations Page
- Exhibit 19** Claim Chart Demonstrating Infringement of U.S. Patent No. 5,637,930 by Westgate and Zhejiang Yuelong
- 19-A WESTGATE Decorator Dimmer 56311 Insert
 - 19-B WESTGATE 2010 Product Catalog
 - 19-C Sketch of WESTGATE Decorator Dimmer 56311

- Exhibit 20** Claim Chart Demonstrating Infringement of U.S. Patent No. 5,637,930 by Westgate and Zhejiang Lux
- 20-A WESTGATE Smart Dimmer Insert
- 20-B Sketch of WESTGATE Smart Dimmer
- Exhibit 21** Claim Chart Demonstrating Infringement of U.S. Patent No. 5,248,919 by Westgate and Zhejiang Lux
- 21-A WESTGATE Smart Dimmer Insert
- 21-B WESTGATE Smart Dimmer Microcomputer
- Exhibit 22** Claim Chart Demonstrating DI of U.S. Patent No. 5,637,930 by Lutron's Maestro® Dimmer
- 22-A MALV-600 Insert
- 22-B Sketch 1
- Exhibit 23** Claim Chart Demonstrating DI of U.S. Patent No. 5,248,919 by Lutron's Maestro® Dimmer
- 23-A MALV-600 Insert
- 23-B MALV-600 Microcomputer
- Exhibit 24** Declaration regarding Domestic Industry (CONFIDENTIAL)
- Exhibit 25** Web page of GlobalSource.com
- Exhibit 26** Web page of Made-in-China.com
- Exhibit 27** Web page of Alibaba.com
- Exhibit 28** Web page of Dhgate.com
- Exhibit 29** Web page of Wholesale-electrical-electronics.com
- Exhibit 30** Web page offering the Yueqing Honki infringing dimmer
- Exhibit 31** Web page offering the Yueqing Honki infringing dimmer
- Exhibit 32** Web page offering the Wenzhou Huaya Electric Co., Ltd. infringing dimmer
- Exhibit 33** Web page offering the Wenzhou Huaya Electric Co., Ltd. infringing dimmer
- Exhibit 34** Web page offering Dongguan Timer Electronic Tech. Co., Ltd. Dimmers

- Exhibit 35** Web page offering Dongguan Timer Electronic Tech. Co., Ltd. Dimmers
- Exhibit 36** Web page offering Wholesale-Electrical Dimmers
- Exhibit 37** Web page offering Shenzhen Yingfeng Opto-Electronic Co., Ltd. Dimmers
- Exhibit 38** *Electrical Wholesaling* Article July 2010

APPENDICES TO THE COMPLAINT

UNITED STATES PATENT NO. 5,637,930

Appendix A. Four (4) uncertified copies of the Application Serial No. 08/386,850.

Appendix B. Four (4) uncertified copies of the prosecution file history for the abandoned application, Application Serial No. 07/225,457.

Appendix C. One (1) certified copy and three (3) additional copies of the prosecution file history for the abandoned application, Application Serial No. 07/871,876.

Appendix D. One (1) certified copy and three (3) additional copies of the prosecution history files resulting from Request for Reexamination No. 90/007,153.

Appendix E. One (1) certified copy and three (3) additional copies of the prosecution history files resulting from Request for Reexamination No. 90/006,594.

Appendix F. Four (4) copies of each reference document identified in the prosecution histories of the applications leading to the issuance of the '930 Patent, including reexaminations.

UNITED STATES PATENT NO. 5,248,919

Appendix G. One (1) certified copy and three (3) additional copies of Application Serial No. 07/860,921.

Appendix H. Four (4) copies of each reference document identified in the prosecution histories of the applications leading to the issuance of the '919 Patent.

I. INTRODUCTION

1. This Complaint, filed by Complainant Lutron Electronics Co., Inc. ("Lutron") pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, is based upon the unlawful importation into the United States, the sale for importation into the United States and/or the sale within the United States after importation of certain lighting control devices, including dimmer switches, and parts thereof, by proposed respondents AH Lighting ("AH Lighting"), American Top Electric Corp. ("American Top"), Big Deal Electric Corp. ("Big Deal Electric"), Diode LED ("Diode LED"), Elemental LED, LLC ("Elemental LED"), Pass & Seymour, Inc. ("Pass & Seymour"), Wenzhou Huir Electric Science & Technology Co. LTD ("Wenzhou Huir"), Westgate Mfg., Inc. ("Westgate"), Zhejiang Yuelong Mechanical & Electrical Co. LTD ("Zhejiang Yuelong"), and Zhejiang Lux Electric Co. LTD ("Zhejiang Lux"), (collectively, "Proposed Respondents"). The accused lighting control devices and parts thereof infringe one or more of the enumerated claims of the following United States Patents:

- Claims 36, 38, 39, 40, 41, 47, 53, 54, 56, 58, 60, 65, 67, 68, 69, 70, 76, 82, 83, 85, 87, 89, 94, 96, 97, 98, 99, 105, 111, 112, 114, 116, 118, 178, 180, 189, 193, and 197 of U.S. Patent No. 5,637,930 ("the '930 patent");
- Claims 1, 2, 5, 6, 7, 8, 11, 12, 13, 15, 16, 17, 18, 19, 20, 23, 25, 26, 27, 28, 29, 30, 31, 32, 35, 36, and 38 of U.S. Patent No. 5,248,919 ("the '919 patent").

2. Lutron seeks, as relief, a permanent general exclusion order barring from entry into the United States infringing lighting control devices, including dimmer switches, and parts thereof that infringe the asserted claims of the '930 and '919 patents. Lutron also seeks, as relief, cease and desist orders prohibiting the importation, sale, offer for sale, advertising, packaging or the solicitation of any sale by Proposed Respondents of certain lighting control devices, including

dimmer switches, and parts thereof encompassed by the asserted claims of the '930 patent or the '919 patent.

II. THE PATENTS-AT-ISSUE

A. United States Patent No. 5,637,930

3. The first patent-at-issue herein is the '930 patent, entitled "Wall-Mountable Switch & Dimmer." A certified copy of the '930 patent is attached to the Complaint as Exhibit 1.

4. The '930 patent was issued on June 10, 1997, based on a filing date of February 10, 1995, and a priority date of July 28, 1988. The '930 patent will expire on June 10, 2014. The history of the prosecution of the '930 patent, which is the result of a series of continuation applications, is as follows:

- (a) Application Serial No. 07/225,457, filed July 28, 1988 (abandoned);
- (b) Application Serial No. 07/871,876, filed April 21, 1992 (abandoned); and
- (c) Application Serial No. 08/386,850, filed February 10, 1995 (issued June 10, 1997 as the '930 patent).

5. The '930 patent was reexamined by the USPTO in light of a long list of prior art references submitted by then-accused-infringer Cooper Wiring Devices, Inc., as well as by Lutron itself. The two requests for Reexamination (No. 90/006,594 filed on April 8, 2003 and No. 90/007,153, filed on August 3, 2004) were subsequently merged. The *Ex Parte* Reexamination Certificate, in which 132 claims were affirmed as patentable as amended, issued on September 12, 2006. A certified copy of the Reexamination certificate is attached to the Complaint as Exhibit 2.

6. Michael J. Rowen, Joel S. Spira, Michael J. D'Aleo, Darryl W. Tucker, Russell J. Jacobs, and James R. Graybill are the named inventors on the '930 patent. Lutron is the owner of the '930 patent by assignment made on August 11, 1988, of the 07/225,457 application. Certified copies of the assignments of the 07/225,457 application are attached to the Complaint as Exhibit 3.

7. Lutron requested a certified copy of the prosecution history of the '930 patent (Application Serial No. 08/386,850), but the USPTO has been unable to locate the file. Complainant will provide a certified copy of the prosecution history of the '930 patent should it become available. In lieu of the certified copy, Complainant here submits four (4) uncertified copies of the prosecution history of the '930 patent as Appendix A. The prosecution history of the '930 patent includes the prosecution histories for two (2) abandoned parent applications (Application Serial Nos. 07/225,457 and 07/871,876) to the Complaint. Together with the Complaint, Lutron is filing four (4) uncertified copies of the prosecution history of Application Serial No. 07/225,457, and one (1) certified copy and three (3) additional copies of the prosecution history of Application Serial No. 07/871,876 as Appendices B and C, respectively. A certified copy of Application Serial No. 07/225,457 has been requested from the U.S. Patent and Trademark Office ("USPTO") and will be provided upon receipt. Additionally, together with the Complaint, Lutron submits one (1) certified copy and three (3) additional copies of each of the prosecution file histories resulting from Request for Reexamination No. 90/006,594 and Request for Reexamination No. 90/007,153 as Appendices D and E. In addition, Complainant submits four (4) copies of each patent and technical reference identified in the prosecution histories of the applications leading to the issuance of the '930 patent, including reexaminations, as Appendix F to the Complaint.

B. United States Patent No. 5,248,919

8. The second patent-at-issue herein is the '919 patent, entitled "Lighting Control Device." A certified copy of the '919 patent is attached to the Complaint as Exhibit 4.

9. The '919 patent issued on September 28, 1993, based on an application (Application Serial No. 07/860,921) filed on March 31, 1992. The '919 patent will expire on March 31, 2012.

10. Robert S. Hanna, Donald F. Hausman, Jr., David E. Houggly, Jr., Donald R. Mosebrook, and Joel S. Spira are the named inventors on the '919 patent. Lutron became the owner of the '919 patent by assignments made on: April 30, 1992, from Joel S. Spira; May 5, 1992, from Robert S. Hanna, David E. Houggly, Jr., and Donald R. Mosebrook; and May 20, 1992, from Donald F. Hausman, Jr. A certified copy of the assignment is attached to the Complaint as Exhibit 5.

11. Together with the Complaint, Lutron is filing a certified copy and three (3) additional copies of the prosecution history of the '919 patent (Application Serial No. 07/860,921) as Appendix G. Complainant is filing four (4) copies of each patent and technical reference identified in the prosecution history of the application leading to the issuance of the '919 patent as Appendix H to the Complaint.

C. Foreign Counterpart Patents

1. The '930 Patent

12. The foreign counterparts to the '930 patent are:

Country	Application Number	Status	Patent Number
Canada	606,248	Issued	1,331,769
Germany	P3923022.8	Issued	3923022
Great Britain	8915424.9	Issued	2221345
Great Britain Divisional	9127124.7	Issued	2251727
Japan	1-192475	Issued	3079477

2. The '919 Patent

13. The foreign counterparts to the '919 patent are:

Country	Application Number	Status	Patent Number
PCT	PCT/US93/02928	Inactive	N/A
Europe (EPC)	93911565.5	Issued	0587878
Germany	93911565.5	Issued	69314585
France	93911565.5	Issued	0587878
Great Britain	93911565.5	Issued	0587878
Italy	93911565.5	Issued	0587878
Japan	5-517606	Issued	3249523

14. There are no other foreign patents or foreign patent applications pending, filed, abandoned, withdrawn or rejected relating to the '930 patent or '919 patents.

D. Licensees Under the '930 and '919 Patents

15. Lutron granted a license under the '930 and '919 patents to Cooper Wiring Devices and its parent company Cooper Industries, Ltd., on May 12, 2005 ("Cooper license").

16. The Cooper license was granted in conjunction with the settlement of *Lutron Electronics Co., Inc. v. Cooper Industries, Ltd., et al.*, Case No. 2:03-cv-03479-JKG in the United States District Court for the Eastern District of Pennsylvania, Philadelphia Division.

17. There are no other current licenses to the '930 and '919 patents.

E. Non-Technical Description of the Patented Technologies

1. The '930 Patent

18. Dimmer switches generally feature two distinct functions – a switching (or on/off) function and a dimming function. For many users, the switching function is used much more frequently than the dimming function. The dimming function may be used to adjust a preset light level to a low level for a party setting, or the light level may be adjusted just below full intensity for energy saving purposes. Typically, a user will then use the switching function to turn the lamps on or off to that preset level. An ideal dimmer switch is one that incorporates both functions (switching

and dimming), taking into account the relative frequency with which each is used, and presents the user with a system that is intuitive and easy-to-use.

19. Historically, combining the switching and dimming functions in a single device suffered from two problems: (1) not allowing the switching function to be performed without disturbing the dimming function, and (2) failing to convey to the user the particular function of each part of the product. Thus, there was a long-felt and unsupplied need in a highly competitive field for a unitary dimmer-switch combination in which the light intensity setting established through the use of the dimming function would remain undisturbed when the lamp was turned on or off, even when operated by a user previously unfamiliar with the control.

20. In the latter half of the 1980's, Lutron engineers set about to solve this problem. Lutron's invention, in the '930 patent, was a product arrangement that provided for, among other things, the switching control to be sized and arranged relative to the dimming control so that the switching function is emphasized over the dimming function from the perspective of the user.

21. Since its early Vareo® line of dimmer switches incorporating this technology, Lutron has continued to incorporate the invention of the '930 patent into its other dimmer switches, including its highly successful Maestro®, RadioRA®, Spacer®, HomeWorks® and Diva® product lines, each of which is sold in the United States.

2. The '919 Patent

22. By the early 1990's, some dimmer switches were being controlled by microprocessor-based circuits. Sophisticated versions of these dimmer switches included circuitry to store previously-set light levels, and some even implemented a fade function, referring to the manner in which the lamp transitioned from one light level to another. While these types of dimmer switches had the potential for greater functionality, they also demonstrated the potential to be confusing for the user. There was, therefore, a need to harness the power of a

digital dimmer switch and to develop a user-friendly dimmer switch with sophisticated fade capability.

23. Lutron's solution, described and claimed in the '919 patent, was a dimmer switch with multiple fade-rate capability. This capability is particularly useful in situations where it is desirable to allow a longer period of time from the tap of an on-off button to a lamp turning fully off. For example, such a multiple -fade rate dimmer switch can allow time for a user to walk from the dimmer switch to a bed before a bedroom goes dark, or for a cleaning staff to collect its equipment and exit through a door some distance from the dimmer switch.

III. THE PARTIES

A. Complainant

24. Complainant Lutron Electronics Co., Inc. ("Lutron") is a Pennsylvania corporation with its principal place of business located at 7200 Suter Road, Coopersburg, Pennsylvania 18036-1299.

25. Established in 1961, Lutron is the industry pioneer. Lutron's success is the result of its long history of innovation, beginning with its founder's invention of the world's first commercially successful solid-state dimmer switch used to dim lamps (a generic term for lights of many varieties). These dimmer switches replaced bulky rheostats and autotransformers that were inefficient and unattractive. Lutron remains a leading innovator and manufacturer of dimmer switches and other lighting control devices worldwide. Lutron's history of innovation, quality, and success has been widely recognized. For example, on April 29, 2010, notable products, objects, and papers from Lutron's 50-year history were added to the Electricity Collection of the Smithsonian's National Museum of American History, joining other notable artifacts such as Thomas Edison's experimental light bulbs. Lutron's products are also utilized in some of the most renowned locations in the world. For example, Lutron's lighting control systems are utilized in such locations as the

White House, the Guggenheim Museum, the Statue of Liberty, the Metropolitan Museum of Art, and Windsor Castle.

26. Lutron manufactures and/or supplies more than 15,000 products to address the lighting control requirements of virtually any residential or commercial project. These products adjust the intensity of virtually every kind of lamp, and Lutron is a leading provider of integrated solutions for controlling both natural daylight (with its motorized shades and blinds) as well as electrical lighting (with its patented lighting control devices).

27. From its inception, Lutron has emphasized innovation, and typically makes a substantial investment of approximately 10% of its revenue in research and development.

B. Proposed Respondents

1. Pass & Seymour

28. On information and belief, Proposed Respondent Pass & Seymour is a corporation organized under the laws of the State of New York, having its principal place of business at 50 Boyd Avenue, Syracuse, NY 13209. Pass & Seymour also maintains a website, www.legrand.us/PassAndSeymour.aspx. On information and belief, Pass & Seymour is a provider of lighting control devices, including dimmer switches, and parts thereof. On information and belief, Pass & Seymour imports into the United States and/or sells such dimmer switches in the United States after importation under the product name Harmony™.

2. AH Lighting

29. On information and belief, Proposed Respondent AH Lighting is a private company having its principal place of business at 2442 Hunter St., Los Angeles, CA 90021. AH Lighting also maintains a website, www.ahlighting.com. On information and belief, AH Lighting imports into the United States and/or sells in the United States after importation lighting control devices,

including dimmer switches, and parts thereof manufactured by Proposed Respondent Wenzhou Huir.

3. Wenzhou Huir

30. On information and belief, Proposed Respondent Wenzhou Huir is organized under the laws of the People's Republic of China, and maintains its principal place of business at Bridge East Wan-Ao, Qiatou Village, Yueqing, Ahejiang 325600. On information and belief, Wenzhou Huir is a manufacturer of lighting control devices, including dimmer switches, and parts thereof. On information and belief Wenzhou Huir imports into the United States and/or sells such dimmer switches for importation.

4. American Top

31. On information and belief, Proposed Respondent American Top is a corporation organized under the laws of California, and according to their advertisement, maintains a business at 1202 E. Walnut Ave., Suite H, Santa Ana, CA 92701. On information and belief, American Top imports into the United States and/or sells in the United States after importation lighting control devices, including dimmer switches, and parts thereof.

5. Big Deal Electric

32. On information and belief, Proposed Respondent Big Deal Electric is a corporation organized under the laws of California and, according to their website, maintains a business at 1208 E. Walnut Ave., Suite G, Santa Ana, CA 92701. The street number of the business address differs slightly from the address Big Deal Electric registered with the Secretary of State of California which appears on the face of the Complaint. Big Deal Electric's website is www.bigdealelectric.com. On information and belief, Big Deal Electric imports into the United States and/or sells in the United States after importation lighting control devices, including dimmer switches, and parts thereof.

33. On information and belief, American Top and Big Deal Electric are related entities in that they are both registered under the same address with the Secretary of State of California, filed for incorporation on the same day and have consecutive entity numbers, and share a common fax number. Copies of American Top's and Big Deal Electric's corporate registration, an advertisement showing American Top's fax number, and Big Deal Electric's contact information page showing their principal place of business address and fax number are attached as Exhibit 7.

6. Diode LED

34. On information and belief, Proposed Respondent Diode LED maintains its principal place of business at 1195 Park Avenue, Suite 211, Emeryville, CA 94608, and imports into the United States, distributes and/or sells in the United States after importation lighting control devices, including dimmer switches, and parts thereof. Diode LED also maintains a website, <http://diodeled.com>. Diode LED's homepage is attached as Exhibit 8.

7. Elemental LED

35. On information and belief, Proposed Respondent Elemental LED is a Limited Liability Company organized under the laws of Nevada and maintains its principal place of business at 1195 Park Avenue, Suite 211, Emeryville, CA 94608. Elemental LED also maintains a website, www.elementalled.com. On information and belief, Elemental LED manufactures, imports into the United States and/or sells in the United States after importation lighting control devices manufactured in China, including dimmer switches and parts thereof.

36. On information and belief, Diode LED and Elemental LED are related entities in that they share a principal place of business and both market and sell an identical looking dimmer switch under the name "REIGN." Diode LED's product catalog page 27 is attached as Exhibit 8 and Elemental LED's product webpage is attached as Confidential Exhibit 9-S.

8. Westgate

37. On information and belief, Proposed Respondent Westgate is a corporation organized under the laws of California and maintains its principal place of business at 4500 S. Boyle Ave., Vernon, CA 90058. Westgate also maintains a website, www.westgatemfg.com. On information and belief, Westgate imports into the United States and/or sells in the United States after importation lighting control devices, including dimmer switches and parts thereof, manufactured by Proposed Respondent Zhejiang Yuelong and Proposed Respondent Zhejiang Lux.

9. Zhejiang Yuelong

38. On information and belief, Proposed Respondent Zhejiang Yuelong is a Chinese corporation organized under the laws of the People's Republic of China and maintains its principal place of business at Yaao Rd. & Nanxi Rd., Jiaxing, Zhejiang 31400. On information and belief, Zhejiang Yuelong is a manufacturer of lighting control devices, including dimmer switches and parts thereof. On information and belief Zhejiang Yuelong imports into the United States and/or sells such dimmer switches for importation.

10. Zhejiang Lux

39. On information and belief, Proposed Respondent Zhejiang Lux is a Chinese company organized under the laws of the People's Republic of China and maintains its principal place of business at Weiqi Rd., Yueqing Economic Development Zone, Yueqing, Zhejiang 325600. On information and belief, Zhejiang Lux is a manufacturer of lighting control devices, including dimmer switches and parts thereof. On information and belief Zhejiang Lux imports into the United States and/or sells such smart dimmer switches for importation.

IV. THE PRODUCTS-AT-ISSUE

A. Lutron's Products

40. The products-at-issue include dimmer switches that fit in standard electrical wall boxes. The technology of the '930 and/or '919 patents is used in these lighting control products.

1. Lutron's Innovative Maestro® Products

41. Lutron Maestro® dimmer switches, shown below in Figure 1, incorporate the technology of the '930 and '919 patents. The product shown in the center of Figure 1 is a Maestro® dimmer switch prior to installation. On the right side of Figure 1 is the Maestro® dimmer with a Lutron faceplate attached (e.g., model number CW-1-WH), which illustrates how the product appears after installation, and on the left side of Figure 1 is a Maestro® package.

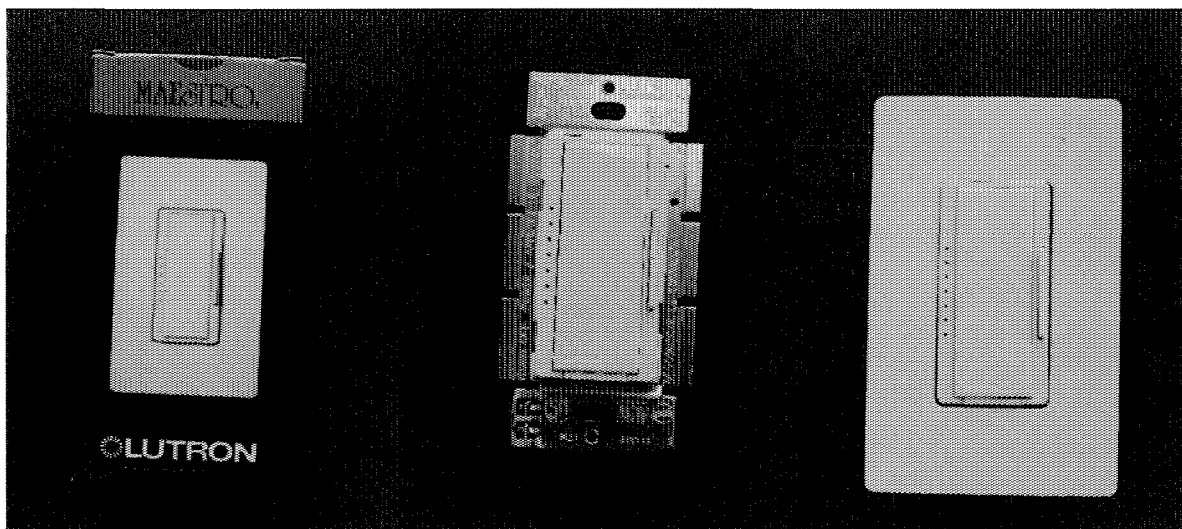


Figure 1: Lutron Maestro® MALV-600 dimmer switches without faceplate (center) with faceplate (right) and associated package (left)

42. In Lutron Maestro® dimmer switches, the large white rectangle in the middle of the device is a control (tap button switch) used to turn a lamp on and off; the much thinner, shorter, segmented white rectangle on the right side of the device is a control (dimming rocker) to raise (by pressing the top segment) and lower (by pressing the bottom segment) the light intensity level of the lamp; and the circular apertures arranged vertically on the left side of the device are a column of

openings through which seven light emitting diodes (LEDs) illuminate to provide indication of the approximate light intensity level of the lamp. Lutron's Maestro® dimmer also incorporates a multiple fade-rate functionality which for example, allows a user sufficient time to walk from the dimmer to another part of the room before the room goes dark.

2. Lutron's RadioRA® Products

43. The Lutron RadioRA® dimmer switches, an example is shown in Figure 2 below with a Lutron faceplate, have the same aesthetic appearance and similar functionality as the Maestro® dimmer switches. The RadioRA® dimmer switches, however, further include (1) a two-way radio that enables the dimmer switches to receive wireless commands from at least one remote control and (2) also allows the dimmer switches to transmit status information wirelessly to at least one remote control (patented technology not at issue).

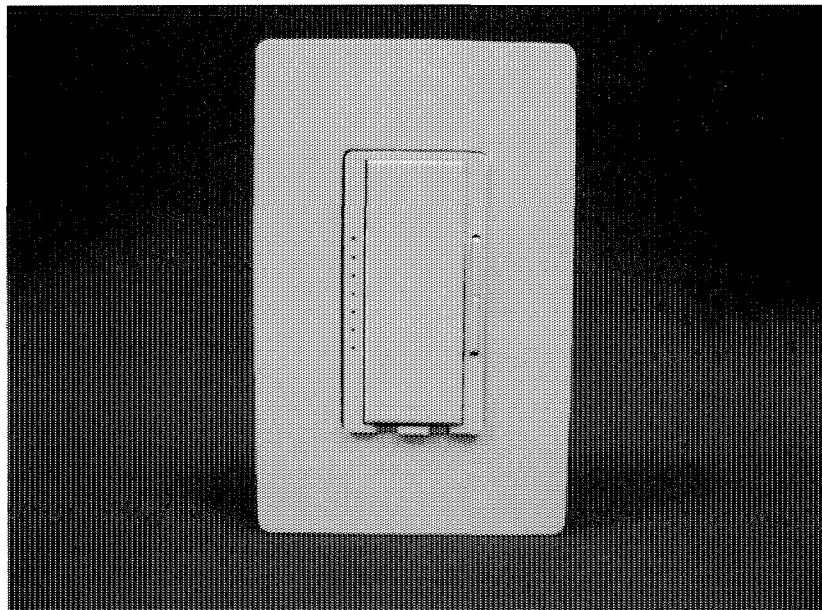


Figure 2: Lutron RadioRA® RA-5NE

3. Lutron's Diva® Product

44. The Lutron Diva® dimmer switches, shown below with a faceplate in Figure 3, also incorporate the technology of the '930 patent. In Lutron's DIVA® dimmer switches, the large

rectangle in the middle of the device is a control (paddle switch) used to turn a lamp on and off; and the much thinner and shorter white rectangle on the right side of the device is a control (dimming slider) to raise (by moving the dimming slider upward) and lower (by moving the dimming slider downward) the light intensity level of the lamp.

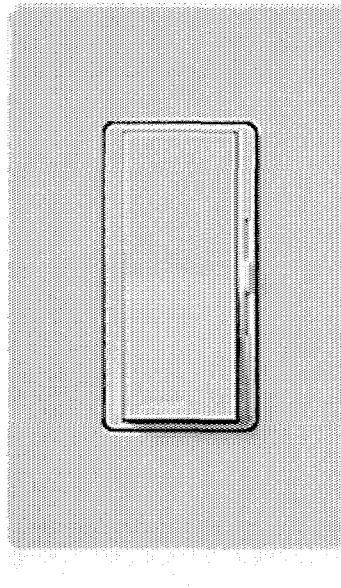


Figure 3: Lutron Diva® DVELV-300P

B. Proposed Respondents' Infringing Products

1. Pass & Seymour

45. The Pass & Seymour dimmer switches that infringe the '930 patent are marked under the product name HarmonyTM and include at least Pass & Seymour's HarmonyTM Single Pole 3-way 700 Watt Dimmer – Model D703P ("Pass & Seymour Harmony Dimmer"). Pass & Seymour Harmony Dimmers and their packaging bear country of origin marking, "Made in China." Confidential Exhibit 9, 9-D, and 9-E attached hereto.

46. The product shown in Figure 4 is a Pass & Seymour Harmony Dimmer as it appears after installation with a Pass & Seymour faceplate. In the Pass & Seymour Harmony Dimmer,

pictured below in Figure 4, the large white rectangle in the middle of the device is a control (paddle switch) used to turn a lamp on and off; and the much thinner and shorter white rectangle on the right side of the device is a control (dimming slider) to raise (by moving the dimming slider upward) and lower (by moving the dimming slider downward) the light intensity level of the lamp.

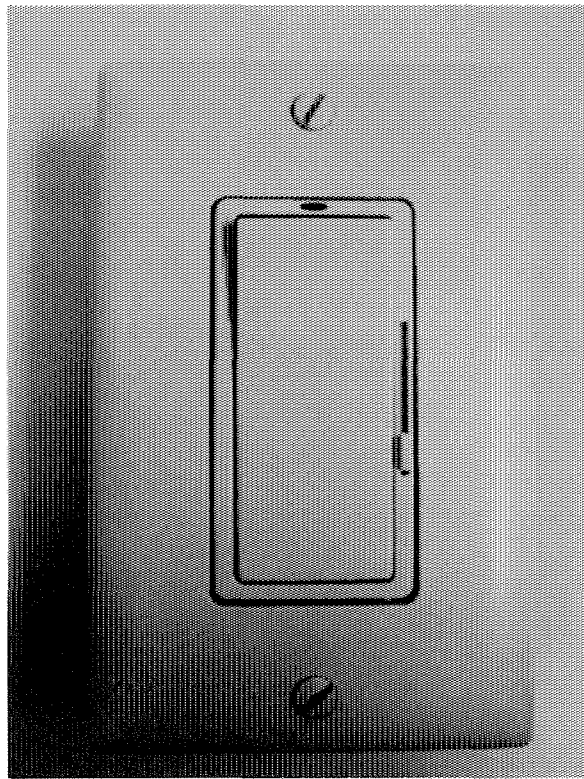


Figure 4: Pass & Seymour Harmony™ Dimmer

2. AH Lighting/Wenzhou Huir

47. The AH Lighting dimmer switches that infringe the '930 patent include at least AH Lighting's 3-Way Sliding 600W Dimmer – Model No. SDM3 ("AH Lighting Dimmer"). The AH Lighting Dimmer and its packaging bear country of origin marking, "Made in China." The AH Lighting Dimmer label also bearing "SA-1" or "AH Lighting SA-1." Confidential Exhibit 9, 9-J and 9-K attached hereto.

48. Further, the AH Lighting Dimmer bears UL Certification Number E225133. The UL Certification Number E225133 is registered to Wenzhou Huir as shown in Exhibit 10

attached hereto. The product models listed under Wenzhou Huir's UL Certification Number include Model No. SA-1. Confidential Exhibit 9 and 9-J.

49. The product shown in Figure 5 is an AH Lighting Dimmer as it appears after installation with a generic faceplate. In the AH Lighting Dimmer, pictured below in Figure 5, the large white rectangle in the middle of the device is a control (paddle switch) used to turn a lamp on and off; and the much thinner and shorter white rectangle on the right side of the device is a control (dimming slider) to raise (by moving the dimming slider upward) and lower (by moving the dimming slider downward) the light intensity level of the lamp.

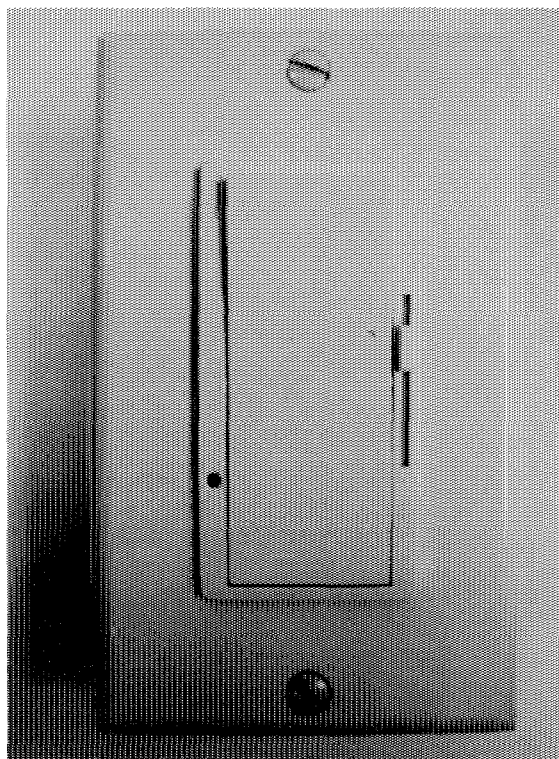


Figure 5: AH Lighting Dimmer

3. American Top/Big Deal Electric

50. The American Top dimmer switches that infringe the '930 patent include at least American Top's Decorator Dimmer – Three Way 120 VAC 60Hz 700W dimmer – Model TD3L-

W ("TD3L Decorator Dimmer"). The TD3L Decorator Dimmer and its packaging bear country of origin marking, "Made in China." Confidential Exhibit 9, 9-O, and 9-P attached hereto.

51. American Top and Big Deal Electric are both registered under the same address with the Secretary of State of California, filed for incorporation on the same day and have consecutive entity numbers, and share a common fax number. Copies of American Top's and Big Deal Electric's corporate registration, an advertisement showing American Top's fax number, and Big Deal Electric's contact information webpage showing their fax number are attached as Exhibit 7.

52. The product shown in Figure 6 is a TD3L Decorator Dimmer as it appears after installation with a generic faceplate. In the TD3L Decorator Dimmer, pictured below in Figure 6, the large white rectangle in the middle of the device is a control (paddle switch) used to turn a lamp on and off; and the much thinner and shorter white oval on the right side of the device is a control (dimming slider) to raise (by moving the dimming slider upward) and lower (by moving the dimming slider downward) the light intensity level of the lamp.

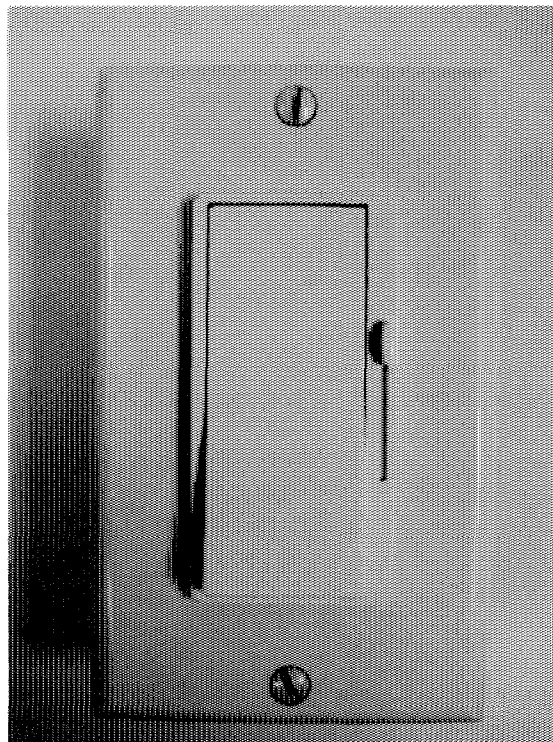


Figure 6: TD3L Decorator Dimmer

4. Elemental LED/Diode LED

53. The Elemental LED dimmer switches that infringe the '930 patent are marketed under the product name REIGN and include at least Elemental LED's REIGN Rocker Slide Dimmer Switch 12V – Model EL-WDRS12V ("REIGN Rocker Slide Dimmer"). The REIGN Rocker Slide Dimmer packaging has a label bearing "diode led" and "DI-RRSW." Confidential Exhibit 9, 9-T and 9-U attached hereto. An email from Tim Wells, Elemental LED Project Manager, confirmed that "the [REIGN Rocker Slide Dimmer] switches themselves are manufactured in China." A copy of the email from Tim Wells is attached as Confidential Exhibit 9-V.

54. Diode LED and Elemental LED share a principal place of business and both market and sell an identical looking dimmer switch under the name "REIGN." Diode LED's product catalog page 27 is attached as Exhibit 8 and Elemental LED's product webpage is attached as Confidential Exhibit 9-S.

55. The product shown in Figure 7 is a REIGN Rocker Slide Dimmer as it appears after installation with an Elemental LED faceplate. In the REIGN Rocker Slide Dimmer, pictured below in Figure 7, the large white rectangle in the middle of the device is a control (paddle switch) used to turn a lamp on and off; and the much thinner and shorter white oval on the right side of the device is a control (dimming slider) to raise (by moving the dimming slider upward) and lower (by moving the dimming slider downward) the light intensity level of the lamp.

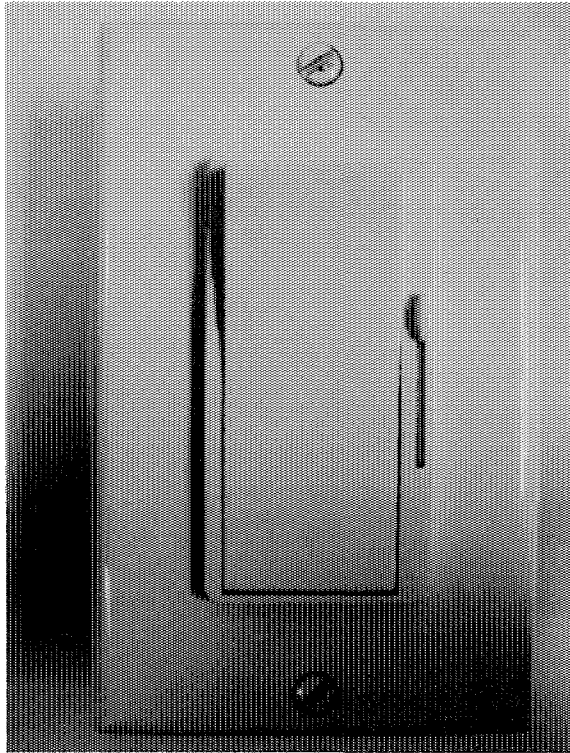


Figure 7: REIGN Rocker Slide Dimmer

5. Westgate/Zhejiang Yuelong

56. The Westgate dimmer switches that infringe the '930 patent include at least Westgate's Decorator Slide Dimmer Magnetic Low Voltage 120VAC 60 Hz 500VA – Model No. 56311 ("WESTGATE Decorator Dimmer 56311"). The WESTGATE Decorator Dimmer 56311 bears country of origin marking, "Made in China." The WESTGATE Decorator Dimmer 56311 packaging label bearing "TDLV3L." Confidential Exhibit 11, 11-C, and 11-D attached hereto.

57. Further, the WESTGATE Decorator Dimmer 56311 bears UL Certification file Number E312733. Exhibit 12 attached hereto. The UL Certification Number E312733 is registered to Zhejiang Yuelong. The product models listed under Zhejiang Yuelong's UL Certification Number include Model No. DLV3L (56311).

58. The product shown in Figure 8 is a WESTGATE Decorator Dimmer 56311 as it appears after installation with a generic faceplate. In the WESTGATE Decorator Dimmer 56311, pictured below in Figure 8, the large white rectangle in the middle of the device is a control (paddle switch) used to turn a lamp on and off; and the much thinner and shorter white oval on the right side of the device is a control (dimming slider) to raise (by moving the dimming slider upward) and lower (by moving the dimming slider downward) the light intensity level of the lamp.

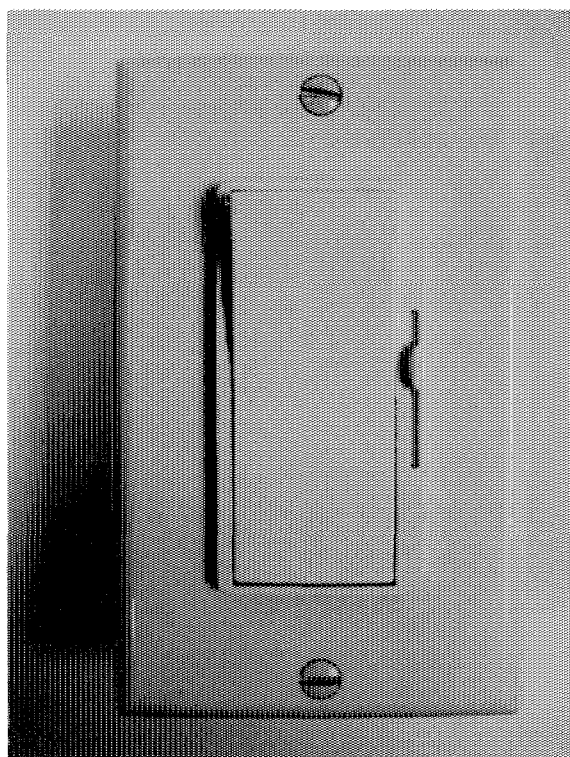


Figure 8: WESTGATE Decorator Dimmer 56311

6. Westgate/Zhejiang Lux

59. The Westgate dimmer switches that infringe the '930 patent and the '919 patent include Westgate's Dimmer 120VAC 60Hz 600W – Model No. LUXDM600-11 ("WESTGATE Smart Dimmer"). The Westgate dimmer packaging has a label bearing "LUXDM600." Confidential Exhibit 11, 11-F and 11-G attached hereto.

60. The WESTGATE Smart Dimmer bears UL Certification file Number E250099. The UL Certification Number E250099 is registered to Zhejiang Lux. Exhibit 13 attached hereto. The product models listed under Zhejiang Lux's UL Certification Number include Model No. LUXDM600. Confidential Exhibit 11 and 11-G.

61. The product shown in Figure 9 is WESTGATE Smart Dimmer as it appears after installation with a generic faceplate. In the WESTGATE Smart Dimmer, pictured below in Figure 9, the large white rectangle in the middle of the device is a control (tap button switch) used to turn a lamp on and off; the much thinner, shorter, white rectangles on the right side of the device are controls (dimming push buttons) to raise (by pressing the upper-most dimming push button) and lower (by pressing the lower-most dimming push button) the light intensity level of the lamp; and the circular apertures arranged vertically on the left side of the device are a column of openings through which ten LEDs illuminate to provide an indication of the approximate light intensity level of the lamp.

62. The WESTGATE Smart Dimmer also has multiple fade-rate capability.

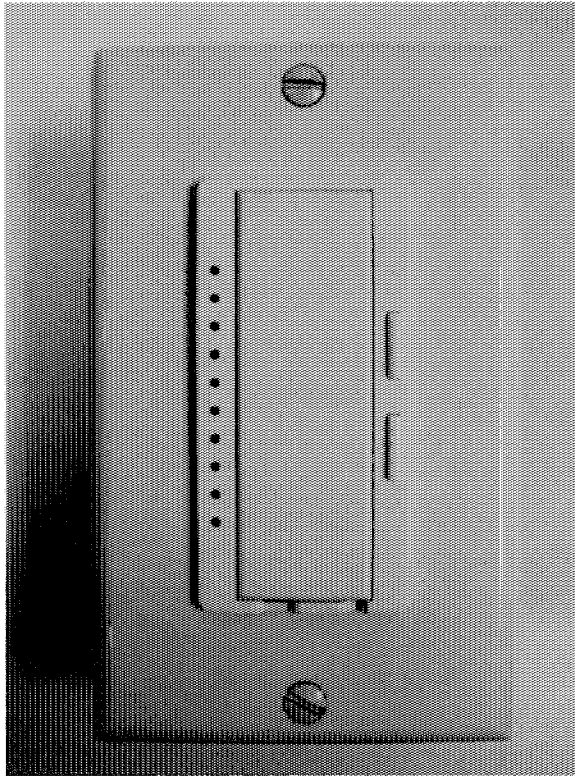


Figure 9: WESTGATE Smart Dimmer

**V. UNLAWFUL ACTS OF THE
RESPONDENTS' INFRINGEMENT OF THE '930 PATENT**

A. Infringement of the '930 Patent

1. Pass & Seymour

63. On information and belief, Pass & Seymour's dimmer switches that are imported into the United States, and/or sold after importation in the United States under at least the brand name Harmony™, infringe claims 36, 38, 47, 54, 58, 65, 67, 76, 83, 87, 94, 96, 105, 112, 116, 178, 180, 189, 193, and 197 of the '930 patent. A claim chart that applies independent claims 36, 65, 94, and 178 of the '930 patent to representative accused product, Pass & Seymour Harmony Dimmer, is attached to the Complaint as Exhibit 14.

2. AH Lighting

64. On information and belief, AH Lighting's dimmer switches that are imported into the United States, and/or sold after importation in the United States infringe claims 36, 38, 47, 54, 58, 65, 67, 76, 83, 87, 94, 96, 105, 112, 116, 178, 180, 189, 193, and 197 of the '930 patent. A claim chart that applies independent claims 36, 65, 94, and 178 of the '930 patent to representative accused product, AH Lighting Dimmer, is attached to the Complaint as Exhibit 15.

3. Wenzhou Huir

65. On information and belief, Wenzhou Huir's dimmer switches that are imported into the United States, sold for importation, and/or sold after importation within the United States by at least AH Lighting, infringe claims 36, 38, 47, 54, 58, 65, 67, 76, 83, 87, 94, 96, 105, 112, 116, 178, 180, 189, 193, and 197. A claim chart that applies independent claims 36, 65, 94, and 178 of the '930 patent to the representative accused product, AH Lighting Dimmer, is attached to the Complaint as Exhibit 15.

4. American Top

66. On information and belief, American Top's dimmer switches that are imported into the United States, and/or sold after importation in the United States infringe claims 36, 38, 47, 54, 58, 65, 67, 76, 83, 87, 94, 96, 105, 112, 116, 178, 180, 189, 193, and 197 of the '930 patent. A claim chart that applies independent claims 36, 65, 94, and 178 of the '930 patent to representative accused product, TD3L Decorator Dimmer, is attached to the Complaint as Exhibit 16.

5. Big Deal Electric

67. On information and belief, Big Deal Electric's dimmer switches that are imported into the United States, and/or sold after importation in the United States infringe claims 36, 38,

47, 54, 58, 65, 67, 76, 83, 87, 94, 96, 105, 112, 116, 178, 180, 189, 193, and 197 of the '930 patent. A claim chart that applies independent claims 36, 65, 94, and 178 of the '930 patent to representative accused product, TD3L Decorator Dimmer, is attached to the Complaint as Exhibit 16.

6. Diode LED

68. On information and belief, Diode LED's dimmer switches that are imported into the United States, and/or sold after importation in the United States infringe claims 36, 38, 47, 58, 65, 67, 76, 87, 94, 96, 105, 116, 178, 180, 189, and 197 of the '930 patent. A claim chart that applies independent claims 36, 65, 94, and 178 of the '930 patent to representative accused product, REIGN Rocker Slide Dimmer, is attached to the Complaint as Exhibit 17.

7. Elemental LED

69. On information and belief, Elemental LED's dimmer switches that are imported into the United States, and/or sold after importation in the United States infringe claims 36, 38, 47, 58, 65, 67, 76, 87, 94, 96, 105, 116, 178, 180, 189, and 197 of the '930 patent. A claim chart that applies independent claims 36, 65, 94, and 178 of the '930 patent to representative accused product, REIGN Rocker Slide Dimmer, is attached to the Complaint as Exhibit 17.

70. On information and belief, Elemental LED designed the REIGN Rocker Slide Dimmer "to be indistinguishable from a Lutron . . . wall dimmers and give similar performance." Quoting Elemental LED's webpage titled, "About LED Innovations," attached as Exhibit 18.

8. Westgate

71. On information and belief, Westgate's dimmer switches that are imported into the United States, and/or sold after importation in the United States infringe claims 36, 38, 47, 54, 58, 65, 67, 76, 83, 87, 94, 96, 105, 112, 116, 178, 180, 189, 193, and 197 of the '930 patent. A claim chart that applies independent claims 36, 65, 94, and 178 of the '930 patent to

representative accused product, WESTGATE Decorator Dimmer 56311, is attached to the Complaint as Exhibit 19.

72. On information and belief, Westgate's dimmer switches that are imported into the United States, and/or sold after importation in the United States infringe claims 36, 39, 40, 41, 53, 54, 56, 58, 60, 65, 68, 69, 70, 82, 83, 85, 87, 89, 94, 97, 98, 99, 111, 112, 114, 116, and 118 of the '930 patent. A claim chart that applies independent claims 36, 65, and 94 of the '930 patent to representative accused product, WESTGATE Smart Dimmer, is attached to the Complaint as Exhibit 20.

9. Zhejiang Yuelong

73. On information and belief, dimmer switches manufactured by Zhejiang Yuelong that are imported into the United States, sold for importation, and/or sold after importation within the United States by at least Westgate, infringe claims 36, 38, 47, 54, 58, 65, 67, 76, 83, 87, 94, 96, 105, 112, 116, 178, 180, 189, 193, and 197. A claim chart that applies independent claims 36, 65, 94, and 178 of the '930 patent to the representative accused product, WESTGATE Decorator Dimmer 56311, is attached to the Complaint as Exhibit 19.

10. Zhejiang Lux

74. On information and belief, dimmer switches manufactured by Zhejiang Lux that are imported into the United States, sold for importation, and/or sold after importation within the United States by at least Westgate, infringe claims 36, 39, 40, 41, 53, 54, 56, 58, 60, 65, 68, 69, 70, 82, 83, 85, 87, 89, 94, 97, 98, 99, 111, 112, 114, 116, and 118 of the '930 patent. A claim chart that applies independent claims 36, 65, and 94 of the '930 patent to representative accused product, WESTGATE Smart Dimmer, is attached to the Complaint as Exhibit 20.

B. Infringement of the '919 Patent

1. Westgate

75. On information and belief, Westgate's dimmer switches that are imported into the United States, and/or sold after importation in the United States infringe claims 1, 2, 5, 6, 7, 8, 11, 12, 13, 15, 16, 17, 18, 19, 20, 23, 25, 26, 27, 28, 29, 30, 31, 32, 35, 36, and 38 of the '919 patent. A claim chart that applies independent claims 1, 20 and 29 of the '919 patent to representative accused product, WESTGATE Smart Dimmer, is attached to the Complaint as Exhibit 21.

2. Zhejiang Lux

76. On information and belief, dimmer switches manufactured by Zhejiang Lux that are imported into the United States, sold for importation, and/or sold after importation within the United States by at least Westgate, infringe claims 1, 2, 5, 6, 7, 8, 11, 12, 13, 15, 16, 17, 18, 19, 20, 29, 30, 31, 32, 35, 36, and 38 of the '919 patent. A claim chart that applies independent claims 1, 20, and 29 of the '919 patent to the WESTGATE Smart Dimmer is attached to the Complaint as Exhibit 21.

VI. SPECIFIC INSTANCES OF IMPORTATION AND SALE

77. On information and belief, Pass & Seymour, AH Lighting, American Top, Elemental LED, and Westgate import and/or sell within the United States after importation, lighting control devices, including dimmer switches and parts thereof, that infringe the asserted claims of the '930 patent. See Confidential Exhibits 9 and 11.

78. On information and belief, Wenzhou Huir and Zhejiang Yuelong at least sell for importation into the United States, lighting control devices, including dimmer switches and parts thereof, that infringe the asserted claims of the '930 patent. See Confidential Exhibits 9 and 11.

79. A Pass & Seymour HarmonyTM Dimmer bearing county of origin markings, "Made in China" on the product and packaging was purchased through the website of Electric Supplies Online, located in Los Angeles, CA, www.electricsuppliesonline.com, and delivered in the United States. See Confidential Exhibit 9, 9-C, 9-D, and 9-E attached hereto.

80. An AH Lighting Dimmer bearing county of origin markings, "Made in China" on the product and packaging, was purchased through a website of Lamps One, located in Los Angeles, CA, www.lampsone.com, and delivered in the United States. See Confidential Exhibit 9, 9-I, 9-J and 9-K attached hereto.

81. On information and belief, Wenzhou Huir manufactures the AH Lighting Dimmer. The AH Lighting Dimmer bears UL Certification Number E225133. The UL Certification Number E225133 is registered to Wenzhou Huir as shown in Exhibit 10 attached hereto. *See* Section IV(B); ¶ 48.

82. An American Top TD3L Decorator Dimmer bearing county of origin markings, "Made in China" on the product and packaging, was purchased through American Top, located in Santa Ana, CA and delivered in the United States. See Confidential Exhibit 9, 9-M, 9-N, 9-O and 9-P attached hereto.

83. On information and belief, Big Deal Electric is an entity related to American Top. Big Deal Electric and American Top are registered under the same address with the Secretary of State of California, filed for incorporation on the same day and have consecutive entity numbers, and share a common fax number. Copies of American Top's and Big Deal Electric's corporate registration, an advertisement showing American Top's fax number, and Big Deal Electric's contact information page showing their principal place of business address and fax number are attached as Exhibit 7. *See* Section IV(B); ¶51.

84. A REIGN Rocker Slide Dimmer bearing no markings was purchased through the website of Elemental LED, located in Emeryville, CA, www.elementaled.com, and delivered in the United States. The country of origin, China, was verified directly by an Elemental LED representative. See Confidential Exhibit 9, 9-R, 9-S, 9-T, and 9-V attached hereto. On information and belief, Proposed Respondent Elemental LED's REIGN Rocker Slide Dimmer uses at least the same front plastic as respondent Universal Smart Electric Corp.'s dimmer switch in Inv. No. 337-TA-676.

85. On information and belief, Diode LED is a distributor who supplies the REIGN Rocker Slide Dimmer to Elemental LED. Diode LED and Elemental LED share a principal place of business and both market and sell identical looking dimmer switches under the name "REIGN." Diode LED's home page and product catalog page 27 are attached as Exhibit 8, and Elemental LED's product webpage is attached as Confidential Exhibit 9-S. *See* Section IV(B); ¶54.

86. A WESTGATE Decorator Dimmer 56311 was ordered on site at Ventura Wholesale Electric, Inc., located in Ventura, CA. The product bore county of origin marking, "Made in China." Confidential Exhibit 11, 11-A, 11-B, and 11-C attached hereto.

87. On information and belief, Zhejiang Yuelong manufactures the WESTGATE Decorator Dimmer 56311. The WESTGATE Decorator Dimmer 56311 bears UL Certification file Number E312733. Exhibit 12 attached hereto. The UL Certification Number E312733 is registered to Zhejiang Yuelong. *See* Section IV(B); ¶ 56.

88. On information and belief, Westgate imports into the United States and/or sells within the United States after importation, lighting control devices, including dimmer switches and parts thereof, that infringe the asserted claims of the '930 and '919 patents. See Confidential Exhibit 11.

89. On information and belief, Zhejiang Lux at least sells for importation into the United States, lighting control devices, including dimmer switches and parts thereof, that infringe the asserted claims of the '930 and '919 patents. See Confidential Exhibit 11.

90. A WESTGATE Smart Dimmer was ordered on site at Ventura Wholesale Electric, Inc., located in Ventura, CA. The product bore a UL file number that identified the manufacturer as being located in China. See Confidential Exhibit 11, 11-F, 11-G, and 11-H attached hereto.

91. On information and belief, Zhejiang Lux manufactures the WESTGATE Smart Dimmer. The WESTGATE Smart Dimmer bears UL Certification file Number E250099. The UL Certification Number E250099 is registered to Zhejiang Lux. Exhibit 13 attached hereto. *See* Section IV(B); ¶ 59.

92. On information and belief, the infringing imported lighting control devices, including dimmer switches and parts thereof, are classified under subheading 8536.50.90, Harmonized Tariff Schedule of the United States (HTSUS).

VII. RELATED LITIGATION

93. On July 24, 2009, the U.S. International Trade Commission instituted an investigation (Inv. No. 337-TA-681) based on a Complaint filed by Lutron alleging violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 in the importation into the United States, sale for importation, or sale within the United States after importation of certain lighting control devices, including dimmer switches and parts thereof, by reason of infringement of the '930 patent by Neptun Light, Inc. (74 Fed. Reg. 36744.) The investigation was terminated based on consent order. Notice of Comm'n Det. Not to Rev. ID Terminating the Inv. Based on Consent Order (Sept. 29, 2009.)

94. On May 11, 2009, the U.S. International Trade Commission instituted an investigation (Inv. No. 337-TA-676) based on a Complaint filed by Lutron alleging violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 in the importation into the United States, sale for importation, or sale within the United States after importation of certain lighting control devices, including dimmer switches and parts thereof, by reason of infringement of the '930 and '919 patents and U.S. Trademark Registration No. 3,061,804 (the last of which is not at issue in this action) by Universal Smart Electric Corp. (74 Fed. Reg. 21820.) That investigation was terminated based on consent order. (74 Fed. Reg. 39969.)

95. On March 2, 2007, Lutron brought an action against Leviton Manufacturing Co., Inc. ("Leviton") entitled *Lutron Electronics Co., Inc. v. Leviton Manufacturing Co., Inc.*, C. A. No. 9:07-CV-43 in the United States District Court for the Eastern District of Texas, seeking injunctive and monetary relief for Leviton's infringement of the '930 and '919 patents, as well as U.S. Patent Nos. 5,982,103, 5,905,442, 4,797,599, U.S. Trademark Reg. Nos. 3,061,804, 2,709,806, Lutron's "Don't Forget the Dimmer" mark (Serial No. 78/866,757), and U.S. Copyright Reg. Nos. VA0001398392 and VAU000731574. This action was dismissed with prejudice on October 1, 2007, based on settlement. (Only the '930 and '919 patents are at issue in this investigation.)

96. On April 5, 2007, the U.S. International Trade Commission instituted an investigation (Inv. No. 337-TA-599) based on a Complaint filed by Lutron alleging violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 regarding the importation into the United States, sale for importation, or sale within the United States after importation of certain lighting control devices, including dimmer switches and/or switches and parts thereof, by reason of infringement of the '930 and '919 patents, and additional U.S. Patent Nos. 5,982,103 and 5,905,442 (the last two of which are not at issue in this action) by Leviton; and by reason of infringement of

U.S. Patent Nos. 5,982,103 and 5,905,442 by Control4 Corporation ("Control4"). The investigation was terminated in its entirety based on settlement with Leviton and withdrawal of the Complaint as to Control4. (73 Fed. Reg. 3483-4.)

97. On June 4, 2003, Lutron brought an action for infringement of the '930 and '919 patents, as well as U.S. Patent No. 5,017,837 (the last of which is not at issue in this action) against Cooper Industries, Ltd. entitled *Lutron Electronics Co., Inc. v. Cooper Industries, Ltd.*, Case No. 2:03 CV 03479, in the United States District Court for the Eastern District of Pennsylvania, seeking injunctive and monetary relief. This action was dismissed with prejudice on June 14, 2005, based on settlement.

98. On May 16, 2011, concurrently with the filing of this complaint, Lutron brought an action for infringement of the '930 patent against Pass & Seymour, AH Lighting, American Top, Big Deal Electric, Diode LED, Elemental LED, and Westgate, and for infringement of the '919 patent against Westgate, entitled *Lutron Electronics Co., Inc. v. Pass & Seymour, Inc., AH Lighting, Big Deal Electric Corp., American Top Electric Corp., Westgate Manufacturing Co., Elemental LED, LLD, and Diode LED*, Case No. _____, in the United States District Court for the Central District of California, seeking injunctive and monetary relief.

99. The '930 and '919 patents have not been the subject of any other court or agency litigation.

VIII. DOMESTIC INDUSTRY

100. A domestic industry as defined by 19 U.S.C. § 1337(a)(3) exists with respect to Lutron's activities in the United States that exploit the '930 and '919 patents and that relate to products that employ the patented technology by reason of Lutron's significant investment in plant and equipment, significant employment of labor and capital and substantial investment in the exploitation of the '930 and '919 patents through engineering, and research and development.

A. Technical Prong

1. The '930 Patent

101. Dimmer switches designed, developed, manufactured, and sold by Lutron practice the '930 patent and are marked with that patent. For example, Lutron's Maestro®, RadioRA®, and Diva® dimmer switches embody at least claim 65 of the '930 patent. A claim chart demonstrating how Complainant's Maestro® dimmer practices claim 65 of the '930 patent is attached hereto as Exhibit 22.

2. The '919 Patent

102. Dimmer switches designed, developed, manufactured, and sold by Lutron practice the '919 patent, and are marked with that patent. For example, Lutron's Maestro® and RadioRA® dimmer switches embody at least claim 1 of the '919 patent. A claim chart that applies claim 1 of the '919 patent to the Maestro® dimmer switch is attached hereto as Exhibit 23.

B. Economic Prong

1. Significant Investment in Plant and Equipment

103. A domestic industry exists in the United States by virtue of Lutron's significant investments in plant and equipment devoted to developing, manufacturing and testing of lighting control devices, including dimmer switches and parts thereof (collectively referred to below as "Lighting Control Devices"), that employ and exploit the technology covered by one or more of the claims of the '930 and '919 patents.

104. Lutron has production facilities in the United States that manufacture Lighting Control Devices that exploit the '930 and '919 patents. Confidential Exhibit 24 sets forth further details regarding these facilities.

105. Lutron also has facilities in the United States at which such Lighting Control Devices may be finished and/or packaged. Confidential Exhibit 24 sets forth further details regarding these facilities.

106. A broad range of activities related at least in part to the domestic manufacture of Lighting Control Devices have been performed at Lutron's facility in Alburtis, Pennsylvania and continue to be performed in Humacao, Puerto Rico. Confidential Exhibit 24 sets forth further details regarding this facility.

107. Lutron has made substantial investments in the facilities in the United States used for the manufacture of its Lighting Control Devices, as well as in the various facilities dedicated to activities directly related to the manufacture of its Lighting Control Devices. Confidential Exhibit 24 sets forth further details regarding these investments.

108. Lutron has also made substantial investments in equipment in the United States used to manufacture its Lighting Control Devices, or for activities directly related to the manufacture of its Lighting Control Devices. Confidential Exhibit 24 sets forth further details regarding these investments.

2. Significant Employment of Labor and Capital

109. Lutron currently employs in the United States a significant number of persons involved in the domestic production of Lighting Control Devices that exploit the '930 and '919 patents. These employees include full time equivalent (FTE) personnel dedicated to the manufacture of the patented products as well as engineers and engineering technicians either partially or fully dedicated to research and development and technical support of the patented products. Confidential Exhibit 24 sets forth further details regarding these employees.

**3. Substantial Investment in Exploiting the Patents-at-Issue
Through Engineering and Research and Development**

110. Lutron has made, and will continue to make, substantial investments in the United States in engineering and research and development related to existing and future Lighting Control Devices that exploit the '930 and '919 patents. Confidential Exhibit 24 sets forth further details regarding these expenditures.

111. Lutron is a recognized leader in the research and development of Lighting Control Devices. It has made, and continues to make, very substantial investments in research and development, and that financial commitment has established Lutron as a leader in the design, development and manufacture of state-of-the-art Lighting Control Devices.

IX. GENERAL EXCLUSION ORDER

112. This case is the poster child for a general exclusion order. Lighting control devices, including dimmer switches and parts thereof, have been the subject of three prior Section 337 investigations based on complaints filed by Lutron, Inv. No. 337-TA-599, Inv. No. 337-TA-676 and Inv. No. 337-TA-681. All three investigations involved the '930 patent asserted in this investigation; Inv. No. 337-TA-599 and Inv. No. 337-TA-676 also involved the '919 patent asserted herein. The investigation titles for Inv. No. 337-TA-676 and Inv. No. 337-TA-681 are identical to the title in the present investigation and the same in pertinent part to the original investigation, Inv. No. 337-TA-599. In early 2008, the Commission determined not to review an initial determination terminating the Inv. No. 337-TA-599 in its entirety based on settlement agreement. Investigation No. 337-TA-676 and Inv. No. 337-TA-681, instituted in mid 2009, each named small importers and sellers of infringing products and both were quickly terminated based on consent order agreements.

113. These three prior Investigations have not deterred a substantial number of entities from continuing to manufacture, import into the United States, sell for importation, and/or sell in the United States after importation infringing lighting control devices, including dimmer switches and parts thereof. In Section II(B) of this Complaint, Lutron has identified as proposed respondents additional entities about which it has information of importation of infringing lighting control devices, including dimmer switches and parts thereof.

114. On information and belief, the dimmer switches imported by certain of the Proposed Respondents herein are the same as, or contain components that are the same as, products that were imported by the respondents in the last two Section 337 investigations involving Lutron's patented lighting control devices, including dimmer switches, e.g., sharing at least the same front plastic.

115. On information and belief, Proposed Respondent Westgate's WESTGATE Smart Dimmer appears to be the same as respondent Universal Smart Electric Corp.'s Smart Dimmer in Inv. No. 337-TA-676.

116. On information and belief, Proposed Respondent American Top's TD3L Decorator Dimmer appears to be the same as a dimmer switch previously imported by Universal Smart Electric Corp. *See* Inv. No. 337-TA-676.

117. On information and belief, Proposed Respondent AH Lighting's AH Lighting Dimmer appears to be the same as a dimmer switch previously imported by Neptun Light, Inc. *See* Inv. No. 337-TA-681.

118. On information and belief, Proposed Respondent Elemental LED's REIGN Rocker Slide Dimmer uses at least the same front plastic as respondent Universal Smart Electric Corp.'s dimmer switch in Inv. No. 337-TA-676.

119. On information and belief, the WESTGATE Decorator Dimmer 56311 is identified in Proposed Respondent Westgate's catalog under the same model number (56311) that appeared in the catalog of former respondent Universal Smart Electric Corp. (Inv. No. 337-TA-676).

120. On information and belief, in addition to the Proposed Respondents identified herein, there are numerous other entities located outside the U.S. that offer for sale on the internet lighting control devices, including dimmer switches and parts thereof, that appear from the depiction on their webpages to infringe the '930 and/or '919 patents.

121. On information and belief, there are numerous large business-to-business Internet portals that operate for the purpose of bringing together manufacturers, importers and sellers from around the world. Through such business-to-business Internet portals, potential importers and sellers are able to locate foreign companies that offer thousands of existing products for sale and/or that can inexpensively custom manufacture products.

122. On information and belief, such large business-to-business Internet portals include: (a) GlobalSource.com (whose homepage is attached as Exhibit 25), (b) Made-in-China.com, (whose home page is attached as Exhibit 26 and displays its logo containing the phrase, "Connecting Buyers with China Suppliers," (c) Alibaba.com (whose homepage is attached as Exhibit 27), (d) Dhgate.com, (whose home page is attached as Exhibit 28 and states that it connects "bargain hunters from around the world with factory-direct China wholesale deals," and (3) Wholesale-electrical-electronics.com (whose home page is attached as Exhibit 29).

123. On information and belief, each of the business-to-business Internet portals identified in paragraph 112 offers, directly or indirectly, lighting control devices, including dimmer switches and parts thereof, that appear to infringe the '930 and/or '919 patents.

124. On information and belief, Yueqing Honki Control System Co., Ltd., which can be found online at least through the website of GlobalSources.com, manufactures and offers for sale a "Decorator Dimmer Switch" which has the appearance of a product that infringes the '930 patent. A copy of the webpages offering the Yueqing Honki infringing dimmer switch are attached as Exhibit 30 and Exhibit 31.

125. On information and belief, Wenzhou Huaya Electric Co., Ltd, which can be found online at least through the website of Made-in-China.com, manufactures and offers for sale a "UL Listed Dimmer" which has the appearance of a product that infringes the '930 patent. It is described as "Diva Dimmer 120V 60HZA." ("Diva" is a registered trademark of Complainant Lutron.) A copy of the webpage offering the infringing Wenzhou Huaya Electric Co., Ltd. dimmer switch is attached as Exhibit 32.

126. On information and belief, Wenzhou Yongtai Electric Co., Ltd., which can be found online at least through the website of Alibaba.com, manufactures and offers for sale a "Decorator Dimmer " which has the appearance of a product that infringes the '930 patent. A copy of the webpage offering the potentially infringing Wenzhou Huaya Electric Co., Ltd. dimmer switch is attached as Exhibit 33.

127. On information and belief, Dongguan Timer Electronic Technologies Co., Ltd., which can be found online at least through the websites of Made-in-China.com and Dhgate.com, manufactures and offers for sale a "Switch (TSD1100)" that has the appearance of a product that infringes the '930 patent. Copies of these companies' webpages offering the potentially infringing Dongguan Timer Electronic Technologies Co., Ltd dimmer switch are attached as Exhibit 34 and Exhibit 35.

128. On information and belief, there are foreign-based companies that will reproduce products on request. For example, YingFeng Lighting/Shenzhen Yingfeng Opto-Electronic Cl., Ltd., of Guangdong, China (Mainland), which can be found online at least through the website of Wholesale-electrical-electronics.com, will manufacture unauthorized copies of Complainant Lutron's Skylark dimmer with a 500 piece order. Although Lutron's Skylark dimmer is not at issue in this complaint, on information and belief, YingFeng Lighting/Shenzhen Yingfeng Opto-Electronic Cl., Ltd. has demonstrated that it is able to copy a Lutron product. The webpage offering the unauthorized Lutron dimmer and the company webpage stating that it "has the ability and we believe we can provide green lighting products with 'energy saving, environmental protection' for human beings," are attached as Exhibit 36 and Exhibit 37.

129. On information and belief, the cost of producing infringing products is not a barrier to entering the U.S. market.

130. On information and belief, production of infringing lighting control devices, including dimmer switches and parts thereof, can be accomplished with the use of simple electrical manufacturing equipment, unskilled labor (with minimal training), and standard equipment for end-of-line testing. On information and belief, molds for the front plastic components vary in price depending on their quality and the volume yield per mold. On information and belief, other components may be custom designed, if not available off the shelf, but most would require very little up-front expense.

131. On information and belief, it is relatively easy for existing manufacturers of electrical devices to shift production, at minimal expense, to produce infringing lighting control devices, including dimmer switches and parts thereof.

132. On information and belief, energy considerations contribute to continued demand for infringing lighting control devices, including dimmer switches and parts thereof. California, in particular, where a number of the Proposed Respondents are located, adopted, effective January 1, 2010, an energy code (Title 24) for residential buildings that significantly modifies lighting needs and requires that all new and remodeled homes in California incorporate energy efficient lighting and controls. Dimmer switches are among the devices that provide a cost effective, consumer-friendly solution to save energy and meet the Title 24 requirements.

133. On information and belief, there are over 10,000 full-line electrical distribution locations that form a readily available distribution network to sell imported infringing products in the United States. On information and belief, this network includes the five largest full-line electrical distributors, as well as super-regional chains, 470 National Association of Electrical Distributors member companies with 4,400 locations nationwide, and an estimated 3,000 other full-line distributors that operate approximately 7,500 total locations in the U.S. An article describing this network, "Changing Channels of Distribution," appeared in *Electrical Wholesaling*, July 2010, and is attached as Exhibit 38.

134. Unless a general exclusion order is issued, relief to Complainant will be wholly inadequate. The three previous investigations instituted by the Commission involving lighting control devices, including dimmer switches, that infringe the '930 and/or '919 patents have not prevented numerous additional manufacturers (and maybe even the same manufacturers) and importers from bringing into the U.S. infringing lighting control devices, including dimmer switches. In addition, there appear to be many other foreign manufacturers that offer infringing lighting control devices, including dimmer switches, for sale for importation into the U.S. Only

a general exclusion order can prevent circumvention of any relief granted by the Commission and provide Complainant with adequate protection for its patent rights.

X. RELIEF

WHEREFORE, by reason of the foregoing, Complainant requests that the United States International Trade Commission:

(a) institute an immediate investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, with respect to violations of that section based upon the importation into the United States, the sale for importation into the United States, and/or the sale within the United States after importation by Proposed Respondents of lighting control devices including dimmer switches and parts thereof that infringe Lutron's valid and enforceable U.S. Patent No. 5,637,930 and U.S. Patent No. 5,248,919;

(b) schedule and conduct a hearing on said unlawful acts and, following said hearing;

(c) issue a permanent general exclusion order, pursuant to 19 U.S.C. § 1337(d), forbidding entry into the United States of all lighting control devices including dimmer switches and parts thereof that infringe U.S. Patent No. 5,637,930 and U.S. Patent No. 5,248,919;

(d) issue permanent cease and desist orders, pursuant to 19 U.S.C. § 1337(f), prohibiting Proposed Respondents from importing, selling, offering for sale (including via the Internet or electronic mail), advertising (including via the Internet or electronic mail), distributing, or soliciting any lighting control devices including dimmer switches encompassed by the claims of U.S. Patent No. 5,637,930 and U.S. Patent No. 5,248,919; and

(e) issue such other orders and further relief as the Commission deems just and proper based upon the facts determined by the investigation and under the authority of the Commission.

Dated: May 16, 2011

Respectfully submitted,



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LUT700011-4

VERIFICATION OF COMPLAINT

I, Walter S. Peake, declare, in accordance with 19 CFR §§ 210.4 and 210.12(a), under penalty of perjury that the following statements are true:

1. I am General Counsel for Lutron Electronics Co., Inc. am duly authorized to sign this complaint on behalf of Complainants;
2. I have read the complaint and am aware of its contents;
3. The complaint is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
4. To the best of my knowledge, information and belief founded upon reasonable inquiry, the claims and legal contentions of this complaint are warranted by exiting law or a good faith argument for the extension, modification, or reversal of existing law;
5. The allegations and other factual contentions in the complaint have evidentiary support or are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 5 - 18, 2011.


WALTER S. PEAKE