

UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D.C. 20436

In the Matter of:

Certain Dimmable Compact Fluorescent
Lamps and Products Containing Same

Investigation
No. 337-TA-_____

**COMPLAINT UNDER SECTION 337
OF THE TARIFF ACT OF 1930, AS AMENDED**

Complainants:

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Proposed Respondents:

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Fairfield, New Jersey 07004

U Lighting America Inc.
2448 Balme Drive
San Jose, California 95122

Golden U Lighting Manufacturing (Shenzhen)
Co., Ltd. 3F, Block A3, Xinjianxing
Industrial Park, Fengxin Road, Lou
Village, Guangming
District Shenzhen Guangdong China 518107

Feit Electric Company, Inc.
4901 Gregg Road
Pico Rivera, California 90660-2108

General Electric Company
3135 Easton Turnpike
Fairfield, CT 06828-0001

Xiamen Topstar Lighting Co. Ltd.

No. 676, Meixi Road, Tong'an,
Xiamen, Fujian, China 361100

Technical Consumer Products, Inc.
325 Campus Drive
Aurora, Ohio 44202

TCP China
Shanghai Office:
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TCP (Shanghai) Tiancanbao Lighting
Electrical Appliance Co., Ltd.
Room A502 No. 250 Cai Xi Road, Shanghai,
China, P.C. 200235

Shanghai Jensing Electron Electrical
Equipment Co., Ltd.
No.23 Kai Jiang Road East,
Si Jing, Song Jiang;
Shanghai, China, P.C. 201601

Shanghai Qiangling Electronics Co. Ltd.
No 139 Wang Dong South Rd E
Si Jing Song Jiang
Shanghai China

Zhejiang Qiang Ling Electronic Co. Ltd.
No. 200, Xuefu Road, Runzhou District
Zhenjiang, Jiangsu 212003
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15. ULA dimmable CFL, model number STS-23W product packaging
16. Receipt for ULA dimmable CFL, model number STS-23W
17. Feit dimmable CFL, model number ESL15R30/DIM claim chart
18. Feit dimmable CFL, model number ESL15R30/DIM ballast
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- 26C. License for the '480 patent
- 27C. License with Neptun
- 28C. Declaration of Andrzej Bobel
29. Neptun CFL R30 claim chart
30. Neptun CFL R30 claim chart
31. Neptune CFL R30 ballast
32. Neptun dimmable CFLs

PHYSICAL EXHIBITS

- PE-1. Maxlite dimmable CFL, model number MLS25GUDWW
- PE-2. GE dimmable CFL, model number FLE26/2/DV/R40
- PE-3. ULA dimmable CFL, model number STS-23W
- PE-4. Feit dimmable CFL, model number ESL15R30/DIM
- PE-5. TCP dimmable CFL, model number 4R3016TD
- PE-6. Neptun CFL R30

APPENDICES

- A. Non-Certified File History with References for U.S. Patent No. 5,434,480
- B. Certified File History with References for U.S. Patent No. 8,035,318
- C. Non-certified File History of the '318 Patent with References Cited During Prosecution of the '318 patent

I. INTRODUCTION

1. Andrzej Bobel and Neptun Light, Inc. ("Neptun") request that the United States International Trade Commission commence an investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("Section 337"), to remedy the unlawful importation into the United States, the sale for importation, and/or the sale within the United States after importation by the owner, importer, consignee (or any agent of the owner, importer or consignee), of certain dimmable compact fluorescent lamps ("dimmable CFLs") that infringe a valid and enforceable United States Patent owned by Mr. Bobel and Neptun.

2. On information and belief, the respondents, SK America, Inc. d/b/a Maxlite ("Maxlite"); Feit Electric, General Electric, and U Lighting America Inc. collectively "Respondents" have engaged in violations of Section 337 through the unlicensed importation into the United States, the sale for importation, and/or the sale within the United States after importation of accused products that infringe claim 9 of United States Patent No. 5,434,480 ("the '480 patent") and claim 12 of United States Patent No. 8,035,318 ("the '318 patent").

3. A non-certified copy of the '480 patent is shown in Exhibit 1. A certified copy has been ordered and Complainants will replace the non-certified copy with the certified copy once the certified copy is received. A non-certified copy of the '318 patent is shown in Exhibit 2. A certified copy has been ordered and Complainants will replace the non-certified copy with the certified copy once the certified copy is received.

4. A non-certified copy of the file history for the '480 patent, with references cited therein, is attached as Appendix A. A certified copy has been ordered and Complainants will replace the non-certified copy with the certified copy once the certified copy is received. A certified copy of the file history for the '318 patent is attached as Appendix B. A non-certified

copy of the file history of the '318 patent with copies of the references cited during prosecution of the '318 patent is attached as Appendix C.

5. Mr. Bobel is the named inventor of the '480 patent and he owns the entire right, title, and interest in and to the '480 patent. Mr. Bobel is the named inventor of the '318 patent which was assigned to Neptun. A certified copy of the recorded assignment accompanies this Complaint as Exhibit 3. Subsequent to the assignment of the '318 patent to Neptun, Mr. Bobel and Neptun entered into an agreement that provided Mr. Bobel with the exclusive right to license and enforce the '318 patent. A copy of the agreement between Mr. Bobel and Neptun accompanies this Complaint as Confidential Exhibit 4C.

6. As required by Section 337(a)(2) and defined in Section 337(a)(3), an industry in the United States exists relating to Neptun's product, which practices both the '480 and '318 patents.

7. Complainants seek a limited exclusion order, pursuant to Section 337(d), permanently excluding the accused dimmable CFLs from entry into the United States. Complainants also seek a permanent cease and desist order, pursuant to Section 337(f), directing respondents to cease and desist from importing, marketing, advertising, demonstrating, warehousing inventory for distribution, offering for sale, selling, distributing, or using Accused Products that infringe either the '480 and '318 patents.

II. COMPLAINANTS

A. Andrzej Bobel

8. Mr. Bobel is an individual U.S. citizen residing in Lake Forest, Illinois. Mr. Bobel has been an innovator in the design and development of energy saving lighting products for over 25 years. Over that time, Mr. Bobel's innovations have earned him more than 60 patents. Furthermore, Mr. Bobel has licensed his innovations to many of the world's largest

lamp and ballast manufacturers. Many of his patents and technologies are key inventions in lighting, and have been integral in the growth of the energy efficient lighting industry.

9. Mr. Bobel is also the Founder, CEO and Chief Engineer of Complainant Neptun, a leading manufacturer and innovator of energy efficient lighting products.

10. Mr. Bobel is the inventor of U.S. Patent No. 5,434,480, and U.S. Patent No. 8,035,318.

11. Mr. Bobel has also established a licensing operation in connection with the '480 patent. Mr. Bobel licensed the '480 patent to dimmable CFL manufacturers as shown in Confidential Exhibits 26C, 27C, and 28C.

B. Neptun

12. Complainant Neptun is an American company founded by Mr. Bobel in 2002, and is located at 13950 W. Business Center Drive, Lake Forest, Illinois 60045. Neptun is a well-diversified manufacturer of energy conservation lighting products such as LED, induction and compact fluorescent, including dimmable CFLs, which is the technology at issue in this Complaint. The products developed and manufactured by Neptun are designed for residential, commercial, outdoor and other infrastructure lighting applications. Typically, light bulb manufacturers are driven by the singular goal of manufacturing light bulbs at the lowest price. Neptun is not the typical light bulb manufacturer. Neptun's core goals include to continually innovate to push the limits of quality, efficiency, and performance of energy saving lamps, fixtures, and automated lighting systems. Another one of Neptun's goals is the development of new products based on market trends and emerging technologies to sustain Neptun's reputation as not only an industry leader but also an industry pioneer.

13. Neptun designs and develops all of its products in the United States. In addition, Neptun, encouraged by the “Buy America” program, established a manufacturing plant in Lake Bluff, Illinois.

III. PROPOSED RESPONDENTS

14. On information and belief, respondent SK America, Inc. d/b/a Maxlite (“Maxlite”) is a privately held company with its principal place of business located at 80 Little Falls Road, Fairfield, New Jersey 07004.

15. On information and belief, Maxlite is importing dimmable CFLs made in the Peoples Republic of China that infringe the ‘480 patent.

16. On information and belief, Maxlite sells dimmable CFLs through distributors and sales agents located throughout the United States, through mass merchants, home centers, clubs and chain stores, and through its internet web site (www.maxlite.com).

17. On information and belief, respondent U Lighting America Inc. is a company located at 2448 Balme Drive, San Jose, California 95122.

18. On information and belief, respondent Golden U Lighting Manufacturing (Shenzhen) Co., Ltd. (“Golden U Lighting”) is a Chinese company located at 3F, Block A3, Xinjianxing Industrial Park, Fengxin Road, Lou Village, Guangming, District Shenzhen Guangdong China 518107.

19. On information and belief, Golden U Lighting manufactures infringing product in China and supplies those products to U Lighting America, with U Lighting America importing the infringing product into the United States. On information and belief, U Lighting America then serves as a distributor in the United States for infringing product manufactured by Golden U Lighting.

20. U Lighting America Inc. and Golden U Lighting will collectively be referred to in this Complaint as the “ULA Respondents.”

21. On information and belief, respondent Feit Electric Company, Inc., (“Feit Electric”) is a company located in the United States at 4901 Gregg Road, Pico Rivera, California 90660-2108.

22. On information and belief, Feit Electric imports, and sells after importation dimmable CFLs that are manufactured by its suppliers abroad including suppliers located in China.

23. On information and belief, Feit Electric sells dimmable CFLs through distributors and sales agents located throughout the United States, through mass merchants, home centers, clubs and chain stores, including Walgreens, Lowe’s, Bed Bath & Beyond, Menards, and Costco.

24. On information and belief, respondent General Electric Company (“GE”) is a New York corporation having a principal place of business in Fairfield, Connecticut.

25. On information and belief, respondent Xiamen Topstar Lighting Co. Ltd. (“Topstar”) is a Chinese company located at No. 676, Meixi Road, Tong’an, Xiamen, Fujian, China 361100.

26. On information and belief, GE imports, and sells after importation dimmable CFLs that are manufactured in China by Topstar.

27. On information and belief, GE sells dimmable CFLs through distributors and sales agents located throughout the United States, through mass merchants, home centers, clubs and chain stores, including Ace Hardware, Dominick’s, Home Depot, Jewel-Osco, Lowe’s, Meijer, Menards, Office Depot, Office Max, Wal-Mart, and Target, among others.

28. GE and Topstar will collectively be referred to in this Complaint as the “GE Respondents.”

29. On information and belief, respondent Technical Consumer Products, Inc. (“TCP”) is a Delaware corporation with a principal place of business at 325 Campus Drive, Aurora, Ohio.

30. On information and belief, respondent TCP-China is a Chinese company located in Shanghai and Beijing, with the Shanghai office address being 2208 -2210 Room, 2nd Building, 270 CaoXi Road, Xuhui District, Shanghai, China; and the Beijing address being 305 and 314 Room, A, Building, 504 Anhua Lane, Andingmen, Beijing, China. On information and belief, TCP-China manufactures and ships for importation dimmable CFLs that are imported, distributed and sold by TCP.

31. On information and belief, respondent TCP (Shanghai) Tiancanbao Lighting Electrical Appliance Co., Ltd. (“Tiancanbao”) is a Chinese company located at Room A502 No. 250 Cai Xi Road, Shanghai, China, P.C. 200235. On information and belief, Tiancanbao manufactures and ships for importation dimmable CFLs that are imported, distributed and sold by TCP.

32. On information and belief, respondent Shanghai Jensing Electron Electrical Equipment Co., Ltd. (“Jensing”) is a Chinese company located at No.23 Kai Jiang Road East, Si Jing, Song Jiang; Shanghai, China, P.C. 201601; or alternatively at No. 61 Kai Jiang Road East, Si Jing Song Jiang, Shanghai, China P.C. 201601. On information and belief, Jensing manufactures and ships for importation dimmable CFLs that are imported, distributed and sold by TCP.

33. On information and belief, respondent Shanghai Qiangling Electronics Co. Ltd. (“Qiangling”) is a Chinese company located at No 139 Wang Dong South Rd E, Si Jing Song

Jiang, Shanghai China. On information and belief, Qiangling manufactures and ships for importation dimmable CFLs that are imported, distributed and sold by TCP.

34. On information and belief, respondent Zhejiang Qiang Ling Electronic Co. Ltd. ("Zhejiang") is a Chinese company located at No. 200, Xuefu Road, Runzhou District, Zhenjiang, Jiangsu 212003 China. On information and belief, Zhejiang manufactures and ships for importation dimmable CFLs that are imported, distributed and sold by TCP.

35. TCP, TCP-China, Tiancanbao, Jensing, Qiangling, and Zhejiang will be referred to in this Complaint as the "TCP Respondents."

36. On information and belief the TCP Respondents manufacture, import and sell dimmable CFLs through retailers and distributors and sales agents located throughout the United States.

IV. THE LIGHTING INDUSTRY

37. The development of CFL lighting products that function as direct replacements for incandescent lamps that have dominated the market for years is important not only to the companies that sell them, but also to the nation. In a time of increasing pressure on energy generation and supply, CFLs are far more efficient than incandescent lamps. A typical 60 Watt incandescent light bulb can be replaced by a CFL light bulb that screws into the same fixture, but consumes only about 14 watts to produce the same amount of light. The widespread adoption of CFL lighting would make a tremendous impact on energy consumption for lighting in the United States. That conversion is beginning and will only grow in the coming years. The '480 patent and the '318 patent go to core innovations that allow dimmable CFLs to have a high power factor and smoothly dim without any flicker. In other words, the technology enhances the performance of dimmable CFLs. Providing this technology further ushers the U.S. market away from wasteful incandescent light bulbs to the more efficient CFLs.

V. The '480 Patent

A. Identification of the Patent and Ownership by Mr. Bobel

38. The '480 patent is entitled "Electronic Device for Powering a Gas Discharge [L]oad from a Low Frequency Source." The '480 Patent issued from U.S. Application No. 134,976, which was filed on October 12, 1993.

39. Mr. Bobel is the named inventor of the '480 patent and also is the owner of the entire right, title, and interest in and to the '480 patent. The '480 patent is valid, enforceable, and currently is in full force and effect.

40. Pursuant to Rule 210.12(c) of the Commission's Rules of Practice and Procedure, this Complaint is accompanied by an Appendix containing: (A) Four copies of the file history of the '480 patent, and (B) four copies of each patent and applicable pages of each technical reference mentioned in that prosecution history.

B. Description of the Patented Invention¹

41. The '480 patent is directed to circuitry for electronic ballasts that power dimmable CFLs with the ballasts providing a high power factor and low harmonic distortion. This allows for improved dimmable CFL performance. To understand the meaning of power factor, it helps to begin from a basic point. The voltage supply in an electrical outlet is sinusoidal. If you took an ordinary resistor and plugged it into an electrical outlet and measured the current through the resistor, you would get a sinusoidal wave of current that tracks the sinusoidal wave of the voltage. In this instance, the power factor would be one. There is no distortion or shifting in the current waveform. A dimmable CFL, however, is not simply a resistor. It contains additional

¹ The content of this Complaint, including this section (i.e., "Description of the Patented Invention"), does not, and is not intended to, construe either the specification or claims of the '480 patent).

circuitry such as capacitors and inductors. When those types of circuits are plugged in a wall, the result can be that the circuit will result in current waveforms that are not purely sinusoidal but will be distorted and shifted. The current will not match the voltage wave at all. This distortion can be calculated. And the higher the distortion, the lower the power factor and the poorer the performance of the dimmable CFL. As explained in the background of the '480 patent, electronic ballasts generally have two fundamental requirements: (i) they must draw power from the power line with a power factor of at least 0.9; and (ii) draw current from the power line with a total harmonic distortion of less than 20 percent. *See* '480 patent at 1:19-26.

42. The poor power factor CFLs have the input current wave shape with high distortion and are not proportional to the input voltage (sinusoidal), therefore the current is substantially "zero" for a good portion of the input voltage frequency cycle, and that creates a condition when triac-based dimmers will have "zero" current and will not "hold" conduction and will create flicker.

43. The increased (high) power factor CFL's have input current relatively proportional to input voltage and the triac dimmer will not create flicker.

44. In addition, one basic feature of electronic ballasts is circuitry to rectify an alternating input power into a direct power supply, which is the supply that ultimately powers the CFL. The rectifying circuitry is typically a full-bridge rectifier. As explained in the '480 patent, conventional electronic ballasts employ a capacitive smoothing filter in connection with the rectifier circuit. '480 patent at 1:45-63. These conventional ballasts can suffer from current spikes in the rectified supply, which can lead to poor power factor.

45. An object of the '480 patent is to "provide a relatively simple, cost effective, highly reliable and highly efficient electronic ballast for a variety of gas discharge loads and power level requirements." '480 patent at 2:59-62.

46. Claim 9 of the '480 patent provides:

An electronic device for powering a gas discharge load from a low frequency power line source wherein the device draws a current proportional to a voltage of the power line, the device comprising:

a resonant oscillator circuit having a switching transistor and adapted to energize the gas discharge load;

a power line voltage rectifier; and

a resonant boosting circuit integrated into the power line voltage rectifier to perform boost switching and rectifying functions developed by and synchronized with a pulsating current drawn from the rectifier by the resonant oscillator circuit.

47.

VI. The '318 Patent

A. Identification of the Patent and Ownership by Neptun with Mr. Bobel's Exclusive Rights to Enforce the '318 patent

48. The '318 patent is entitled "Apparatus and Method Enabling Fully Dimmable Operation of a Compact Fluorescent Lamp. The '318 Patent issued from U.S. Application No. 12/165,347, which was filed on June 30, 2008.

49. Mr. Bobel is the named inventor of the '318 patent and Neptun is listed as the assignee of the '318 patent. A certified copy of the assignment can be found at Exhibit 3. Subsequent to the assignment to Neptun, Mr. Bobel and Neptun entered into an agreement by which Mr. Bobel obtained the exclusive right to enforce the '318 patent. *See* Exhibit 4C. The '318 patent is valid, enforceable, and currently is in full force and effect.

50. Pursuant to Rule 210.12(c) of the Commission's Rules of Practice and Procedure, this Complaint is accompanied by an Appendix containing: (A) Four copies of the file history of

the '318 patent, and (B) four copies of each patent and applicable pages of each technical reference mentioned in that prosecution history.

B. Description of the Patented Invention²

51. The '318 patent is directed to an electronic ballast for enabling a full range of dimming of a CFL. *See* '318 patent at Abstract.

52. As described above, one problem with dimmable CFLs is visible flicker during the dimming operation. This flicker can be related to a ripple voltage present at the storage capacitor. The voltage ripple should be kept to a minimum at all dimming levels.

53. As the '318 patent explains, the range of the dimmer is the result of energy feedback. The energy feedback is not self-adjustable and provides increased energy feedback from the output to the input while the dimming function is performed. This leads to undesired drop of frequency of operation when the resonant circuit will have a capacitive impedance character. This leads to destructive cross conduction of the switching transistors. '318 patent at 1:34-53.

54. The '318 patent addresses the deficiencies in ballast circuitry by providing a ballast circuit that enables a fully dimmable compact fluorescent lamp.

55. Claim 12 of the '318 patent provides:

An electronic ballast circuit capable of receiving power from low frequency AC power line voltage source regulated by a dimmer and adapted to operate gas discharge load, the electronic ballast comprising:

An oscillator circuit comprised of two integrated and synchronized resonant circuits having two resonant capacitors and one common resonant inductor, wherein one resonant circuit is used to operate the gas discharge load and the other resonant circuit is to provide for a

² The content of this Complaint, including this section (i.e., "Description of the Patented Invention"), does not, and is not intended to, construe either the specification or claims of the '318 patent).

feedback of energy and a clamping of the oscillator circuit to the AC power line in order to perform dimming function of the gas discharge load by the dimmer.

VII. FOREIGN COUNTERPARTS TO THE '480 AND '318 PATENTS

56. There are no foreign patents, no foreign patent applications (not already issued as patents) and no foreign patent applications that have been denied, abandoned or withdrawn corresponding to the '480 and '318 patents. There are no pending foreign applications corresponding to the '480 patent. The foreign applications for the '318 patent are still pending.

VIII. UNLAWFUL AND UNFAIR ACTS OF PROPOSED RESPONDENTS

A. Proposed Maxlite Respondents

57. On information and belief, the proposed Maxlite Respondents' accused dimmable CFLs directly (35 U.S.C. § 271(a)) infringe at least claim 9 of the '480 patent. Discovery may reveal that the Maxlite Respondents infringe additional claims of the '480 patent. A claim chart applying claim 9 to a representative Maxlite dimmable CFL, model number MLS25GUDWW, is attached as Exhibit 5.³ A picture of the ballast used in connection with the MLS25GUDWW is shown in Exhibit 6. A Maxlite dimmable CFL, model number MLS25GUDWW is set forth in Physical Exhibit PE-1.

58. The proposed Maxlite Respondents use, sale, offer for sale, import and/or sell after importation accused dimmable CFLs including the MLS25GUDWW that directly infringe claim 9 of the '480 patent. On information and belief, the accused dimmable CFLs are manufactured at least in China by or for the Maxlite Respondents and are imported into the United States, sold for importation, sold within the United States after importation by the

³ The infringement allegations contained herein are not limited to the representative product and includes all infringing products discovered during discovery and which are within the title of the requested Investigation.

proposed Maxlite Respondents. Exhibit 7 is product packaging for the MLS25GUDWW, which shows that the product was made in China. Exhibit 8 is a receipt for the MLS25GUDWW showing that the product was purchased in the United States.

59. On information and belief, the accused products when imported into the United States are classified under tariff code 8539.31.00, with the following suffixes 50, 60, and 70. Discovery may reveal additional Maxlite dimmable CFLs that infringe the '480 patent.

B. Proposed GE Respondents

60. On information and belief, the proposed GE Respondents' accused dimmable CFLs directly (35 U.S.C. § 271(a)) infringe at least claim 9 of the '480 patent. Discovery may reveal that the GE Respondents infringe additional claims of the '480 patent. A claim chart applying claim 9 to a representative GE dimmable CFL, model number FLE26/2/DV/R40, is attached as Exhibit 9.⁴ A picture of the ballast used in connection with the FLE26/2/DV/R40 is shown in Exhibit 10. A GE dimmable CFL, model number FLE26/2/DV/R40 is set forth in Physical Exhibit PE-2.

61. The proposed GE Respondents use, sale, offer for sale, import and/or sell after importation accused dimmable CFLs including the FLE26/2/DV/R40 that directly infringe claim 9 of the '480 patent. On information and belief, the accused dimmable CFLs are manufactured at least in China by or for the GE Respondents and are imported into the United States, sold for importation, sold within the United States after importation by the proposed GE Respondents. Exhibit 11 is product packaging for the FLE26/2/DV/R40, which shows that the product was

⁴ The infringement allegations contained herein are not limited to the representative product and includes all infringing products discovered during discovery and which are within the title of the requested Investigation.

made in China. Exhibit 12 is a receipt for the FLE26/2/DV/R40 showing that the product was purchased in the United States.

62. On information and belief, the accused products when imported into the United States are classified under tariff code 8539.31.00, with the following suffixes 50, 60, and 70. Discovery may reveal additional GE dimmable CFLs that infringe the '480 patent.

C. Proposed ULA Respondents

63. On information and belief, the proposed ULA Respondents' accused dimmable CFLs directly (35 U.S.C. § 271(a)) infringe at least claim 9 of the '480 patent. Discovery may reveal that the ULA Respondents infringe additional claims of the '480 patent. A claim chart applying claim 9 to a representative ULA dimmable CFL, model number STS-23W, is attached as Exhibit 13.⁵ A picture of the ballast used in connection with the STS-23W is shown in Exhibit 14. A ULA dimmable CFL, model number STS-23W is set forth in Physical Exhibit PE-3.

64. The STS-23W is marked with U.S. Patent No. 7,750,580. This patent is entitled "Dimmable, High Power Factor Ballast For Gas Discharge Lamps." ULA is precluded from arguing that it does not practice U.S. Patent No. 7,750,580.

65. The proposed ULA Respondents use, sale, offer for sale, import and/or sell after importation accused dimmable CFLs including the STS-23W that directly infringe claim 9 of the '480 patent. On information and belief, the accused dimmable CFLs are manufactured at least in China by or for the ULA Respondents and are imported into the United States, sold for importation, sold within the United States after importation by the proposed ULA Respondents.

⁵ The infringement allegations contained herein are not limited to the representative product and includes all infringing products discovered during discovery and which are within the title of the requested Investigation.

Exhibit 15 is product packaging for the STS-23W, which shows that the product was made in China. Exhibit 16 is a receipt for the STS-23W showing that the product was purchased in the United States.

66. On information and belief, the accused products when imported into the United States are classified under tariff code 8539.31.00, with the following suffixes 50, 60, and 70. Discovery may reveal additional ULA dimmable CFLs that infringe the '480 patent.

D. Proposed Feit Respondents

1. The '480 Patent

67. On information and belief, the proposed Feit Respondents' accused dimmable CFLs directly (35 U.S.C. § 271(a)) infringe at least claim 9 of the '480 patent. Discovery may reveal that the Feit Respondents infringe additional claims of the '480 patent. A claim chart applying claim 9 to a representative Feit dimmable CFL, model number ESL15R30/DIM, is attached as Exhibit 17.⁶ A picture of the ballast used in connection with the ESL15R30/DIM is shown in Exhibit 18. A Feit dimmable CFL, model number ESL15R30/DIM is set forth in Physical Exhibit PE-4.

68. The proposed Feit Respondents use, sale, offer for sale, import and/or sell after importation accused dimmable CFLs including the ESL15R30/DIM that directly infringe claim 9 of the '480 patent. On information and belief, the accused dimmable CFLs are manufactured at least in China by or for the Feit Respondents and are imported into the United States, sold for importation, sold within the United States after importation by the proposed Feit Respondents. Exhibit 19 is product packaging for the ESL15R30/DIM, which shows that the product was

⁶ The infringement allegations contained herein are not limited to the representative product and includes all infringing products discovered during discovery and which are within the title of the requested Investigation.

made in China. Exhibit 20 is a receipt for the ESL15R30/DIM showing that the product was purchased in the United States.

69. On information and belief, the accused products when imported into the United States are classified under tariff code 8539.31.00, with the following suffixes 50, 60, and 70. Discovery may reveal additional Feit dimmable CFLs that infringe the '480 patent.

2. The '318 Patent

70. On information and belief, the proposed Feit Respondents' accused dimmable CFLs directly (35 U.S.C. § 271(a)) infringe at least claim 12 of the '318 patent. Discovery may reveal that the Feit Respondents infringe additional claims of the '318 patent. A claim chart applying claim 12 to a representative Feit dimmable CFL model number ESL15R30/DIM is attached as Exhibit 21. A picture of the ballast used in connection with the ESL15R30/DIM is shown in Exhibit 18.

71. The proposed Feit Respondents use, sale, offer for sale, import and/or sell after importation accused dimmable CFLs including the ESL15R30/DIM that directly infringe claim 12 of the '318 patent. On information and belief, the accused dimmable CFLs are manufactured at least in China by or for the Feit Respondents and are imported into the United States, sold for importation, sold within the United States after importation by the proposed Feit Respondents. Exhibit 19 is product packaging for the ESL15R30/DIM, which shows that the product was made in China. Exhibit 20 is a receipt for the ESL15R30/DIM showing that the product was purchased in the United States.

72. On information and belief, the accused products when imported into the United States are classified under tariff code 8539.31.00, with the following suffixes 50, 60, and 70. Discovery may reveal additional Feit dimmable CFLs that infringe the '318 patent.

E. Proposed TCP Respondents

73. On information and belief, the proposed TCP Respondents' accused dimmable CFLs directly (35 U.S.C. § 271(a)) infringe at least claim 12 of the '318 patent. Discovery may reveal that the TCP Respondents infringe additional claims of the '318 patent. A claim chart applying claim 12 to a representative TCP dimmable CFL, model number 4R3016TD is attached as Exhibit 22.⁷ A picture of the ballast used in connection with the 4R3016TD is shown in Exhibit 23. A TCP dimmable CFL, model number 4R3016TD is set forth in Physical Exhibit PE-6.

74. The proposed TCP Respondents use, sale, offer for sale, import and/or sell after importation accused dimmable CFLs including the 4R3016TD that directly infringe claim 12 of the '318 patent. On information and belief, the accused dimmable CFLs are manufactured at least in China by or for the TCP respondents and are imported into the United States, sold for importation, sold within the United States after importation by the proposed TCP Respondents. Exhibit 24 is product packaging for the 4R3016TD, which shows that the product was made in China. Exhibit 25 is a receipt for the 4R3016TD showing that the product was purchased in the United States.

75. On information and belief, the accused products when imported into the United States are classified under tariff code 8539.31.00, with the following suffixes 50, 60, and 70. Discovery may reveal additional TCP dimmable CFLs that infringe the '318 patent.

IX. SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE

76. On information and belief, accused Maxlite dimmable CFLs, including the MLS25GUDWW, are manufactured abroad, including in China. See Exhibit 7. On information

⁷ The infringement allegations contained herein are not limited to the representative product and includes all infringing products discovered during discovery and which are within the title of the requested Investigation.

and belief, the Maxlite Respondents import the Maxlite dimmable CFLs in the United States for sale, sell those accused products for importation, and/or sell those accused products after importation. *See, e.g.,* Exhibits 7 and 8.

77. Exhibit 7 shows the product packaging for the Maxlite MLS25GUDWW, which states that the dimmable CFL was made in China.

78. Exhibit 8 shows the receipt for the purchase of the Maxlite MLS25GUDWW in the United States, demonstrating that the MLS25GUDWW was imported and sold after importation in the United States.

79. On information and belief, accused GE dimmable CFLs, including the FLE26/2/DV/R40, are manufactured abroad, including in China. *See* Exhibit 11. On information and belief, the GE Respondents import the GE dimmable CFLs in the United States for sale, sell those accused products for importation, and/or sell those accused products after importation. *See* Exhibits 11 and 12.

80. Exhibit 11 shows the product packaging for the GE FLE26/2/DV/R40, which states that the dimmable CFL was made in China.

81. Exhibit 12 shows the receipt for the purchase of the GE FLE26/2/DV/R40 in the United States, demonstrating that the FLE26/2/DV/R40 was imported and sold after importation in the United States.

82. On information and belief, accused ULA dimmable CFLs, including the STS-23W, are manufactured abroad, including in China. *See* Exhibit 15. On information and belief, the ULA Respondents import the ULA dimmable CFLs in the United States for sale, sell those accused products for importation, and/or sell those accused products after importation. *See* Exhibits 15 and 16.

83. Exhibit 15 shows the product packaging for the STS-23W, which states that the dimmable CFL was made in China.

84. Exhibit 16 shows the receipt for the purchase of the ULA STS-23W in the United States, demonstrating that the STS-23W was imported and sold after importation in the United States.

85. On information and belief, accused Feit dimmable CFLs, including the ESL15R30/DIM, are manufactured abroad, including in China. *See* Exhibit 19. On information and belief, the Feit Respondents import the Feit dimmable CFLs in the United States for sale, sell those accused products for importation, and/or sell those accused products after importation. *See* Exhibits 19 and 20.

86. Exhibit 19 shows the product packaging for the Feit ESL15R30/DIM, which states that the dimmable CFL was made in China.

87. Exhibit 20 shows the receipt for the purchase of the Feit ESL15R30/DIM in the United States, demonstrating that the ESL15R30/DIM was imported and sold after importation in the United States.

88. On information and belief, accused TCP dimmable CFLs, including the 4R3016TD, are manufactured abroad, including in China. *See* Exhibit 24. On information and belief, TCP imports the TCP dimmable CFLs in the United States for sale, sell those accused products for importation, and/or sell those accused products after importation. *See* Exhibits 24 and 25.

89. Exhibit 24 shows the product packaging for TCP 4R3016TD, which states that the dimmable CFL was made in China.

90. Exhibit 25 shows the receipt for the purchase of the TCP 4R3016TD in the United States, demonstrating that the 4R3016TD was imported and sold after importation in the United States.

X. LICENSE

91. There are two licensees to the '480 patent. One is to Technical Consumer Products, Inc. See Confidential Exhibit 26C. And the other is to Neptun. See Confidential Exhibit 27C.

XI. DOMESTIC INDUSTRY

92. A domestic industry, as defined by 19 U.S.C. § 1337(a)(3)(A), (B) and (C), exists with respect to the Complainant's activities in the United States related to articles protected by the '480 patent by reasons of Complainant's (a) significant investment in plan and equipment, (b) significant employment of labor and capital and (c) substantial investment in the exploitation of the '480 and '318 patents, such as substantial engineering activities, patent procurement, licensing efforts, R&D activities, consultation, manufacturing, product sales, sales support, licensing and operations.

93. For example, Mr. Bobel is the inventor of the '480 and '318 patents. Mr. Bobel expended significant time and money on the development of the invention in the United States, which he accomplished himself. This investment included paying all of the U.S. Patent and Trademark Office fees connected with the application and prosecution of the '480 and '318 patent.

94. Mr. Bobel's company, Neptun, was established to market and sell energy efficient electric lamps including dimmable CFL's protected by the '480 and '318 patents. See Confidential Exhibit 28C. And Neptun itself has made substantial investments in labor, capital, research and development, and marketing to develop, market and sell dimmable CFLs that

practice the '480 and '318 patents. These investments include investments in engineers, technicians, laboratory equipment, and a sales and marketing team. See Confidential Exhibit 28C. Neptun currently has over fifteen different models of dimmable CFLs that it currently sells in the United States. See Exhibit 32. All of these activities have occurred in the United States. See Confidential Exhibit 28C. And dimmable CFLs represent a substantial portion of Neptun's business. See Confidential Exhibit 28C.

A. Technical Prong

95. As required by Section 337(a)(2) and defined by Section 337(a)(3), and industry in the United States exists in connection with articles protected by the '480 and '318 patents. As described above, Neptun is in the business of developing, designing and manufacturing dimmable CFLs, which practice both the '318 and '480 patents. Claim 9 of the '480 patent reads on a representative Neptun's dimmable CFL R30. A claim chart demonstrating that Neptun's R30 practices the claim 9 of the '480 patent is shown in Exhibit 29. A picture of the ballast used in the R30 is shown in Exhibit 31. A Neptun CFL R30 TCP dimmable CFL is set forth in Physical Exhibit PE-6.

96. Claim 12 of the '318 patent reads on Neptun's R30 dimmable CFL. A claim chart demonstrating that Neptun's R30 practices claim 12 of the '318 patent is shown in Exhibit 30. A picture of the R30, its packaging, and the ballast used in the R30 is shown in Exhibit 31.

B. Economic Prong

97. Mr. Bobel's company, Neptun, was established to market and sell energy efficient electric lamps including dimmable CFL's protected by the '480 and '318 patents. See Confidential Exhibit 28C. And Neptun itself has made substantial investments in labor, capital, research and development, and marketing to develop, market and sell dimmable CFLs that practice the '480 and '318 patents. These investments include investments in engineers, technicians, laboratory equipment, and a sales and marketing team. See Confidential Exhibit 28C. Neptun currently has over fifteen different models of dimmable CFLs that it currently sells in the United States. See Exhibit 32. All of these activities have occurred in the United States. See Confidential Exhibit 28C. And dimmable CFLs represent a substantial portion of Neptun's business. See Confidential Exhibit 28.

98. Mr. Bobel also has established a domestic industry in licensing. Not only is Neptun a licensee of the '480 patent but the '480 patent has been licensed to another dimmable CFL manufacturer. See Confidential Exhibit 28.

XII. RELATED LITIGATION

99. There are no related litigations pending or previously filed relating to the '480 and '318 patents.

XIII. RELIEF REQUESTED

WHEREFORE, by reason of the foregoing, Mr. Bobel and Neptun request that the United States International Trade Commission:

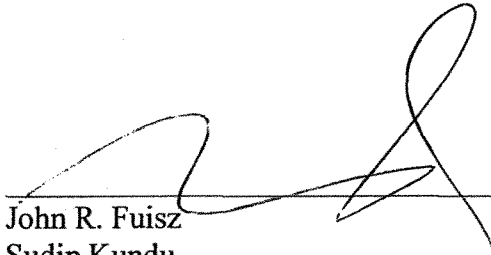
- a. Institute an investigation, pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, with respect to violations of that section based on the unlawful importation into the United States of products that infringe the '480 and '318 patents;
- b. Render a determination that Mr. Bobel and Neptun have established an industry in the United States relating to articles protected by the '318 and '480 patents;
- c. Render a determination that the asserted claim 9 of the '480 patent is valid and enforceable;
- d. Render a determination that the asserted claim 12 of the '318 patent is valid and enforceable;
- d. Render a determination that the GE, Maxlite, ULA and Feit Electric Respondents are importing, selling for importation and/or selling after importation into the United States, dimmable CFLs that infringe one or more of the asserted claims of the '480 patents;
- e. Render a determination that the Feit Electric and TCP Respondents are importing, selling for importation and/or selling after importation into the United States, dimmable CFLs that infringe one or more of the asserted claims of the '318 patents;
- f. Render a determination that Respondents importation, sale for importation and/or sale after importation into the United States of dimmable CFLs constitutes one or more violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337;
- g. Issue a permanent limited exclusion order pursuant to Section 337(d) of the Tariff Act of 1930, as amended, excluding from entry into the United States all dimmable CFLs that are

manufactured, imported, or sold for importation by or on behalf of Respondents and which infringe one or more of the asserted claims of the '480 and '318 patents;

h. Issue permanent cease and desist orders pursuant to Section 337(f) of the Tariff Act of 1930, as amended, prohibiting the Respondents from importing, selling for importation and/or selling after importation into the United States, dimmable CFLs that infringe one or more of the asserted claims of the '480 and '318 patents;

i. Grant such other and further relief as the Commission deems just and proper under the law, based on the facts determined by the investigation and the authority of the Commission.

Dated: January 23, 2012



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