

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN LIGHT-EMITTING DIODES
AND PRODUCTS CONTAINING SAME

Inv. No. 337-TA-798

**ORDER NO. 38: INITIAL DETERMINATION GRANTING JOINT MOTION TO
TERMINATE THE INVESTIGATION**

(August 10, 2012)

On August 9, 2012, complainants Samsung LED Co., Ltd. (“SLED”) and Samsung LED America, Inc. (“SLA”) (collectively “Samsung”)¹ and respondents OSRAM AG, OSRAM Opto Semiconductors GmbH, OSRAM Opto Semiconductors Inc., and OSRAM Sylvania Inc. (collectively “OSRAM”) filed a joint motion to terminate the investigation in its entirety based on a settlement agreement and to stay the investigation pending disposition of the motion to terminate. (Motion Docket No. 798-049.) Because this order grants the motion to terminate the investigation in its entirety, the request to stay the investigation is moot.

The Commission’s Rules provide that “[a]ny party may move at any time to terminate an investigation in whole or in part as to any or all respondents on the basis of a settlement, a licensing or other agreement...” 19 CFR § 210.21(a)(2). In the instant investigation, the motion to terminate is based on a settlement agreement between OSRAM AG and Samsung Electronics Co., Ltd.

¹ On August 7, 2012, I issued an Initial Determination Granting Complainants’ Motion to Amend the Complaint and Notice of Investigation to substitute Samsung Electronics Co., Ltd. (“SEC”) for SLED and SLA. (Order No. 36.) The settlement agreement has been signed by SEC.

PUBLIC VERSION

The moving papers state, in compliance with 19 CFR § 210.21(b)(1), that “other than the attached settlement agreement, there are no agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation.” (Mot. Mem. at 2.) The motion also contains, as attachments, copies of the public and confidential versions of the settlement agreements as required by 19 CFR § 210.21(b)(1). The public settlement agreement is attached hereto as Exhibit 1.

19 CFR § 210.50(b)(2) provides that in the case of a proposed termination by settlement agreement, the parties may file statements regarding the impact of the proposed termination on the public interest, and the administrative law judge may hear argument, although no discovery may be compelled, with respect to issues relating solely to the public interest. In any initial determination terminating an investigation by settlement agreement or consent order, the administrative law judge is directed to consider and make appropriate findings regarding the effect of the proposed settlement on the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers. 19 CFR § 210.50(b)(2).

Samsung and OSRAM contend that “[i]t is in the interest of the public and administrative economy to grant this motion. Commission policy and the public interest favor settlements, which preserve resources for both the Commission and the private parties.” (Mot. Mem. at 2.) I find that termination of this investigation in its entirety does not impose any undue burdens on the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers.

PUBLIC VERSION

ORDER

Accordingly, the motion complies with all requirements of 19 CFR § 210.21(b) and it is my Initial Determination that the joint motion to terminate this investigation in its entirety based on a settlement agreement is hereby GRANTED. This Initial Determination, along with supporting documentation, is hereby certified to the Commission.

Pursuant to 19 CFR § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review of the Initial Determination pursuant to 19 CFR § 210.43(a), or the Commission, pursuant to 19 CFR § 210.44, orders, on its own motion, a review of the Initial Determination or certain issues herein.

SO ORDERED.



Robert K. Rogers, Jr.
Administrative Law Judge

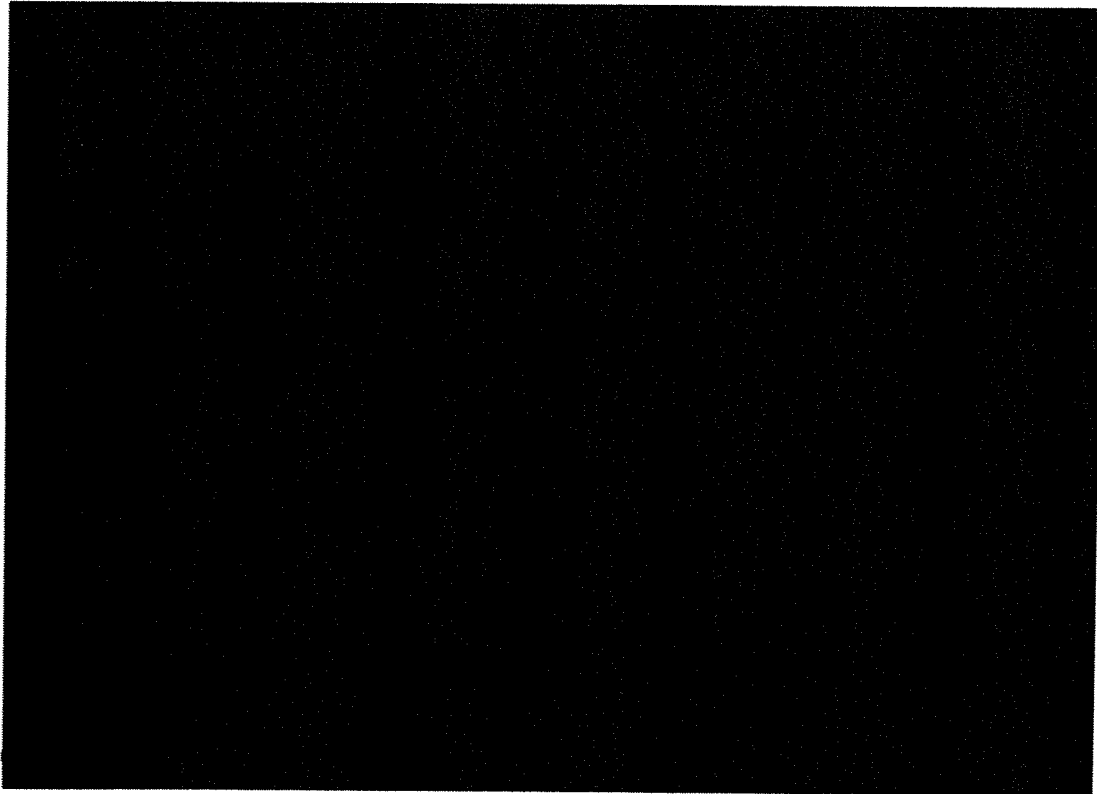
Exhibit 1

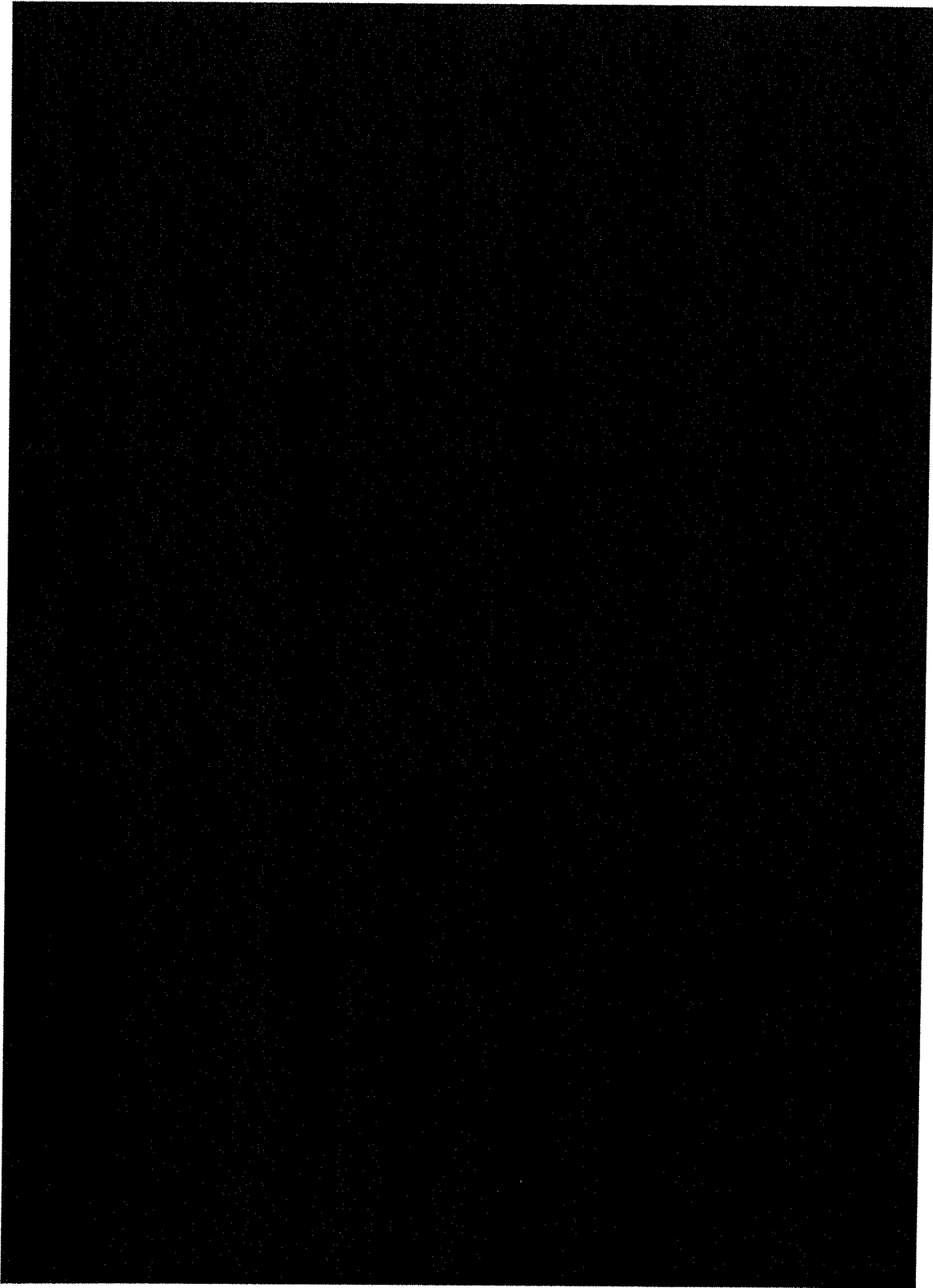
SETTLEMENT AGREEMENT

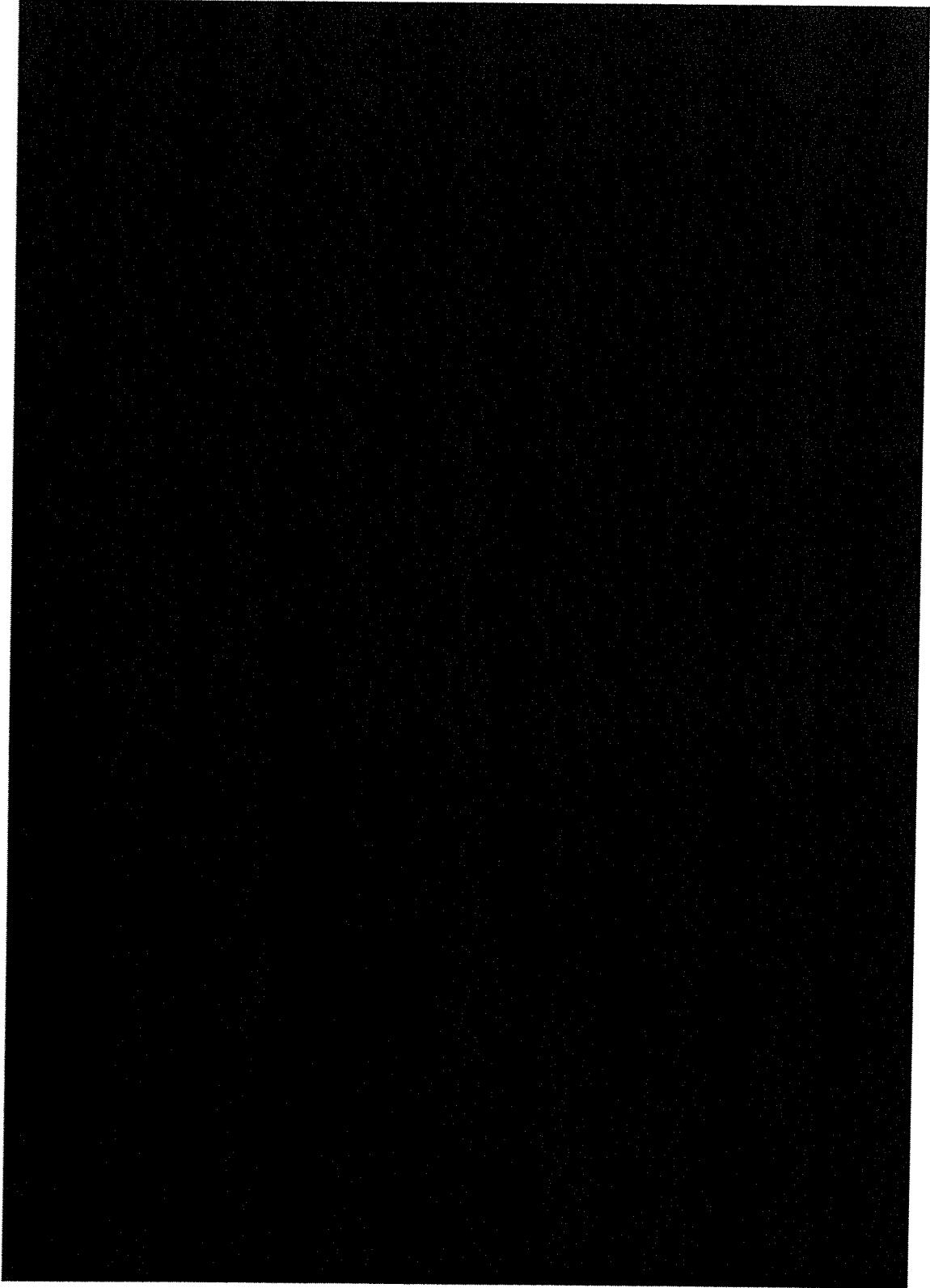
This settlement agreement ("Agreement") shall be by and between OSRAM AG, a German company having its principal place of business in Munich, Germany ("OSRAM") and Samsung Electronics Co., Ltd., a Korean company and successor-in-interest to Samsung LED Co. Ltd., having its principal place of business in Seoul, Korea ("Samsung"). This Agreement shall be effective on August 8, 2012 ("Effective Date").

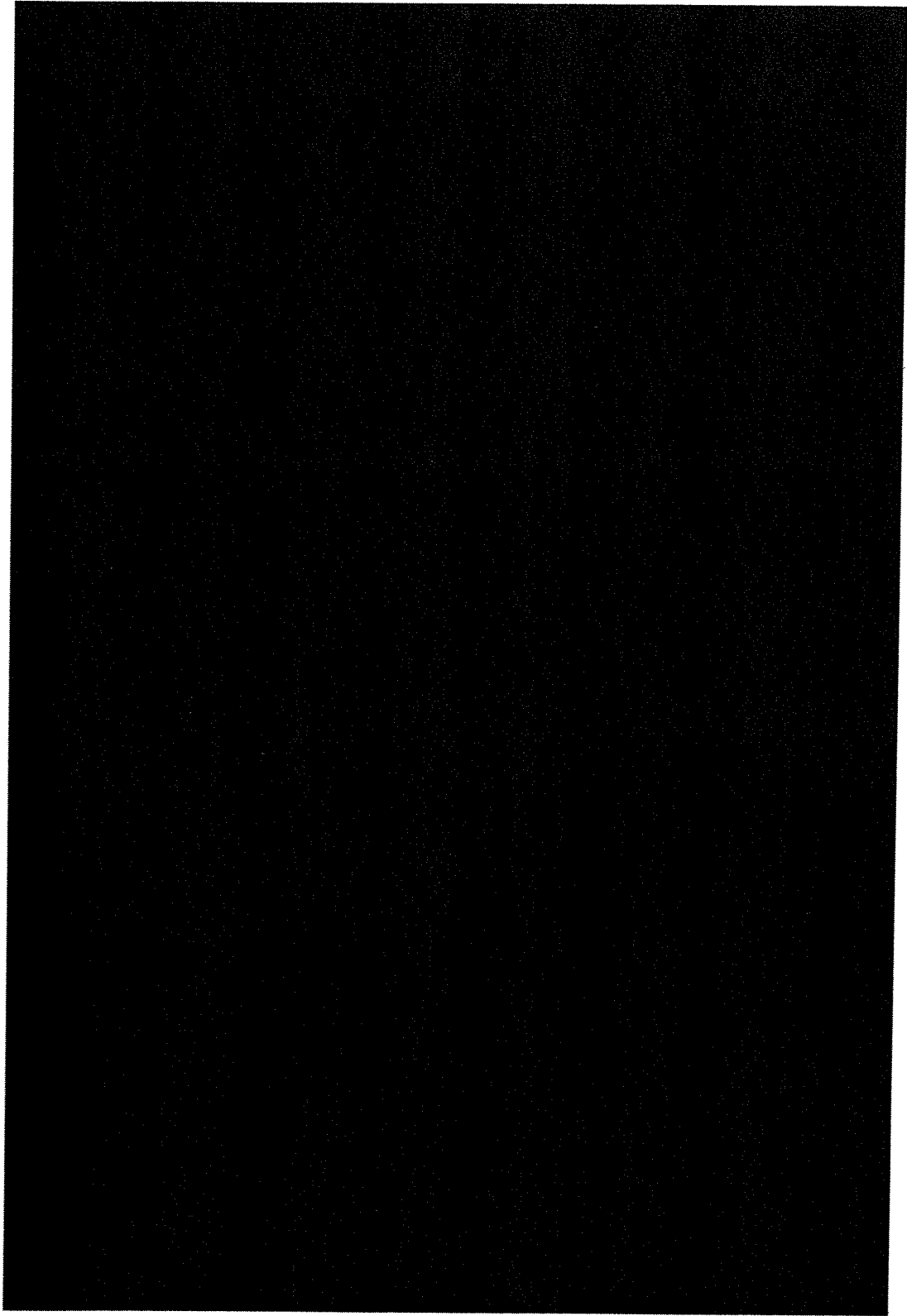
RECITALS

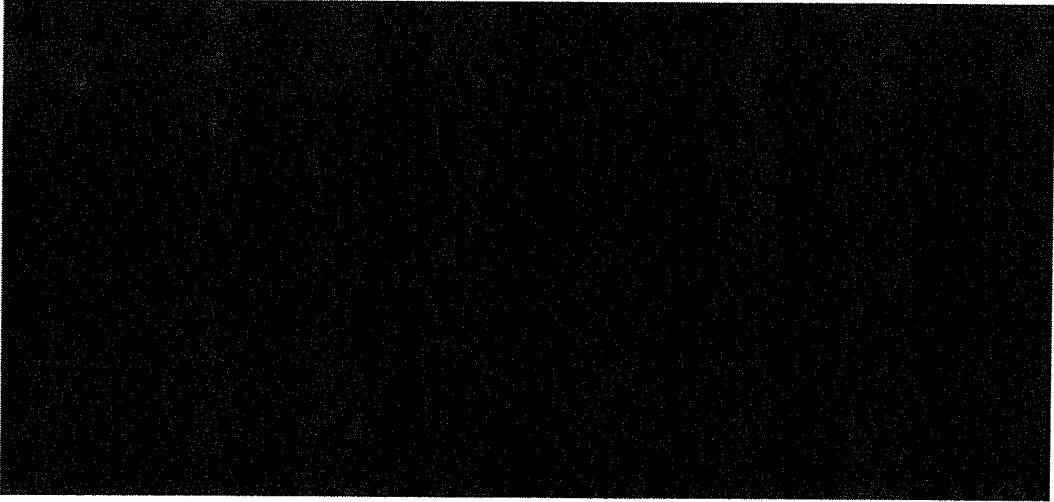
- A. OSRAM makes and sells lighting products and opto-semiconductor components including light emitting diodes (LEDs); OSRAM owns patents and other intellectual property related to LED technologies.
- B. Samsung makes and sells consumer electronics and semiconductor components including LEDs; Samsung owns patents and other intellectual property related to LED technologies.
- C. OSRAM and Samsung are currently involved in various patent suits and patent invalidity proceedings in Germany, Korea and the United States of America ("Patent Suits"), including without limitation Investigations Nos. 337-TA-785 and 337-TA-798 before the US International Trade Commission ("ITC Proceedings").





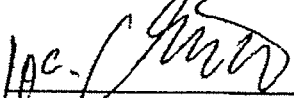




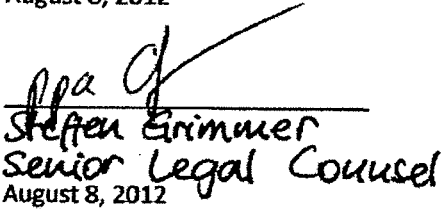


[Signature Page Follows]

Agreed on behalf of OSRAM



Ulrich Mueller
SVP & GC
August 8, 2012



Stefan Grimmer
Senior Legal Counsel
August 8, 2012

Agreed on behalf of Samsung



Jay Shin
VP & Director of Licensing
August 8, 2012

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Inv. No. 337-TA-798

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER** was served upon the following parties via first class mail delivery on August 10, 2012



Lisa R. Barton, Acting Secretary
U.S. International Trade Commission
500 E Street SW, Room 112A
Washington, D.C. 20436

FOR COMPLAINANTS SAMSUNG LED CO., LTD. and SAMSUNG LED AMERICA, INC.:

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**FOR RESPONDENTS OSRAM GMBH, OSRAM OPTO SEMICONDUCTORS GMBH,
OSRAM OPTO SEMICONDUCTORS INC. and OSRAM SYLVANIA INC.:**

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PUBLIC CERTIFICATE OF SERVICE PAGE 2

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