

PUBLIC VERSION

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.

Before the Honorable Robert K. Rogers
Administrative Law Judge

In the Matter of

CERTAIN LIGHT-EMITTING DIODES
AND PRODUCTS CONTAINING THE
SAME

Investigation No. 337-TA-798

**JOINT MOTION TO TERMINATE THE INVESTIGATION PURSUANT TO
SETTLEMENT AND MOTION TO STAY THE PROCEDURAL SCHEDULE**

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”) jointly move pursuant to Commission Rules §§210.21(a)(2) and 210.21(b) to terminate this Investigation in its entirety based on a settlement agreement (“Motion to Terminate”). Complainants and Respondents also jointly move the Administrative Law Judge to stay the procedural schedule in this Investigation pending disposition of the Motion to Terminate by the Administrative Law Judge and the Commission. The Motion, if granted, will terminate this Investigation in its entirety.

Attached hereto as **Confidential Exhibit A** is a copy of the parties’ settlement agreement which contains Confidential Business Information within the meaning of 19 C.F.R. §201.6. The

¹ On August 7, 2012, the Administrative Law Judge 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. (Confidential Exhibit A.)

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parties, therefore, request that Confidential Exhibit A be treated as Confidential Business Information under the Protective Order (Order No. 1).²

Attached hereto as **Exhibit B** is a public version of the agreement that, pursuant to Commission Rule §210.21(b)(1), deletes the parties' Confidential Business Information.

In compliance with Commission Rule §210.21(b)(1), the parties state that there are no other agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation.

In compliance with Commission Rule §210.50(b)(2), the parties state that the termination of this Investigation is in the public interest in that the termination does not affect the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers.

Pursuant to Ground Rule 3.2, Samsung and OSRAM have worked together to prepare, and agree on, this joint motion. There are no other parties to this Investigation, and Staff has not been assigned.

Accordingly, Samsung and OSRAM jointly request that the Investigation be terminated in its entirety pursuant to Commission Rules §§210.21(a)(2) and 210.21(b) and that the Procedural Schedule be stayed while the motion is under review by the Administrative Law Judge and the Commission.

² In compliance with Commission Rule §210.21(b)(1), the parties are also submitting a public version of this motion, which does not include Confidential Exhibit A.

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Dated: August 9, 2012

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Dated: August 9, 2012

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Before the Honorable Robert K. Rogers
Administrative Law Judge

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CERTAIN LIGHT-EMITTING DIODES
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Investigation No. 337-TA-798

**MEMORANDUM IN SUPPORT OF JOINT MOTION TO TERMINATE
THE INVESTIGATION PURSUANT TO SETTLEMENT AND
MOTION TO STAY THE PROCEDURAL SCHEDULE**

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”) submit this memorandum in support of their joint motion pursuant to Commission Rules §§210.21(a)(2) and 210.21(b) to terminate this Investigation in its entirety based on a settlement agreement. The motion, if granted, will terminate this Investigation in its entirety.

Commission Rule 210.21(a)(2) provides, in relevant part, 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....” Commission Rule 210.21(b)(1) provides in relevant part “[a]n investigation before the Commission may be terminated as to one or more

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respondents pursuant to section 337(c) of the Tariff Act of 1930 on the basis of a licensing or other settlement agreement.”

There are no procedural impediments to granting the joint motion. *First*, the parties have confirmed, in compliance Commission Rule 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. *Second*, termination of this Investigation is in the public interest in that the termination does not affect the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers. *Finally*, the parties have attached a complete, confidential copy of the settlement agreement and a public version in compliance with Commission Rule 210.21(b)(1).

The binding settlement agreement executed by Samsung and OSRAM resolves the disputes between the parties in this Investigation (and other legal proceedings throughout the world between Samsung and OSRAM involving LED technology). Among other terms, the settlement agreement includes [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

In these circumstances, Commission Rule §210.21 authorizes the Administrative Law Judge to terminate an investigation. It 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. Termination based on a settlement agreement is routinely granted. *See, e.g., Certain Equipment for Telecommunications*

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or Data Communications Networks, Including Routers, Switches, & Hubs, & Components Thereof, Inv. No. 337-TA-574, Order No. 27 at 4 (May 24, 2007); *Certain Safety Eyewear & Components Thereof*, Inv. No. 337-TA-433, Order No. 37 at 2 (Nov. 3, 2000); *Certain Synchronous Dynamic Random Access Memory Devices, Microprocessors, & Products Containing Same*, Inv. No. 337-TA-431, Order No. 11 at 2 (July 13, 2000); *Certain Integrated Circuit Chipsets & Products Containing Same*, Inv. No. 337-TA-428, Order No. 16 at 5 (Aug. 22, 2000).

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CONCLUSION

For the foregoing reasons and those in the joint motion, the parties jointly request that the motion be granted, and that this Investigation be terminated in its entirety pursuant to Commission Rules §§210.21(a)(2) and 210.21(b) and that the Procedural Schedule be stayed pending review by the Administrative Law Judge and the Commission of the Motion to Terminate.

Dated: August 9, 2012

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Counsel for Samsung Complainants

Dated: August 9, 2012

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EXHIBIT A

REDACTED IN ITS
ENTIRETY

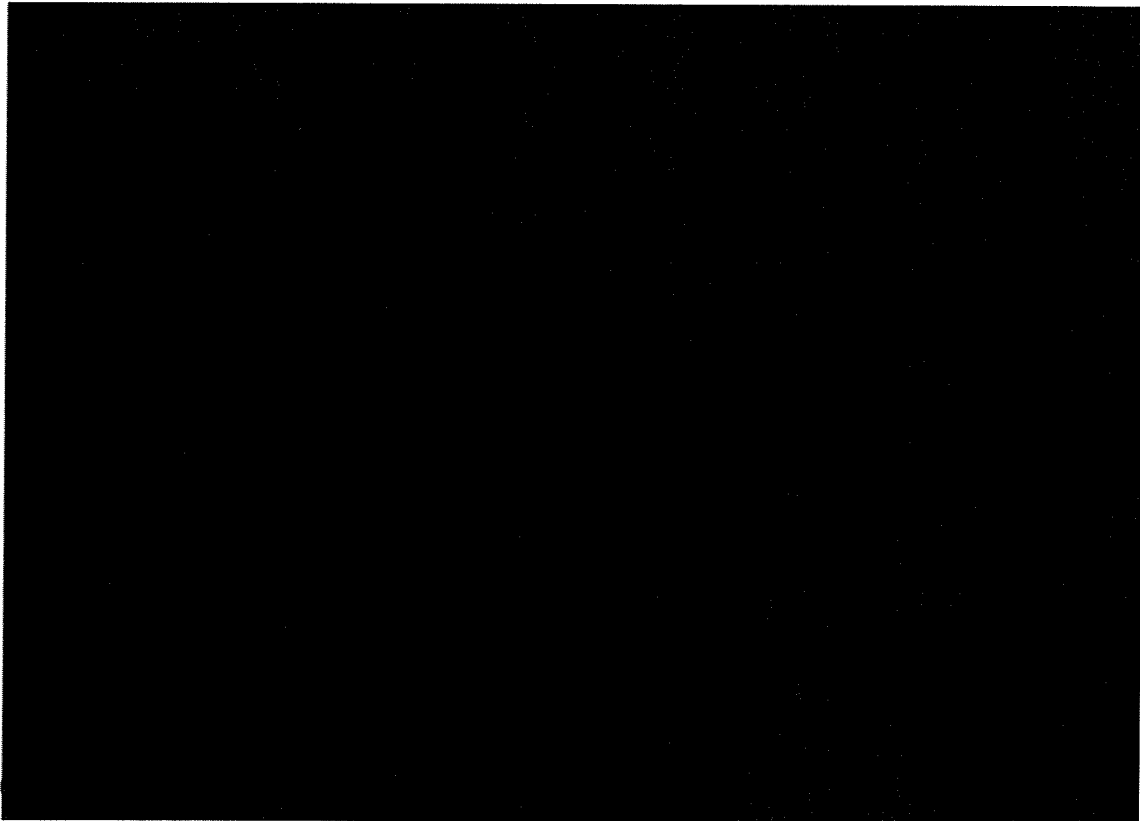
EXHIBIT B

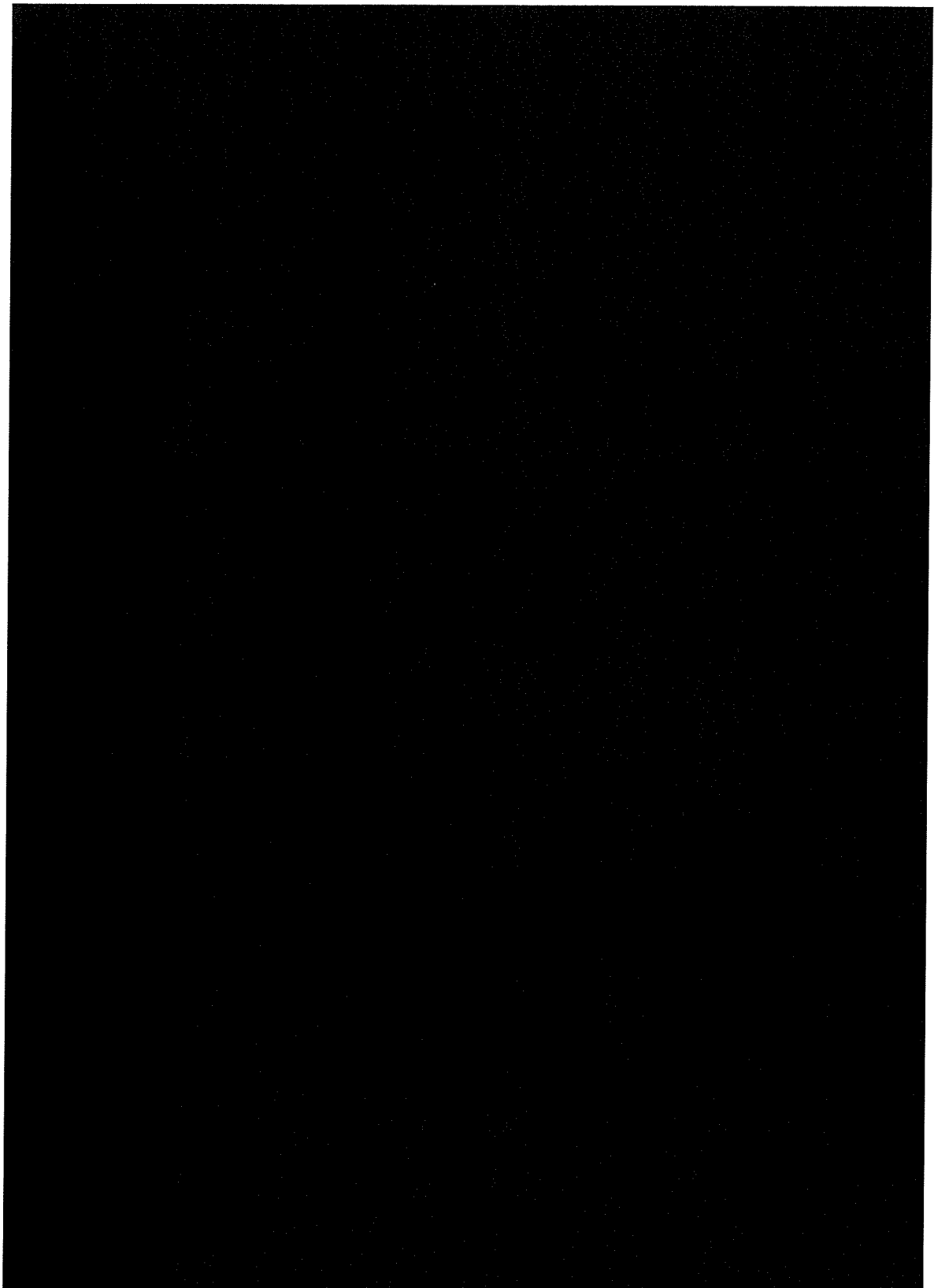
SETTLEMENT AGREEMENT

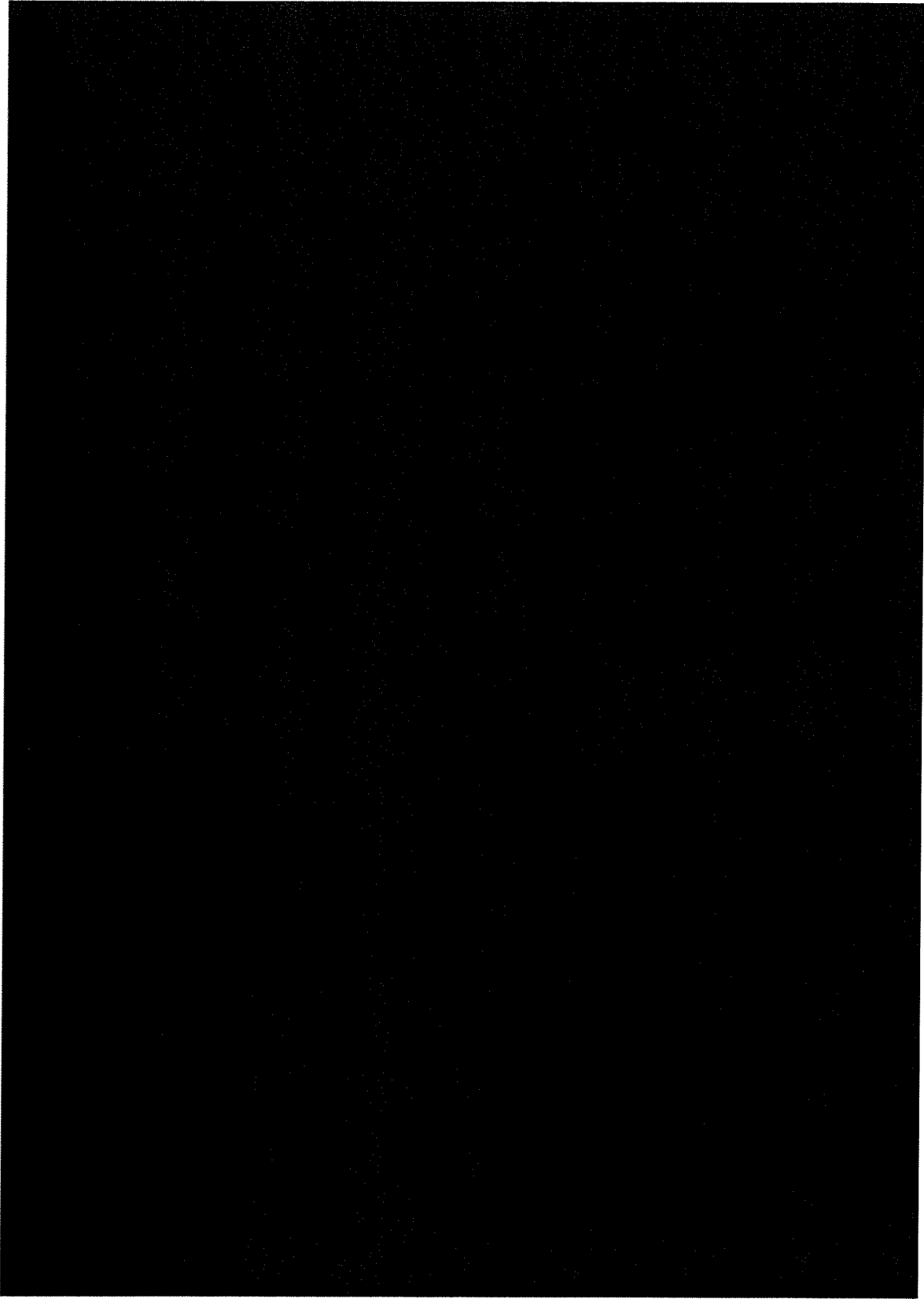
This settlement agreement ("Agreement") shall be by and between OSRAM AG, a German company having its principal place of business in Munich, Germany ("OSRAM") and Samsung Electronics Co., Ltd., a Korean company and successor-in-interest to Samsung LED Co. Ltd., having its principal place of business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

RECITALS

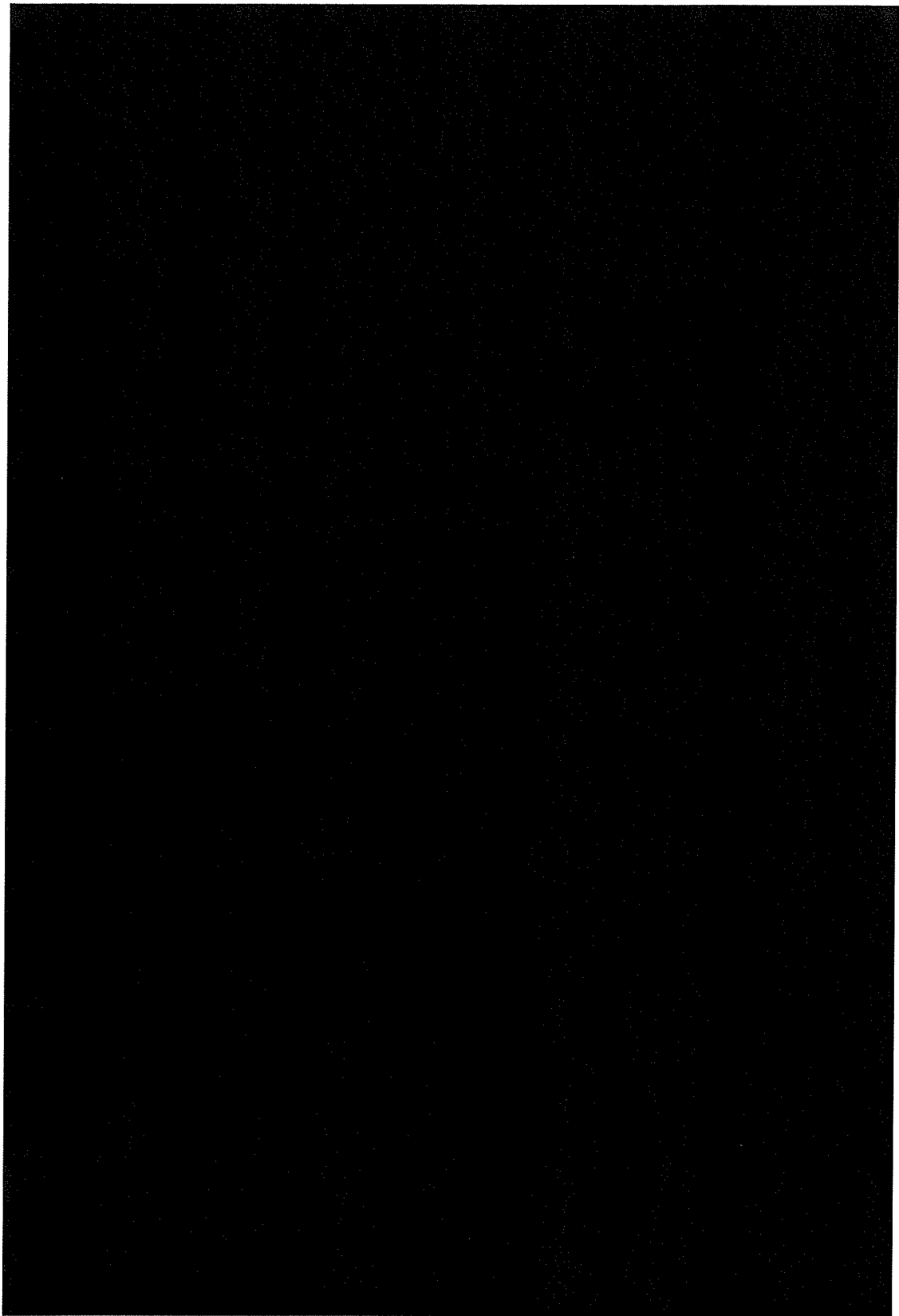
- A. OSRAM makes and sells lighting products and opto-semiconductor components including light emitting diodes (LEDs); OSRAM owns patents and other intellectual property related to LED technologies.
- B. Samsung makes and sells consumer electronics and semiconductor components including LEDs; Samsung 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").

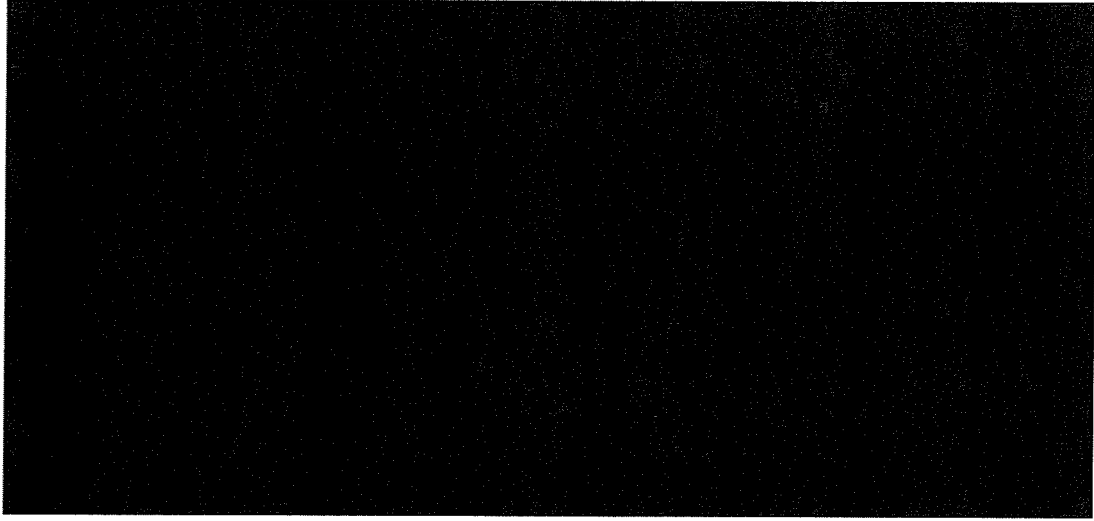






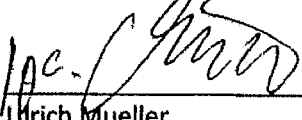
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[Signature Page Follows]

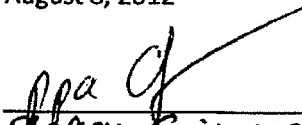
Agreed on behalf of OSRAM



Ulrich Mueller

SVP & GC

August 8, 2012


Steffen Grimmer
Senior Legal Counsel
August 8, 2012

Agreed on behalf of Samsung



Jay Shin

VP & Director of Licensing

August 8, 2012



CERTIFICATE OF SERVICE

I, Melissa Sackin, certify that on August 9, 2012, copies of the foregoing **JOINT MOTION TO TERMINATE THE INVESTIGATION PURSUANT TO SETTLEMENT AND MOTION TO STAY THE PROCEDURAL SCHEDULE – PUBLIC VERSION** was delivered, pursuant to Commission regulations, to the following interested parties as indicated:

The Honorable Lisa Barton Acting Secretary to the Commission U.S. INTERNATIONAL TRADE COMMISSION 500 E Street, SW Washington, DC 20436	Via EDIS and overnight delivery (2 copies)
The Honorable Robert K. Rogers Administrative Law Judge U.S. INTERNATIONAL TRADE COMMISSION 500 E Street, SW Washington, DC 20436	By overnight delivery (2 copies) and email: david.foley@usitc.gov
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