

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-\_\_\_\_\_

(Related to 337-TA-830)

COMPLAINT FOR ENFORCEMENT PROCEEDING PURSUANT TO RULE 210.75

Complainants:

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## EXHIBITS

1. Order No. 8 in Investigation No. 337-TA-830 (Consent Order)
2. Notice of Commission Determination Not to Review Initial Determination
- 3C. Respondent Maxlites Answer to Complainants First Set of Request for Admissions
4. September 18, 2012 Transcript in *Bobel v. Maxlite*, Civil Action No. 1:12-CV-05346
5. Notice Clarifying An Admission in *Bobel v. Maxlite*, Civil Action No. 1:12-CV-05346
6. List of products Maxlite purchased from Lux
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- 16C. License to ‘480 Patent
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20. Claim chart for claim 9 of the ‘480 Patent
21. Platt.com quote for product sent during Chat

## **PHYSICAL EXHIBITS**

**PE-1. Maxlite dimmable CFL, model number MLS20GUDWW**

## I. INTRODUCTION

1. This Enforcement Complaint involves dimmable compact fluorescent lamps (“dimmable CFLs”). On January 23, 2012, Complainants Andrzej Bobel and Neptun Light, Inc. (“Neptun”) filed a complaint with the ITC alleging violations of section 337 of the Tariff Act of 1930 in the importation into the United States and sale of certain dimmable compact fluorescent lamps (“CFLs”) and products containing same that infringe U.S. Patent Nos. 5,434,480 and 8,035,318. The Complainants requested that the ITC issue an exclusion order and cease and desist orders against several respondents, including Maxlite, Inc. f/k/a SK America, Inc. Complainant alleged that Maxlite infringed claim 9 of the ‘480 patent. On February 8, 2012, Complainants filed an Amended Complaint. On February 22, 2012, the ITC voted to institute an investigation in this matter, ITC Inv. No. 337-TA-830, pursuant to Section 337 of the Tariff Act of 1930, *In the Matter of Certain Dimmable Compact Fluorescent Lamps and Products Containing Same*, which was assigned to Administrative Law Judge Thomas B. Pender.<sup>1</sup>

2. On June 15, 2012, respondent Maxlite, Inc. moved to terminate this Investigation as to Maxlite and for the entry of a Proposed Consent Order. (Motion Docket 830-004). On July 11, 2012, ALJ Pender granted Maxlite’s motion. Inv. 337-TA-830 Order No. 8.

3. The Consent Order stated in relevant part:

(4) MaxLite agrees that upon entry of the Consent Order, it will not sell for importation, import into the United States, or sell or offer for sale in the United States after importation, or knowingly aid, abet, encourage, participate in, or induce importation into the United States, the sale for importation into the United States, or the sale, offer for sale, or use in the United States after importation dimmable CFLs and products containing same that infringe claim 9 of the ‘480 Patent, the only claim at issue against MaxLite until the expiration, invalidation,

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<sup>1</sup> A hearing was conducted in Investigation No. 337-TA-830 on October 26, 2012 and concluded on November 2, 2012. An Initial Disclosure is expected later this month. One respondent, U Lighting America, who was alleged to infringe claim 9 of the ‘480 Patent attended the hearing.

and/or unenforceability of the '480 patent, or until the products at issue are found not to infringe or are licensed by Complainants;

Exhibit 1 (Consent Order attached to Order No. 8)

4. On July 25, 2012, the Commission issued a Notice of Commission Determination Not to Review an Initial Determination Granting a Motion to Terminate The Investigation As To Respondent Maxlite, Inc. F/K/A SK America Inc. Based Upon A Consent Order Stipulation; Issuance of a Consent Order. Exhibit 2.

5. During the course of Investigation No. 337-TA-830, Maxlite admitted that Maxlite's Model No. MLS20GUDWW infringes claim 9 of the '480 patent. Exhibit 3C (Response to Request for Admission No. 7).<sup>2</sup>

6. On July 6, 2012, Complainants filed suit in the District Court for the District of Illinois against Maxlite alleging infringement of United States Patent No. 5,434,480. Included in Complainant' infringement allegations was Maxlite Model No. MLSGU20DWW. On September 18, 2012, a preliminary hearing was conducted in which Maxlite admitted that all non-Lux manufactured products infringed the '480 patent. Exhibit 4, 9/18/2012 TR at 6:18-19 ("I will admit infringement of non-Lux products, which is the subject of the summary judgment motion.") On September 20, 2012, Maxlite filed a Notice Clarifying an Admission and clarified that "Defendant admits to infringement of claim 9 of U.S. Patent No. 5,434,480 ('480 patent') as it pertains to dimmable compact fluorescent lamps ('CFLs') sold to Defendant by entities

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<sup>2</sup> The Protective Order in the 830 Investigation (Order No. 1) at ¶ 14 calls for the return or destruction of CBI at the termination of the Investigation. The 830 Investigation has not yet terminated. Furthermore, the parties had agreed to permit the use of the discovery in the 830 Investigation in the District Court Action described in paragraph 6 of this Complaint. The Responses to Complainants' Request for Admissions are also attached as Exhibit B to Complainants' Response to Motion Docket 830-004.

other than Michael Moisin, Tele-Cons and their respective affiliates including Lux Electronic Products.” Exhibit 5.

7. On February 6, 2012, Maxlite filed a Petition to Amend A Consent Order Due to a U.S. District Court Order Finding No Infringement of U.S. Patent Number 5,434,480. Maxlite’s Petition essentially requests modification of the Consent Order based on the District Court’s Order that held “[f]or the foregoing reasons, the Court grants Defendant MaxLite’s motion for partial summary judgment on Counts I and II as they pertain to MaxLite’s purchase of dimmable CFL’s from Lux.”

8. The MLSGU20DWW is not alleged to be a Lux product. In response to the briefing on the aforesaid Motion for Partial Summary Judgment, Maxlite filed a list of all products purchased from Lux. Maxlite stated “MaxLite has produced an updated version of Exhibit G which lists all transactions between Lux and MaxLite relating to dimmable CFLs. Exhibit 6 (Public version of Exhibit G). Absent from the list of identified Lux products are dimmable CFL Model No. MLS20GUDWW.

9. On or about July 2012, Maxlite appears to have discontinued sales of the MLS20GUDWW. Exhibit 15. Seven month later, it was discovered that despite the Consent Order, Maxlite has resumed manufacturing, importing, and selling after importation of dimmable CFLs that infringe claim 9 of the ‘480 Patent, including Model No. MLS20GUDWW

10. On February 14, 2013, Platt.com located in Beaverton, Oregon advertised MLS20GUDWW under stock numbers 860616 and 86716. Exhibit 17. An individual identified as “KevinP” who, on information and belief is Kevin Poff, stated that Platt.com was out of stock but could have produced delivered from the “factory.” Mr. Poff stated as follows:

**KevinP:** Hello, how can I help you?  
**You:** Do you have item 860616 in stock?  
**KevinP:** Not in stock, would you like me to check with the factory for you?  
**You:** Yes - it also appears to be listed as # 865716  
**KevinP:** How many are you after?  
**You:** up to 6. Looks like it is out of stock at most stores.  
**KevinP:** No problem. What is your email address? Also, the zip code these would be shipping to?  
**You:** john.fuiz@gmail.com - 20007  
**KevinP:** Anything else you would like me to quote for you today?  
**You:** When will you know if you can get them?  
**KevinP:** Should just be a couple minutes.  
**You:** Also need price.  
**KevinP:** Sure thing.  
**You:** Update?  
**KevinP:** I sent you the email a bit ago. Let me find that quote, one sec.  
**KevinP:** \$22.50 each. Factory has stock in PA.  
**You:** Perfect - how do I complete order?

Exhibit 8.

11. The products were ordered on February 14, 2012. Exhibit 9. On February 15, 2012, a box was delivered to Complainants' attorneys containing six Maxlite MLS20GUDWW bulbs. Exhibit 10. UPS tracking also failed to identify the source of the "factory" in Bethlehem, Pennsylvania. Exhibit 11. In the Illinois District Court action, Maxlite has not provided discovery on the disposition of its inventory of MLS20GUDWW or on sales of the product.

12. Contained in the box received from Bethlehem Pennsylvania were six (6) MLS20GUDWW. Exhibit 12. The receipt contained in the box only identifies Platt Electric Supply Inc. Exhibit 17. The product packaging and one of the bulbs with the ballast exposed is shown in Exhibit 13. The products are identified as being made in China. Exhibit 14. As described above, Maxlite has multiple times admitted that the MLS20GUDWW infringes claim 9 of the '480 patent. One of the enclosed products is being submitted herewith as Physical Exhibit PE-1.

13. Neither Maxlite nor any parties acting in concert with Maxlite as it relates to at least Model No. MLS20GUDWW have received consent or a license from Complainants to



import, sell or offer to sell the Accused Articles. As such, Maxlite is in direct violation of the Consent Order, causing significant damage to Complainants' business in the United States.

## **II. JURISDICTION**

### **A. Complainants**

14. 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.

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

16. Mr. Bobel is the inventor of U.S. Patent No. 5,434,480.

17. 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 16C.

18. 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.

19. 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 Forest, Illinois.

### **III. RESPONDENT**

20. Respondent Maxlite Inc. f/k/a SK America is a New Jersey corporation with its principal place of business at 12 York Avenue, West Caldwell, New Jersey 07006.

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

22. 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](http://www.maxlite.com)).

### **IV. THE LIGHTING INDUSTRY**

23. 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**

24. 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. Exhibit 18.

25. 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.

**B. Description of the Patented Invention<sup>3</sup>**

26. 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

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<sup>3</sup> 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.

27. 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.

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

29. 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.

30. 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.

31. 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.

## VI. THE COMMISSION'S ISSUANCE OF A CONSENT ORDER

32. On February 8, 2012, Complainants filed an Amended Complaint. On February 22, 2012, the ITC voted to institute an investigation in this matter, ITC Inv. No. 337-TA-830, pursuant to Section 337 of the Tariff Act of 1930, *In the Matter of Certain Dimmable Compact Fluorescent Lamps and Products Containing Same*, which was assigned to Administrative Law Judge Thomas B. Pender.<sup>4</sup>

33. On March 26, 2012, Maxlite filed for termination of the Investigation based upon entry of a Consent Order (Motion Docket 830-002). On April 5, 2012, Complainant opposed. The Motion was denied on May 16, 2012 in Order No 6. Exhibit 19.

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<sup>4</sup> A hearing was conducted in Investigation No. 337-TA-830 on October 26, 2012 and concluded on November 2, 2012. An Initial Determination is expected later this month. The hearing involved two asserted patents, with the '480 being one of them. Respondent U Lighting America, Inc. attended the hearing as the remaining respondent against which the '480 was asserted in the Investigation.

34. On June 15, 2012, Respondent Maxlite, Inc. again moved to terminate this Investigation as to Maxlite and for the entry of a Proposed Consent Order. (Motion Docket 830-004). On July 11, 2012, ALJ Pender granted Maxlite's motion. Inv. 337-TA-830 Order No. 8. Exhibit 1.

35. On July 25, 2012, the Commission issued a Notice of Commission Determination Not to Review an Initial Determination Granting a Motion to Terminate The Investigation As To Respondent Maxlite, Inc. F/K/A SK America Inc. Based Upon A Consent Order Stipulation; Issuance of a Consent Order. Exhibit 2.

36. On February 6, 2012, Maxlite filed a Petition to Amend A Consent Order Due to a U.S. District Court Order Finding No Infringement of U.S. Patent Number 5,434,480. Maxlite's Petition essentially requested modification of the Consent Order based on the District Court's Order that held "[f]or the foregoing reasons, the Court grants Defendant MaxLite's motion for partial summary judgment on Counts I and II as they pertain to MaxLite's purchase of dimmable CFL's from Lux." The current alleged violation is not impacted by the Maxlite petition as the dimmable CFLs identified herein that were sold in the United States are not alleged by Maxlite to be manufactured by Lux. Furthermore, the product purchased, as shown in Exhibit 13 bears no indication that the product is in any way related to Lux. See Exhibit 13.

## **VII. VIOLATION OF THE COMMISSION'S CONSENT ORDER**

37. On information and belief, despite its obligation to comply, Maxlite has violated the Consent Order, Initial Determination and Commission Determination entered in Investigation No. 337-TA-830 by refusing to cease its unlawful activity.

38. On information and belief, Maxlite either alone or in concert with others, manufactures abroad, sells for importation into the United States, imports into the United States,

uses and/or sells within the United States, or knowingly aid, abet, encourage, participate in, or induce importation into the United States, the sale for importation into the United States, or the sale, offer for sale, or use in the United States after importation dimmable CFLs and products containing same that infringe claim 9 of the '480 Patent.

39. On information and belief, this activity has occurred, and continues to occur after the dates that the Consent Order, Initial Determination and Commission Determination went into effect in Investigation No. 337-TA-830.

40. During the course of Investigation No. 337-TA-830, Maxlite admitted that Maxlite Model No. MLS20GUDWW infringed claim 9 of the '480 patent. Exhibit 3C (Response to Request for Admission No. 7).

41. On July 6, 2012, Complainants filed suit in the District Court for the District of Illinois against Maxlite alleging infringement of United States Patent No. 5,434,480. Included in Complainant' infringement allegations was Maxlite Model No. MLSGU20DWW. On September 18, 2012, a preliminary hearing was conducted in which Maxlite admitted infringement of all non-Lux manufactured products. Exhibit 4, 9/18/2012 TR at 6:18-19 ("I will admit infringement of non-Lux products, which is the subject of the summary judgment motion.") On September 20, 2012, Maxlite filed a Notice Clarifying an Admission and clarified that "Defendant admits to infringement of claim 9 of U.S. Patent No. 5,434,480 ('480 patent') as it pertains to dimmable compact fluorescent lamps ('CFLs') sold to Defendant by entities other than Michael Moisin, Tele-Cons and their respective affiliates including Lux Electronic Products." Exhibit 5.

42. The MLSGU20DWW is not alleged to be a Lux product. In response to the briefing on the aforesaid Motion for Partial Summary Judgment, Maxlite filed a list of all

products purchased from Lux. Maxlite stated "MaxLite has produced an updated version of Exhibit G which lists all transactions between Lux and MaxLite relating to dimmable CFLs. Exhibit 6 (Public version of Exhibit G). Absent from the list of identified Lux products are dimmable CFL Model No. MLS20GUDWW.

43. Exemplary claim charts comparing claim 9 of the '480 Patent to Model Nos. MLS20GUDWW is attached as Exhibit 20.

44. The Accused Articles infringe claim 9 of the '480 Patent and are identical and/or materially similar to the products that were the subject of the Administrative Law Judge Thomas B. Pender's Consent Order. The Accused Products therefore fall within the scope of the Consent Order, and the Respondent's continued importation and sale of the Accused Products is in direct violation of the Consent Order.

#### VIII. SPECIFIC INSTANCES OF VIOLATING THE CONSENT ORDER

45. Maxlite has admitted that Model No. MLS20GUDWW, which is a dimmable CFL, infringes claim 9 of the '480 patent. Exhibits 3C, 4 and 5.

46. On February 14, 2012, Platt.com of 10605 SW Allen Blvd, Beaverton, Oregon advertised Maxlite MLS20GUDWW dimmable CFLs on the company's web site. Exhibit 7. A portion of which is shown below and identifies the product as Item Nos. 865716 and 860616.

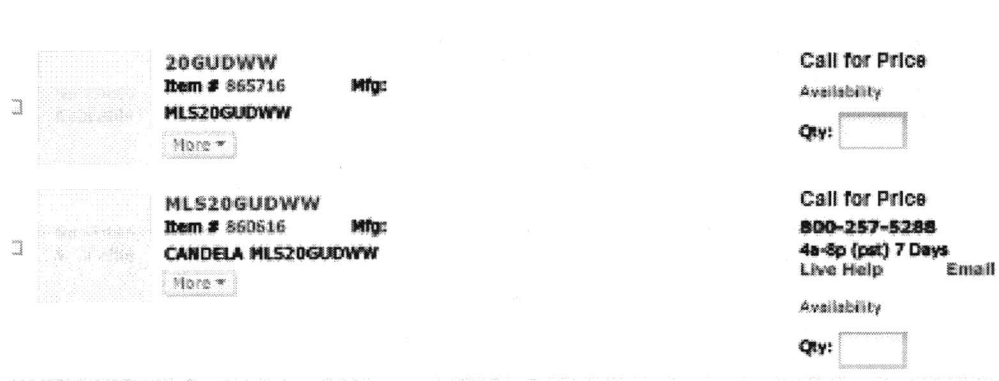
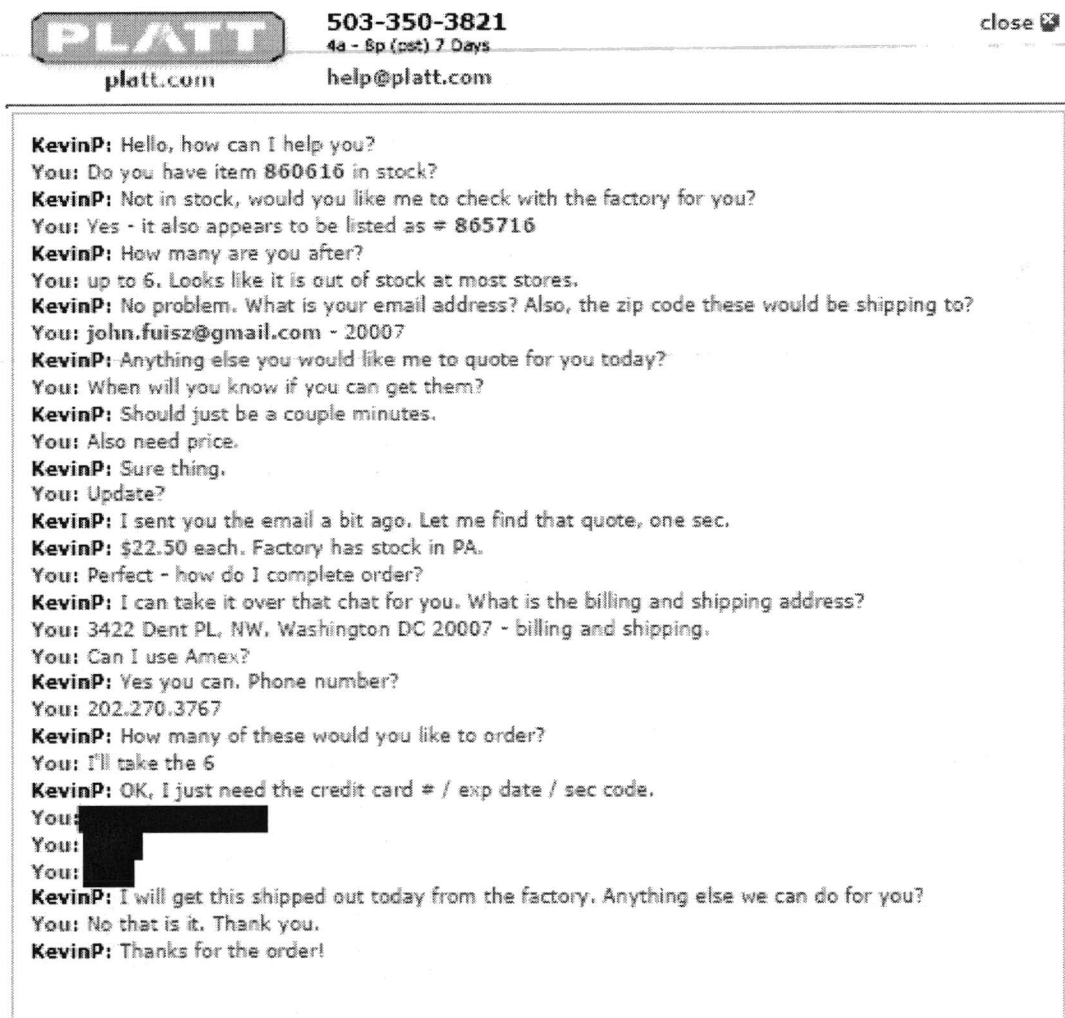


Exhibit 7.



47. The Platt.com website features a chat feature which was used to inquire about the price of the MLS20GUDWW dimmable CFLs. An individual identified as "KevinP" who, on information and belief is Kevin Poff, indicated that the product was not in stock but that he could check with the "factory." A copy of the chat is attached as Exhibit 8 and shown below:<sup>5</sup>

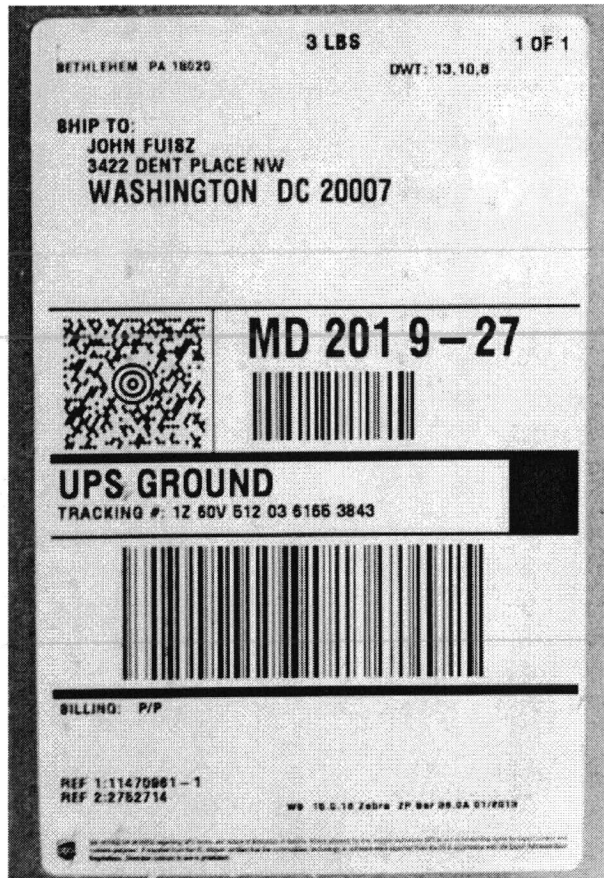


<sup>5</sup> Credit card information has been redacted.

48. Platt.com provided an email quote and written quotation as noted in the chat a copy of which is set forth at Exhibit 9. Upon providing payment information, a receipt for the purchase was provided a copy of which is set forth at Exhibit 21.

49. On February 15, 2012, a UPS package was delivered that did not identify the sending address. Copies of the box are set forth in Exhibit 10 and below:



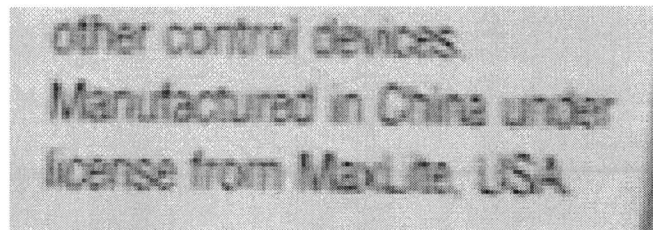


50. UPS Tracking information for the package also failed to identify the sending address. Exhibit 11.

51. Inside the package were six (6) MLS20GUDWW dimmable CFLs. Exhibit 12. One of the enclosed products is being submitted herewith as Physical Exhibit PE-1.



52. The MLS20GUDWW product packaging identifies the product as being made in China. Exhibits 13 and 14. Therefore, the Accused Articles were sold in the United States after being manufactured in China.



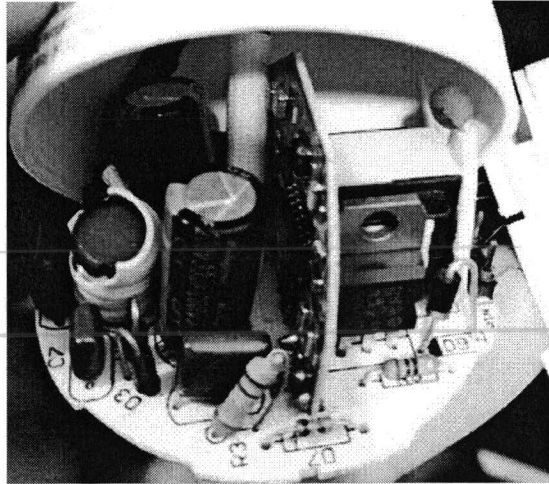
53. Photographs of the product packaging and products is set forth in Exhibit 13.

54. Inside each box is a dimmable CFL which further identifies it as a Model No.

MLS20GUDWW. Exhibit 13.



55. In addition to the model number not appearing on the list of products purchased by Maxlite from Lux, the presence of an IC, as shown below, as well as the lack of any identifying Lux marks, indicates that this was not a product procured from Lux. Exhibit 13.



56. On information and belief, Maxlite and/or parties acting in concert with Maxlite manufactures abroad, sells for importation into the United States, imports into the United States, uses and/or sells within the United States, or knowingly aid, abet, encourage, participate in, or induce importation into the United States, the sale for importation into the United States, or the sale, offer for sale, or use in the United States after importation dimmable CFLs and products containing same that infringe claim 9 of the '480 Patent. As such, Maxlite is in direct violation of Administrative Law Judge Thomas E. Pender's Consent Order.

#### **IX. RELATED LITIGATION**

57. On July 6, 2012, Complainants filed suit in the District Court for the District of Illinois, eastern Division, against Maxlite alleging infringement of the '480 patent. The litigation is Civil Acton No. 1:12-CV-05346 (Judge Amy St. Eve.)

58. On August 1, 2012, Complainants filed suit in the United States District Court for the District of Illinois, eastern Division, against U Lighting America, Inc., U Lighting Group Co. Ltd. and Venugopal Ashokkumar a/k/a/ Ashok Kumar for infringement of the '480 Patent. The litigation is Civil Action No. 1:12-CV-06064 (Judge Matthew F. Kennelly).

59. On September 14, 2012, an ex parte request for reexamination was filed and directed to claim 9 of the '480 patent was filed and is currently pending as Serial No. 90/012,613.

60. Complainants are unaware of any other court or related proceeding regarding the '480 Patent other than the above noted two district court actions, the U.S. Patent and Trademark Office Reexamination and the previous Investigation No. 337-TA-830.

#### **X. LICENSE**

61. There are four licensees to the '480 patent: Neptun Light, Inc.; General Electric Company and Xiamen Topstar Lighting Co., Ltd; Technical Consumer Products, Inc.; and Feit Electric Company Inc. Exhibit 16C.

## **RELIEF REQUESTED**

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

a. Institute a formal enforcement proceeding, pursuant to 19 C.F.R. Section 210.75 to confirm the violations of the Consent Order described herein;

b. Promptly refer this matter to the Administrative Law Judge for issuance of an Initial and Final Determination on the issues of the enforcement violation and remedy requested;

c. Direct the Administrative Law Judge to (1) issue a supplemental protective order to protect Complainants' confidential business information; (2) permit a necessary and expedited period of fact discovery on Maxlite, and parties acting in concert with it, regarding continued violation of the Consent Order; (3) hold a hearing; and (4) issue a Final Determination of Enforcement within four months of initiation of the enforcement proceeding; and

d. After the enforcement proceeding, in the event the Commission determines that there has been a violation of the Commission's Consent Order, issue the following remedies:

i) Issue a permanent cease and desist order pursuant to 19 U.S.C. Section 1337(f) and 19 C.F.R. Section 210.75, prohibiting Maxlite and parties acting in concert with it from engaging in illegal activities;

ii) Modify the Administrative Law Judge's Consent Order in any manner that would assist in the prevention of the unfair practices that were originally the basis for issuing the Consent Order, or in the detection of any further violations;


iii) Impose civil penalties pursuant to 19 U.S.C. Section 1337(f) that are twice the value of the good, or \$100,000.00, whichever is greater, for each day the Consent Order is and



has been violated, and if necessary, bring a civil action in an appropriate United States District Court to recover such Civil penalties; and

iv) Impose such other remedies and sanctions as are appropriate and within the Commission's authority.

Dated: February 17, 2013

A handwritten signature in black ink, appearing to read 'John R. Fuisz', is written over a horizontal line.

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