Cree, Inc. – Oral Testimony of Greg Merritt

- My name is Greg Merritt. I am Vice President for Marketing and Public Affairs at Cree, Inc.
- Cree is an American company, a market-leading innovator and a producer of LEDs and LED-based lighting products.
- Cree employees approximately 4,000 workers in the U.S., primarily in North Carolina, Wisconsin and Arkansas.
- At the outset, let me say that Cree supports the goal of the Section 301 investigation, to protect American IP.
- Cree has invested heavily in developing and expanding American IP through $1.3 billion in R&D spending in the U.S. over the last ten years. Our R&D investment has led to 2,200 US patents.
- Cree's R&D spending and our IP development takes place in our Durham, NC headquarters facility.
- In Durham we produce the LED wafers that contain the LED chips. This is the core of the high-tech operations of our business.
- The production of LED wafers is a high-tech, complicated process using extremely proprietary technology. This process involves hundreds of semiconductor fabrication processes and takes between 3 and 8 weeks.
- The process is so proprietary that non-production related executives, such as myself, do not have access to the production operations.
- Cree produces approximately 5.5 billion LEDs in our Durham facility every year.
- Cree began exporting these chips to our wholly-owned facility in China beginning in 2007 as a means of gaining access to the large and rapidly growing Chinese and Asian markets.
- The LED wafers we export to China are cut and packaged to produce LED chips and components using much less sophisticated technology than we use in Durham, N.C.
- These LED chips and components are shipped around the world, to China, Asia and also back to the US to unrelated customers and to our own production facility in Wisconsin.
- The LED components are then used to produce LED lights.

- Based on sales value, about 70% of the value of these LED chips and components comes from US intellectual property.
- We intentionally structured our Chinese operations to keep our IP separate and apart, allowing Cree to maintain virtually of its significant R&D activities and IP in the United States.
- However, included on the initial list of products subject to the 301 tariff is the HTS line that covers both the LED wafers and LED chips components (HTS 8541.4020).
- There is significant competition in the LED lighting market from other sources, including Malaysia, Korea, Germany and Japan, that would prevent us from being able to pass along the increased costs of the 301 duty to our customers.
- To maintain profitability, Cree would be forced to source its LED components from non-US-owned suppliers for producing our lighting products in Wisconsin.
- Cree's existing US customers would need to do likewise. As a result, demand for Cree's LED components – of which the vast bulk in value derives from our Durham facility – would drop.
- The loss of sales of our LED components and LED wafers would negatively impact our operating profits and cash flow.
- The loss of cash flow and profits will necessarily cause reductions in our R&D spend and therefore our development of new, cutting edge American IP.
- This is the very definition of "disproportionate economic harm": Cree's US R&D and IP investments would decline, our non-US competitors would obtain a competitive advantage over Cree's American operations and the tariff would have no impact on China's anti-competitive IP practices.
- We do not believe this outcome is what the Administration intended nor do we believe it meets the goals of the 301. Therefore we request that HTS number 8541.4020 come off the 301 list.