

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

TRUSTEES OF BOSTON UNIVERSITY,

Plaintiff,

vs.

Civil Action No. 1:12-CV-11938 – FDS

SEOUL SEMICONDUCTOR, LTD.,
SEOUL SEMICONDUCTOR, INC.,
and SEOUL OPTODEVICE CO., LTD.

Defendants.

**THIRD AMENDED COMPLAINT FOR
PATENT INFRINGEMENT AND JURY DEMAND**

Plaintiff Trustees of Boston University, by and through its undersigned attorneys, hereby plead the following claims of patent infringement against Seoul Semiconductor Ltd., Seoul Semiconductor, Inc. and Seoul Optodevice Co., Ltd. (“Defendants”) and allege as follows:

PARTIES

1. Plaintiff Trustees of Boston University (“BU” or the “University”) is a non-profit educational institution with its principal place of business at One Silber Way, Boston, Massachusetts 02215.

2. The University is one of the largest private universities in the United States, and one of the largest employers in Boston with more than 10,000 faculty and staff and over 33,000 students. It conducts a diverse range of interdisciplinary, collaborative and innovative research projects across a broad spectrum of academic departments, programs, centers and institutes, including research in the field of electrical and computer engineering. BU has won five Nobel

Prizes and has been awarded hundreds of United States Patents, including U.S. Patent No. 5,686,738 (the “‘738 patent”) and U.S. Patent No. 6,953,703 (the “‘703 patent”).

3. Upon information and belief, Defendant Seoul Semiconductor, Ltd. (“Seoul Semiconductor”) is a Korean entity located at 148-29, Gasan-dong, Geumcheon-gu, Seoul, South Korea.

4. Upon information and belief, Defendant Seoul Semiconductor, Inc. (“SSI”) is a California entity located at 5856 Corporate Avenue, Suite 240, Cypress, California, 90630. SSI’s registered agent for service of process is Yiyoon Jun, 5856 Corporate Avenue, Suite 240, Cypress, CA 90630.

5. Upon information and belief, Defendant Seoul Optodevice Co., Ltd. (“SOC”) is a Korean entity located at 1B-36, 727-5 Wonsi-dong, Danwon-gu, Ansan-city, Kyunggi-do, Korea 425-851.

JURISDICTION AND VENUE

6. This is an action for patent infringement arising under the patent laws of the United States of America, Title 35 of the United States Code. This Court has subject matter jurisdiction over the matters pled herein under 28 U.S.C. §§ 1331 and 1338(a) in that this is a civil action arising out of the patent laws of the United States of America.

7. The University is informed and believes, and thereon alleges, that Defendants regularly and deliberately engaged in and continue to engage in activities that result in using, selling, offering for sale, and/or importing infringing products and products made by infringing processes in and/or into the Commonwealth of Massachusetts and this judicial district. These activities violate the University’s United States patent rights under the ‘738 patent and the ‘703 patent pled herein. This Court has personal jurisdiction over the Defendants because, among

other things, Defendants conduct business in the Commonwealth of Massachusetts and in this judicial district, and thus enjoy the privileges and protections of Massachusetts law.

8. Venue is proper in the District of Massachusetts pursuant to 28 U.S.C. §§ 1391(b), (c) and (d) and 1400(b).

COUNT 1: INFRINGEMENT OF U.S. PATENT NO. 5,686,738

9. The '738 patent, titled "Highly Insulating Monocrystalline Gallium Nitride Thin Films," issued on November 11, 1997. A true and correct copy of the '738 patent is attached hereto as Exhibit A.

10. Theodore D. Moustakas, Ph.D., Professor of Electrical and Computer Engineering at BU, is the named inventor of the '738 patent. The University owns by assignment the entire right, title, and interest in and to the '738 patent, including the sole right to sue for past and present patent infringements thereof.

11. The University is informed and believes, and thereon alleges, that Defendants' product bearing part number STW8Q2PA-S5-EA includes a gallium nitride thin film semiconductor device claimed by the '738 patent and thus infringes one or more claims of the '738 patent. The University is informed and believes, and further alleges, that additional products of Defendants also constitute and/or include the claimed gallium nitride thin film semiconductor device and also infringe one or more claims of the '738 patent, including light emitting diodes ("LEDs") and products bearing LEDs (collectively referred to as "Accused Products").

12. The University is informed and believes, and thereon alleges, that the applicable requirements of 35 U.S.C. § 287 have been satisfied.

13. The University is informed and believes, and thereon alleges, that Defendants have infringed, and continue to infringe, one or more claims of the '738 patent, in violation of 35 U.S.C. § 271(a), by, among other things, making using, offering to sell, selling and/or importing in and/or into the United States, without authority or license from the University, the Accused Products falling within the scope of one or more claims of the '738 patent.

14. Defendants' acts of infringement have caused and will continue to cause substantial and irreparable damage to the University.

15. As a result of the infringement of the '738 patent and the '703 patent by Defendants, the University has been damaged. The University is, therefore, entitled to such damages pursuant to 35 U.S.C. § 284 in an amount that presently cannot be pled but that will be determined at trial.

COUNT 2: INFRINGEMENT OF U.S. PATENT NO. 6,953,703

16. The '703 patent, titled "Method of Making a Semiconductor Device with Exposure of Sapphire Substrate to Activated Nitrogen," issued on October 11, 2005. A true and correct copy of the '703 patent is attached hereto as Exhibit B.

17. Theodore D. Moustakas, Ph.D., Professor of Electrical and Computer Engineering at BU, is the named inventor of the '703 patent. The University owns by assignment the entire right, title, and interest in and to the '703 patent, including the sole right to sue for patent and present patent infringements thereof.

18. The University is informed and believes, and thereon alleges, that Defendants without authority imports into the United States and/or offers to sell, sells, and/or uses within the United States semiconductor devices which are made by processes covered by one or more claims of the '703 patent, including but not limited to the Accused Products and semiconductor

devices made by exposing sapphire substrate to activated nitrogen and depositing Group III nitride semiconductor material, said Accused Products and semiconductor devices not being materially changed by subsequent processes or becoming a trivial and nonessential component of another product.

19. The University is informed and believes, and thereon alleges, that the applicable requirements of 35 U.S.C. § 287 have been satisfied.

20. The University is informed and believes, and thereon alleges, that Defendants without authority have imported into the United States and/or have offered to sell, sold, and/or used within the United States semiconductor devices which are made by processes covered by one or more claims of the '703 patent, including but not limited to Accused Products and semiconductor devices made by exposing sapphire substrate to activated nitrogen and depositing Group III nitride semiconductor material, said Accused Products and semiconductor devices not being materially changed by subsequent processes or becoming a trivial and nonessential component of another product.

21. Defendants' acts of infringement have caused and will continue to cause substantial and irreparable damage to the University.

22. As a result of the infringement of the '703 patent by Defendants, the University has been damaged. The University is, therefore, entitled to such damages pursuant to 35 U.S.C. § 284 in an amount that presently cannot be pled but that will be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, the University prays for entry of judgment against each Defendant as follows:

A. That Defendants directly infringed the '738 patent under 35 U.S.C. § 271(a) and the '703 patent under 35 U.S.C. § 271(g);

B. That Defendants provide to the University an accounting of all gains, profits and advantages derived by each Defendant's direct infringement of the '738 patent and the '703 patent, and that the University be awarded damages adequate to compensate them for the wrongful infringement by each Defendant, in accordance with 35 U.S.C. § 284;

C. That the University be awarded any other supplemental damages and interest on all damages, including, but not limited to attorney fees available under 35 U.S.C. § 285;

D. That the Court permanently enjoin Defendants and all those in privity with them from making, having made, selling, offering for sale, distributing and/or using products that infringe the '738 patent and the '703 patent, including the Accused Products, in the United States; and

E. That the University be awarded such other and further relief as this Court may deem just and proper, including but not limited to equitable relief and all remedies available at law.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), the University hereby demands a trial by jury on all issues triable to a jury.

Dated: May 3, 2013

Respectfully submitted,

TRUSTEES OF BOSTON UNIVERSITY

By its attorneys,

/s/ Ilan N. Barzilay

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Dated: May 3, 2013

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants and to attorneys that identified themselves as representing Defendants

/s/ Ilan N. Barzilay

Ilan N. Barzilay