

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

LEXINGTON LUMINANCE LLC

Plaintiff,

v.

GOOGLE, INC.

Defendant.

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No. 1:12-cv-12218-GAO

JURY DEMANDED

SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Lexington Luminance LLC (“Lexington” or “Plaintiff”) files this second amended complaint for patent infringement against Google Inc. (“Google” or “Defendant”) and states as follows:

THE PARTIES

1. Plaintiff Lexington Luminance LLC is a limited liability company organized under the laws of Massachusetts with its principal place of business at 468 Lowell Street, Lexington, Massachusetts 02420.

2. Google Inc. is a Delaware corporation with its principal place of business at 1600 Amphitheatre Parkway, Mountain View, CA 94043. Google’s registered agent for service in Delaware is The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware, 19801.

3. Upon information and belief, Google manufactures for sale and/or sells computer products to consumers in the United States and, more particularly, in the District of Massachusetts.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code. Jurisdiction as to these claims is conferred on this Court by 35 U.S.C. §§1331 and 1338(a).

5. Venue is proper in the District of Massachusetts under 28 U.S.C. §§1391 and 1400(b). On information and belief, Google has committed acts of infringement in this judicial district and has purposely transacted business in this judicial district.

6. This Court has personal jurisdiction over the Defendant. Defendant has conducted and does conduct business within the Commonwealth of Massachusetts. Defendant, directly or through intermediaries (including distributors, retailers, and others), ships, distributes, offers for sale, sells, and advertises products in the United States, the Commonwealth of Massachusetts, and the District of Massachusetts. Defendant purposefully and voluntarily sold one or more of their infringing products with the expectation that they will be purchased by consumers in the District of Massachusetts. These infringing products have been and continue to be purchased by consumers in the District of Massachusetts. Defendant has committed acts of patent infringement within the United States and, more particularly, within the District of Massachusetts.

PATENT INFRINGEMENT

7. Lexington incorporates by reference paragraphs 1-6 as if fully set forth herein.

8. On August 30, 2005, United States Patent No. 6,936,851 B2 entitled “Semiconductor Light-Emitting Device and Method for Manufacturing Same” was duly and legally issued after full and fair examination. Lexington is the owner of all right, title, and interest in and to the patent by assignment, with full right to bring suit to

enforce the patent, including the right to recover for past infringement damages and the right to recover future royalties, damages, and income. The patent is attached hereto as Exhibit A.

9. On September 30, 2013, an *ex parte* reexamination no. 90/012,964 was initiated for United States Patent No. 6,936,851 B2. An *ex parte* reexamination certificate was issued on December 5, 2014 for United States Patent No. 6,936,851 C1. The *ex parte* reexamination certificate is attached hereto as Exhibit B. United States Patent No. 6,936,851 B2 and 6,936,851 C1 are collectively known as the ‘851 patent.

10. The ‘851 patent is valid and enforceable.

11. To the extent any marking or notice was required by 35 U.S.C. § 287, Plaintiff, and all predecessors in interest and/or implied or express licensees of the ‘851 patent, if any, have complied with the marking requirements of 35 U.S.C. § 287 by placing a notice of the ‘851 patent on all goods made, offered for sale, sold, and/or imported into the United States that embody one or more claims of that patent and/or providing actual or constructive notice to Defendant.

12. Upon information and belief, Defendant has infringed and/or continues to infringe one or more claims of the ‘851 patent in this judicial district and elsewhere in Massachusetts and the United States, including at least claim 1, by, among other things, making, using, offering for sale, selling, and/or importing mobile telephones, e-reader devices, and tablet computers, including, without limitation, the Nexus 4, Nexus 7, Nexus 10, and other similar products, which perform substantially the same function as the devices embodied in one or more claims of the ‘851 patent in substantially the same way to achieve the same result.

13. Defendant has been at no time, either expressly or impliedly, licensed under the '851 patent.

14. Defendant's acts of infringement have caused damage to Plaintiff. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of the wrongful acts of Defendant in an amount subject to proof at trial. Defendant's infringement of Plaintiff's rights under the '851 patent will continue to damage Plaintiff's business, causing irreparable harm, for which there is no adequate remedy of law, unless enjoined.

15. Upon information and belief, since at least the original filing date of the Complaint in this action, Defendant has had knowledge of the '851 Patent and has had knowledge of its infringement of the '851 Patent. Upon information and belief, Defendant deliberately infringed the '851 Patent and acted recklessly and in disregard to the '851 Patent by making, selling, offering for sale, and/or importing products that infringe the '851 Patent. Upon information and belief, the risks of infringement were known to Defendant and/or were so obvious under the circumstances that the infringement risks should have been known. Upon information and belief, Defendant has willfully infringed and/or continues to willfully infringe the '851 Patent since at least the original filing date of the Complaint in this action.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury for all issues so triable.

PRAYER

WHEREFORE, Plaintiff prays for judgment that:

1. Defendant has infringed the '851 patent.

2. Plaintiff recover actual damages under 35 U.S.C. § 284;
3. Plaintiff be awarded supplemental damages for any continuing post-verdict infringement up until final judgment;
4. Plaintiff be awarded an accounting of damages;
5. A judgment and order requiring Defendant to pay to Plaintiff pre-judgment and post-judgment interest on the damages awarded, including an award of pre-judgment interest, pursuant to 35 U.S.C. § 284, from the date of each act of infringement of the '851 patent by Defendant to the day a damages judgment is entered, and a further award of post-judgment interest, pursuant to 28 U.S.C. § 1961, continuing until such judgment is paid, at the maximum rate allowed by law;
6. Plaintiff be awarded enhanced damages for willful infringement as permitted under the law;
7. A judgment and order that Defendant, its agents, employees, representatives, successors, and assigns, and those acting in privity or in concert with them, be preliminarily and permanently enjoined from further infringement of the '851 patent;
8. In the event a final injunction is not awarded, a compulsory ongoing royalty; and
9. Such other and further relief as the Court deems just and equitable.

DATED: May 27, 2015

Respectfully submitted,

LEXINGTON LUMINANCE LLC,

By its attorneys,

/s/ Robert D. Katz

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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 on the above date.

/s/ Robert D. Katz

Robert D. Katz