

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

<b>LEXINGTON LUMINANCE LLC</b>	§	
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	<b>Civil Action No. 1:16-cv-11458-DJC</b>
	§	
<b>TCL MULTIMEDIA TECHNOLOGY HOLDINGS, LTD. and TTE TECHNOLOGY, INC.,</b>	§	<b>JURY DEMANDED</b>
	§	
	§	
<i>Defendants.</i>	§	

**PLAINTIFF’S SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Lexington Luminance LLC (“Lexington” or “Plaintiff”) files this second amended complaint for patent infringement against TCL Multimedia Technology Holdings, Ltd. and TTE Technology, Inc.; 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. On information and belief, Defendant TCL Multimedia Technology Holdings, Ltd. (“TCL Multimedia”) is a limited liability company organized under the laws of the Cayman Islands with a principal place of business at 13/F TCL Tower, 8 Tai Chung Road, Tsuen Wan New Territories, Hong Kong SAR, China. TCL Multimedia can be served at this principal place of business.

3. On information and belief, Defendant TTE Technology, Inc. (“TTE Technology”) is a corporation organized and existing under the laws of the state of California, and maintains its principal place of business at 2455 Anselmo Drive, Suite 101, Corona, CA

92879-1227. TTE Technology may be served through its registered agent Sophia Yang, located at 16782 Von Karman Avenue, Suite 20, Irvine, CA 92606. Upon information and belief, TTE Technology is a wholly owned subsidiary of TCL Multimedia Technology Holdings, Ltd.

4. Defendants TCL Multimedia and TTE Technology are collectively referred to as “Defendants.” On information and belief, Defendants are doing business in the United States and, more particularly, in the Commonwealth of Massachusetts and this judicial District, by designing, marketing, making, using, selling, importing, and/or offering for sale products that infringe the patent claims involved in this action or by transacting other business in this District.

#### **JURISDICTION AND VENUE**

5. 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).

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

7. This Court has personal jurisdiction over the Defendants. Defendants have conducted and do conduct business within the Commonwealth of Massachusetts. Defendants, directly or through intermediaries (including distributors, retailers, and others), ship, distribute, offer for sale, sell, and advertise products in the United States, the Commonwealth of Massachusetts, and the District of Massachusetts. Defendants 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. Defendants have committed acts of patent

infringement within the United States and, more particularly, within the District of Massachusetts.

**PATENT INFRINGEMENT**

8. Lexington incorporates by reference paragraphs 1-7 as if fully set forth herein.
9. On August 30, 2005, United States Patent No. 6,936,851 B2 entitled “Semiconductor Light-Emitting Device and Method for Manufacturing the 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.
10. 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 patent, together with the *ex parte* reexamination certificate, is attached hereto as Exhibit A. United States Patent No. 6,936,851 B2 and 6,936,851 C1 are collectively known as the ‘851 Patent.
11. The ‘851 Patent is valid and enforceable.
12. To the extent any marking or notice was required by 35 U.S.C. § 287, Plaintiff has complied with the applicable marking and/or notice requirements of 35 U.S.C. § 287.
13. Upon information and belief, Defendants have infringed and/or continue to infringe (literally and/or under the doctrine of equivalents) one or more claims of the ‘851 Patent in this judicial district and elsewhere in the Commonwealth of Massachusetts and the United States, including at least claim 1, by, among other things, making, using, offering for sale, selling, and/or importing televisions and other electronic devices including, without limitation,

television model 40FD2700 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.

14. The devices above are collectively referred to as the "Accused Products."

15. On information and belief, the Accused Products use Light-Emitting Diodes ("LEDs") that use infringe one or more claims of the '851 Patent. The Accused Products use LEDs for purposes including, without limitation, backlighting of the displays.

16. The LEDs used in the Accused Products are semiconductor light-emitting devices.

17. The LEDs used in the Accused Products contain a substrate.

18. The LEDs used in the Accused Products contain a textured district defined on the surface of said substrate comprising a plurality of etched trenches having a sloped etching profile with a smooth rotation of micro-facets without a prescribed angle of inclination.

19. The LEDs used in the Accused Products contain a first layer disposed on said textured district comprising a plurality of inclined lower portions, said first layer and said substrate form a lattice-mismatched misfit system, said substrate having at least one of a group consisting of group III-V, group IV, group II-VI elements and alloys, ZnO, spinel and sapphire.

20. The LEDs used in the Accused Products use a gallium nitride first layer.

21. The LEDs used in the Accused Products contain a sapphire substrate.

22. The LEDs used in the Accused Products contain a light-emitting structure containing an active layer disposed on said first layer, whereby said plurality of inclined lower

portions are configured to guide extended lattice defects away from propagating into the active layer.

23. Defendants have been at no time, either expressly or impliedly, licensed under the '851 Patent.

24. Defendants' acts of infringement have caused damage to Plaintiff. Plaintiff is entitled to recover from Defendants the damages sustained by Plaintiff as a result of the wrongful acts of Defendants in an amount subject to proof at trial. Defendants' 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.

25. Upon information and belief, since at least June 6, 2016, Defendants have had knowledge of the '851 Patent and have had knowledge of their infringement of the '851 Patent through written notification sent by Lexington to TTE Technology.

26. Upon information and belief, since at least July 15, 2016, Defendant TTE Technology has had knowledge of the '851 Patent and has had knowledge of their infringement of the '851 Patent through service of the original Complaint in this case by Lexington.

27. Upon information and belief, since at least August 2, 2016, Defendant TCL Multimedia has had knowledge of the '851 Patent and has had knowledge of their infringement of the '851 Patent through the filing of its waiver of foreign service requirement.

28. Upon information and belief, since at least June 6, 2016, Defendants have been aware of the '851 Patent. Defendants' infringement has been and continues to be willful and deliberate. Upon information and belief, Defendants deliberately infringed the '851 Patent and acted recklessly and in disregard to the '851 Patent by making, having made, using, importing, and offering for sale products that infringe the '851 Patent. Upon information and belief, the risks of

infringement were known to Defendants and/or were so obvious under the circumstances that the infringement risks should have been known. Upon information and belief, Defendants have no reasonable non-infringement theories. Upon information and belief, Defendants have not attempted any design change to avoid infringement. Defendants have acted despite an objectively high likelihood that its actions constituted infringement of the '851 Patent. In addition, this objectively-defined risk was known or should have been known to Defendants. Upon information and belief, Defendants have willfully infringed and/or continue to willfully infringe the '851 Patent. Defendants' actions of being made aware of its infringement, not developing any non-infringement theories, not attempting any design change, and not ceasing its infringement constitute egregious behavior beyond typical infringement. Defendants have acted despite an objectively high likelihood that its actions constituted infringement of the '851 Patent.

29. Defendants' affirmative acts of selling the Accused Products, causing the Accused Products to be manufactured and distributed, and providing instruction manuals for the Accused Products have induced and continue to induce Defendants' manufacturers, resellers, and/or end-users to make or use the Accused Products in their normal and customary way to infringe the '851 Patent. For example, it can be reasonably inferred that retailers will re-sell the infringing products, and that end-users will use the infringing products, which will cause the LEDs that are the subject of the claimed invention to be used. Defendants specifically intended and were aware that these normal and customary activities would infringe the '851 Patent. By way of example, the LEDs that are the subject of the claim invention are energized and illuminated when an infringing television is turned on and its LED-backlit display is illuminated. In addition, Defendants provide instructional materials, such as user guides, that specifically teach

end-users to use the Accused Products in an infringing manner. By providing such instructions, Defendants know (and have known), or were willfully blind to the probability that their actions have, and continue to, actively induce infringement. By way of example only, Defendants have induced infringement and continue to induce infringement of, in addition to other claims, at least claim 1 of the '851 Patent by selling in the United States, without Lexington's authority, infringing products and providing the instructional materials described above. These actions have induced and continue to induce the direct infringement of the '851 Patent by end-users, businesses, distributors, resellers, and sales representatives. Defendants also actively induce resellers of its products to directly infringe at least claim 1 of the '851 Patent by selling or offering for sale the Accused Products in the United States. Defendants also actively induce resellers of its products to directly infringe at least claim 1 of the '851 Patent by importing the Accused Products into the United States. Defendants performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '851 Patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. Upon information and belief, Defendants specifically intended (and intend) that their actions will results in infringement of at least claim 1 of the '851 Patent, or subjectively believes that its actions will result in infringement of the '851 Patent but took deliberate actions to avoid learning of those facts, as set forth above. Upon information and belief, Defendants knew of the '851 Patent and knew of its infringement, including by way of this lawsuit and earlier as described above.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury for all issues so triable.

**PRAYER**

WHEREFORE, Plaintiff prays for judgment that:

1. Defendants have 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 a compulsory ongoing royalty;
5. Plaintiff be awarded an accounting of damages;
6. Plaintiff be awarded enhanced damages for willful infringement as permitted under the law;
7. A judgment and order requiring Defendants 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 Defendants 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;
8. An award to Plaintiff of the costs of this action and its reasonable attorneys' fees pursuant to 35 U.S.C. §285;
9. Such other and further relief as the Court deems just and equitable.



DATED: December 5, 2016

Respectfully submitted,

/s/Robert D. Katz

David S. Godkin (BBO#196530)

BIRNBAUM & GODKIN LLP

280 Summer Street

Boston, MA 02210

617-307-6100

godkin@birnbaumgodkin.com

Robert D. Katz

KATZ PLLC

6060 N. Central Expressway, Suite 560

Dallas, TX 75206

214-865-8000

rkatz@katzfirm.com

**ATTORNEYS FOR PLAINTIFF**

**LEXINGTON LUMINANCE LLC**

**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