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Attorneys for Plaintiff DMF, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

DMF, Inc., a California corporation, Plaintiff, v. AMP Plus, Inc. d/b/a ELCO Lighting, a California corporation; and ELCO Lighting Inc., a California corporation, Defendants.	Civil Action No. 2:18-cv-07090 **COMPLAINT FOR:** **1) Patent infringement** **2) Trademark infringement** **3) Unfair Competition** **JURY TRIAL DEMAND**

Complaint For Infringement And Unfair Competition

This is a patent infringement, trademark infringement and unfair competition action in which DMF, Inc. ("DMF" or "Plaintiff") makes the following allegations against Defendant AMP Plus, Inc., d/b/a ELCO Lighting and ELCO Lighting, Inc. (collectively "ELCO" or "Defendants"). Plaintiff DMF seeks remedies based on Defendant ELCO's past and continuing infringement of DMF's U.S. Patent No. 9,964,266 ("the '266 Patent" or "the patent-in-suit") entitled "Unified Driver and Light Source Assembly For Recessed Lighting" (attached as Exhibit 1); ELCO's

past and continuing infringement of DMF's common law and registered marks OneFrame, U.S. Reg. No. 5,032,463, and OneLED, U.S. Reg. No. 5,503,155; and ELCO's wrongful actions constituting unfair competition.

I. Parties

1. Plaintiff DMF, Inc. ("DMF" or "Plaintiff") is a California corporation that is headquartered and has manufacturing facilities within this District at 1118 East 223rd Street, Carson, California 90745. DMF designs, manufactures and distributes residential and commercial downlighting that is easy to specify and intuitively simple. An engineering driven company, DMF stands out for its forward-thinking industrial design, responsive service and deliverability of product.

2. Defendant AMP Plus, Inc., d/b/a ELCO Lighting is a California corporation having a principal place of business located within this District at 2042 East Vernon Avenue, Vernon, California 90058. On information and belief, Defendant AMP Plus, Inc. makes, uses, offers for sale, sold, sells or imports lighting products that are the subject of this Complaint.

3. Defendant ELCO Lighting, Inc. is a California corporation having a principal place of business located within this District at the same address above as Defendant AMP Plus, Inc. On information and belief, Defendant ELCO Lighting, Inc. owns and controls at least the information shown on the website used by Defendant AMP Plus, Inc. to advertise, promote, offer for sale and sell the ELCO products alleged herein. Attached as Exhibit 21 is a true and correct image of ELCO's website page[1] for the accused "E.L.L. System" with the copyright claim "© ELCO LIGHTING INC. 2018", which copyright notice appears on almost all, if not all, pages of the website (see also Exhibit 20).

4. Mr. Saeed Cohen, who also goes by the name Mr. Steve Cohen, is the President of both Defendant AMP Plus, Inc. d/b/a ELCO Lighting and Defendant

[1] https://elcolighting.com/ell-module (Aug. 2018)

ELCO Lighting, Inc. (hereinafter referred to collectively as "ELCO" or "Defendants").

II. Jurisdiction and Venue

5. This action arises under the patent and trademark laws of the United States, Title 35 of the United States Code and Title 15 §§ 1115 and 1125 of the United States Code, respectively. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a). The Court has supplemental jurisdiction over the remaining claims under 29 U.S.C. § 1367.

6. This Court has personal jurisdiction over Defendants in this action because, among other reasons, Defendants have committed acts within the Central District of California giving rise to this action and have established minimum contacts with the forum state of California, including a regular and established place of business within this District. Defendants have committed and continue to commit acts of infringement in this District by, among other things, making, using, importing, offering for sale or selling products that infringe the patent-in-suit, infringe the Federally registered and common law trademarks of DMF and have undertaken further actions, as described below, that constitute unfair competition. Defendants purposefully availed themselves of the benefits of doing business in the State of California and the exercise of jurisdiction over them would not offend traditional notions of fair play and substantial justice. Defendants are registered to do business in the State of California and have appointed as an agent for service of process ELCO President Mr. Saeed Cohen, 2042 E Vernon Ave, Vernon, CA 90058.

7. Venue is proper in this District under at least the following venue statutes:

- 28 U.S.C. § 1391(b)(1) – Defendants reside in and have a regular and established place of business in this District (2042 East Vernon Avenue, Vernon, CA 90058).
- 28 U.S.C. § 1391(b)(2) – A substantial part of the events or omissions giving rise to the claims occurred in this District.

- 28 U.S.C. § 1400(b) – Defendants reside in and have a regular and established place of business in this District and have committed acts of patent infringement in this District.

III. Background

8. DMF began as a small family business founded over 30 years ago by an electrical engineer. Since then, DMF has become a major manufacturer of recessed lighting systems that use light emitting diode ("LED") technology.

9. DMF's headquarters and manufacturing facilities in Carson, California include a state-of-the-art research and development ("R&D") laboratory where researchers with advanced doctorate engineering degrees work to improve existing products and develop new ones. DMF continuously invests in developing innovations in the LED lighting industry and has been awarded patents on its innovations.

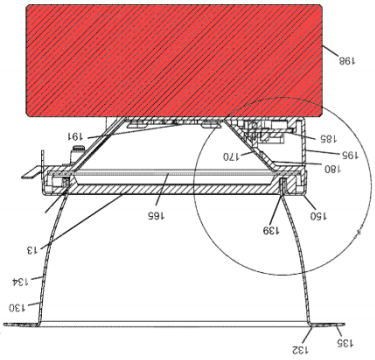
10. DMF developed a rigorous quality control program for its products that has earned DMF a reputation as a leading supplier of LED lighting products that can be trusted to perform as advertised. All DMF products undergo a rigorous, multi-tiered testing process to ensure that they meet DMF's stringent performance standards. DMF employs several U.S. military veterans in its operation and performs quality-control testing procedures derived from those used by the U.S. military. As a result, DMF's lighting fixtures have an industry leading success rate.

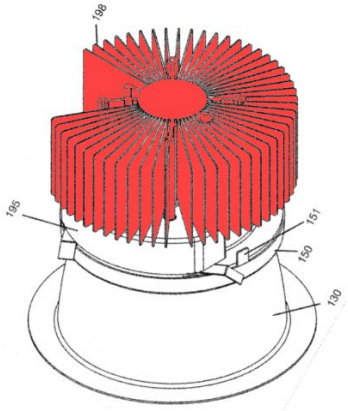
A. DMF's Patented LED Lighting System

11. Heat generated by an LED lighting system is a key factor affecting the system's long-term reliability. The higher the temperature, the more susceptible the system is to failure. LED system's must manage the operating temperature to ensure that electronic components are not overly stressed.

12. Some conventional recessed lighting systems managed temperature using a heat sink stacked on top of a separate housing that contained the light source and other components. For example, shown below is a heat sink 198 (highlighted

red) stacked on top of a housing 195 in FIGS. 9A and 10 of U.S. Patent Application Publication No. 2013/0010476, shown below:





13. Further, a conventional recessed lighting system may include both a "can" for housing the lighting portion of the fixture and a separate junction box for connecting wires from the lighting fixture to the building's electrical system.

14. Recessed lighting systems typically are installed within a hole cut into and extending above a ceiling. Given fire resistance codes, such installations may require building a firebox to enclose the lighting system. Installing fireboxes requires significant installation time for lighting projects, as well as labor and materials costs, based on the frame carpentry, drywall installation and fire-rated caulking used to build a firebox for each lighting fixture. The image below illustrates a conventional firebox made on-site using wooden framing and drywall around the lighting fixture:

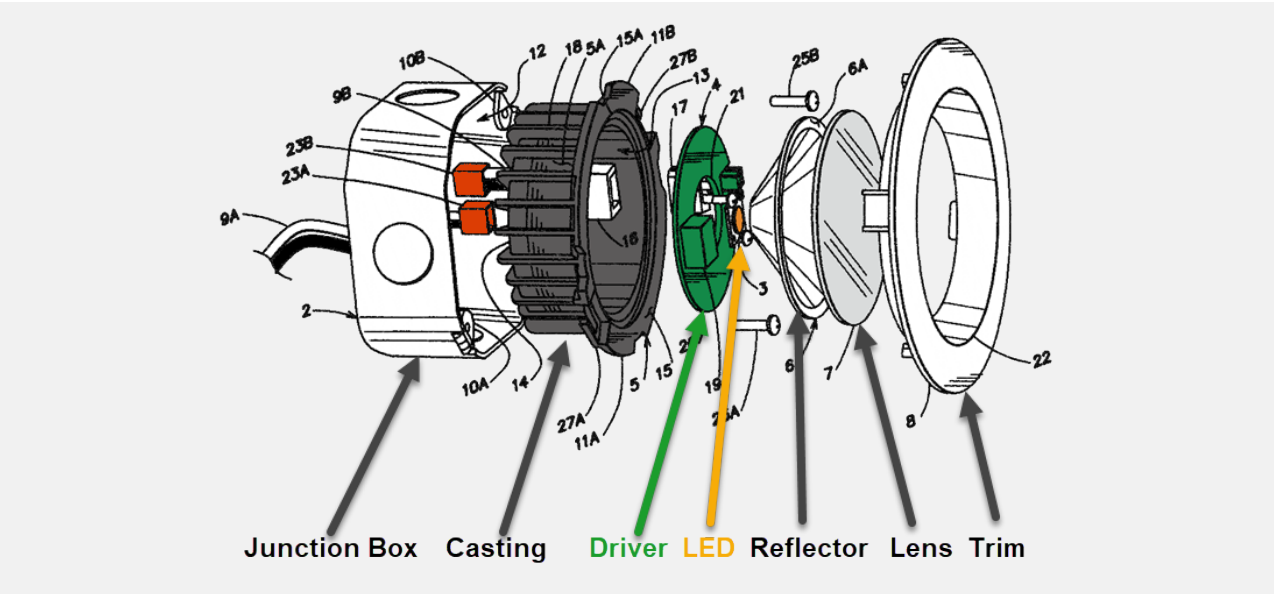
Conventional Firebox

15. Lighting fixture options and placement may vary based on whether the lighting project is for a new or existing structure. For example, installation in an existing structure may have limited existing wiring, ceiling space, accessibility or other issues not found in new building projects.

1. Michael D. Danesh's Innovative LED Module System

16. DMF's Michael D. Danesh, the named inventor of the '266 Patent, recognized these and other issues that impact LED recessed lighting systems. Mr. Danesh designed a modular LED lighting system that includes a versatile, compact LED Module. Mr. Danesh designed the LED Module with a low-profile heat conducting casting that could both house LED components and significantly dissipate heat from the LED light source, rather than stacking a conventional heat-sink on top of a separate component housing. Mr. Danesh's LED Module could fit in traditional "cans" or other lighting fixtures, but also was small enough to fit into standard junction boxes without using a separate firebox, "can" or lighting fixture.

17. FIG. 1 of the issued '266 Patent shows one embodiment of Mr. Danesh's innovative LED Module (color and labeling added):



18. Recessed lighting systems may have a decorative trim to cover the ceiling hole in which the light fixture is installed. Mr. Danesh designed his LED Module with a twist-and-lock connection so that trims of different sizes and designs easily could be attached by hand without tools.

19. Mr. Danesh designed many other features into his LED Module that, as a whole, created a novel LED module with a combination of features and benefits not found in prior LED lighting systems. Mr. Danesh's compact LED Module is very versatile and allows for a flexible, modular lighting system that has many different combinations of components for use in the many different circumstances encountered when installing LED lighting systems in existing or new buildings.

2. The '266 Patent

20. On July 5, 2013, a provisional application was filed disclosing Mr. Danesh's innovative LED lighting system and naming him as the inventor: U.S. Patent Application No. 61/843,278 ("the '278 Application").

21. On February 19, 2014, a non-provisional patent application was filed naming Mr. Danesh as the inventor and claiming the benefit of priority to the July 5, 2013 filing date of the '278 Application: U.S. Patent Application No. 14/184,601 ("the '601 Application").

22. On January 8, 2015, the Patent Office published U.S. Patent Application Publication No. US 2015/0009676 for the pending '601 Application, a true and correct copy of which is attached as Exhibit 3.

23. On May 8, 2018, the Patent Office granted and published U.S. Patent No. 9,964,266 ("the '266 Patent") that issued from the '601 Application naming Mr. Danesh as the inventor. A true and correct copy of the '266 Patent as certified by the Patent Office is attached as Exhibit 1.

24. The '266 Patent claims have an effective priority filing date to the '278 Application of July 5, 2013.

25. References cited during the Patent Office's examination before the Patent Office decided to grant the '266 Patent include at least 225 U.S. patents, 70 published U.S. patent applications, 34 foreign technical patent documents and 36 other technical documents.

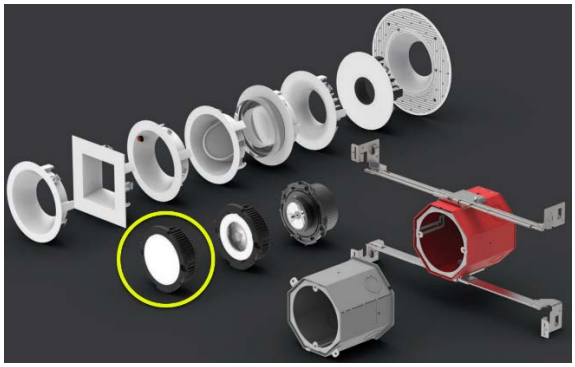
26. On May 8, 2018, Mr. Danesh executed an assignment document that, among other things, assigned ownership of the then-pending U.S. '601 Application to Plaintiff DMF as well as patents that issue from that application, such as the now-issued '266 Patent. A true and correct copy of that assignment document as certified by the Patent Office is attached as Exhibit 2.

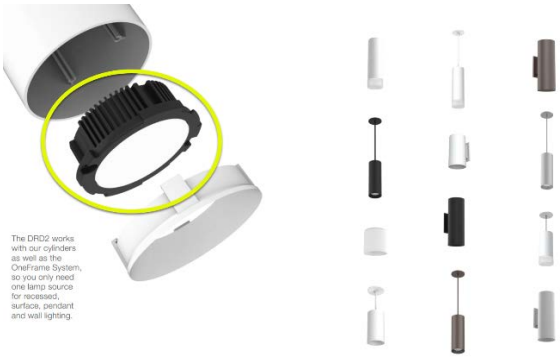
27. Plaintiff DMF owns all rights, title and interest in and to the '266 Patent, including all rights to sue and recover for past and future infringement.

B. DMF's Products

28. Part of DMF's uniqueness in the LED lighting industry is the modularity and compactness of its products and how easy they are to use. That uniqueness is exemplified in DMF's flagship products: DMF's DRD2 LED Module products that practice the '266 Patented invention. The DRD2 LED Module has a compact, modular and low-profile design that fits within many different enclosures, such as junction boxes and light fixtures. The DRD2 LED Module includes a twist-and-lock mechanism that allows tool-free attachment of many different trim options:

29. DMF's DRD2 LED Module plays an important role in DMF's modular OneFrame System for recessed lighting. The OneFrame System has many different and combinable LED modules, trims and light fixtures, some of which are shown on the left below (DRD2 LED Module circled in yellow):





30. The DRD2 LED Module also plays an important role in DMF's modular DCC2 radiant lighting cylinder system. That system offers many different sizes, colors and mounting options for LED lighting, as shown on the right above (DRD2 LED Module circled in yellow).

31. DMF started marketing and selling its flagship DRD2 LED Module products in 2014. For example, below is an image of various sales tools for the DRD2 LED Module used in and after December 2014:

2014 Sales Tools for DRD2 LED Module Products

32. In early 2015, DMF redesigned its public website. The new website design launched in April 2015 and centered around the DRD2 LED Module lighting system. The DRD2 LED Module remains a prominent feature of DMF's website.

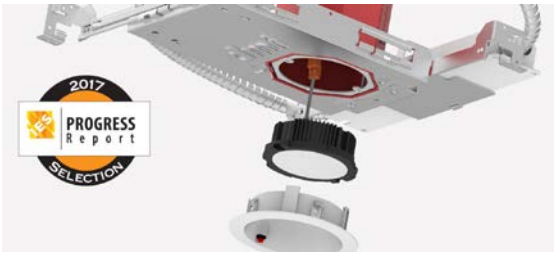
33. DMF showcased its flagship DRD2 LED Module at many industry tradeshows since at least June 2014, including:

- LIGHTFAIR International 2014, Las Vegas, NV (June 3-5, 2014)
- LIGHTFAIR International 2015, New York, NY (May 5-7, 2015)
- LIGHTFAIR International 2016, San Diego, CA (April 26-28, 2016)
- LIGHTFAIR International 2017, Philadelphia, PA (May 7-9, 2017)
- LIGHTFAIR International 2018, Chicago, IL (May 8-10, 2017)

DMF's Booth at LIGHTFAIR 2014 Tradeshow

C. Industry Praise for DMF Products

34. DMF's LED lighting systems using its flagship DRD2 LED Module have received many industry awards for innovation based on features that enable simplified installation (and the attendant reduction of installation time, labor and material costs) while at the same time meeting applicable codes and allowing precision alignment of the lighting system in ceilings and walls of varying depths.



35. In 2016, the Illuminating Engineering Society ("IES") selected DMF's recessed lighting system for the 2016 IES Progress Report. IES used an impartial judging process to evaluate products based on uniqueness, innovation and significance to the lighting industry. The January 2017 edition of LD+A magazine at pages 41 and 46 (attached as Exhibit 6) explain the process and selection of DMF's system:

The OneFrame DRDHNJD recessed downlight from **DMF Lighting** is the first 4-in. aperture fire-rated downlight. With this unique design there's no need for costly fire-boxing, eliminating the need to involve other trades for installation, reducing construction time, materials and cost.

36. In 2016, Architectural Products Magazine awarded DMF's lighting system the Product Innovation Award. The magazine's November 2016 edition at page 66 (attached as Exhibit 7) described the award:

DMF LIGHTING
OneFrame – DRDHNJD Recessed LED Downlight
www.dmflighting.com

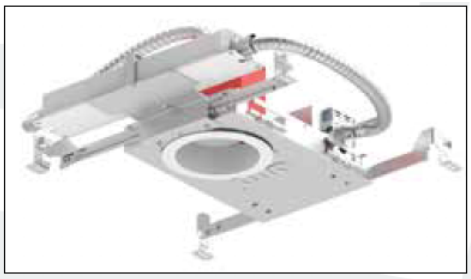
A Floating Innovation
As a Lightfair International Technical Innovation Award and Recessed Downlight Category Award winner, this product features a floating height module to ensure perfect alignment with varied ceiling thicknesses, making the unique downlight housing apparatus well suited for multifamily construction. With a two-hour fire rating, the downlight helps meet code requirements while delivering a high color rendering index of 93+. **Circle** (384)

37. In 2016, LIGHTFAIR International ("LFI") Innovations Awards 2016 Program gave DMF the Technical Innovation Award in the Recessed Downlight product category for exemplifying the industry's most innovative products and designs introduced over the past year. The July 2016 edition of LD+A Magazine at page 52 (attached as Exhibit 8) explained the award to DMF:

Technical Innovation Award
Product Category: Recessed Downlights
(Wall Washers, Directionals, Modulars, Multiples)
DMF Lighting OneFrame DRDHNJD: Recessed LED downlight simplifies multifamily installation with ratings for fire, sound, wet location, IC and air-tight use that is UL, Energy Star and Title 24 compliant.
www.dmflighting.com

38. In 2017, the IES Progress Report selected DMF's system for being the only LED downlight to combine Emergency Lighting with Fire, Sound, IC and Air Tight ratings, while remaining accessible from below the ceiling plane. The November 2017 issue of LD+A Magazine at page 63 explained the award (attached as Exhibit 9). The images below are from that magazine (left side) and DMF's website[2] (right side):

[2] https://www.dmflighting.com/product/oneframe-drdhnjf/ (Aug. 2018)



DMF Lighting has expanded their One-Frame product to include the DRDHNJF luminaire. It is the only fire-rated recessed LED downlight housing with integral emergency lighting, that also includes fire, sound, airtight, IC and wet-location listings.

39. In 2018, Architectural SSL magazine gave DMF an award for innovation based on DMF's OneFrame System LED Downlight.

D. ELCO Competes Using Knock-Offs of DMF Products

40. When DMF introduced its flagship DRD2 LED Module products, ELCO was facing an uncertain future as the industry moved away from the traditional lighting systems that ELCO sold and toward LED-based lighting systems like DMF sold. ELCO was desperate – ELCO could be rendered obsolete if it did not obtain a strong presence in the LED light fixture market.

41. In 2015, ELCO's President, Mr. Saeed Cohen (*a.k.a.* Mr. Steve Cohen), believed that LED lighting fixtures would be replacing ELCO's traditional non-LED products. One reason was that the government was in the process of requiring much of new construction and major remodeling in California to use High Efficacy lighting fixtures (LED).

42. In 2015, ELCO's President believed that ELCO's future was uncertain.

43. In 2015, ELCO's President believed that ELCO did not have a strong presence in the LED lighting fixture market.

44. In 2015, ELCO's President believed that the LED lighting fixture business was very competitive and that it was unclear whether ELCO could obtain a strong presence in that market.

45. In 2015, ELCO's President believed that, without a strong presence in the LED market, ELCO could be rendered obsolete.

46. ELCO's President, Mr. Saeed Cohen, confirmed his beliefs of paragraphs 41-45 above during his personal bankruptcy proceeding—*e.g.*, see the Fourth Amended Joint Plan of Reorganization Proposed By the Debtor [Mr. Saeed "Steve" Cohen] and The Official Committee of Creditors Holding Unsecured Claims (United States Bankruptcy Court for the Central District of California, Case No. 2:13-bk-26483-NB, Dkt. No. 990, May 14, 2015) (hereinafter "Bankruptcy Plan"). The Bankruptcy Plan at page 7 states Mr. Saeed Cohen's beliefs about ELCO's uncertain future on May 14, 2015, when he signed the document filed with the court:

> While Elco Lighting has historically been a very profitable business, the Debtor believes its **future is uncertain** as a result of the fact that the government is in the process of requiring much of new construction and major remodeling in California to use High Efficacy lighting fixtures (LED). The LED light fixture business is **very competitive**. Elco Lighting **does not have a strong presence in that market**, and it is **unclear whether Elco Lighting will be capable of obtaining a strong presence** in that market. If Elco Lighting is not able to obtain a strong presence in the LED market, the **Elco Lighting business could be rendered obsolete**." [emphasis added]

47. Desperate to avoid obsolescence, ELCO developed a scheme to increase its LED market presence by copying DMF's flagship DRD2 LED Module system and trading on DMF's award-winning innovations and designs.

48. ELCO directly competes against DMF and ELCO intended to use (and does use) the knock-off products to directly compete against the DMF products that ELCO copied.

49. ELCO representatives attend and have exhibit booths at many of the same tradeshows where DMF showcased its flagship DRD2 LED Module products. For example, ELCO representatives attended the 2014 to 2018 tradeshows identified in paragraph 33 above where they had access to information about DMF's DRD2 LED Module products.

50. In and after April 2015, ELCO had access to DMF's website and information published therein about DMF's DRD2 LED Module products.

51. Before and after April 2015, ELCO had access to DMF's DRD2 LED Module products.

52. Around and after January 8, 2015, ELCO had access to the published U.S. Patent Application Publication No. US 2015/0009676 ("the Published Application") for the '601 Application that ultimately issued as the '266 Patent. That published application disclosed DMF's LED Module system and provided notice that DMF intended to patent innovations embodied in that system. After the Published Application was published, ELCO could review the Patent Office's records of the examination of the '601 Application (sometimes called the "file history" or "file wrapper") using the Public Patent Application Information Retrieval ("PAIR") system on the Patent Office's website.[3]

53. On and after May 8, 2018, ELCO had access to the published '266 Patent that disclosed DMF's innovative LED Module-based system.

54. On August 3, 2018, DMF's counsel sent a letter to ELCO that informed ELCO of its infringement of the '266 Patent and demanded that ELCO cease and desist further infringement. A true and correct copy of that letter ("the Cease & Desist Letter") is attached as Exhibit 10. The Cease & Desist Letter was sent to ELCO by email (to customerservice@elcolighting.com) and a paper copy also was sent using U.S. Postal Service certified mail with return receipt requested.

55. On information and belief, ELCO received the Cease & Desist Letter by email on August 3, 2018.

56. On August 6, 2018, ELCO refused to allow the U.S. Postal Service to deliver to ELCO the paper copy of the Cease & Desist Letter.

[3] https://portal.uspto.gov/pair/PublicPair.

57. On August 10, 2018, Mr. Brandon Cohen of ELCO finally acknowledged that ELCO had received the Cease & Desist Letter by email.

1. ELCO Copied DMF's DRD2 LED Module

58. On information and belief, over two years after DMF publicly introduced its flagship DRD2 LED Module products, ELCO started selling products copied from DMF's DRD2 LED Module products. This includes ELCO's Model Nos. ELL08xx and ELL11xx[4] (hereinafter "the ELLCO ELL LED Modules").

59. Exhibit 11 shows some information that ELCO provides on its website for its ELL LED Module.[5]

60. Images below compare ELCO's ELL LED Module, DMF's '266 Patent and DMF's DRD2 LED Module (with labeling added to indicate components):

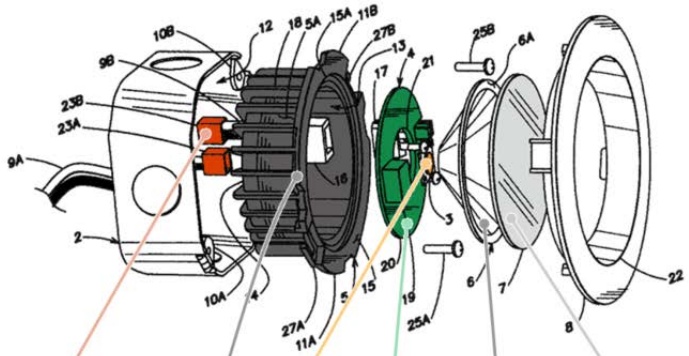
- **'266 Patent LED Module**—The top image below shows components of the LED Module of FIG. 1 from DMF's '266 Patent (with color added to some components).
- **DMF DRD2 LED Module**—The middle image below shows components of DMF's DRD2 LED Module from page 13 of DMF's OneFrame Brochure downloaded from DMF's website,[6] a true and correct copy of which is attached as Exhibit 12.
- **ELCO ELL LED Module**—The bottom image below is from ELCO's website information of Exhibit 11 that shows components of ELCO's ELL LED Module.

[4] The "08" indicates 850 lumens, "11" indicates 1100 lumens, and "xx" is a 2-digit number indicating the color temperature of the LED module.

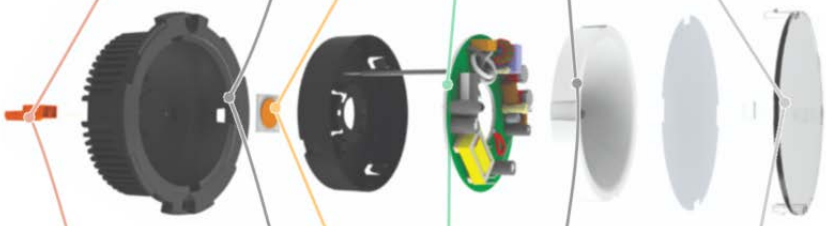
[5] https://elcolighting.com/products/ell-led-module (July 2018).

[6] https://www.dmflighting.com/wp-content/uploads/2017/05/OneFrame-DRDHNJD-Brochure.pdf (Aug. 2018)

‘266 Patent FIG. 1
LED Module



DMF DRD2
LED Module



ELCO ELL
LED Module

Connector
Aluminum Casting
LED Light Source
Driver
Reflector
Lens

61. The three LED Modules above have the same or similar measurements, as shown in the images below:

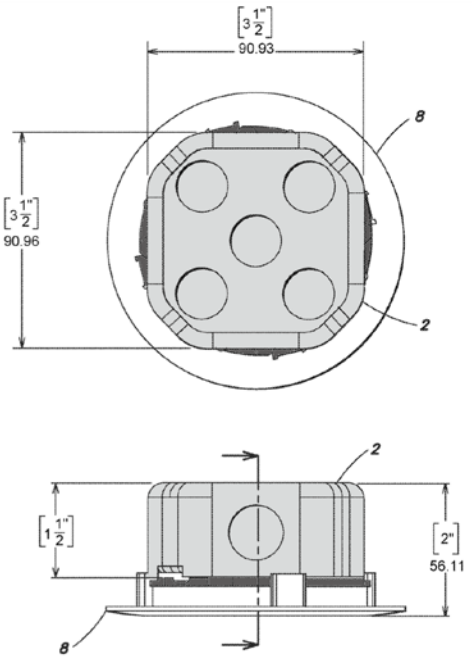
- **‘266 Patent LED Module**—The top image below is FIG. 2 of the ‘266 Patent that indicates measurements of the LED Module (color added).
- **DMF DRD2 LED Module**—The middle image below is from Exhibit 13, which is a true and correct copy of a specification sheet for DMF’s DRD2 LED Module downloaded from DMF’s website.[7]

[7] https://www.dmflighting.com/wp-content/uploads/2018/03/DRD2-Sell-Sheet.pdf (Aug. 2018).

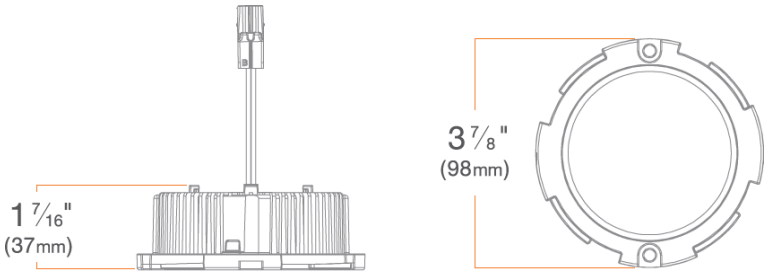
- **ELCO ELL LED Module**—The bottom image below is from Exhibit 14, which is a true and correct copy of a specification sheet of the ELCO ELL LED Module downloaded from ELCO's website.[8]

'266 Patent FIG. 2 LED Module

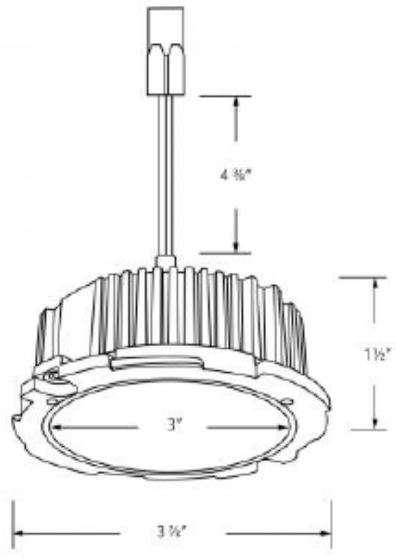
casting – dark grey
junction box – light grey
trim- white



DMF DRD2 LED Module



ELCO ELL LED Module



[8] https://elcolighting.com/printpdf/products/ell-led-module (Aug. 2018).

62. Each of the three LED Modules of paragraphs 59 to 61 above have an LED light source that emits light during operation of the LED Module.

63. Each of the three LED Modules of paragraphs 59 to 61 above has a driver that supplies regulated power to the LED light source. Each driver has a donut shape.

64. Each of the three LED Modules of paragraphs 59 to 61 above has a heat conducting aluminum casting with a closed rear end, an open front end and a cylindrical sidewall therebetween. The sidewall and rear end, which have fins formed on them, significantly dissipate heat generated by the LED light source during operation of the LED Module.

65. Each of the three LED Modules of paragraphs 59 to 61 above has a reflector that, during operation of the LED Module, reflects light emitted from the LED light source out of the open end of the aluminum casting.

66. Each of the three LED Modules of paragraphs 59 to 61 above has a lens at the open end of the aluminum casting. The lens helps shield the LED light source from outside contamination, such as when the LED Module is being handled for installation or afterwards, while allowing light from the LED light source to pass through the lens and into the room to be lit during operation of the LED Module.

67. When each of the three LED Modules of paragraphs 59 to 61 above are assembled, the LED light source, driver, reflector and lens are positioned within the aluminum casting. The LED light source is positioned closer to the rear end of the aluminum casting than the open front end of the casting.

68. Each of the heat conducting castings of the three LED Modules of paragraphs 59 to 61 above electrical wires passing through the closed rear face for supplying electrical energy to the enclosed driver. The wires have a connector at one end that, during installation of the LED Module in a building, can be plugged into a corresponding connector of other wires that receive electrical energy, such as 120-volt electrical energy supplied in the building in which the LED module is installed.

69. Each of the aluminum castings of the three LED Modules of paragraphs 59 to 61 above has portions on the open end of the casting that can align with tabs of a junction box to fasten the casting to the junction box – e.g., by inserting a screw through openings in the portions of the LED Module casting that are aligned with holes in tabs of the junction box.

70. The width of the closed rear end of the aluminum casting of each of the three LED Modules of paragraphs 59 to 61 above is less than 3-1/2 inches.

71. For each aluminum casting of the three LED Modules of paragraphs 59 to 61 above, the height from the outside of the closed rear end of the casting to the outside of the open end of the casting is less than 2 inches.

72. The outside width of the sidewall of each aluminum casting of the three LED Modules of paragraphs 59 to 61 above, between the closed rear end of the casting and a rim on the open front end of the casting, is less than 3-1/2 inches wide.

73. The aluminum casting of each of the three LED Modules of paragraphs 59 to 61 above, below an outer rim at the open end of the casting, can fit within a junction box that is 3-1/2 inches wide and 1-1/2 inches deep.

74. ELCO instructs customers that its ELCO ELL LED Modules are designed to fit into standard junction boxes.

75. Attached as Exhibit 15 is a true and correct copy of installation instructions that ELCO provides with its ELL LED Modules entitled “ELCO Lighting Installation Instructions For ELL LED Module”, which includes the excerpt below:

Housing Compatibility:
The ELL LED module and trims are designed to fit into standard UL listed housings. To determine compatibility, recessed housings must meet minimum dimensions listed below. Refer to the diagram in **(Figure 1)** for housing dimensions and **(Figure 2)** for junction box dimensions.

76. Each of the aluminum castings of the three LED Modules of paragraphs 59 to 61 above has a twist-and-lock configuration at the open end of the casting that allows a trim to be attached to the LED Module by a twist-and-lock connection.

77. As shown in an image from the packaging box for an ELCO ELL LED Module (with highlighting added), ELCO's marketing materials promote the benefits of the ELCO ELL LED Module as including its versatile design and convenient twist-lock attachment of an assortment of trim options, which are some of the features that ELCO copied from DMF's patented DRD2 LED Module:

2. ELCO Copied DMF's Modular Trims

78. When DMF introduced its DRD2 LED Module in 2014, DMF also introduced trims of varying sizes, forms and colors that can be installed tool free by hand onto the LED Module using a twist-and-lock mechanism (hereinafter "the DMF Trims"). Below on the left side is an image from DMF's OneFrame Brochure showing the twist-and-lock trim with a DMF DRD2 LED Module, and on the right side ELCO's marketing material for its knockoff:

DMF Twist & Lock Trim

ELCO Twist & Lock Trim

79. On information and belief, over two years after DMF started selling the DMF Trims, ELCO started selling trims that were specifically designed and sold to be installed onto ELCO's knock-off ELL LED Module using a twist-and-lock mechanism (hereinafter "the ELCO Trims"). For example, attached as Exhibit 16 is a true and correct copy of an ELCO flyer downloaded from ELCO's website;[9] an image from that flyer (shown on the right side of the images above) illustrates installation of an ELCO twist-and-lock trim on an ELCO ELL LED Module.

80. ELCO sells the ELCO Trims to be used only with the ELCO ELL LED Modules. ELCO instructs customers how to install the trims on the ELCO ELL LED Modules. ELCO instructs customers that the ELCO Trims are to be used only with the ELCO ELL LED Modules and that the ELCO ELL LED Modules twist-and-lock design is to be used only with the ELCO Trims.

81. The ELCO ELL LED Module specification of Exhibit 14 states that the ELL LED Module has a "Twist-lock design for toolless trim installation, for use with E.L.L. trims only." Exhibit 17 is a true and correct copy of a specification sheet downloaded from ELCO's website[10] that provides information on two of the ELCO Trims: ELL4810W and ELL4810BZ 4-inch trims (hereinafter "the ELL4810W Trim Specification"). The ELL4810W Trim Specification states that the trims have

[9] https://elcolighting.com/sites/default/files/dl-resource/files/E.L.L_Module_ELFLY008.pdf (Aug. 2018).

[10] https://elcolighting.com/printpdf/products/uno%E2%84%A2-4-diecast-round-reflector-trim (Aug. 2018).

"Convenient twist-lock design for ease of installation." The specification also instructs that the trims are for use only with the ELCO ELL LED Modules, stating the trims are "For use with E.L.L. LED Module only" and "Lamps: E.L.L. LED Module only (ELL08, ELL11)."

3. ELCO Copied DMF's Hanger Junction Box

82. In 2014, DMF started selling a junction box with adjustable hanger bars, Model No. DRDHNJ ("the DMF Hanger Junction Box"), for use with DMF's DRD2 LED Module products. Exhibit 18 is a true and correct copy of a specification sheet for that junction box. The left-side image below is an image from that specification sheet showing the DMF hanger junction box, a DRD2 Module and trim:

DMF Hanger Junction Box (from DMF's marketing materials)

ELCO Hanger Junction Box (from ELCO's marketing materials)

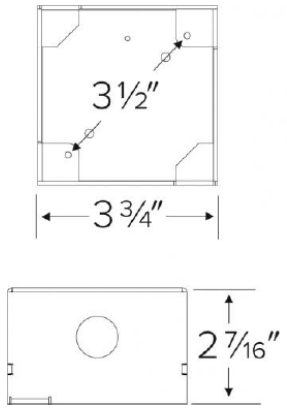
83. On information and belief, over a year after DMF started selling the DMF Hanger Junction Box, ELCO started selling a knock-off hanger junction box, Model No. ELJ4S ("the ELCO Hanger Junction Box"). Exhibit 19 is a true and correct copy of a product specification for the ELCO Model No. ELJ4S product that ELCO provides for download from ELCO's website[11] ("the ELCO Hanger Junction

[11] https://elcolighting.com/printpdf/products/new-construction-fire-rated-junction-box-surface-mount-trim (Aug. 2018).

Box Specification"). Exhibit 20 is information that ELCO provides on its website for the ELCO Hanger Junction Box, which includes the right-side image above. [12]

84. ELCO indicates that the junction box component (red in the image above) of the ELCO Hanger Junction Box has measurements consistent with industry standard junction boxes. For example, ELCO's specification sheet for the ELCO Hanger Junction Box states that the product is compatible with "lights that mount onto a 3O junction box." ELCO's reference to a "3O" junction box refers to a known trade size for junction boxes.

85. The ELCO Hanger Junction Box has tabs with holes spaced 3½ inches apart, as shown in the image below from the ELCO Hanger Junction Box specification (Exhibit 19):



ELCO Hanger Junction Box Measurements

86. The ELCO ELL LED Modules have portions with holes therein, also spaced 3½ inches apart, that may be aligned with the holes in the tabs of the ELCO Hanger Junction Box to fasten the LED Modules to it.

87. ELCO encourages customers to install ELCO ELL LED Modules with the ELCO Hanger Junction Box.

88. The ELCO Hanger Junction Box Specification (Exhibit 19) states that the ELCO Hanger Junction Box is "Compatible With … ELL08 Module (IC Rated)

[12] https://elcolighting.com/products/new-construction-fire-rated-junction-box-surface-mount-trim (July 2018).

ELL11 Module (Non-IC) with Trim: ELL11330(W) (B)," which refers to ELCO ELL LED Modules and ELCO Trims.

4. ELCO Copied DMF's Products

89. On information and belief, ELCO reviewed and considered information about DMF's flagship DRD2 LED Module products when designing one or more ELCO products, such as the ELCO ELL LED Module, ELCO Trim or ELCO Hanger Junction Box discussed above.

90. On information and belief, ELCO designed one or more ELCO products to include features that are the same as or similar to those that ELCO observed from DMF's DRD2 LED Module lighting system information and products.

91. On information and belief, ELCO copied DMF's DRD2 LED Module lighting products and innovative features thereof so that ELCO could sell knock-off products that directly compete with DMF's products.

5. ELCO's Conduct Irreparably Harms DMF

92. ELCO's copying, infringement and other improper conduct has (and continues to) substantially damage and irreparably harm DMF.

93. On information and belief, ELCO representatives and those acting in concert with ELCO have asked DMF's current and potential customers to purchase ELCO's ELL LED Module products rather than—and as a purported substitute for—DMF's flagship DRD2 LED Module products.

94. On information and belief, ELCO or those acting in concert with ELCO have attempted to confuse customers to believe that ELCO's knock-off products are from the same source as DMF's award winning DRD2 LED Module products, including by relying on the similarity in the name that ELCO chose to use for its products, the similarity in the appearance of the products, their similar packaging, the similar marketing material used by ELCO that mimics design cues from DMF's marketing material, and the similar channels through which the sales are made to the same customers.

95. On information and belief, DMF's DRD2 LED Modules are superior to, and more reliable than, ELCO's knock-off ELL LED Modules. This superiority comes from, among other things, DMF's having a longer track-record of establishing these products in the marketplace, having invested in the research and development necessary to design them in the first place and bring them to market using DMF's industry leading quality control standards.

96. Customers and potential customers of DMF are likely to be confused and, on information and belief, have experienced confusion, as to the origin or qualities of the competing ELCO and DMF products, including whether DMF and ELCO are both obtaining the same products from the same source. In addition, on information and belief, consumers have been confused about whether ELCO is the company that introduced these products and that established a track record of reliability and quality control with respect to these products.

97. On information and belief, some potential DMF customers would purchase DMF's DRD2 LED Module and related products if ELCO were not selling the knock-off ELCO ELL LED Modules that infringe DMF's '266 Patent.

98. Further, ELCO's misappropriation of DMF's innovations and designs, including ELCO's infringement of DMF's '266 Patent, has caused damage and irreparable harm, such as:

- Injury to DMF's reputation and business.
- Pressure on DMF to lower prices for its superior products in order to compete with ELCO's knock-off products.
- Loss of goodwill.
- Loss of business opportunities.
- Customer confusion and doubt about the source of DMF's LED Modules.

99. ELCO has unjustly benefited from copying DMF's technology for which DMF took risks and made substantial investment to develop and bring to market. For example, ELCO did not need to recoup investments made to develop DMF's lighting innovations and designs or bear the risks and costs to earn market

acceptance of those products; rather, ELCO simply copied the products after they proved to be award-winning products with a strong market presence. Further, ELCO has been trading on the goodwill provided by DMF's technology innovations while also diluting DMF's reputation as an innovator.

6. ELCO Uses A Confusingly Similar Trademark

100. DMF owns the rights to various marks in connection with the goods and services it provides. DMF is the owner of common law rights to the marks OneLED and ONEFRAME and, in addition to its common law rights, has been granted registered marks OneFrame, U.S. Reg. No. 5,032,463 and OneLED, U.S. Reg. No. 5,503,155. A true and correct copy of those registrations are attached as Exhibits 4 and 5, respectively.

101. Registration No. 5,032,463 on the trademark ONEFRAME in Class 11, covers LED luminaires, lighting fixtures, recessed lighting fixtures, recessed ceiling and wall lights; recessed lighting components, namely, light housings, trims, fittings, and wiring, and in Class 9, covers junction boxes and wiring enclosures for use in connection with recessing lighting. DMF has used the ONEFRAME trademark since at least October 2015.

102. Registration No. 5,503,155 on DMF's trademark OneLED, in Class 11, covers LED Lighting Modules; LED luminaires; lighting fixtures; recessed lighting fixtures; recessed ceiling and wall lights; recessed lighting components, namely, light housings, trims, fittings, and wiring, and in Class 9, covers junction boxes and wiring enclosures for use in connection with recessed lighting. DMF has used the OneLED trademark since at least January 2012.

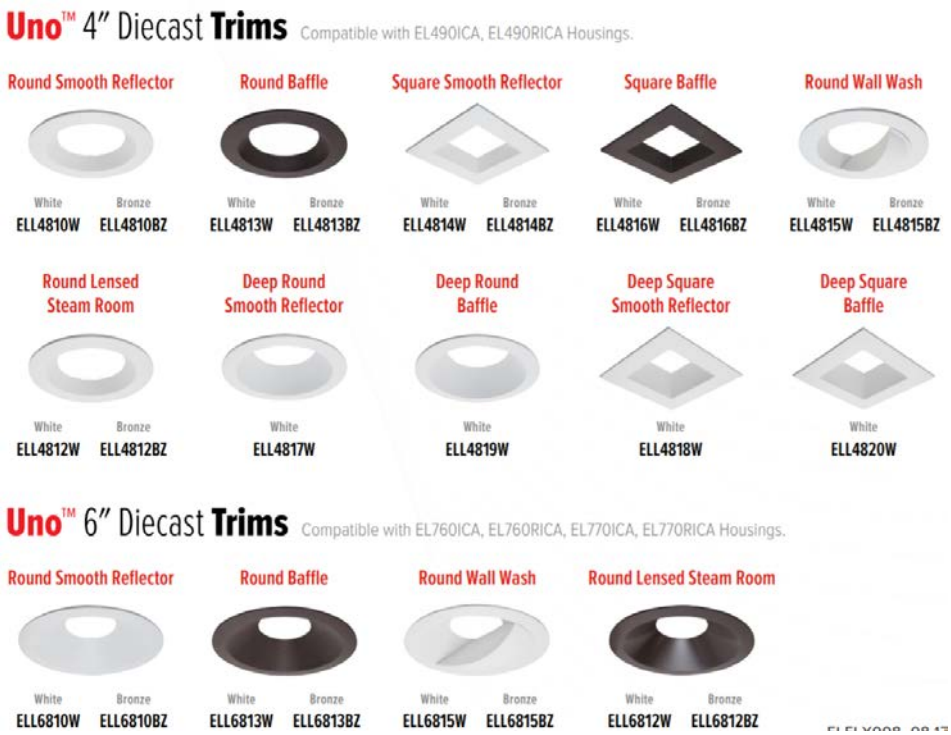
103. DMF's registrations are *prima facie* evidence of its ownership of the OneLED and ONEFRAME marks (collectively the "One Marks"), the validity of the marks, and of DMF's exclusive right to use the marks in commerce on or in connection with the goods or services specified in the registrations. DMF has used and continues to use its One Marks to help customers identify its award-winning,

LED lighting products, including in advertising and packaging used to sell those products as part of DMF's overall branding efforts.

104. The marks, when used in connection with certain DMF goods and services, indicate to members of the purchasing public that the services being offered originate from and are provided by DMF only and no other person or entity.

105. ELCO advertises, markets, offers to sell and sells competing, knock-off lighting products and accessories, *e.g.*, ELCO's Trim products, under the confusingly similar and conceptually identical name "UNO," which is commonly understood as the Spanish word for "ONE." These knock-off products are sold in the same distribution channels as DMF's genuine lighting products sold by DMF under its ONE Marks. DMF is further informed and believes that ELCO did not use "UNO" or "ONE" to sell LED modules until after ELCO decided to copy and sell knock-offs of DMF's products that DMF sold using the One Marks.

106. ELCO uses UNO to advertise its goods and services and conduct business via ELCO's website (elcolighting.com), which DMF is informed and believes is owned and operated by ELCO. For example, below is an image from the ELCO Flyer for ELL LED Module and Trims (Exhibit 16) depicting ELCO's use of UNO to advertise ELCO's goods and services:



107. By purposefully adopting a confusingly-similar name having the same meaning to promote identical products to the same customers, and through the same marketing channels, ELCO has caused a likelihood of confusion as to an affiliation, connection or association between products sold under DMF's One Marks and ELCO's UNO mark.

108. ELCO's conduct is even more egregious because its copying extends not just to DMF's protected trademarks, but to ELCO's deceptively similar copying of DMF's products themselves, to DMF's product images in marketing materials and DMF's product packaging, which packaging by ELCO emulates design cues from DMF's packaging and departs from ELCO's packaging for other ELCO products. All of ELCO's deceptively similar copying from DMF exacerbate the likelihood of consumer confusion.

109. DMF has rights in the marks that are superior to any of ELCO's rights.

110. On information and belief, ELCO was aware of DMF's rights in and to the One Marks when ELCO used UNO to sell competing products. ELCO's

infringing use of the UNO mark impairs DMF's right and ability to control its own reputation and goodwill.

111. ELCO's conduct has caused DMF to suffer irreparable harm and damages.

7. Identification of Example Infringing ELCO Products

112. The accused infringing products include the following products (referred to hereinafter collectively as "Accused Products"):

113. **ELCO ELL LED Modules**: The following products are ELCO LED Modules that ELCO offers for sale and give rise to ELCO's infringement of the '266 Patent ("the ELCO ELL LED Modules")

- Standard E.L.L. LED Modules including Model Nos. ELL0827, ELL0830, ELL0834, ELL0840, ELL08SD, ELL1127, ELL1130, ELL1135, ELL1140 and ELL11SD;
- Commercial Construction E.L.L. LED Modules including Model Nos. ELL1827D, ELL1830D, ELL1835D, ELL1840D, ELL18SDD, ELL2127D, ELL2130D, ELL2135D, ELL2140D and ELL21SDD;

114. **ELCO Hanger Junction Boxes**: The following ELCO products are junction boxes for use with one or more of the ELCO ELL LED Modules that are alleged to give rise to ELCO's infringement of the '266 Patent ("the ELCO Hanger Junction Boxes"):

- New Construction Fire Rated Junction Box for Surface Mount Trims including Model No. ELJ4S; and
- Remodel Fire Rated Frame for Surface Mount Trim.

115. **ELCO Housings**: The following ELCO products are housings for use with one or more of the ELCO ELL LED Modules that are alleged to give rise to ELCO's infringement of the '266 Patent ("the Accused Housings"):

- New Construction ALO Frames;
- Remodel ALO Frames;

- Poured Concrete ALO Frames
- 4" IC Airtight New Construction Housings including Model Nos. EL490ICA and EL490ICA-7;
- 4" IC Airtight Shallow New Construction Housing, including Model Nos. EL492ICA and EL4921ICA-7;
- 6" IC Airtight New Construction Dedicated Housings including Model Nos. EL770ICA and EL770ICA-7;
- 6" IC Airtight Shallow New Construction Housings including Model Nos. EL760ICA and EL760ICA-7;
- 4" IC Airtight Shallow Remodel Dedicated LED Housing including Model No. EL492RICA;
- 4" Remodel Dedicated LED Housings including Model No. EL490RICA;
- 6" IC Airtight Remodel Dedicated Housings including Model No. EL770RICA;
- 6" IC Airtight Shallow Remodel Housings including Model No. EL760RICA;
- 4" Recessed Housing for Commercial Construction E.L.L. Modules including Model Nos. EL4908ICAD, EL4911ICAD, EL4908ICAD-EM1, EL4911ICAD-EM1, EL4911ICAD-EM2, EL49208RICAD, EL49211RICAD, EL49208RICAD-EM1, EL49211RICAD-EM1 and EL49211RICAD-EM2; and
- 6" Recessed Housings for Commercial Construction E.L.L. Modules including Model Nos. EL7608ICAD, EL7611ICAD, EL7608ICAD-EM1, EL7611ICAD-EM1, EL7611ICAD-EM2, EL7608RICAD, EL7611RICAD, EL7608RICAD-EM1, EL7611RICAD-EM1 and EL7611RICAD-EM2.

116. **ELCO ELL Trims**: The following ELCO products are trims that ELCO sells for use with one or more of the ELCO ELL LED Modules that give rise to ELCO's alleged infringement of the '266 Patent ("the ELCO ELL Trims"):

- Uno 4" Diecast Trimless Reflectors;

- 4” Diecast Round Baffle Flexa Trims including Model Nos. ELL4623BB, ELL4623BW, ELL4623BW, ELL4623BZBZ, ELL4623CPCP and ELL4623WW;
- 4” Diecast Round Reflector Flexa Trims including Model Nos. ELL4621BB, ELL4621BW, ELL4621BZBZ, ELL4621CC, ELL4621CPCP, ELL4621CW, ELL4621HW, ELL4621WW and ELL4621CN;
- 4” Diecast Square Baffle Flexa Trims including Model Nos. ELL4643WW, ELL4643BZBZ, ELL4643BW and ELL4643BB;
- 4” Diecast Square Reflector Flexa Trims including Model Nos. ELL4641BB, ELL4641BW, ELL4641BZBZ, ELL4641CW, ELL4641HW and ELL4641WW;
- Uno 4” Diecast Deep Round Baffle Trims including ELl4819W;
- Uno 4” Diecast Deep Round Reflector Trims including Model Nos. ELL4817W and ELL4817BZ;
- Uno 4” Diecast Round Baffle Trims including Model Nos. ELL4813W and ELL4813BZ;
- Uno 4” Diecast Round Reflector Trims including Model Nos. ELL4810W, ELL4810BZ and ELL4810B;
- Uno 4” Diecast Round Steam Room Trims including Model Nos. ELL4812W and ELL4812BZ;
- Uno 4” Diecast Round Wall Wash Trims including Model Nos. ELL4815W, ELL4815BZ and ELL4815BZ;
- Uno 4” Diecast Square Baffle Trims including Model Nos. ELL4816W and ELl4816BZ; and
- Uno 4” Diecast Square Reflector Trims including Model Nos. ELL4814W, ELL4814BZ and ELL4814B.
- Flexa 6” Round Reflector Trims;
- Uno 6” Diecast Round Baffle Trims including ELL6813W and ELL6813BZ;

● Uno 6" Diecast Round Reflector Trims including Model Nos. ELL6810W, ELL6810BZ and ELL6810B;

● Uno 6" Diecast Round Steam Room Trims including ELL6812W and ELL6812BZ; and

● Uno 6" Diecast Round Wall Wash Trims including Model Nos. ELL6815W, ELL6815BZ and ELL6815B.

IV. Count I – Infringement of the '266 Patent

117. DMF references and incorporates by reference all preceding paragraphs of this Complaint.

118. On information and belief, ELCO makes, uses, offers for sale, sells and imports into the United States products that directly or indirectly infringe one or more claims of the '266 Patent.

A. 35 U.S.C. § 271(a) Direct Infringement

119. ELCO has directly infringed and continues to directly infringe the '266 Patent under 35 U.S.C. § 271(a) by making, using, offering for sale, selling or importing the ELCO ELL LED Modules.

120. By making, using, offering for sale, selling or importing the infringing ELCO ELL LED Modules, ELCO has injured DMF and is liable to DMF for infringing the '266 Patent under 35 U.S.C. § 271(a) literally or under the doctrine of equivalents.

121. The ELCO ELL LED Modules practice one or more claims of the '266 Patent, including at least Claim 1 and its dependent Claims 2, 5, 7, 13 and 15 as shown below with reference to the description of the ELCO ELL LED Modules in paragraphs 59 to 77 above:

1. A compact recessed lighting system, comprising:	
a light source module for emitting light;	The ELCO ELL LED Modules have an LED light source for emitting light.

a driver for powering the light source module to emit light, the driver including an electronic device to at least one of supply and regulate electrical energy to the light source module;	The ELCO ELL LED Modules have a driver for powering the LED light source to emit light. The driver includes an electronic device to at least regulate electrical energy to the LED light source.
a unified casting with a heat conducting closed rear face, a heat conducting sidewall and an open front face wherein the heat conducting sidewall is joined to the heat conducting closed rear face at one end and defines the open front face of the unified casting at another end, wherein the heat conducting sidewall has a first dimension between the heat conducting closed rear face and the open front face of less than 2 inches and extends 360 degrees around a center axis of the unified casting to define a first cavity that extends forward from the heat conducting closed rear face to the open front face of the unified casting and outward to the heat conducting sidewall, wherein the light source module and the driver are positioned inside the first cavity while being coupled to the heat conducting closed rear face of the unified casting such that the light source module is closer to the closed rear face of the unified casting than the open front face of the unified casting, and wherein the unified casting includes a plurality of elements positioned proximate to the open front face so as to align with corresponding tabs of a standard junction box and thereby facilitate holding the unified casting up against the standard junction box when the unified casting is installed in the standard junction box; and	The ELCO ELL LED Modules have an aluminum casting with a heat conducting closed rear face, a heat conducting sidewall and an open front face. The distance between the closed rear face and open front face is less than 2 inches. The LED light source and the driver are positioned within a cavity of the unified casting while being coupled to the heat conducting closed rear face. The LED light source is closer to the closed rear face than the open front face. The aluminum casting has elements positioned proximate to the open front face so as to align with corresponding tabs of a standard junction box and thereby facilitate holding the aluminum casting up against the standard junction box when the aluminum casting is installed in the junction box.
a reflector positioned inside the first cavity of the unified casting and coupled to and surrounding the light source module such that the reflector directs light produced by the light source module into an area surrounding the compact recessed lighting system while enclosing the driver from exposure to the area surrounding the compact recessed lighting system,	The ELCO ELL LED Modules have a reflector positioned inside the cavity of the aluminum casting. The reflector is coupled to and surrounds the LED light source such that the reflector directs light produced by the LED light source into an area surrounding the compact recessed lighting system while enclosing the driver from exposure to the area surrounding the compact recessed lighting system.

wherein the heat conducting closed rear face and the heat conducting sidewall of the unified casting significantly dissipate heat generated by the light source module during operation of the light source module.	The ELCO ELL LED Modules' aluminum casting's heat conducting closed rear face and sidewall significantly dissipate heat generated by the LED light source during operation of the LED light source.
2. The compact recessed lighting system of claim 1, wherein the driver is donut shaped or "C" shaped.	The drivers of the ELCO ELL LED Modules are donut shaped.
5. The compact recessed lighting system of claim 1, further comprising: a lens to shield the light source module while being transmissive to light emitted by the light source module.	The ELCO ELL LED Modules have a lens to shield the LED light source while being transmissive to light emitted by the light source module.
7. The compact recessed lighting system of claim 1, wherein the heat conducting sidewall of the unified casting has heat sink fins formed on its outside surface.	The heat conducting sidewall of the aluminum casting of the ELCO ELL LED Modules has heat sink fins formed on its outside surface.
13. The compact recessed lighting system of claim 1, wherein the reflector separates the driver from the light source module such that the reflector directs the light produced by the light source module into an area surrounding the compact recessed lighting system while enclosing the driver from exposure to the area surrounding the compact recessed lighting system.	The reflector in the ELCO ELL LED Modules separates the driver from the LED light source such that the reflector directs the light produced by the LED light source into an area surrounding the compact recessed lighting system while enclosing the driver from exposure to the area surrounding the compact recessed lighting system.
15. The compact recessed lighting system of claim 1, wherein the unified casting includes at least one twist-and-lock connector integrated in the unified casting.	A twist-and-lock connector is integrated in the aluminum casting of the ELCO ELL LED Modules.

B. 35 U.S.C. § 271(b) Induced Infringement

122. On information and belief, ELCO has actively induced infringement, and continues to actively induce infringement, by others of the '266 Patent under 35 U.S.C. § 271(b).

123. ELCO's customers directly infringe (literally or under the doctrine of equivalents) at least one of Claims 9, 10 and 11 of the '266 Patent when they make, use, offer to sale or sell an ELCO ELL LED Module combined with an ELCO

Hanger Junction Box or other junction box. The customers infringe these claims as shown below with reference to the description of the ELCO ELL LED Modules in paragraphs 59 to 77 above:

8. The compact recessed lighting system of claim 1, further comprising:	The ELCO ELL LED Modules satisfy the limitations of Claim 1 as discussed above.
the standard junction box having a closed rear end, an open front end, and a sidewall surrounding a second cavity, wherein:	A standard junction box has a closed rear end, an open front end, and a sidewall surrounding a cavity.
the heat conducting closed rear face of the unified casting has a second dimension across the closed rear face that is less than 3 1/2 inches; and	The heat conducting closed rear face of the aluminum casting of the ELCO ELL LED Modules has a width that is less than 3 1/2 inches.
the unified casting, with the light source module, the driver and the reflector therein, are substantially contained within the second cavity of the standard junction box.	The ELCO ELL LED Modules' aluminum casting, LED light source, driver and reflector are substantially contained within the cavity of a standard junction box.
9. The compact recessed lighting system of claim 8, wherein the unified casting is directly attached to the standard junction box via the plurality of elements of the unified casting and the corresponding tabs of the standard junction box.	The ELCO ELL LED Modules, when installed in a standard junction box, can be directly attached to the standard junction box by inserting screws through aligned holes on the aluminum casting and tabs of the junction box.
10. The compact recessed lighting system of claim 9, further comprising:	
a first plurality of wires electrically coupled to the driver, wherein the first plurality of wires passes through the heat conducting closed rear face of the unified casting; and	The ELCO ELL LED Modules have wires coupled to the driver that pass through the heat conducting closed rear face of the aluminum casting.
a second plurality of wires that emerge from the standard junction box and that are to bring electricity from an electrical system of a building in which the recessed lighting system is to be installed,	When the ELCO ELL LED Modules are installed in a standard junction box, wires emerging from the junction box bring electricity from the electrical system of a building in which the recessed lighting system is to be installed.

wherein the first plurality of wires are connected to the second plurality of wires through a plurality of caps or a connector inside of the standard junction box.	When the ELCO ELL LED Modules are installed, the wires from the aluminum casting and wires emerging from the junction box are connected through caps or a connector inside the junction box.
11. The compact recessed lighting system of claim 9, wherein the plurality of elements of the unified casting and the corresponding tabs of the standard junction box facilitate use of at least one of screws, bolts, twist-and-lock connections and friction or tension clips to directly attach the unified casting to the standard junction box.	The ELCO ELL LED Modules, when installed in a standard junction box, can be directly attached to the standard junction box by inserting screws through aligned holes on the aluminum casting and tabs of the junction box.

124. ELCO's customers directly infringe (literally or under the doctrine of equivalents) at least Claim 30 of the '266 Patent when they make, use, offer to sale or sell an ELCO ELL LED Module combined with an ELCO Hanger Junction Box, ELCO Housing, other junction box, housing or light fixture. The customers directly infringe Claim 30 as follows with reference to the description of the ELCO ELL LED Modules in paragraphs 59 to 77 above:

26. A lighting system, comprising:	
a substantially heat conducting unified casting forming a casting cavity having a front face and a rear heat conducting portion and having dimensions to fit inside a standard-sized junction box, the substantially heat conducting unified casting including a plurality of elements positioned on the casting so as to align with corresponding tabs of the standard-sized junction box;	The ELCO ELL LED Modules have a heat conducting aluminum casting forming a casting cavity having a front face and a rear heat conducting portion and having dimensions to fit inside a standard-sized junction box. Elements are positioned on the aluminum casting so as to align with corresponding tabs of a standard-sized junction box.
a light source module, disposed in the casting cavity, to emit light, wherein the light source module is positioned in the casting cavity closer to the rear heat conducting portion than the front face of the substantially heat conducting unified casting;	The ELCO ELL LED Modules have an LED light source disposed in the casting cavity to emit light. The LED light source is positioned in the casting cavity closer to the rear heat conducting portion than the front face of the substantially heat conducting aluminum casting.

a driver, disposed in the casting cavity, to power the light source module; and	The ELCO ELL LED Modules have a driver, disposed in the casting, to power the LED light source.
a reflector, disposed in the casting cavity to cover the driver and to direct light produced by the light source module out of the front face,	The ELCO ELL LED Modules have a reflector, disposed in the cavity of the aluminum casting, to cover the driver and to direct light produced by the LED light source out of the front face.
wherein the substantially heat conducting unified casting significantly dissipates heat generated by the light source module during operation of the light source module.	The aluminum casting of the ELCO ELL LED Modules significantly dissipates heat generated by the LED light source during operation of the light source.
30. The lighting system of claim 26, further comprising an enclosure to substantially contain the unified casting, wherein the enclosure comprises one of: the standard-sized junction box; and a 4-8 inch recessed lighting fixture.	When installed in an enclosure, the aluminum castings of the ELCO ELL LED Modules are substantially contained within the enclosure if the enclosure is a standard-sized junction box or a 4-8 inch recessed lighting fixture.

125. ELCO's customers directly infringe (literally or under the doctrine of equivalents) at least Claim 16 of the '266 Patent when they make, use, offer for sale or sell an ELCO ELL LED Module combined with an ELCO ELL Trim. The customers directly infringe Claim 16 as follows with reference to the description of the ELCO ELL LED Modules and ELCO ELL Trims in paragraphs 59 to 81 above:

16. The compact recessed lighting system of claim 15, further comprising:	The ELCO ELL LED Modules satisfy the limitations of Claim 15 as discussed above.
a trim directly coupled to the unified casting, for covering a hole in a ceiling or wall of a building in which the compact recessed lighting system is placed, wherein the trim connects to the unified casting via the at least one twist-and-lock connector.	The ELCO Trims are directly coupled to the ELCO ELL LED Modules via a twist-and-lock connector. The trim covers a hole in a ceiling or wall of a building in which the compact recessed lighting system is placed.

126. ELCO has had actual knowledge of the '266 Patent and its infringement thereof since at least the time it received the Cease & Desist Letter of August 3, 2018, attached as Exhibit 10 and described in paragraph 54 above. ELCO has knowingly and actively induced customers to directly infringe the '266 Patent with

the specific intent to encourage such infringement and ELCO knew (or should have known or was willfully blind) that the induced acts constitute patent infringement. ELCO's inducement includes, for example, providing technical guides, product data sheets, demonstrations, hardware specifications, installation guides and other actions that induce its customers to directly infringe the '266 Patent.

C. 35 U.S.C. § 271(c) Contributory Infringement

127. On information and belief, ELCO has contributorily infringed and continues to infringe the '266 Patent under 35 U.S.C. § 271(c).

128. ELCO has offered to sell, sold or sells within the United States or imports into the United States the ELCO ELL LED Modules. Each ELCO ELL LED Module is a component and material part of the invention of at least Claims 9, 10, 11, 16 or 30 of the '266 Patent. The Accused LED Modules are not staple articles or a commodity of commerce suitable for substantial use that does not infringe at least Claims 9, 10, 11, 16 or 30 of the '266 Patent.

129. ELCO's customers directly infringe (literally or under the doctrine of equivalents) at least Claims 9, 10, 11, 16 or 30 of the '266 Patent when they make, use, offer for sale or sell an ELCO ELL LED Module combined with an ELCO Hanger Junction Box, other junction boxes, Accused Housings, other housings and fixtures. The limitations of Claims 9, 10, 11, 16 and 30 are met by the combination as described in the induced infringement claim charts above.

130. ELCO has offered to sell, sold or sells within the United States or imports into the United States the ELCO ELL Trims. Each ELCO ELL Trim is a component and material part of the invention of at least Claim 16 of the '266 Patent. The Accused Trims are not staple articles or a commodity of commerce suitable for substantial use without being combined with the Accused LED Modules, which combination infringes at least Claim 16 of the '266 Patent.

131. ELCO's customers directly infringe (literally or under the doctrine of equivalents) at least Claim 16 of the '266 Patent when they make, use, offer for sale

or sell an ELCO ELL LED Module combined with an ELCO ELL Trim. The limitations of Claim 16 are met by the combination as described in the induced infringement claim charts above.

132. ELCO has had actual knowledge of the '266 Patent and its infringement thereof since at least the time it received the Cease & Desist Letter of August 3, 2018, attached as Exhibit 10 and described in paragraph 54 above. ELCO has offered to sell, sold or imported into the United States the ELCO ELL LED Modules and ELCO ELL Trims knowing (or should have known or was willfully blind) that such products were especially made or especially adapted for use in an infringement of the '266 Patent and not staple articles or commodities of commerce suitable for substantial noninfringing use.

D. 35 U.S.C. § 284 Damages

133. ELCO's infringement of the '266 Patent has harmed DMF. DMF is entitled to an award of damages under 35 U.S.C. § 284 adequate to compensate for the infringement, but in no event less than a reasonable royalty for the use made of DMF's patented technology, together with interest and costs. Such damages may include, at least in part, an award to DMF of its lost profits arising from ELCO's infringement.

E. 35 U.S.C. § 284 Willful Infringement

134. ELCO has been aware of the '266 Patent and its infringement thereof by at least the date that ELCO received the Cease & Desist Letter of August 3, 2018 (Exhibit 10) described in paragraph 54 above.

135. On information and belief, ELCO knew that it copied DMF's DRD2 LED Module and that it infringed the '266 Patent even before receiving the Cease & Desist Letter.

136. On information and belief, ELCO knew that it had copied DMF's LED Module and that DMF was seeking patents on that innovative technology. ELCO knew there was a high-likelihood that ELCO's knock-off products would infringe

DMF patents that had or would issue. ELCO knew, or should have known, about the '266 Patent when that patent issued and, in any event, ELCO knew about the '266 Patent by at least the time that ELCO received the Cease & Desist Letter. Further, ELCO's refusal to accept delivery of the paper copy of the Cease & Desist Letter demonstrates ELCO's understanding of its guilt and dilatory tactics to delay facing the consequences.

137. Years after DMF introduced and sought patents on its innovative DRD2 LED Module products, ELCO sought patents on its knock-off products that were based on innovations and designs that ELCO copied from DMF. On information or belief, ELCO knew about DMF's application for patent that ultimately issued as the '266 Patent based on ELCO's own patent application activity, DMF's U.S. Patent Application No. U.S. 2015/0009676 (Exhibit 3) published in January 2015, prior art searches by ELCO or its patent counsel or prior art identified to ELCO by the Patent Office.

138. ELCO's infringement of the '266 Patent has been willful at least after it received the Cease & Desist Letter and failed to take remedial action. ELCO, with knowledge of the patent and its infringement, and despite having copied its competitor's patented product, not only failed to take remedial action but continued to offer the product to DMF's customers and potential customers.

139. Upon a finding that ELCO willfully infringed the '266 Patent, DMF is entitled under 35 U.S.C. § 284 to an increase of damages up to three times the amount found or assessed for the infringement.

F. Injunctive Relief

140. ELCO's infringement will continue unless and until enjoined from further infringement by an order of the Court.

141. DMF has suffered and will continue to suffer irreparable harm by ELCO's continued infringement of the '266 Patent, which favors entry of injunctive relief.

142. The harm to DMF by ELCO's continued infringement cannot adequately be compensated by monetary damages alone, which favors entry of injunctive relief.

143. The harm to ELCO if enjoined from continued infringement does not outweigh the harm to DMF if ELCO continues the infringement, which favors entry of injunctive relief. Further ELCO's intentional copying of DMF's innovations and designs, other misconduct and ELCO's unclean hands further favors entry of injunctive relief.

144. The public interest favors entry of injunctive relief that precludes ELCO's continued infringement of the '266 Patent.

V. Count II –Infringement of One Marks and Unfair Competition (15 U.S.C. § 1114 and 1125(a))

145. DMF references and incorporates by reference all preceding paragraphs of this Complaint.

146. This claim arises under 15 U.S.C. § 1114 for willful and deliberate infringement of the One Marks identified in the '463 Registration and the '155 Registration.

147. This claim also arises under 15 U.S.C. § 1125(a) for willful and deliberate unfair competition, including false designation of origin.

148. The One Marks (OneFrame and OneLED) are valid, protectable, and enforceable marks.

149. DMF has rights in its OneFrame and OneLED Marks that are superior to any rights ELCO may have in the UNO mark, which is used in connection with identical, similar, and/ or related goods and services.

150. DMF has not given ELCO consent, permission, or license to use the OneFrame or OneLED marks or any confusingly similar mark.

151. ELCO's use of the UNO mark to sell competing and nearly-identical LED products creates a likelihood of confusion, mistake, or deception among

consumers, particularly as used by ELCO to sell identical or nearly-identical products using similar marketing material.

152. ELCO knew, or should have known by the exercise of reasonable care, that use of UNO in connection with the advertising, marketing, offer to sell, and sale of knock-off products to the same consumers, and through the same marketing channels, would cause confusion, mistake, or deception among consumers. On information and belief, ELCO knew of the OneFrame mark and the OneLED mark, and intended to trade off and did trade off, and intend to trade off and will trade off the goodwill built up by DMF in these marks when ELCO chose to give a confusingly-similar name UNO to ELCO's knock-off products.

153. ELCO's infringing use of the UNO mark impairs DMF's right and ability to control its own reputation and goodwill.

154. To date, ELCO has not ceased using the infringing UNO mark in violation of DMF's rights to the exclusive use of its One Marks.

155. ELCO's wrongful acts alleged herein violated DMF's rights under 15 U.S.C. § 1114(a) and constitute unfair competition under 15 U.S.C. § 1125(a), and, on information and belief, have been deliberate, willful, and in disregard of DMF's rights.

156. By reason of ELCO's wrongful acts alleged herein, DMF has suffered and is continuing to suffer damage to its business, trade, reputation, and goodwill, including because of the erroneous perception that the goods and services of ELCO are affiliated with, sponsored by, approved by, or originate from DMF, or that ELCO and DMF both are obtaining and selling the same product from the same manufacturer.

157. ELCO's wrongful acts alleged herein have caused DMF to suffer and continue to suffer irreparable injury. DMF cannot be adequately compensated for these injuries by damages alone, and DMF has no adequate remedy at law for Defendant's infringement of its rights. DMF is entitled to injunctive relief.

VI. Count II –Infringement of DMF's One Marks (Trademark Infringement Under California Law)

158. DMF references and incorporates by reference all preceding paragraphs of this Complaint.

159. DMF owns common law rights to the OneLED and OneFrame Marks that predate ELCO's use of its confusingly similar UNO mark.

160. The One Marks are valid, protectable, and enforceable marks.

161. DMF has rights in its OneLED and OneFrame Marks that are superior to any rights ELCO may have in the UNO mark, which is used in connection with identical, similar, and/ or related goods.

162. DMF has not given ELCO consent, permission, or license to use the OneLED or OneFrame marks or any confusingly similar mark.

163. ELCO's use of the UNO mark to sell competing LED products creates a likelihood of confusion, mistake, or deception among consumers, particularly as used by ELCO to sell identical or nearly-identical products using similar marketing material.

164. ELCO knew, or should have known by the exercise of reasonable care, that use of UNO in connection with the advertising, marketing, offer to sell, and sale of identical or nearly-identical products to the same consumers, and through the same marketing channels, would cause confusion, mistake, or deception among consumers. On information and belief, ELCO knew of the OneFrame mark and the OneLED mark, and intended to trade off and did trade off, and intend to trade off and will trade off the goodwill built up by DMF in these marks when it chose to give a confusingly-similar name UNO to ELCO's knock-off products.

165. ELCO's infringing use of the UNO mark impairs DMF's right and ability to control its own reputation and goodwill.

166. To date, ELCO has not ceased using the infringing UNO mark in violation of DMF's rights to the exclusive use of its One Marks.

167. ELCO's wrongful acts alleged herein violated DMF's rights under California trademark law, and, on information and belief, have been deliberate, willful, and in disregard of DMF's rights.

168. By reason of ELCO's wrongful acts alleged herein, DMF has suffered and is continuing to suffer damage to its business, trade, reputation, and goodwill, including because of the erroneous perception that the goods of ELCO are affiliated with, sponsored by, approved by, or originate from DMF, or that ELCO and DMF both are obtaining and selling the same product from the same manufacturer.

169. ELCO's wrongful acts alleged herein have caused DMF to suffer and continue to suffer irreparable injury. DMF cannot be adequately compensated for these injuries by damages alone, and DMF has no adequate remedy at law for Defendant's infringement of its rights. DMF is entitled to injunctive relief.

VIII. Count V – ELCO's Violation of California Business & Professions Code §17200 and Common Law Unfair Competition

170. DMF references and incorporates by reference all preceding paragraphs of this Complaint.

171. Over the course of several years, DMF invested a great amount of time, effort, and resources to develop and sell its award-winning products. DMF's products and patented technology includes modular, compact lighting products that are easy to install, versatile and provide more elegant lighting solutions and value than its competitors. DMF has used and continues to use its "One Marks" to help consumers identify DMF's award-winning LED lighting modules and related products, including DMF's use in advertising and unique packaging to sell those products as part of DMF's overall branding efforts.

172. A known and prevalent practice in the LED lighting industry is a company asking a manufacturer of one company's product to make a similar knock-off product. Or, alternatively, both companies may knowingly purchase the same or

similar products made by the same manufacturer and label them under their own separate brands.

173. When a customer observes two products in the same market that look identical or nearly identical, they typically are led to believe (or are highly likely to believe) that those products do or may come from the same manufacturer.

174. On information and belief, a customer who believes that two products come from the same manufacturer, but are sold under a different brand label, may believe that the products have, among other things, the same or similar functionality, components, track record of reliability, benefits of the manufacturer's experience with making the product, benefits of the manufacturer applying the same manufacturing quality controls, and benefits of experience from customer feedback from the field of deployed products. Accordingly, the customer may believe that the products are essentially the same. Such confusion may, among other things, cause customers to believe that the only relevant difference is sales price or cause customers to believe that quality issues and failure rates of a knock-off product represent failure rates of the copied product.

175. DMF's DRD2 LED Modules are designed by DMF in the United States and undergo rigorous quality testing procedures in the United States. These products have a track record of achieving high quality, high performance, proven customer satisfaction, DMF specified manufacturing quality control, post-manufacturing quality control and low failure rates.

176. On information and belief, even though DMF's DRD2 LED Modules were designed by DMF and are not manufactured for any other companies, ELCO decided to cause confusion in the marketplace to suggest that ELCO's LED Module products are the same or manufactured by the same company as DMF's products. On information and belief, ELCO executed a scheme of copying and selling a nearly-identical knock-off of DMF's DRD2 LED Module in competition with DMF to the same consumers or potential consumers, using similar packaging and similar

marketing materials, including in some cases images of the products that are deceptively similar, and even a similar trademark "UNO," meaning "ONE," knowing that there was a likelihood that a significant number of consumers could be misled into believing that the products come from the same manufacturer and have the same track record and reputation for quality, reliability, customer satisfaction and experience with manufacturing and quality testing, as described above.

177. On information and belief, ELCO developed the knock-off scheme because it was facing a very uncertain future and needed to quickly establish a way of selling a profitable LED product. In 2015, ELCO's President believed that ELCO was facing an uncertain future because ELCO's traditional lighting products may be replaced by LED lighting fixtures and ELCO did not have a strong market presence for such products. Without a strong presence, ELCO could be rendered obsolete.

178. DMF is informed and believes that ELCO, in a desperate attempt to avoid obsolescence, developed a knock-off scheme to shortcut having to devote the substantial resources and resources necessary to develop award winning and successful LED light fixture products like DMF. Instead, ELCO chose to copy and sell a knock-off of DMF's award-winning, market proven and flagship DRD2 LED Module products. On information and belief, ELCO chose to continue selling its knock-off products after learning that DMF was seeking a patent on those products, and even after learning that DMF's products were patented and protected by the issued '266 Patent. ELCO adopted a confusingly similar name "UNO" to mislead customers through the same marketing channels to whom DMF sells its products. On information and belief, ELCO decided to use packaging that was similar to DMF's packaging for its DRD2 LED Module that departed from packaging designs that ELCO used for other ELCO products in order to further mislead customers as to the source of origin of ELCO's knock-off products and DMF's products. Additionally, on information and belief, ELCO decided to use marketing material, including on ELCO's website, that displays ELCO's knock-off products in images

(including of the knock-off ELL LED Module and Hanger Junction Box) and that misleadingly use nearly-identical or identical arrangements, exploded views, and perspectives so as to confuse customers who have been exposed to DMF's marketing material into believing that ELCO's products are the same as DMF's products or that they originate from the same supplier that supposedly provides both companies' the same product.

179. ELCO's wrongful actions have caused damage and irreparable harm to DMF in the forms of:

- Injury to DMF's reputation and business.
- Pressure on DMF to lower prices for its superior products in order to compete with ELCO's knock-off products.
- Loss of goodwill.
- Loss of business opportunities.
- Customer confusion and doubt about the source of DMF's LED Modules.

180. ELCO's unauthorized, unlawful, unfair and deceptive activities alleged herein were and are in violation of California Business and Professions Code §§17200 et seq. and common law unfair competition.

181. ELCO's wrongful and deceptive activities have caused, and unless enjoined by this Court will continue to cause, irreparable injury and other damage to DMF's business, reputation and hard earned good will, whereby DMF has no adequate remedy at law.

IX. Prayer For Relief

Plaintiff DMF respectfully requests the following relief from the Court:

A. A judgment that ELCO has infringed one or more claims of the '266 Patent;

B. A judgment and order requiring ELCO to pay DMF its damages, costs, expenses, prejudgment interest and post-judgment interest for ELCO's acts of infringement in accordance with 35 U.S.C. § 284;

C. A judgment and order requiring ELCO to provide accountings and to pay supplemental damages to DMF, including prejudgment and post-judgment interest;

D. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to DMF its reasonable attorneys' fees against ELCO;

E. A judgment and order finding that ELCO infringes DMF's trademarks, is liable for unfair competition under 15 U.S.C. § 1125(a), and has violated California Business & Professions Code §17200 and Common Law Unfair Competition;

F. A judgment and order requiring ELCO to pay DMF its damages, costs, reasonable attorneys' fees, prejudgment interest and post-judgment interest;

G. Injunctive relief; and

H. Any and all other relief to which DMF may show itself to be entitled.

Dated: August 15, 2018

By: /s/ Ben M. Davidson

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DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, DMF requests a trial by jury of any issues so triable by right.

Dated: August 15, 2018

By: /s/ Ben M. Davidson

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Exhibits

Ex. No.	Description
1	Certified Copy of U.S. Patent No. 9,964,266 ("the '266 Patent").
2	Certified Copy of Assignment Records for U.S. Patent No. 9,964,266
3	U.S. Patent Application Publication No. US 2015/0009676.
4	Registration for OneFrame, U.S. Reg. No. 5,032,463
5	Registration for OneLED, U.S. Reg. No. 5,503,155
6	LD+A Magazine (Jan. 2017) (excerpt: pages 41, 46)
7	Architectural Products Magazine (Nov. 2016) (excerpt: page 66)
8	LD+A Magazine (July 2016) (excerpt: page 52)
9	LD+A Magazine (Nov. 2017) (excerpt: page 63)
10	Cease and Desist Letter of Aug. 3, 2018.
11	ELCO website page printout
12	DMF OneFrame Brochure
13	Specification Sheet for DMF's DRD2 LED Module
14	Specification Sheet for ELCO's ELL LED Module
15	ELCO Installation Instructions For ELL LED Module
16	ELCO Flyer for ELL LED Module and Trims
17	Specification Sheet for ELCO ELL4810W Trim ("the ELL4810W Trim Specification")
18	Specification Sheet for DMF DRDHNJ Hanger Junction Box
19	Specification Sheet for ELCO ELJ4S Hanger Junction Box
20	ELCO website page printout with information on ELCO ELJ4S junction box
21	ELCO website page for E.L.L. System