

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**LEXINGTON LUMINANCE LLC**

*Plaintiff,*

v.

**SERVICE LIGHTING AND  
ELECTRICAL SUPPLIES, INC. d.b.a.  
1000BULBS.COM**

*Defendant.*

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**Civil Action No. 3:18-cv-1074-K**

**JURY DEMANDED**

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

Plaintiff Lexington Luminance LLC (“Lexington” or “Plaintiff”) files this first amended complaint for patent infringement against Service Lighting and Electrical Supplies, Inc. doing business as 1000bulbs.com 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 Service Lighting and Electrical Supplies, Inc. doing business as 1000bulbs.com (“1000bulbs”) is a company organized and existing under the laws of the State of Texas with its principal place of business at 2140 Merritt Drive, Garland, Texas 75041.

**JURISDICTION AND VENUE**

3. 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).

4. Venue is proper in this District under 28 U.S.C. 1400(b). On information and belief, Defendant has committed acts of infringement in this District by selling and/or offering for sale the products alleged herein to infringe Lexington's patent through its location at 2140 Merritt Drive, Garland, Texas 75041. The foregoing location constitutes a regular and established place of business with this District. Thus, venue is also proper in this District because Defendant maintains a regular and established place of business within this District.

5. This Court has personal jurisdiction over the Defendant. Defendant has conducted and does conduct business within the State of Texas and within this District. Defendant purposefully and voluntarily sold one or more of the infringing products with the expectation that they will be purchased by and used by consumers in this District. These infringing products have been and continue to be purchased by and used by consumers in this District. Defendant has committed acts of patent infringement within the United States and, more particularly, within this District.

### **PATENT INFRINGEMENT**

6. Lexington incorporates by reference the paragraphs above as if fully set forth herein.

7. 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.

8. 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.

9. The '851 Patent is valid and enforceable.

10. 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.

11. Upon information and belief, Defendant has infringed and/or continues 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 United States, including at least claim 1, by, among other things, making, using, offering for sale, selling, and/or importing lighting products and other electronic devices including, without limitation, Bulbrite LED T14 Tubular Bulb, model number 776511, 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.

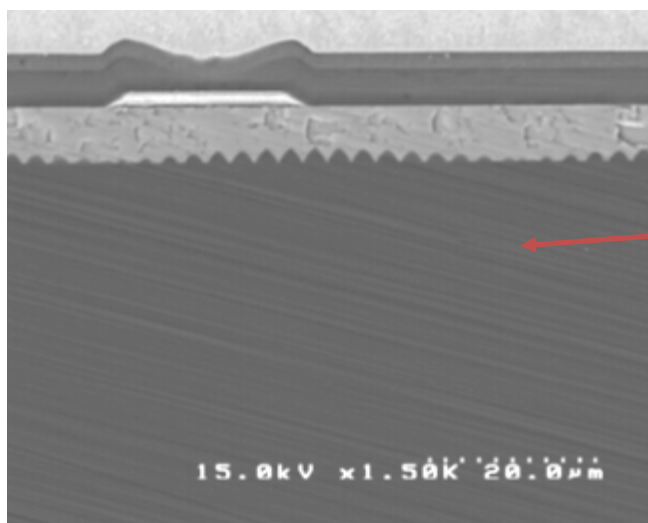
12. The devices above are collectively referred to as the "Accused Products."

13. On information and belief, the Accused Products use Light-Emitting Diodes ("LEDs") that infringe one or more claims of the '851 Patent, including, at least, claim 1, as explained in the following paragraphs.

14. The LEDs used in the Accused Products are semiconductor light-emitting devices. The LEDs in the Accused Products are used to emit light.

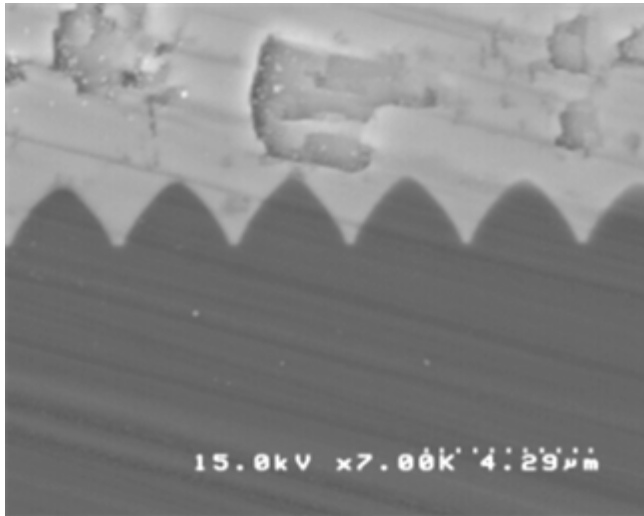


15. The LEDs used in the Accused Products contain a substrate.



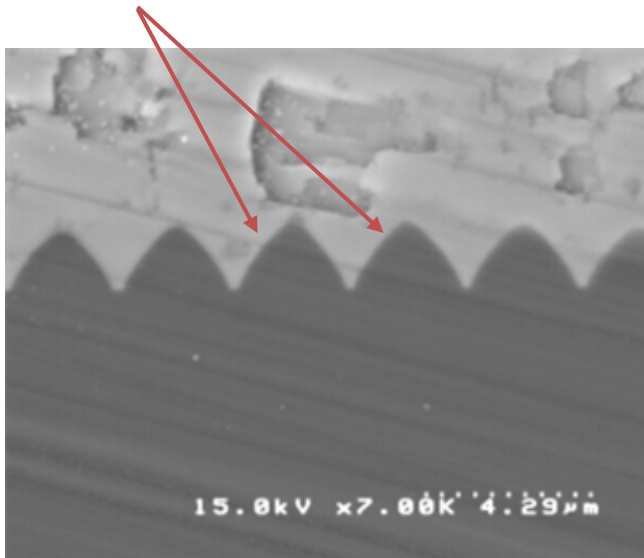
Substrate

16. 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.



← Textured District

The plurality of etched trenches has sloped etching profiles with a smooth rotation of micro-facets without a prescribed angle of inclination.

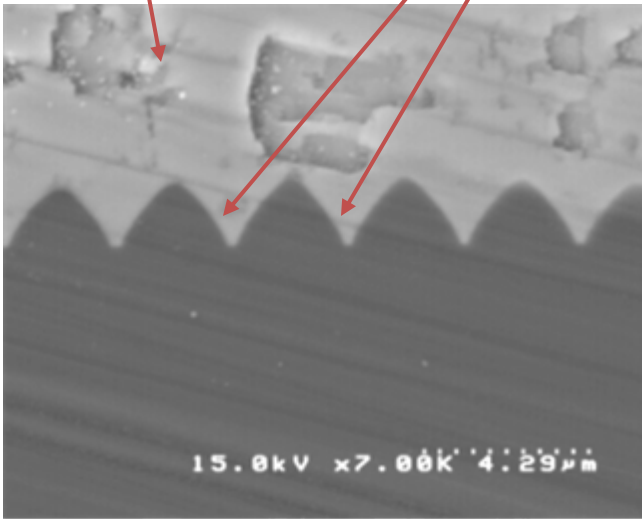


17. The LEDs used in the Accused Products contain a first layer disposed on said textured district comprising a plurality of inclined lower portions, said first layer and said substrate form

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.

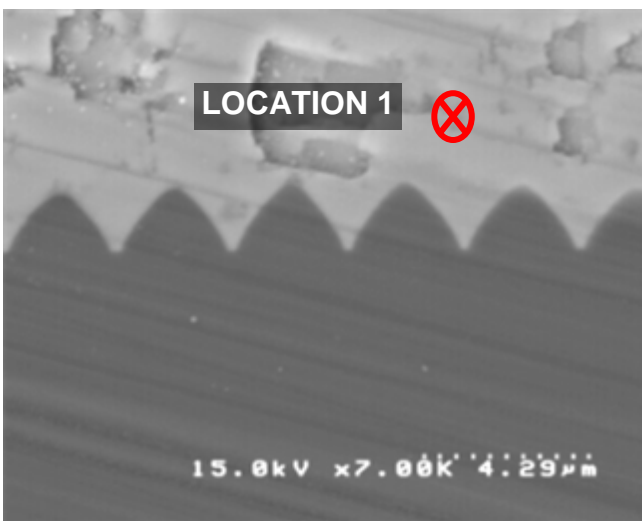
The first layer is disposed on the textured district.

The first layer has a plurality of inclined lower portions.

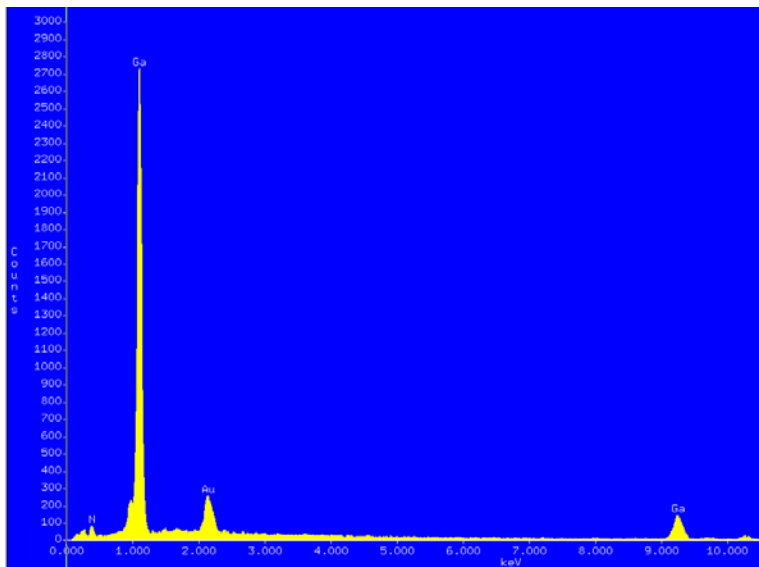


18. The LEDs used in the Accused Products use a gallium nitride first layer.

SEM Cross-Section of the LED Identifying the Location of the EDX Measurement:



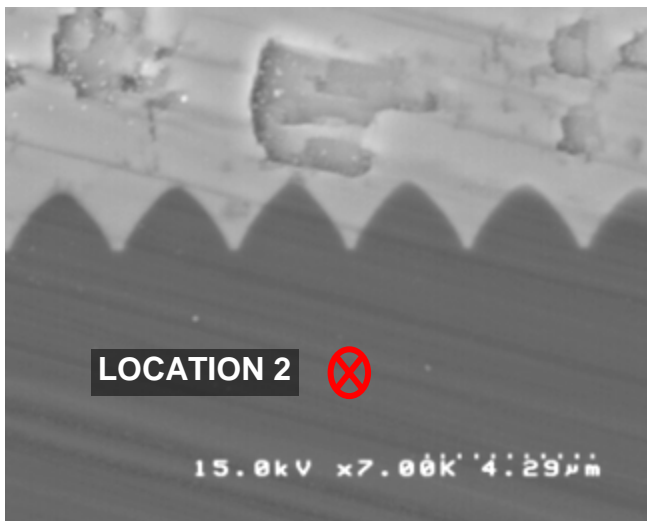
EDX Analysis of First Layer:



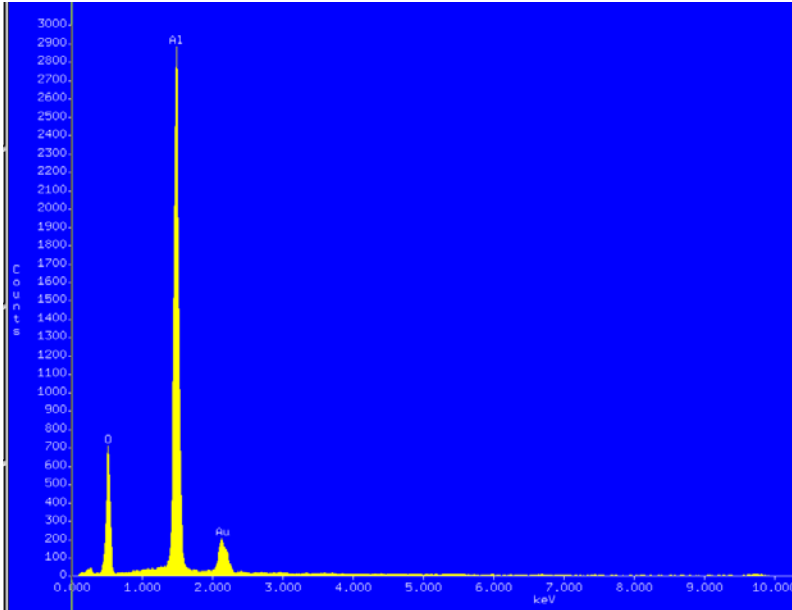
The first layer is comprised of gallium nitride (GaN).

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

SEM Cross-Section of the LED Identifying the Location of the EDX Measurement:



EDX Analysis of Substrate:



The substrate is comprised of sapphire ( $\text{Al}_2\text{O}_3$ ).

20. The Gallium Nitride first layer and Sapphire ( $\text{Al}_2\text{O}_3$ ) substrate form a lattice-mismatched misfit system.
21. 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.
22. Plaintiff incorporates by reference its preliminary infringement contentions (Dkt. 38-3), and its response explaining the sufficiency of its contentions (Dkt. 42) including any follow-on briefing relating thereto.
23. Defendant has been at no time, either expressly or impliedly, licensed under the '851 Patent.
24. Defendant's acts of infringement have caused damage to Plaintiff. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of the wrongful acts of Defendant in an amount subject to proof at trial.

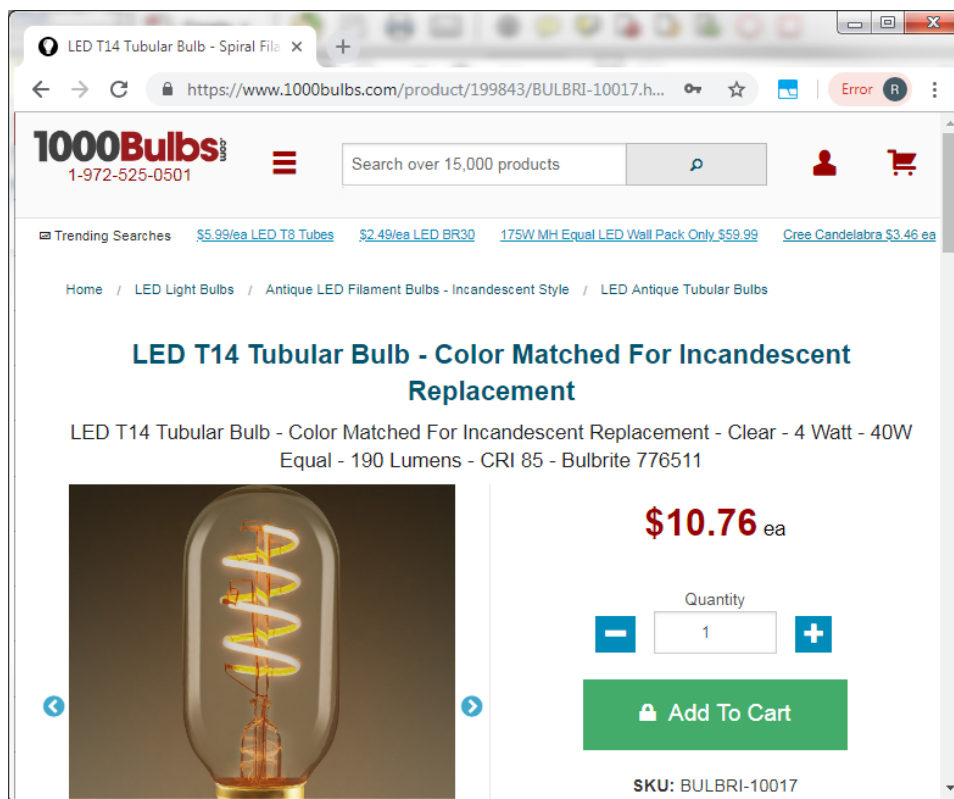


25. Since at least the filing of the original complaint in this action, and/or service of same, Defendant has had knowledge of the '851 Patent and has had knowledge of its infringement of the '851 Patent. Defendant has also had knowledge of its infringement through Plaintiff's service of its infringement contentions.

26. By this Complaint, Defendant is on notice of the '851 Patent, the products that infringe the '851 Patent, and how they infringe. Defendant will be liable for contributory and/or inducing infringement if Defendant's infringing conduct continues. For example, Defendant will be liable for inducement of infringement under 35 U.S.C. § 271(b) when, without limitation, it intentionally induces or encourages the direct infringement of the '851 Patent by Defendant's customers, by intentionally directing them and encouraging them to use within the United States one or more devices that embody the patented invention or when Defendant's customers use the Accused Products in the ordinary, customary, and intended way. On information and belief, Defendant provides support to instruct its customers on how to use the infringing technology.

27. Upon information and belief, since at least April 26, 2018, Defendant has been aware of the '851 Patent. Defendant's infringement has been and continues to be willful and deliberate. Upon information and belief, Defendant 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 Defendant and/or were so obvious under the circumstances that the infringement risks should have been known. Upon information and belief, Defendant has no reasonable non-infringement theories. Upon information and belief, Defendant has not attempted any design/sourcing change to avoid infringement. Defendant has 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 Defendant. Upon information and belief, Defendant has willfully infringed and/or continues to willfully infringe the '851 Patent. Defendant's actions of being made aware of its infringement, not developing any non-infringement theories, not attempting any design/sourcing change, and not ceasing its infringement constitute egregious behavior beyond typical infringement. Defendant has acted despite an objectively high likelihood that its actions constituted infringement of the '851 Patent. For example, Defendant is still offering for sale the product accused in Plaintiff's April 26, 2018 complaint (Dkt. 1):



*LED T14 Tubular Bulb – Spiral Filament – Bulbrite 776511* (Oct. 29, 2018)

<https://www.1000bulbs.com/product/199843/BULBRI-10017.html>.

28. Defendant's affirmative acts of selling the Accused Products, causing the Accused Products to be sold, advertised, offered for sale, and/or distributed, and providing instruction manuals for the Accused Products have induced and continue to induce Defendant's customers, and/or end-users to use the Accused Products in their normal and customary way to infringe the '851 Patent. For example, it can be reasonably inferred that end-users will use the infringing products, which will cause the LEDs that are the subject of the claimed invention to be used. Defendant specifically intended and was 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 light bulb is turned on and its LEDs illuminated. In addition, Defendant provides marketing and/or instructional materials, such as user guides, that specifically teach end-users to use the Accused Products in an infringing manner. By providing such instructions, Defendant knows (and has known), or were willfully blind to the probability that its actions have, and continue to, actively induce infringement. By way of example only, Defendant has induced infringement and continues 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. Defendant 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, Defendant specifically intended (and intend) that its 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, Defendant 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. Defendant has infringed the '851 Patent;
2. Plaintiff recover actual damages under 35 U.S.C. § 284;
3. Plaintiff be awarded supplemental damages for any continuing post-verdict infringement up until final judgment;
4. Plaintiff be awarded 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 Defendant to pay to Plaintiff pre-judgment and post-judgment interest on the damages awarded, including an award of pre-judgment interest, pursuant to 35 U.S.C. § 284, from the date of each act of infringement of the '851 Patent by Defendant to the day a damages judgment is entered, and a further award of post-judgment interest, pursuant to 28 U.S.C. § 1961, continuing until such judgment is paid, at the maximum rate allowed by law;
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 relied as the Court deems just and equitable.

DATED: October 29, 2018

Respectfully submitted,

/s/Robert D. Katz

Robert D. Katz

Texas Bar No. 24057936

KATZ PLLC

6060 N. Central Expressway, Suite 560

Dallas, TX 75206

214-865-8000

888-231-5775 (fax)

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