

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

LIGHTING SCIENCE GROUP)
CORP.,)

Plaintiff,)

v.)

NICHIA CORPORATION and)
NICHIA AMERICA)
CORPORATION,)

Defendants.)
)
)

Civil Action File No.

___:___-cv-_____-___

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Lighting Science Group Corp. files this Complaint against Nichia Corporation and Nichia America Corporation for patent infringement under 35 U.S.C. § 271 and alleges, based on its own personal knowledge with respect to its own actions and based upon information and belief with respect to all others' actions, as follows:

INTRODUCTION

1. For nearly two decades, Lighting Science Group Corporation (“LSG”) has been at the forefront of innovation in the light-emitting diode (“LED” or “LEDs”) lighting space. LSG was the first U.S.-based manufacturer to make an LED light commercially available. In the ensuing years, LSG proved instrumental to the

proliferation of LED lighting across American residences. In May 2010, through a relationship with The Home Depot, LSG released a 40-watt equivalent, 429 lumen LED bulb under The Home Depot's EcoSmart brand for \$20. In an article titled, "The Home Depot takes LED lighting mainstream with \$20 bulbs," Engadget celebrated the product for making high-quality LED lighting more economically accessible, noting that LSG's product was "cheaper and nearly as powerful as the 450 lumen, \$40-\$50 design industry heavyweight GE unveiled" the month before, and concluding, "[h]onestly, we're starting to wonder what the catch is."¹

2. By 2011, LSG's winning combination of innovation, quality, and accessible pricing had led the company to become the largest North American producer of LED lights, selling 4.5 million LED lights in 2011 alone, and increasing sales by 450-percent over the prior year.² That success, in turn, led LSG to become a significant American employer. For three consecutive years, from 2012 to 2014, LSG was named on Deloitte's Technology Fast 500TM as one of the top 500 fastest growing companies in North America.³

¹ Sean Hollister, "The Home Depot Takes LED Lighting Mainstream with \$20 Bulbs," Engadget (May 11, 2010), <https://www.engadget.com/2010/05/11/the-home-depot-takes-led-lighting-mainstream-with-20-bulbs/>.

² Jasmine Zhuang, "Lighting Science Group Becomes North American Largest LED Lights Producer," LEDinside (Jan. 31, 2012), https://www.ledinside.com/news/2012/1/lighting_science_group_north_american_largest_producer_2_0120131.

³ "Lighting Science Group Corporation Ranked in Top 500 Fastest Growing Companies for Third Consecutive Year in North America on Deloitte's 2014 Technology Fast 500TM," Pegasus Capital Advisors (Nov. 17, 2014), <http://www.pcalp.com/lighting-science-group-corporation-ranked-top-500-fastest-growing-companies-third-consecutive-year-north-america-deloittes-2014-technology-fast-500/>

3. Meanwhile, as LSG continued to advance the field of LED lighting both commercially and technologically, it simultaneously protected and disclosed its innovative intellectual property through hundreds of issued U.S. patents. Those patents, in turn, further advanced the LED lighting space, garnering thousands of citations from later patents filed by LSG's competitors.

4. But in recent years, an explosion of products which infringe LSG's innovative patents has eroded LSG's market position. Thus, in order to protect its valuable intellectual property rights and substantial investments in innovating the LED lighting space, LSG files this complaint for patent infringement.

5. This matter is a companion case to an ITC proceeding, captioned *In the Matter of Certain Light-Emitting Diode Products, Systems, and Components Thereof*, filed concurrently herewith by the same Plaintiff, naming the same Defendants as respondents. Plaintiff hereby incorporates by reference the relevant portions of the Complaint filed in that ITC proceeding as if restated herein.

THE PARTIES

1. Lighting Science Group Corp. is a Delaware corporation with its principal place of business located at 801 N. Atlantic Avenue, Cocoa Beach, FL 32931.

2. Both directly and through its subsidiaries, LSG is in the business of manufacturing, researching, developing, and selling devices and systems that use LEDs as the light source.

3. Nichia Corporation is a privately held corporation organized under the laws of Japan. It has its principal place of business at 491 Oka, Kaminaka-Cho, Anan-Shi, Tokushima 774-8601, Japan.

4. Nichia America Corporation is a privately held corporation organized under the laws of the State of Michigan. It has a sales office at 3575 Koger Blvd, Suite 375, Duluth, GA 30096, USA. Nichia America Corporation has designated CSC Corporation, 40 Technology Pkwy. South, #300, Norcross, GA, 30092 as its agent for service of process.

5. On information and belief, Nichia America Corporation is a subsidiary of Nichia Corporation, and it, directly or through its affiliates, imports into the United States, sells for importation into the United States, and/or sells after importation into the United States certain Accused Products and/or knowingly induces such activity.

6. Nichia Corporation is a manufacturer of LEDs and the world's largest LED supplier. Upon information and belief, it manufactures certain Accused Products in Japan. Nichia Corporation offers to sell certain Accused Products in the United States through its subsidiary Nichia America Corporation, which has sales offices in the United States. For instance, a Nichia career posting states: "As the world's largest supplier of LED's [Nichia Corporation's] sales offices are responsible for bringing these products to [their] customers" in the United States.

7. As a result of the above, Nichia Corporation and Nichia America

Corporation are liable jointly, severally, or in the alternative with respect to the same series of transactions or occurrences, and questions of fact common to both of them will arise in this action, consistent with 35 U.S.C. § 299.

8. Nichia Corporation and Nichia America Corporation collectively are referred to as “Nichia.”

JURISDICTION AND VENUE

9. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

10. This Court has personal jurisdiction over Nichia in this action because Nichia has committed acts within this district giving rise to this action, and has established minimum contacts with this forum such that the exercise of jurisdiction over Nichia would not offend traditional notions of fair play and substantial justice. Nichia, directly and through subsidiaries or intermediaries, has committed and continues to commit acts of infringement in this district by, among other things, importing, offering to sell, and selling products that infringe the asserted patents. Nichia America Corporation has a regular and established place of business in this district. Nichia Corporation controls the products sold by its US counterpart, and controls or acts jointly with Nichia America Corporation in the marketing and sale of the accused products.

11. Venue is proper in this District under 28 U.S.C. § 1400(b). Defendant

Nichia America Corporation has a regular and established place of business in this district and commits acts of patent infringement in this district.

12. Venue is proper as to Defendant Nichia Corporation, which is organized under the laws of Japan, under 28 U.S.C. § 1391(c)(3), which provides that “a defendant not resident in the United States may be sued in any judicial district, and the joinder of such a defendant shall be disregarded in determining where the action may be brought with respect to other defendants.”

COUNT ONE: INFRINGEMENT OF THE '483 PATENT

13. U.S. Patent No. 7,098,483 (the “’483 Patent”), titled “Light Emitting Diodes Packaged for High Temperature Operation,” was issued on August 29, 2006, naming Joseph Mazzochette and Greg Blonder as the inventors. Ex. 1 (’483 Patent).

14. LSG owns by assignment all rights, title, and interest in the ’483 Patent, and holds all substantial rights pertinent to this suit, including the right to sue and recover for all past, current, and future infringement.

15. On information and belief, Nichia imports, sells for importation, offers to sell for importation, and/or sells after importation into the United States certain Accused Products (the “Nichia Accused Products”) that infringe the ’483 Patent.

16. The Nichia Accused Products directly infringe, literally and/or under the doctrine of equivalents, at least claims 11 and 14–16 of the ’483 Patent, in violation of 35 U.S.C. § 271(a). Nichia directly infringes at least these claims by importing, selling

for importation, and/or selling after importation into the United States the Nichia Accused Products. The Nichia Accused Products satisfy all claim limitations of claims 11 and 14–16 of the '483 Patent at the time of importation into the United States.

17. Moreover, on information and belief, one or more of the Defendants knowingly and intentionally induces infringement of the '483 Patent in violation of 35 U.S.C. § 271(b) by actively encouraging others to offer to sell, sell, use, and/or import Nichia Accused Products into the United States (i.e., by actively encouraging others to directly infringe). On information and belief, with knowledge and intent, or with willful blindness, one or more of Defendants is encouraging and facilitating infringement by others. For example, on information and belief, one or more of the Defendants sells the Nichia Accused Products or otherwise provides the Nichia Accused Products to another Defendant or to distributors knowing that these distributors intend to import and/or sell the Nichia Accused Products in the United States. On information and belief, at least as of the filing of this Complaint and the related ITC action, and possibly earlier, the Nichia Respondents have had knowledge of, or have been willfully blind toward, the Asserted Patents and the infringement of the Asserted Patents by making, using, selling, offering to sell, and/or importing the Nichia Accused Products.

18. A claim chart comparing exemplary claims 11 and 14–16 of the '483 Patent to a representative Nichia Accused Product, the Nichia NVSW219CT, is

attached here as Exhibit 2.⁴ Additionally, on information and belief, including based on teardown analyses and imaging, at least the following additional products constitute Nichia Accused Products that infringe the '483 Patent for the reasons set forth above:

- Nichia NVSL219CT LED Package
- Nichia NVSW219BT LED Package
- Nichia NVSW319AT LED Package

COUNT TWO: INFRINGEMENT OF THE '053 PATENT

19. U.S. Patent No. 7,0995,053 (the "'053 Patent"), titled "Light Emitting Diodes Packaged for High Temperature Operation," issued on August 22, 2006, naming Joseph Mazzochette and Greg Blonder as the inventors. Ex. 3 ('053 Patent).

20. LSG owns by assignment all rights, title, and interest in the '053 Patent, and holds all substantial rights pertinent to this suit, including the right to sue and recover for all past, current, and future infringement.

21. On information and belief, Nichia imports, sells for importation, offers to sell for importation, and/or sells after importation into the United States certain Nichia Accused Products that infringe the '053 Patent.

22. The Nichia Accused Products directly infringe, literally and/or under the doctrine of equivalents, at least claims 1, 2, 4–5, 7, 11–12, 14, 16–17, 19–20, 22, 26–27, and 29 of the '053 Patent, in violation of 35 U.S.C. § 271(a). Nichia directly infringe at

⁴ Exhibit 2 is redacted to exclude confidential information. An unredacted version will be filed with a Motion for Leave to File Under Seal immediately following the filing of this Complaint.

least these claims by importing, selling for importation, and/or selling after importation into the United States the Nichia Accused Products. The Nichia Accused Products satisfy all claim limitations of claims 1, 2, 4–5, 7, 11–12, 14, 16–17, 19–20, 22, 26–27, and 29 of the '053 Patent at the time of importation into the United States.

23. Moreover, on information and belief, one or more of the Defendants knowingly and intentionally induces infringement of the '053 Patent in violation of 35 U.S.C. § 271(b) by actively encouraging others to offer to sell, sell, use, and/or import Nichia Accused Products into the United States (i.e., by actively encouraging others to directly infringe). On information and belief, with knowledge and intent, or with willful blindness, one or more of the Defendants is encouraging and facilitating infringement by others. For example, on information and belief, one or more of the Defendants sells the Nichia Accused Products or otherwise provides the Nichia Accused Products to another Defendant or to distributors knowing that these distributors intend to import and/or sell the Nichia Accused Products in the United States. On information and belief, at least as of the filing of this Complaint, the companion ITC action, or earlier, the Defendants have had knowledge of, or have been willfully blind toward, the Asserted Patents and the infringement of the Asserted Patents by making, using, selling, offering to sell, and/or importing the Nichia Accused Products.

24. A claim chart comparing claims 1, 2, 4–5, 7, 11–12, 14, 16–17, 19–20, 22, 26–27, and 29 of the '053 Patent to a representative Nichia Accused Product, the Nichia

NVSW219CT, is attached here as Exhibit 4.⁵ Additionally, on information and belief, including based on teardown analyses and imaging, at least the following additional products constitute Nichia Accused Products that infringe the '053 Patent for the reasons set forth above:

- Nichia NVSL219CT LED Package
- Nichia NVSW219BT LED Package
- Nichia NVSW319AT LED Package

COUNT THREE: INFRINGEMENT OF THE '421 PATENT

25. U.S. Patent No. 7,528,421 (the "'421 Patent"), titled "Surface Mountable Light Emitting Diode Assemblies Packaged for High Temperature Operation," issued on May 5, 2009, naming Joseph Mazzochette as the inventor. Ex. 5 ('421 Patent).

26. LSG owns by assignment all rights, title, and interest in the '421 Patent, and holds all substantial rights pertinent to this suit, including the right to sue and recover for all past, current, and future infringement.

27. On information and belief, Nichia imports, sells for importation, and/or sells after importation into the United States certain Nichia Accused Products that infringe the '421 Patent.

28. The Nichia Accused Products directly infringe, literally and/or under the doctrine of equivalents, at least claims 1–2, 6, and 10 of the '421 Patent, in violation of

⁵ Exhibit 4 is redacted to exclude confidential information. An unredacted version will be filed with a Motion for Leave to File Under Seal immediately following the filing of this Complaint.

35 U.S.C. § 271(a). Nichia directly infringes at least these claims by importing, selling for importation, and/or selling after importation into the United States the Nichia Accused Products. The Nichia Accused Products satisfy all claim limitations of claims 1–2, 6, and 10 of the '421 Patent at the time of importation into the United States.

29. Moreover, on information and belief, one or more of the Defendants knowingly and intentionally induces infringement of the '421 Patent in violation of 35 U.S.C. § 271(b) by actively encouraging others to offer to sell, sell, use, and/or import Nichia Accused Products into the United States (i.e., by actively encouraging others to directly infringe). On information and belief, with knowledge and intent, or with willful blindness, one or more of the Nichia Respondents is encouraging and facilitating infringement by others. For example, on information and belief, one or more of the Defendants sells the Nichia Accused Products or otherwise provides the Nichia Accused Products to another Defendants or to distributors knowing that these distributors intend to import and/or sell the Nichia Accused Products in the United States. On information and belief, at least as of the filing of this Complaint, the companion ITC action, or earlier, Nichia has had knowledge of, or has been willfully blind toward, the Asserted Patents and the infringement of the Asserted Patents by making, using, selling, offering to sell, and/or importing the Nichia Accused Products.

30. A claim chart comparing claims 1–2, 6, and 10 of the '421 Patent to a representative Nichia Accused Product, the Nichia NFSW757GT LED Package, is

attached here as Exhibit 6.⁶

31. Additionally, on information and belief, including based on teardown analyses and imaging, at least the following additional products constitute Nichia Accused Products that infringe the '421 Patent for the reasons set forth above:

- Nichia NFSL757GT LED Package
- Nichia NF2E757GRT LED Package
- Nichia NE2G757GT LED Package

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE Plaintiff Lighting Science Group Corp. asks this Court for an order granting the following relief:

- a. A judgment in favor of Plaintiff that Nichia has infringed, either literally and/or under the doctrine of equivalents, the '483, '053, and '421 patents;
- b. A permanent injunction prohibiting Nichia from further acts of infringement;
- d. A judgment and order requiring Nichia to pay Plaintiff its damages, costs, expenses, and any enhanced damages to which Plaintiff is entitled for Nichia's infringement; and

⁶ Exhibit 6 is redacted to exclude confidential information. An unredacted version will be filed with a Motion for Leave to File Under Seal immediately following the filing of this Complaint.

e. A judgment and order requiring Nichia to provide an accounting and to pay supplemental damages to Plaintiff, including without limitation, pre-judgment and post-judgment interest;

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

g. Any and all other relief as the Court may deem appropriate and just under the circumstances.

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