IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

CORNING OPTICAL COMMUNICATIONS LLC,

Plaintiff,

Case No.

v.

DEMAND FOR JURY TRIAL

LEVITON MANUFACTURING CO., INC.,

Defendant.

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Corning Optical Communications LLC ("Corning") hereby demands a jury trial and alleges the following against Defendant Leviton Manufacturing Co., Inc. ("Leviton"):

NATURE OF THE ACTION

1. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. § 271, which gives rise to the remedies specified under 35 U.S.C. §§ 281 and 283-285.

THE PARTIES

2. Plaintiff Corning is a limited liability company organized and existing under the laws of the State of North Carolina with its principal place of business and corporate headquarters at 4200 Corning Place, Charlotte, North Carolina 28216.

3. Defendant Leviton is a corporation organized and existing under the laws of the State of Delaware with its principal place of business and corporate headquarters at 201 North Service Road, Melville, New York 11747.

JURISDICTION AND VENUE

4. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C.
 §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Leviton. Leviton is a corporation formed under the laws of Delaware and maintains a registered agent for service of process in the State of Delaware.

6. Venue is appropriate in this District pursuant to 28 U.S.C. § 1391(b) and (c), and 28 U.S.C. § 1400(b). Leviton is organized in Delaware and therefore resides in this District. Furthermore, as described *infra*, Corning's claims asserting infringement by another defendant of two of the four patents at issue in this case are already pending in this District.

FACTUAL BACKGROUND

7. Plaintiff Corning is a part of the Corning Incorporated family, which is one of the world's leading innovators in material science, with a 169-year track record of life-changing inventions. Corning Incorporated invented the first low-loss optical fiber more than 40 years ago. Corning has continued to lead the industry in developing next-generation technology for communications networks, including the development of the high-density fiber optic equipment at issue in this Complaint.

8. One of Corning's initiatives led it to invent groundbreaking hardware called EDGE, which launched in June 2009. EDGE is high-density fiber optic equipment designed for use in data centers. EDGE doubled the usable density of fiber optic connections that could be made in a standard data center rack, while decreasing technician time for installation. From the customers' points of view, because data center real estate is expensive, using space more efficiently saves money. From Corning's point of view as the world leader in optical fiber,

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greater fiber density means selling more fiber. EDGE satisfied a long-felt market need and achieved unexpected results; rivals initially treated EDGE's capabilities with skepticism; EDGE quickly achieved commercial success with demand exceeding supply and customers paying a premium; and EDGE was widely praised in the industry.

9. The innovative design and features of the EDGE system are protected by numerous patents, four of which are asserted here: U.S. Patent No. 9,020,320 ("the '320 patent"); U.S. Patent No. 10,444,456 ("the '456 patent"); U.S. Patent No. 10,120,153 ("the '153 patent"); and U.S. Patent No. 8,712,206 ("the '206 patent") (collectively, the "Asserted Patents"). The Asserted Patents describe aspects of a system that contains two main components—a chassis (also called an enclosure or housing) that is mounted to a standard data center equipment rack, and modules (also called cassettes) that are inserted into the chassis. Three of the four patents (the '320, '153, and '456) are in the same family and their claims describe both the chassis and modules of the EDGE system. The fourth patent (the '206) is from a different family and its claims describe only the EDGE modules, but it shares an identical set of 25 figures with two of the other Asserted Patents (the '320 and '456).

10. The specifications and claims of all four Asserted Patents describe related aspects of this system; all four share two common lead inventors, and also have several other overlapping inventors; all four have specifications that are either identical or overlap considerably; and all four use overlapping technical terms in their claims.

11. On April 15, 2016, Corning filed a complaint against Panduit Corp. ("Panduit") in this District asserting infringement of the '206 patent and the '320 patent, among others. *See Corning Optical Communications LLC v. Panduit Corp.*, No. 1:16-cv-00268-CFC (D. Del.).

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12. Panduit petitioned for *inter partes* review of claims of the '206 patent on December 22, 2016. On May 30, 2017, the Patent Trial and Appeal Board ("PTAB") denied institution of *inter partes* review. A true and correct copy of the Decision is attached as Exhibit 1. On July 27, 2017, the PTAB denied Panduit's request for rehearing. A true and correct copy of the Decision is attached as Exhibit 2. Panduit also petitioned for *inter partes* review of claims to the '320 patent on October 4, 2016. On April 13, 2018, the PTAB rejected Panduit's petition. A true and correct copy of the Final Decision is attached as Exhibit 3. These PTAB outcomes undermine any basis Leviton may have had to justify its continuing infringement with respect to at least the '206 patent and the '320 patent.

13. In February 2020, the Accused Products were the subject of a complaint by Corning seeking to commence an Investigation by the U.S. International Trade Commission ("ITC") into violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("ITC Investigation"), for infringement of all four of the Asserted Patents. *See Certain High-Density Fiber Optic Equipment and Components Thereof*, Inv. No. 337-TA-1194 (Feb. 21, 2020). The ITC published notice of Corning's ITC complaint on February 27, 2020. *See* 85 Fed. Reg. 11390 (Feb. 27, 2020). The complaint named Leviton, Panduit, and others as respondents.

14. In March 2020, Judge Colm F. Connolly of this District stayed Corning's case against Panduit pending the result of the ITC Investigation and any appeals.

15. After an evidentiary hearing, an ITC Administrative Law Judge ("ALJ") found that Leviton (among other respondents) directly and indirectly infringed multiple claims of each of the '320 patent and the '456 patent in his Initial Determination ("ID") issued on March 23,

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2021 (public version attached as Exhibit 4). The ALJ also found that other respondents infringed claims of the '206 patent and the '153 patent.

16. The ALJ rejected Leviton's (and the other respondents') invalidity arguments with respect to the '320 and '456 patents and rejected the other respondents' invalidity arguments with respect to the '206 and '153 patents.

17. On May 28, 2021, the ITC noted—but declined to review—the ALJ's finding that Leviton (and the other respondents) had not shown that any of the asserted patent claims were invalid. *See* 86 Fed. Reg. 28890, 28891 (May 28, 2021).

18. On August 3, 2021, the ITC "found a violation of section 337 of the Tariff Act of 1930," and "issued a general exclusion order prohibiting the importation of infringing highdensity fiber optic equipment and components thereof and cease and desist orders directed against Respondents," including Leviton, before terminating the ITC Investigation. 86 Fed. Reg. 43564 (Aug. 9, 2021).

19. Leviton issued a press release on August 5, 2021 (attached as Exhibit 5) asserting that it was "continu[ing] to make and sell" the products that the ITC found to be infringing. Leviton's Executive Vice President and General Manager, Ross Goldman, stated that Leviton was "pleased . . . to continue to supply our customers the UHDX enclosures as we have for many years. To be clear, there is no interruption."

20. On August 17, 2021, Leviton filed an anticipatory complaint against Corning in the Western District of Washington, seeking declarations of invalidity and non-infringement of the Asserted Patents. *See Leviton Manufacturing Co., Inc. v. Corning Optical Communications LLC*, No. 2:21-cv-01102-SKV (W.D. Wash.). As of the date of this filing, Leviton has not identified the ITC Investigation or the Panduit case as related litigation on its Civil Action Cover

Sheet, notwithstanding the Western District of Washington's Local Rule 3, which requires a plaintiff to identify related cases.

THE PATENTS-IN-SUIT

21. Corning is the owner of all rights, title, and interest to the '320 patent entitled "High Density and Bandwidth Fiber Optic Apparatuses and Related Equipment and Methods," issued on April 28, 2015. The '320 patent is based on U.S. Patent Application No. 13/746,938, filed on January 22, 2013, which is a continuation of U.S. Patent Application No. 12/819,081, filed on June 18, 2010, now abandoned, and a continuation-in-part of U.S. Patent Application No. 12/323,415, filed on November 25, 2008, now U.S. Patent No. 8,452,148, and claims the benefit of U.S. Provisional Application No. 61/218,880, filed on June 19, 2009, U.S. Provisional Application No. 61/190,538, filed on August 29, 2008, and U.S. Provisional Application No. 61/197,068, filed on October 23, 2008. The expiration date of the '320 patent is November 25, 2028. A true and correct copy of the '320 patent is attached as Exhibit 6. Corning has the sole and exclusive right to prosecute this action, to enforce the '320 patent against infringers including Leviton, and to collect damages on the '320 patent for all relevant times.

22. Corning is the owner of all rights, title, and interest to the '456 patent entitled "High Density and Bandwidth Fiber Optic Apparatuses and Related Equipment and Methods," issued on October 15, 2019. The '456 Patent is based on U.S. Patent Application No. 16/376,514, filed on April 5, 2019, which is a continuation of U.S. Patent Application No. 15/886,342, filed on February 1, 2018, which is a continuation of U.S. Patent Application No. 14/660,074, filed on March 17, 2015, now U.S. Patent No. 9,910,236, which is a division of application No. 13/746,938, filed on January 22, 2013, now U.S. Patent No. 9,020,320, which is a continuation of U.S. Patent No. 9,020,320, which is a continuation of U.S. Patent Application No. 12/819,081, filed on June 18, 2010, now

abandoned, and a continuation-in-part of U.S. Application No. 12/323,415, filed on November 25, 2008, now U.S. Patent No. 8,452,148. The expiration date of the '456 patent is November 25, 2028. A true and correct copy of the '456 patent is attached as Exhibit 7. Corning has the sole and exclusive right to prosecute this action, to enforce the '456 patent against infringers including Leviton, and to collect damages on the '456 patent for all relevant times.

23. Corning is the owner of all rights, title, and interest to the '153 patent entitled "Independently Translatable Modules and Fiber Optic Equipment Trays in Fiber Optic Equipment," issued on November 6, 2018. The '153 patent is based on U.S. Patent Application No. 15/412,900, filed on January 23, 2017, which is a continuation of U.S. Patent Application No. 13/901,074, filed on May 23, 2013, which is a continuation of U.S. Patent Application No. 12/323,415, filed on November 25, 2008, now U.S. Patent No. 8,452,148, and claims the benefit of U.S. Provisional Application No. 61/197,068, filed on October 23, 2008, and U.S. Provisional Application No. 61/190,538, filed on August 29, 2008. The expiration date of the '153 patent is November 25, 2028. A true and correct copy of the '153 patent is attached as Exhibit 8. Corning has the sole and exclusive right to prosecute this action, to enforce the '153 patent against infringers including Leviton, and to collect damages on the '153 patent for all relevant times.

24. Corning is the owner of all rights, title, and interest to the '206 patent entitled "High-Density Fiber Optic Modules and Module Housings and Related Equipment," issued on April 29, 2014. The '206 patent is based on U.S. Patent Application No. 12/771,473, filed on April 30, 2010, and claims the benefit of U.S. Provisional Application No. 61/218,870, filed on June 19, 2009. The expiration date of the '206 patent is April 4, 2031. A true and correct copy of the '206 patent is attached as Exhibit 9. Corning has the sole and exclusive right to prosecute

this action, to enforce the '206 patent against infringers including Leviton, and to collect damages on the '206 patent for all relevant times.

THE ACCUSED PRODUCTS

25. The accused Leviton products that infringe the Asserted Patents include the chassis and removable modules that comprise what Leviton markets as the "Opt-X UHDX" system (the "Opt-X UHDX System"). The accused chassis are advertised as "Opt-X UHDX Fiber Rack-Mount Enclosures." An exemplary, non-exhaustive list of accused chassis includes part numbers 5R1UD-S12, 5R2UD-S24, and 5R4UD-S48. The accused modules are advertised as the "Opt-X HDX Enterprise Cassettes." An exemplary, non-exhaustive list of accused modules includes part numbers 31LM1-ANN, 31LM1-BCN, 31LM1-BEN, 31LM1-CNN, 31LSM1-ANN, 31LSM1-BCN, 31LSM1-BEN, 31LSM1-CNN, 31LSM1-UNN, 31LSM4-UNN, 32LM1-ANN, 32LM1-BCN, 32LM1-BEN, 32LM1-CNN, 32LSM1-41C, 32LSM1-ANN, 32LSM1-BCN, 32LSM1-BEN, 32LSM1-CNN, 32LSM1-UNN, 32LSM2-21C, 32LSM4-UNN, 41GM1-ANN, 41GM1-BCN, 41GM1-BEN, 41GM1-CNN, 41GSM1-ANN, 41GSM1-BCN, 41GSM1-BEN, 41GSM1-CNN, 41GSM1-UNN, 41LM1-ANN, 41LM1-BCN, 41LM1-BEN, 41LM1-CNN, 41LSM1-ANN, 41LSM1-BCN, 41LSM1-BEN, 41LSM1-CNN, 41LSM1-UNN, 41LSM4-UNN, 42GM1-ANN, 42GM1-BCN, 42GM1-BEN, 42GM1-CNN, 42GSM1-41C, 42GSM1-ANN, 42GSM1-BCN, 42GSM1-BEN, 42GSM1-CNN, 42GSM1-UNN, 42GSM2-21C, 42GSM2-BCN, 42GSM2-BEN, 42LM1-ANN, 42LM1-BCN, 42LM1-BEN, 42LM1-CNN, 42LSM1-41C, 42LSM1-ANN, 42LSM1-BCN, 42LSM1-BEN, 42LSM1-CNN, 42LSM1-UNN, 42LSM2-21C, 42LSM2-BCN, 42LSM2-BEN, 42LSM4-UNN, A1LM1-ANN, A1LM1-BCN, A1LM1-BEN, A1LM1-CNN, A1LSM1-ANN, A1LSM1-BCN, A1LSM1-BEN, A1LSM1-CNN, U1LM1-ANN, U1LM1-BCN, U1LM1-BEN, U1LM1-CNN, U1LSM1-ANN, U1LSM1-BCN,

U1LSM1-BEN, U1LSM1-CNN, U1LSM1-UNN, U2LM1-ANN, U2LM1-BCN, U2LM1-BEN, U2LM1-CNN, U2LSM1-41C, U2LSM1-ANN, U2LSM1-BCN, U2LSM1-BEN, U2LSM1-CNN, U2LSM1-UNN, U2LSM2-BCN, and U2LSM2-BEN. The accused chassis and modules are referred to collectively as "the Accused Products."

26. Leviton advertises its infringing chassis in three industry-standard sizes, 1U, 2U, and 4U, which are also called 1RU, 2RU, and 4RU. "RU" refers to Rack Unit, which is often abbreviated as "U," and is a space in a standard data rack that is 1.75 inches high and 19 inches wide. Leviton sells two configurations of accused chassis: Base-12, which accepts modules that support 12 fiber connections; and Base-24, which accepts modules that support 24 fiber connections.

27. Leviton maintains a website for the 1U Opt-X UHDX System chassis at https://www.leviton.com/en/products/5r1ud-s12. A true and correct copy downloaded on August 12, 2021 is attached as Exhibit 10.

28. Leviton maintains a website for the 2U Opt-X UHDX System chassis at https://www.leviton.com/en/products/5r2ud-s24. A true and correct copy downloaded on August 12, 2021 is attached as Exhibit 11.

29. Leviton maintains a website for the 4U Opt-X UHDX System chassis at https://www.leviton.com/en/products/5r4ud-s48. A true and correct copy downloaded on August 12, 2021 is attached as Exhibit 12.

30. Leviton distributes a product specification sheet for the Opt-X UHDX System chassis entitled "Opt-X UHDX Fiber Optic Rack-Mount Enclosures, 1RU, 2RU, & 4RU." This document is available on Leviton's website at

https://www.leviton.com/en/docs/Leviton_5R1UD-S12_5R2UD-S24_5R4UD-

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S48_UHDX_Fiber_Enclosures.pdf. A true and correct copy downloaded on August 12, 2021 is attached as Exhibit 13.

31. The following image from Exhibit 13 shows the Opt-X UHDX System chassis in the 1U size with the front panel open:



32. The following image from Exhibit 13 lists the specifications of the Opt-X UHDX

System chassis, including the fiber density, number of modules, and dimensions:

DENSITY					
Rack Unit	Fibers (using LC)	Fibers (using 24-fiber MTP®)	HDX Adapter Plate/ Splice Module/ MTP Cassette*	Dimensions	Weight (unloaded)
1RU	Up to 144 fibers	Up to 1,728 fibers	Up to 12	1.73" H x 19" W x 19" D	16 lbs
2RU	Up to 288 fibers	Up to 3,456 fibers	Up to 24	3.45" H x 19" W x 19" D	24 lbs
4RU	Up to 576 fibers	Up to 6,912 fibers	Up to 48	6.9" H x 19" W x 19" D	30 lbs

* Use of HDX2 cassettes reduces cassette density to 1/2 but overall fiber density is the same.

33. The following image from Exhibit 13 lists some of the features of the Opt-X

UHDX System chassis that infringe one or more claims of each of the Asserted Patents,

including "[i]ndividual sliding trays" which "glide[] forward," and the ability to connect 144

fibers in a 1U chassis, 288 fibers in a 2U chassis, and 576 fibers in a 4U chassis:

FEATURES

- Up to 144 fibers (using LC) in a 1RU enclosure, 288 fibers in a 2RU enclosure, and 576 fibers in a 4RU enclosure using HDX adapter plates, splice modules, or MTP cassettes
- Enclosure accepts Base8, Base12, and Base24 MTP cassettes
- Individual sliding trays remove completely to facilitate field terminations
- Sliding tray glides forward, providing accessibility to front and rear bulkheads after installation
- · Side and rear entries for backbone trunk cabling
- Removable rear cover/door for open access in 1RU and 2RU enclosures
- One-person install of all enclosure sizes
- Rear brush guards (sold separately) minimize dust build up
- Visible port location identifiers
- 34. Leviton maintains a website for the Opt-X UHDX System modules at

https://www.leviton.com/en/products/enhdx-cas. A true and correct copy downloaded on August

12, 2021 is attached as Exhibit 14.

35. The following image from Exhibit 14 shows an Opt-X UHDX System module

with a Base-12 configuration:



36. Leviton distributes a product specification sheet for the Opt-X UHDX System modules entitled "Opt-X HDX Enterprise DC Low Loss Base 12 MTP Cassettes." This document is available on Leviton's website at

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https://www.leviton.com/en/docs/Leviton_HDX_Enterprise_MTP_Cassettes.pdf. A true and correct copy downloaded on August 12, 2021 is attached as Exhibit 15.

37. Leviton distributes installation instructions for the Opt-X UHDX System chassis entitled "Instructions for Use - Opt-X® UHD Fiber Optic Enclosure." The document is available on Leviton's website at https://www.leviton.com/en/docs/Leviton_IST_5RxUD-

Sxx_OptX_UHDX_Fiber_Enclosures.pdf. A true and correct copy downloaded on August 12, 2021 is attached as Exhibit 16.

38. The following illustration from Exhibit 16 provides instructions on the installation and removal of Opt-X UHDX System modules:



CASSETTE INSTALLATION AND REMOVAL

Insert HDX Cassettes, Adapter Plates or Blank Plates from the front into the receiving guide of the target location.

39. Leviton posts on its website and on YouTube a video advertising the Opt-X
UHDX System. See, e.g., Leviton, Opt-X UHDX Fiber Enclosure System, YouTube (Sept. 10, 2015), https://www.youtube.com/watch?v=Yh_cuNEg8Ks (2:33 video accessed on August 17, 2021), also available at https://www.leviton.com/en/products/5r1ud-s12.

DEFENDANT'S INFRINGING CONDUCT

40. Leviton directly infringes and has infringed directly each of the Asserted Patents under 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, at least by making products that infringe, offering to sell, and selling products that infringe.

41. Each Accused Product that Leviton makes or has made, offers or offered to sell, and sells or sold is a module or a chassis that is a material part of the '320, '456, '153, and '206 patents.

42. Leviton's chassis are designed to accept only Leviton's modules, and Leviton's modules are designed to be inserted into only Leviton's chassis. Leviton infringes or has infringed the '320, '456, and '153 patents by making, selling, and offering to sell these chassis and modules in combination to data center customers.

43. Leviton directly infringes or has infringed directly the '206 patent by making, selling, and offering to sell infringing modules.

44. Leviton indirectly infringes or has infringed indirectly each of the Asserted Patents under 35 U.S.C. § 271(b), literally or under the doctrine of equivalents, by inducing third parties to infringe.

45. Third parties directly infringe each of the Asserted Patents. Leviton specifically intends that third parties directly infringe one or more of the claims of each of the Asserted Patents and knowingly encourages and assists such infringement through various activities.

46. Despite knowing that the Accused Products are in fact used to directly infringe one or more claims of each of the '320, '456, and '153 patents, Leviton has continued to make, sell, and to offer to sell these products in combination, specifically intending that third parties

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use the Accused Products in combination. For example, Exhibits 10-16 were downloaded on August 12, 2021, and the video cited in paragraph 39 was accessed on August 17, 2021.

47. Leviton encourages users to insert Opt-X UHDX System modules into Opt-X UHDX System chassis, as set forth in Exhibit 16 (installation instructions). Leviton's product specification sheets provided as Exhibits 13 and 15 also demonstrate that Leviton encourages the use of Opt-X UHDX System modules with Opt-X UHDX System chassis. Leviton's webpage for Opt-X UHDX System modules states that the modules "[f]it in Opt-X UHDX panels, enclosures, and frames." Exhibit 14 (webpage for modules).

48. Leviton instructs its customers to use the Opt-X UHDX System in an infringing manner through user guides and marketing materials. *See* Exhibits 10-16 (webpages, specification sheets, and installation instructions).

49. Leviton provides its customers with materials, such as the document attached as Exhibit 16 (installation instructions), that depict and describe the use of the Opt-X UHDX System in a way that infringes the Asserted Patents.

50. Leviton also performs and demonstrates for others how to perform infringing uses of the Opt-X UHDX System in videos on its website and its YouTube channel. *See* Leviton, *Opt-X UHDX Fiber Enclosure System*, YouTube (Sept. 10, 2015),

https://www.youtube.com/watch?v=Yh_cuNEg8Ks (2:33 video accessed on August 17, 2021), also available at https://www.leviton.com/en/products/5r1ud-s12. Despite knowing that its modules infringe the '206 patent, Leviton has continued to make, to sell, and to offer to sell these modules to third parties, demonstrating Leviton's specific intent for third parties to infringe the '206 patent.

51. Leviton indirectly infringes or has infringed indirectly each of the Asserted Patents under 35 U.S.C. § 271(c), literally or under the doctrine of equivalents, by offering to sell or selling within the United States a component of a patented machine, manufacture, combination or composition constituting material parts of the inventions, knowing they are especially made or adapted for use in infringement of each of the Asserted Patents, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

52. Leviton markets the Accused Products under its own Leviton brand name. Leviton owns, operates, markets, and controls the website www.leviton.com where Leviton markets, sells, offers to sell, provides, and educates customers about its Accused Products, including those depicted in Exhibits 10-16.

DEFENDANT'S KNOWLEDGE AND WILLFULNESS

53. Leviton has known of the proprietary nature of EDGE's patented features since at least 2013.

54. Leviton's Vice President of Engineering, Mr. Frank Kim, testified during the ITC Investigation that Leviton obtained and analyzed copies of the EDGE products in developing the Accused Products.

55. As of at least 2020, the EDGE products bore labels indicating patent protection, and directed users to Corning's website. The website contained virtual patent marking including all four Asserted Patents—regarding the EDGE products (attached as Exhibit 17).

56. On March 23, 2021, after an evidentiary hearing, the ALJ found that Leviton (among other respondents) directly and indirectly infringed multiple claims of each of the '320 patent and the '456 patent. The ALJ found that "Leviton knew of each [A]sserted [P]atent" and the infringing nature of its Accused Products "at least as of February 2020, when the [ITC]

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complaint was filed" and that "Leviton was aware of the 'proprietary' nature of EDGE's patented features by no later than 2013." Exhibit 4 at 99-100.

57. At least as of March 23, 2021, Leviton lacked a good-faith basis to believe its Accused Products did not infringe the Asserted Patents.

58. At least as of March 23, 2021, Leviton lacked a good-faith basis to believe it had any reasonable invalidity defenses to the Asserted Patents.

59. On April 5, 2021, Leviton and the other respondents petitioned the ITC to review the ALJ's determination. The other respondents asked the ITC to overrule the ALJ's determination that the Asserted Patents are not invalid. On May 24, 2021, the ITC rejected those challenges to the validity of the Asserted Patents and instead accepted without review the ALJ's finding that Leviton and the other respondents had not shown that any of the asserted patent claims were invalid. *See* 86 Fed. Reg. 28890.

60. On August 3, 2021, the ITC determined that Leviton infringed the '320 and '456 patents. The ITC issued a general exclusion order against Leviton's imported products and issued a cease and desist order directed to Leviton's inventory of infringing products already in the United States. 86 Fed. Reg. 43564.

61. Leviton's continuing infringement of the Asserted Patents is knowing, willful, deliberate, unreasonable, and exceptional.

ENTITLEMENT TO INJUNCTIVE RELIEF

62. Corning is entitled to injunctive relief under 35 U.S.C. § 283.

Permanent Injunction

63. Corning is entitled to a permanent injunction because (1) it has suffered irreparable injury; (2) remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) considering the balance of hardships between Corning and

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Leviton, an equitable remedy is warranted; and (4) the public interest would not be disserved by a permanent injunction.

64. Corning's inventions protected by the Asserted Patents are at the core of its business. It has developed optical fiber for decades, and continues to invest heavily in related research and development.

65. Leviton's infringement of the Asserted Patents has caused and continues to cause Corning to irreversibly lose market share, customers, potential customers—of chassis, modules, and other products and services, and brand recognition. Corning has also suffered and continues to suffer from price erosion, as Leviton markets products covered by the Asserted Patents, destroying the monopoly the patents are designed to protect. Absent such infringement, Leviton (and others) would have been prevented from entering the market as early as it did because it would have had to design around the Asserted Patents or wait until the Asserted Patents expired.

66. The key innovations of the Asserted Patents that Leviton has infringed include density, modularity, and accessibility, all of which drove and continue to drive customer and consumer demand.

67. There is no reason to believe that—absent a permanent injunction—Leviton will stop infringing the Asserted Patents, especially given that Leviton knows it is infringing and has no valid defenses to the Asserted Patents which have been upheld multiple times in multiple fora. Leviton's complaint against Corning in the Western District of Washington demonstrates that it intends to continue making and selling the Accused Products. Thus, Corning will continue to suffer irreparable harm due to lost market share, lost business opportunities, and price erosion unless and until Leviton is permanently enjoined. Monetary damages are inadequate to fully compensate for these damages, as they are too difficult to quantify into the future.

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68. Leviton's infringement has created a substantial hardship for Corning: Corning is forced to compete in the market with the Accused Products—Corning's own patented inventions. Meanwhile, Leviton profits from making and selling the Accused Products. Leviton cannot complain of any "harm" if it is enjoined from infringing the Asserted Patents.

69. A permanent injunction is in the public interest. Patent protection for inventors is so essential that it is included in the U.S Constitution, art. 1, § 8, cl. 8, and Leviton does not serve the public by making, selling, or offering to sell its Accused Products.

Preliminary Injunction

70. Corning is likewise entitled to a preliminary injunction. Three of the four factors are the same as for issuing a permanent injunction (irreparable harm, balance of hardships, and the impact of the injunction on the public interest).

71. Corning has a strong likelihood of succeeding on the merits of its infringement claims.

72. Not only are the Asserted Patents presumed valid under 35 U.S.C. § 282, they have survived several invalidity challenges in several fora already.

73. Leviton has continued to infringe the Asserted Patents after these failed challenges and after it was twice found to infringe two of the patents asserted here.

COUNT I – Infringement of U.S. Patent No. 9,020,320

74. Plaintiff restates and incorporates by reference the allegations of paragraphs 1-73.

75. As the ALJ found, Leviton has infringed and continues to infringe at least claim 1 of the '320 patent, in violation of 35 U.S.C. § 271(a)-(c), by without authority making, offering for sale, and selling within the United States, the Accused Products that infringe the '320 patent, and contributing to and inducing another's direct infringement.

76. Claim 1 of the '320 patent recites:

A fiber optic apparatus, comprising:

a chassis; and

a fiber optic connection equipment provided in the chassis;

the fiber optic connection equipment configured to support a fiber optic connection density of at least ninety-eight (98) fiber optic connections per U space, based on using at least one simplex fiber optic component or at least one duplex fiber optic component.

- 77. The Leviton Opt-X UHDX System is a fiber optic apparatus.
- 78. The Leviton Opt-X UHDX System includes a chassis.
- 79. The Leviton Opt-X UHDX System includes fiber optic connection equipment

provided in the chassis; the fiber optic connection equipment is configured to support a fiber optic connection density of at least ninety-eight (98) fiber optic connections per U space, based on using at least one simplex fiber optic component or at least one duplex fiber optic component. The trays receive modules that provide at least ninety-eight (98) fiber optic connections per U space.

80. Corning is entitled to damages for Leviton's infringement of the '320 patent pursuant to 35 U.S.C. § 284.

81. Leviton's continued infringement after learning of the patent in 2013—and after the ID finding against it in March 2021—is willful and deliberate, making this an exceptional case and entitling Corning to recover trebled damages and attorneys' fees pursuant to 35 U.S.C. §§ 284, 285. Such infringement has injured and damaged Corning, and continues to do so.

82. Leviton's continued infringement of the '320 patent has caused and, unless enjoined and restrained by this Court, will continue to cause, irreparable injury to Corning that is not fully compensable in monetary damages and for which Corning has no adequate remedy at

law. Corning is therefore entitled to preliminary and permanent injunctions enjoining Corning from further infringement of the '320 patent pursuant to 35 U.S.C. § 283.

COUNT II – Infringement of U.S. Patent No. 10,444,456

83. Plaintiff restates and incorporates by reference the allegations of paragraphs 1-82.

84. Leviton has infringed and continues to infringe at least claim 11 of the '456

patent, in violation of 35 U.S.C. § 271(a)-(c), by without authority making, offering for sale, and

selling within the United States, and previously importing into the United States, the Accused

Products that infringe the '456 patent, and contributing to or inducing another's direct

infringement.

85. Claim 11 of the '456 patent recites:

A fiber optic apparatus, comprising:

a chassis configured to be disposed in an equipment rack, the chassis comprising front and rear ends that are spaced apart from one another in a longitudinal direction;

a plurality of fiber optic equipment trays supported by the chassis and extendable relative to the chassis in the longitudinal direction; and

a plurality of fiber optic modules configured to be installed in the plurality of fiber optic equipment trays, wherein each fiber optic module of the plurality of fiber optic modules comprises a front side, a rear side, an internal chamber, a plurality of first fiber optic adapters disposed through the front side, at least one second fiber optic adapter exposed through the rear side, and a plurality of optical fibers disposed within the internal chamber and extending from the at least one second fiber optic adapter to the plurality of first fiber optic adapters;

wherein each fiber optic equipment tray of the plurality of fiber optic equipment trays is configured to receive multiple fiber optic modules of the plurality of fiber optic modules;

wherein the plurality of fiber optic equipment trays and the plurality of fiber optic modules are configured to support a fiber optic connection density of at least ninety-eight (98) fiber optic connections per U space of the chassis, based on using a simplex fiber optic adapter or a duplex fiber

optic adapter as each fiber optic adapter of the plurality of first fiber optic adapters; and

wherein a U space comprises a height of about 1.75 inches and comprises a width of 19 inches or 23 inches.

86. The Leviton Opt-X UHDX System is a fiber optic apparatus.

87. The Leviton Opt-X UHDX System includes a chassis configured to be disposed in an equipment rack, the chassis comprising front and rear ends that are spaced apart from one another in a longitudinal direction, and comprising opposite first and rear ends that are spaced apart from one another in a longitudinal direction.

88. The Leviton Opt-X UHDX System includes a plurality of fiber optic equipment trays supported by the chassis and extendable relative to the chassis in the longitudinal direction.

89. The Leviton Opt-X UHDX System includes a plurality of fiber optic modules configured to be installed in the plurality of fiber optic equipment trays, wherein each fiber optic module of the plurality of fiber optic modules comprises a front side, a rear side, an internal chamber, a plurality of first fiber optic adapters disposed through the front side, at least one second fiber optic adapter disposed through the rear side, and a plurality of optical fibers disposed within the internal chamber and extending from the at least one second fiber optic adapter to the plurality of first fiber optic adapters.

90. Each fiber optic equipment tray of the plurality of fiber optic equipment trays of the Leviton Opt-X UHDX System is configured to receive multiple fiber optic modules of the plurality of fiber optic modules.

91. The plurality of fiber optic equipment trays and the plurality of fiber optic modules of the Leviton Opt-X UHDX System are configured to support a fiber optic connection density of at least ninety-eight (98) fiber optic connections per U space of the chassis, based on

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using a simplex fiber optic adapter or a duplex fiber optic adapter as each fiber optic adapter of the plurality of first fiber optic adapters.

92. The Leviton Opt-X UHDX System is designed for a U space which comprises a height of 1.75 inches and comprises a width of 19 inches or 23 inches.

93. Corning is entitled to damages for Leviton's infringement of the '456 patent pursuant to 35 U.S.C. § 284.

94. Leviton's continued infringement after learning of the patent in 2013—and after the ID finding against it in March 2021—is willful and deliberate, making this an exceptional case and entitling Corning to recover trebled damages and attorneys' fees pursuant to 35 U.S.C. §§ 284, 285. Such infringement has injured and damaged Corning, and continues to do so.

95. Leviton's continued infringement of the '456 patent has caused and, unless enjoined and restrained by this Court, will continue to cause, irreparable injury to Corning that is not fully compensable in monetary damages and for which Corning has no adequate remedy at law. Corning is therefore entitled to preliminary and permanent injunctions enjoining Corning from further infringement of the '456 patent pursuant to 35 U.S.C. § 283.

COUNT III – Infringement of U.S. Patent No. 10,120,153

96. Plaintiff restates and incorporates by reference the allegations of paragraphs 1-95.

97. Leviton has infringed and continues to infringe at least claim 1 of the '153 patent, in violation of 35 U.S.C. § 271(a)-(c), by without authority making, offering for sale, and selling within the United States, and importing into the United States, the Accused Products that infringe the '153 patent, and contributing to and inducing another's direct infringement.

98. Claim 1 of the '153 patent recites:

A fiber optic apparatus, comprising:

a chassis configured to be disposed in an equipment rack, the chassis comprising opposite front and rear ends that are spaced apart from one another in a longitudinal direction, and comprising opposite first and second ends that are spaced apart from one another in a lateral direction that extends crosswise to the longitudinal direction;

a guide system configured to be disposed within the chassis;

at least one fiber optic equipment tray configured to slidably engage within the guide system, the at least one fiber optic equipment tray comprising a front end with at least one fiber optic routing element that comprises successive material sections extending frontward, upward, and rearward, respectively, to permit optical fibers to be routed to either left or right portions of the at least one fiber optic equipment tray toward the first and second ends of the chassis; and

a plurality of fiber optic modules configured to be received by the at least one fiber optic equipment tray, wherein each fiber optic module of the plurality of fiber optic modules is independently movable in the longitudinal direction relative to the at least one fiber optic equipment tray, and wherein each fiber optic module of the plurality of fiber optic modules comprises a front end, a rear end, an interior, a plurality of first fiber optic adapters disposed through the front end, at least one second fiber optic adapter disposed through the rear end, and at least one optical fiber disposed within the interior and establishing at least one optical connection between the at least one second fiber optic adapter and at least one first fiber optic adapter of the plurality of first fiber optic adapters.

99. The Leviton Opt-X UHDX System is a fiber optic apparatus.

100. The Leviton Opt-X UHDX System includes a chassis configured to be disposed in

an equipment rack, the chassis comprising opposite front and rear ends that are spaced apart from one another in a longitudinal direction, and comprising opposite first and second ends that are spaced apart from one another in a lateral direction that extends crosswise to the longitudinal direction.

101. The Leviton Opt-X UHDX System includes a guide system configured to be disposed within the chassis.

102. The Leviton Opt-X UHDX System includes at least one fiber optic equipment tray configured to slidably engage within the guide system, the at least one fiber optic equipment

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tray comprising a front end with at least one fiber optic routing element that comprises successive material sections extending frontward, upward, and rearward, respectively, to permit optical fibers to be routed to either left or right portions of the at least one fiber optic equipment tray toward the first and second ends of the chassis.

103. The Leviton Opt-X UHDX System includes a plurality of fiber optic modules configured to be received by the at least one fiber optic equipment tray, wherein each fiber optic module of the plurality of fiber optic modules is independently movable in the longitudinal direction relative to the at least one fiber optic equipment tray, and wherein each fiber optic module of the plurality of fiber optic modules comprises a front end, a rear end, an interior, a plurality of first fiber optic adapters disposed through the front end, at least one second fiber optic adapter disposed through the rear end, and at least one optical fiber disposed within the interior and establishing at least one optical connection between the at least one second fiber optic adapter and at least one first fiber optic adapters of the plurality of first fiber optic adapters.

104. Corning is entitled to damages for Leviton's infringement of the '153 patent pursuant to 35 U.S.C. § 284.

105. Leviton's continued infringement after learning of the patent in—and after the ID finding against its co-respondents in March 2021—is willful and deliberate, making this an exceptional case and entitling Corning to recover trebled damages and attorneys' fees pursuant to 35 U.S.C. §§ 284, 285. Such infringement has injured and damaged Corning, and continues to do so.

106. Leviton's infringement of the '153 patent has caused and, unless enjoined and restrained by this Court, will continue to cause, irreparable injury to Corning that is not fully compensable in monetary damages and for which Corning has no adequate remedy at law.

Corning is therefore entitled to preliminary and permanent injunctions enjoining Corning from further infringement of the '153 patent pursuant to 35 U.S.C. § 283.

Count IV – Infringement of U.S. Patent No. 8,712,206

107. Plaintiff restates and incorporates by reference the allegations of paragraphs 1-

106.

108. Leviton has infringed and continues to infringe at least claim 1 of the '206 patent,

in violation of 35 U.S.C. § 271(a)-(c), by without authority making, offering for sale, and selling

within the United States, and importing into the United States, the Accused Products that infringe

the '206 patent, and contributing to and inducing another's direct infringement.

109. Claim 1 of the '206 patent recites:

A fiber optic module, comprising:

a main body defining an internal chamber disposed between a front side and a rear side;

a plurality of optical fibers disposed in the internal chamber;

a front opening disposed along a longitudinal axis in the front side;

a first plurality of fiber optic components optically connected to the plurality of optical fibers, the first plurality of fiber optic components disposed through the front opening; and

at least one second fiber optic component optically connected to at least one of the plurality of optical fibers to provide optical connection between the at least one second fiber optic component and at least one of the first plurality of fiber optic components;

wherein the width of the front opening is at least eighty-five percent (85%) of the width of the front side.

110. The Leviton Opt-X UHDX System includes a fiber optic module.

111. The Leviton Opt-X UHDX System includes a fiber optic module with a main

body defining an internal chamber disposed between a front side and a rear side.

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112. The Leviton Opt-X UHDX System includes a plurality of optical fibers disposed in the internal chamber.

113. The Leviton Opt-X UHDX System includes a front opening disposed along a longitudinal axis in the front side.

114. The Leviton Opt-X UHDX System includes a first plurality of fiber optic components optically connected to the plurality of optical fibers, the first plurality of fiber optic components disposed through the front opening.

115. The Leviton Opt-X UHDX System includes at least one second fiber optic component optically connected to at least one of the plurality of optical fibers to provide optical connection between the at least one second fiber optic component and at least one of the first plurality of fiber optic components.

116. The width of the front opening of the Leviton Opt-X UHDX System is at least eighty-five percent (85%) of the width of the front side.

117. Corning is entitled to damages for Leviton's infringement of the '206 patent pursuant to 35 U.S.C. § 284.

118. Upon information and belief, Leviton's continued infringement after learning of the patent in 2013—and after the ID finding against its co-respondents in March 2021—is willful and deliberate, making this an exceptional case and entitling Corning to recover trebled damages and attorneys' fees pursuant to 35 U.S.C. §§ 284, 285. Such infringement has injured and damaged Corning, and continues to do so.

119. Leviton's infringement of the '206 patent has caused and, unless enjoined and restrained by this Court, will continue to cause, irreparable injury to Corning that is not fully compensable in monetary damages and for which Corning has no adequate remedy at law.

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Corning is therefore entitled to preliminary and permanent injunctions enjoining Corning from further infringement of the '206 patent pursuant to 35 U.S.C. § 283.

DEMAND FOR JURY TRIAL

120. In accordance with Rule 38 of the Federal Rules of Civil Procedure, Corning hereby demands a jury trial on all claims and issues triable before a jury.

PRAYER FOR RELIEF

WHEREFORE, Corning prays for the following judgments and relief:

(a) A judgment that Leviton has infringed and is infringing the Patents-in-Suit;

(b) A permanent injunction against Leviton and its affiliates, subsidiaries, assigns, employees, agents, or anyone acting in privity or concert from infringing the Patents-in-Suit, including enjoining the making, offering to sell, selling, using, or importing into the United States products claimed in any of the claims of the Asserted Patents; using or performing methods claimed in any of the claims of the Asserted Patents; using or performing methods claimed in any of the claims of the Asserted Patents; using or performing methods that infringe any claim of the Asserted Patents; until the expiration of the Asserted Patents;

(c) An award of damages adequate to compensate Corning for Leviton's patent infringement, and if necessary an accounting to adequately compensate Corning for the infringement, including, but not limited to, lost profits and/or a reasonable royalty;

(d) An award of treble damages to Plaintiff as provided by 35 U.S.C. § 284;

(e) An award of pre-judgment and post-judgment interest at the maximum rate allowed by law;

(f) An order finding that this is an exceptional case and awarding Corning its costs,

expenses, disbursements, and reasonable attorneys' fees related to Leviton's patent infringement under 35 U.S.C. § 285 and all other applicable statutes, rules, and common law; and

(g) Such other further relief, in law or equity, as this Court deems just and proper.

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August 18, 2021

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