

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
COOKEVILLE DIVISION**

ILIGHT TECHNOLOGIES, INC.,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 2:06-cv-25
)	Judge Haynes
FALLON LUMINOUS PRODUCTS)	JURY DEMAND
CORPORATION,)	
)	
Defendant.)	
)	

FIRST AMENDED COMPLAINT

Pursuant to Rule 15(a) of the Federal Rules of Civil Procedure,¹ Plaintiff iLight Technologies, Inc. (“iLight”), through its counsel of record, and for its first amended complaint against Defendant Fallon Luminous Products Corporation (“Fallon”), states as follows:

PRELIMINARY STATEMENT

1. This is an infringement action brought by iLight pursuant to the Patent Laws of the United States, United States Code, Title 35 for damages and to enjoin future unlawful acts by Defendant.

JURISDICTION

2. This Court has original jurisdiction to hear this matter pursuant to 28 U.S.C. §§1331 and 1338(a) since the matter in controversy arises under the Patent Laws of the United States, United States Code, Title 35.

¹ iLight has received the written consent of Defendant’s counsel of record to file this first amended complaint.

VENUE

3. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b) because Defendant does business in Tennessee and in this District, and the consequences of Defendant's infringing acts were suffered by iLight in this District.

BACKGROUND

4. Plaintiff iLight Technologies, Inc. is a corporation duly organized and existing under the laws of the State of Delaware with its headquarters located at 118 S. Clinton St., Chicago, Illinois 60661 and its manufacturing facility located at 1093 Volunteer Drive, Cookeville, Tennessee 38506 within the jurisdiction of the United States District Court for the Middle District of Tennessee.

5. iLight is in the business of designing, manufacturing, and selling lighting products using light emitting diodes (LEDs).

6. On July 15, 2003, U.S. Patent No. 6,592,238 ("the '238 Patent") for a "Illumination Device for Simulation of Neon Lighting" was duly, properly and legally issued to Mark Joseph Cleaver, Eric Olav Eriksson, and George R. Hulse, and thereafter assigned to iLight. The '238 Patent is valid and in full force and effect. A true and correct copy of the '238 Patent is attached to the original complaint as Plaintiff's Exhibit 1.

7. On October 11, 2005, U.S. Patent No. 6,953,262 ("the '262 Patent") for a "Illumination Device for Simulation of Neon Lighting" was duly, properly and legally issued to Mark Joseph Cleaver, Eric Olav Eriksson, and George R. Hulse, and thereafter assigned to iLight. The '262 Patent is valid and in full force and effect. A true and correct copy of the '262 Patent is attached to the original complaint as Plaintiff's Exhibit 2.

8. On March 13, 2007, U.S. Patent No. 7,188,970 (the ‘970 Patent’) for a “Illumination Device for Simulation of Neon Lighting” was duly, properly and legally issued to Mark Joseph Cleaver, Eric Olav Eriksson, and George R. Hulse, and thereafter assigned to iLight. The ‘970 Patent is valid and in full force and effect. A true and correct copy of the ‘970 Patent is attached to this first amended complaint as Plaintiff’s Exhibit 2.5

9. Defendant Fallon Luminous Products Corporation is a corporation duly organized and existing under the laws of the State of South Carolina with its principal place of business located at One Fallon Place, Spartanburg, South Carolina 29306.

10. Fallon is in the business of designing, manufacturing, and selling lighting products. Fallon advertises, offers for sale, and sells lighting products within the jurisdiction of the United States District Court for the Middle District of Tennessee and engages in said business in direct competition with iLight.

11. As early as April 2005, iLight became aware that Fallon was introducing an LED-based lighting product.

12. On April 1, 2005, counsel for iLight sent a certified letter to Fallon placing it on notice of the ‘238 Patent and requesting Fallon to review iLight’s patents and published patent applications with counsel to ascertain whether they have any relevance to the lighting products that Fallon was advertising, selling, or developing. A true and correct copy of this letter is attached to the original complaint as Plaintiff’s Exhibit 3.

13. On December 23, 2005, counsel for iLight sent a certified letter to counsel for Fallon placing it on notice of the ‘262 Patent and reiterating its request that Fallon, through its counsel, carefully review iLight’s patents and published patent applications with respect to its

LED-based lighting products. A true and correct copy of this letter is attached to the original complaint as Plaintiff's Exhibit 4.

14. Despite the written notices provided to Fallon, upon information and belief, Fallon has been and continues to manufacture, offer for sale, and sell lighting products which infringe the '238 Patent, the '262 Patent, and the '970 Patent.

COUNT I – PATENT INFRINGEMENT OF U.S. PATENT NO. 6,592,238

15. Each of the foregoing paragraphs in this Complaint is hereby incorporated in this Count by reference.

16. The '238 Patent owned by iLight is valid and in full force and effect.

17. Despite the above-described written notices, Fallon has been and continues to manufacture, offer for sale, and sell lighting products which infringe the '238 Patent.

18. The infringement of the '238 Patent has been willful, wanton, egregious, and with disregard of iLight's patent rights and will continue unabated unless enjoined by this Court.

19. Unless the future occurrence of these actions are enjoined, iLight will suffer irreparable injury for which there is no adequate remedy at law.

COUNT II – PATENT INFRINGEMENT OF U.S. PATENT NO. 6,953,262

20. Each of the foregoing paragraphs in this Complaint is hereby incorporated in this Count by reference.

21. The '262 Patent owned by iLight is valid and in full force and effect.

22. Despite the above-described written notices, Fallon has been and continues to manufacture, offer for sale, and sell lighting products which infringe the '262 Patent.

23. The infringement of the '262 Patent has been willful, wanton, egregious, and with disregard of iLight's patent rights and will continue unabated unless enjoined by this Court.

24. Unless the future occurrence of these actions are enjoined, iLight will suffer irreparable injury for which there is no adequate remedy at law.

COUNT III – PATENT INFRINGEMENT OF U.S. PATENT NO. 7,188,970

25. Each of the foregoing paragraphs in this Complaint is hereby incorporated in this Count by reference.

26. The '970 Patent owned by iLight is valid and in full force and effect.

27. Despite the above-described written notices, Fallon has been and continues to manufacture, offer for sale, and sell lighting products which infringe the '970 Patent.

28. The infringement of the '970 Patent has been willful, wanton, egregious, and with disregard of iLight's patent rights and will continue unabated unless enjoined by this Court.

29. Unless the future occurrence of these actions are enjoined, iLight will suffer irreparable injury for which there is no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, iLight prays for relief as follows:

- A. An Order requiring that Fallon and its officers, agents, servants, employees, attorneys, privies, and those persons in active concert or participation with it, be preliminarily and permanently enjoined from the continued infringement of U.S. Patent No. 6,592,238;
- B. An Order requiring that Fallon and its officers, agents, servants, employees, attorneys, privies, and those persons in active concert or participation with it, be preliminarily and permanently enjoined from the continued infringement of U.S. Patent No. 6,953,262;

- C. An Order requiring that Fallon and its officers, agents, servants, employees, attorneys, privies, and those persons in active concert or participation with it, be preliminarily and permanently enjoined from the continued infringement of U.S. Patent No. 7,188,970;
- D. An award of damages, not less than a reasonable royalty, adequate to compensate iLight for the infringement of its patent rights, pursuant to 35 U.S.C. § 284;
- E. That any damages awarded pursuant to 35 U.S.C. § 284 be trebled, as provided by 35 U.S.C. § 284, in view of the intentional infringement of the '238 Patent, the '262 Patent, and the '970 Patent;
- F. An award to iLight of reasonable attorneys' fees due to the exceptional nature of this case, pursuant to 35 U.S.C. § 285;
- G. An award to iLight of prejudgment interest on said sums at the legal prejudgment rate and post judgment interest on said sums at the legal judgment rate from date of the judgment;
- H. For costs of suit in this action;
- I. For such other and further relief as the Court deems just and proper;
- J. Any further relief to which iLight may appear entitled; and
- K. Trial by jury on all issues so triable.

Respectfully submitted,

/s/ Stephen H. Price

Stephen H. Price
STITES & HARBISON, PLLC
424 Church Street, Suite 1800
Nashville, TN 37219-2376
Telephone: (615) 782-2232
Facsimile: (615) 742-7226
Email: stephen.price@stites.com

Counsel for Plaintiff
ILIGHT TECHNOLOGIES, INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of March, 2007, a copy of the foregoing FIRST AMENDED COMPLAINT was filed electronically with the Clerk's office by using the CM/ECF system and served electronically and/or via first-class U.S. mail, postage prepaid, upon the parties as indicated below. Parties may also access this filing through the Court's ECF system.

David Frazee
Perkins Coie LLP
101 Jefferson Drive
Menlo Park, CA 94025-1114

Samuel D. Lipshie
Jonathan D. Rose
BOULT CUMMINGS CONNERS BERRY, PLC
1600 Division Street, Suite 700
P.O. Box 340025
Nashville, Tennessee 37203

/s/ Stephen H. Price

Stephen H. Price