

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

SEOUL SEMICONDUCTOR CO., LTD.,
Plaintiff,

VS.

NICHIA CORPORATION,
Defendant.

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Civil Action No: 2:07-cv-276 (TJW)

Jury

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Seoul Semiconductor Company, Ltd. (“Seoul Semiconductor”) for its Complaint against Defendant Nichia Corporation alleges:

THE PARTIES

1. Seoul Semiconductor is a corporation organized under the laws of Korea with its principal place of business in Seoul, Korea.

2. On information and belief, Defendant Nichia Corporation (“Nichia”) is a corporation organized under the laws of Japan with its principal place of business at 491 Oka, Kaminaka-Cho, Anan-Shi, Tokushima 774-8601, Japan.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§1331 and 1338(a) because this action arises under the Patent Laws of the United States, Title 35, United States Code, including 35 U.S.C. § 271 *et seq.* This Court has personal jurisdiction over the Defendant. The Defendant has manufactured and/or assembled products that are used, offered for sale, imported, or sold in Texas and in this district. Moreover, the Defendant has committed acts of infringement, has induced others to commit acts of infringement, or has contributed to the

infringing acts of others in this district. The exercise of jurisdiction over the Defendant would not offend traditional notions of fair play and substantial justice.

4. Venue is proper in this federal district pursuant to 28 U.S.C. §§1391(b)-(c) and 1400(b) in that the Defendant has done business in this district, has committed acts of infringement in this district, and continues to commit acts of infringement in this district, thereby entitling Seoul Semiconductor to relief.

INFRINGEMENT OF U.S. PATENT NO. 5,321,713

5. On June 4, 1994, the United States Patent and Trademark Office, after a full and fair examination, duly and legally issued United States Patent No. 5,321,713 (“the ’713 patent”), which is entitled “Aluminum Gallium Nitride Laser.” Seoul Semiconductor owns the ’713 patent. A true and correct copy of the ’713 patent is attached hereto as Exhibit A.

6. Upon information and belief, Defendant has infringed and continues to infringe the ’713 patent. The infringing acts include, but are not limited to, manufacturing, using, selling, importing and/or offering for sale within the United States short wavelength semiconductor lasers and products that contain such short wavelength semiconductor lasers and inducing and contributing to the infringement of the ’713 patent by others through the manufacture, use, sale, importation and/or offer for sale of products containing such short wavelength semiconductor lasers (including but not limited to media player units (e.g., HD-DVD and Blu-Ray enabled DVD players), media recorder units, camcorders, computers, computer peripheral components (e.g., optical read/write disk units), printers, copiers, medical devices, and display units, among others). Defendant is, therefore, liable for infringement of the ’713 patent pursuant to 35 U.S.C. §271.

7. Defendant's acts of infringement have caused damage to Seoul Semiconductor. Seoul Semiconductor is, therefore, entitled to recover from Defendant the damages sustained by Seoul Semiconductor as a result of Defendant's wrongful acts in an amount subject to proof at trial. Defendant's infringement of Seoul Semiconductor's exclusive rights under the '713 patent will continue to damage Seoul Semiconductor, causing irreparable harm, for which there is no adequate remedy at law, unless Defendant is enjoined by this Court.

8. Upon information and belief, Defendant has knowledge of its infringement of the '713 patent, yet Defendant continues to infringe said patent. Defendant's infringement of the '713 patent is willful and deliberate, entitling Seoul Semiconductor to increased damages under 35 U.S.C. §284 and to attorney fees and costs incurred in prosecuting this action under 35 U.S.C. §285.

JURY TRIAL DEMAND

9. Seoul Semiconductor hereby demands a trial by jury on all issues.

PRAYER FOR RELIEF

WHEREFORE, Seoul Semiconductor prays for the following relief:

- a) a judgment that the Defendant has infringed U.S. Patent No. 5,321,713;
- b) a judgment and order permanently enjoining the Defendant, its directors, officers, agents, employees, parents, subsidiaries, affiliates, or all persons in active concert or participation with Defendant from further infringement of the '713 patent;
- c) a judgment and order requiring the Defendant to pay damages to Seoul Semiconductor, including enhanced damages pursuant to 35 U.S.C. §284, together with pre-judgment and post-judgment interest, in an amount according to proof;

d) a judgment and order finding this to be an exceptional case and requiring the Defendant to pay the costs of this action (including all disbursements) and attorney fees pursuant to 35 U.S.C. §285, or as otherwise permitted by law; and

e) for such other costs and further relief as the Court may deem just and proper.

Dated: July 29, 2008

Respectfully submitted,

By: /s/ N. Claire Abernathy

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**ATTORNEYS FOR PLAINTIFF
SEOUL SEMICONDUCTOR CO., LTD.**

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served this 29th day of July, 2008, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

/s/ N. Claire Abernathy
N. Claire Abernathy