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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION
13

14 TRUSTEES OF BOSTON UNIVERSITY and
15 CREE LIGHTING COMPANY

16 Plaintiffs,

17 v.

18 NICHIA CORPORATION and
NICHIA AMERICA CORPORATION,

19 Defendants.

Case No. _____

COMPLAINT FOR
INFRINGEMENT OF
U.S. PATENT NO. 5,686,738

JURY TRIAL DEMANDED

20 Plaintiffs, Trustees of Boston University (“BU”) and Cree Lighting Company
21 (“Cree Lighting”), by and for their complaint against defendants, Nichia Corporation and Nichia
22 America Corporation, allege as follows:

23 **NATURE OF THE ACTION**

24 1. This is an action arising under the patent laws of the United States, Title 35 of the
25 United States Code from Defendants’ infringement of a patent relating to gallium nitride film
26 technology. Plaintiffs seek damages for Defendants’ infringement and a permanent injunction
27 restraining Defendants from further infringement.
28

1 **JURISDICTION AND VENUE**

2 2. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

3 3. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b).

4 4. Venue is proper in this district because Defendants have, among other things,
5 advertised and/or offered to sell infringing products within this state and within this judicial
6 district. Furthermore, upon information and belief, Defendant Nichia America maintains a sales
7 office in this district. Defendants are accordingly subject to the jurisdiction of this Court
8 consistent with the Fourteenth Amendment to the United States Constitution.

9 **INTRADISTRICT ASSIGNMENT**

10 5. This case is properly assigned to the San Jose division of this judicial district
11 because a substantial part of the events or omissions which give rise to the claim occurred in this
12 judicial district in that Defendants have committed and continue to commit acts of infringement
13 within the San Jose division of this judicial district, including, without limitation, marketing,
14 selling, and offering for sale infringing products. Furthermore, upon information and belief,
15 Defendant Nichia America maintains a sales office that is within the San Jose division of this
16 judicial district at 181 Metro Drive, Suite 350, San Jose, California 95110.

17 **PARTIES**

18 6. Plaintiff BU is a non-profit educational institution having its principal campus in
19 Boston, Massachusetts. BU is the owner of U.S. Patent No. 5,686,738, entitled “*Highly*
20 *Insulating Monocrystalline Gallium Nitride Thin Films*,” duly and legally issued on November
21 11, 1997 to Theodore D. Moustakas (attached hereto as Exhibit A) (“the ‘738 Patent”).

22 7. Plaintiff Cree Lighting is a California corporation with its principal place of
23 business at 340 Storke Road, Goleta, California 93117. Cree Lighting is an exclusive licensee
24 under the ‘738 Patent with substantial and proprietary rights thereunder, including the right to
25 prosecute actions for infringement of said patent.

26 8. Upon information and belief, defendant Nichia Corporation is a Japanese
27 corporation with its principal place of business at 491 Oka, Kaminaka-Cho, Anan, 774-8601
28 Tokushima, Japan.

1 D. An award of damages to compensate BU and Cree Lighting for Defendants’
2 infringement, pursuant to 35 U.S.C. § 284, said damages to be trebled because of Defendants’
3 willful infringement;

4 E. An assessment of pre-judgment and post-judgment interest and costs against
5 Defendants, together with an award of such interest and costs, in accordance with 35 U.S.C.
6 § 284;

7 F. That Defendants be directed to pay BU’s and Cree Lighting’s attorneys’ fees
8 incurred in connection with this lawsuit pursuant to 35 U.S.C. § 285; and

9 G. That BU and Cree Lighting have such other and further relief as this Court may
10 deem just and proper.

11 **JURY DEMAND**

12 Plaintiffs BU and Cree Lighting demand a trial by jury on all disputed issues.

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14 This 3rd day of May, 2001.

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