

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

CREE, INC.

Plaintiff,

v.

HARVATEK CORPORATION AND
HARVATEK INTERNATIONAL (USA)
CORPORATION

Defendants.

Case No. 14-CV-620

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Cree, Inc. (“Cree”) for its Complaint against Defendants Harvatek Corp. and Harvatek International (USA) Corp. (d/b/a Harvatek Technologies) (collectively “Defendants”) states as follows:

PARTIES

1. Plaintiff Cree is a North Carolina corporation having a principal place of business at 4600 Silicon Drive, Durham, North Carolina 27703. Cree also has facilities at 9201 Washington Avenue, Racine, Wisconsin 53406 (formerly the headquarters of Ruud Lighting, Inc. (“Ruud”), which has now legally merged with Cree).

2. On information and belief, Defendant Harvatek Corp. is organized under the laws of Taiwan and its principal place of business is No. 18, Lane 522, Sec. 5, Chung Hwa Road, Hsinchu City 30094, Taiwan.

3. On information and belief, Defendant Harvatek International Corp. (d/b/a Harvatek Technologies) is organized under the laws of California and its principal place of business is 3350 Scott Boulevard, Building #41-01 Santa Clara, California 95054. Defendant's registered agent for service of process in the state of California is Jin Wei, 3350 Scott Boulevard, Building #41-01, Santa Clara, California 95054.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, including without limitation 35 U.S.C. §§ 271 and 281. This Court has exclusive jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Defendants under Wis. Stat. § 801.05(1)(d), among other provisions. Defendants regularly and deliberately engage in and continue to engage in activities that result in using, selling, offering for sale, and/or importing infringing products in and/or into the State of Wisconsin and this judicial district. This Court has personal jurisdiction over the Defendants because, among other things, Defendants conduct business in the State of Wisconsin and in this judicial district and thus enjoy the privileges and protections of Wisconsin law.

6. Venue is proper pursuant to 28 U.S.C. §§ 1391(b), (c), and (d) and 1400(b).

BACKGROUND

7. Cree repeats and re-alleges each and every allegation of the foregoing paragraphs as though fully set forth herein.

8. Cree is a market-leading innovator engaged in the design, manufacture, and sale of lighting products including light emitting diode (“LED”) products as well as devices and apparatuses utilizing LEDs.

9. Cree’s Ruud Lighting operation, which was likewise engaged in the design, manufacture, and sale of LED lighting products, legally merged into Cree effective January 1, 2013. Cree continues to design, develop, and manufacture LED lighting products in Wisconsin.

10. Defendants make, use, sell, offer to sell in, and/or import into the United States lighting products including LED products and apparatuses utilizing LEDs.

COUNT I: INFRINGEMENT OF U.S. PATENT NO. 6,600,175

11. Cree repeats and re-alleges each and every allegation of the foregoing paragraphs as though fully set forth herein.

12. Cree is the owner, by assignment in 2004, of United States Patent No. 6,600,175 (“the ’175 Patent”) titled “Solid State White Light Emitter and Display Using the Same.” The ’175 Patent was duly and legally issued by the United States Patent and Trademark Office on July 29, 2003. A true and correct copy of the ’175 Patent is attached as Exhibit A.

13. As the owner of the ’175 Patent, Cree is authorized and has standing to bring legal action to enforce all rights arising under the ’175 Patent.

14. Defendants have infringed and will continue to infringe by making, using, selling, offering to sell in, and/or importing into the United States white LED products that include structure(s) recited in at least one claim of the '175 Patent. Such products include, by way of example and without limitation, Defendants' white LED products, including the White Diffused LED, HT-N178TWV-5314, HT-110TW White, HT-121TW White, HT-12HTW5 White, HT-150TW White, HT-159RTW White, HT-170TW White, HT-182TW5 White, HT-191TW White, HT-193TW White, HT-260TW White, HT-280TW White, HT-D1711BP White, HT-E17C1BP White, HT-F196TW5 White, HT-F199TW5 White, HT-F104TW White, HT-F107TW White, HT-T138TW White, HT-T1401DNC White, HT-T5301TW White, HT-T7201BP White, HT-T7222BP White, HT-T169DNC White, HT-T169DND White, HT-T5301DNC-60 White, HT-T5301DNC White, HT-T5301DNC-A2 White, HT-T5301DND-A2 White, HT-T5335DND White, HT-T5301DND-60 White, HT-PT30A02 White, HT-T5301DND White, HT-PC56H01 White products and light bars incorporating white LEDs, including by way of example and without limitation HT-LB2331TW-5546.

15. Defendants have had actual knowledge of the '175 Patent at least since June 14, 2013. Defendants continue to, *inter alia*, make, sell, offer for sale in, and/or import into the United States infringing white LED products, thus intending for its actions to result in infringement or disregarding an objectively high likelihood that such actions will result in infringement. Defendants' infringement is therefore willful.

16. On information and belief, Defendants have knowingly induced infringement, and have had specific intent to induce infringement of the '175 Patent by, *inter alia*, marketing, selling, supporting sales, and/or distributing infringing white LED

products. Defendants' customers, including without limitation manufacturers and contract manufacturers of products including LEDs, directly infringe the '175 Patent by, *inter alia*, making, using, selling, offering to sell in, and/or importing white LED products, or products that include white LEDs, with structure(s) recited in at least one claim of the '175 Patent.

17. On information and belief, Defendants have and will continue to commit contributory infringement of the '175 Patent by selling their infringing LED products, which are material components without substantial non-infringing uses, to customers that incorporate those products into devices to be sold and/or imported into the United States. On information and belief, Defendants had knowledge and continue to have knowledge that such components are especially made or adapted for use in such a manner that would/will infringe the '175 Patent. Defendants' customers directly infringe the '175 Patent by, *inter alia*, making, using, selling, offering to sell in, and/or importing into the United States white LED products, or products that include white LEDs, with structure(s) recited in at least one claim of the '175 Patent.

18. As a result of Defendants' infringement of the '175 Patent, Cree has suffered and will continue to suffer irreparable and monetary damages in an amount to be determined at trial, but in no event less than a reasonable royalty, together with interest and costs as fixed by the Court.

COUNT II: INFRINGEMENT OF U.S. PATENT NO. 7,943,945

19. Cree repeats and re-alleges each and every allegation of the foregoing paragraphs as though fully set forth herein.

20. Cree is the owner of United States Patent No. 7,943,945 (“the ’945 Patent”) titled “Solid State White Light Emitter and Display Using the Same.” The reexamination certificate for the ’945 Patent was duly and legally issued by the United States Patent and Trademark Office on September 20, 2013. A true and correct copy of the ’945 Patent is attached as Exhibit B.

21. As the owner of the ’945 Patent, Cree is authorized and has standing to bring legal action to enforce all rights arising under the ’945 Patent.

22. Defendants have infringed and will continue to infringe by making, using, selling, offering to sell in, and/or importing into the United States white LED products that include structure(s) recited in at least one claim of the ’945 Patent. Such products include, by way of example and without limitation, Defendants’ white LED products, including the White Diffused LED, HT-N178TWV-5314, HT-110TW White, HT-121TW White, HT-12HTW5 White, HT-150TW White, HT-159RTW White, HT-170TW White, HT-182TW5 White, HT-191TW White, HT-193TW White, HT-260TW White, HT-280TW White, HT-D1711BP White, HT-E17C1BP White, HT-F196TW5 White, HT-F199TW5 White, HT-F104TW White, HT-F107TW White, HT-T138TW White, HT-T1401DNC White, HT-T5301TW White, HT-T7201BP White, HT-T7222BP White, HT-T169DNC White, HT-T169DND White, HT-T5301DNC-60 White, HT-T5301DNC White, HT-T5301DNC-A2 White, HT-T5301DND-A2 White, HT-T5335DND White, HT-T5301DND-60 White, HT-PT30A02 White, HT-T5301DND

White, HT-PC56H01 White products and light bars incorporating white LEDs, including by way of example and without limitation HT-LB2331TW-5546.

23. Defendants have had actual knowledge of the '945 Patent at least June 14, 2013. Defendants continue to, *inter alia*, make, sell, offer for sale, and/or import into the United States infringing white LED products, thus intending for their actions to result in infringement or disregarding an objectively high likelihood that such actions will result in infringement. Defendants' infringement is therefore willful.

24. On information and belief, Defendants have knowingly induced infringement, and have had specific intent to induce infringement of the '945 Patent by, *inter alia*, marketing, selling, supporting sales, and/or distributing infringing white LED products. Defendants' customers, including without limitation manufacturers and contract manufacturers of products including LEDs, directly infringe the '945 Patent by, *inter alia*, making, using, selling, offering to sell in, and/or importing white LED products, or products that include white LEDs, with structure(s) recited in at least one claim of the '945 Patent.

25. On information and belief, Defendants have and will continue to commit contributory infringement of the '945 Patent by selling their infringing LED products, which are material components without substantial non-infringing uses, to customers that incorporate those products into devices to be sold and/or imported into the United States. On information and belief, Defendants had knowledge and continue to have knowledge that such components are especially made or adapted for use in such a manner that would/will infringe the '945 Patent. Defendants' customers directly infringe the '945 Patent by, *inter alia*, making, using, selling, offering to sell in, and/or importing into the

United States white LED products, or products that include white LEDs, with structure(s) recited in at least one claim of the '945 Patent.

26. As a result of Defendants' infringement of the '945 Patent, Cree has suffered and will continue to suffer irreparable and monetary damages in an amount to be determined at trial, but in no event less than a reasonable royalty, together with interest and costs as fixed by the Court.

COUNT III: INFRINGEMENT OF U.S. PATENT NO. 8,659,034

27. Cree repeats and re-alleges each and every allegation of the foregoing paragraphs as though fully set forth herein.

28. Cree is the owner of United States Patent No. 8,659,034 ("the '034 Patent") titled "Solid State White Light Emitter and Display Using the Same." The '034 Patent was duly and legally issued by the United States Patent and Trademark Office on February 25, 2014. A true and correct copy of the '034 Patent is attached as Exhibit C.

29. As the owner of the '034 Patent, Cree is authorized and has standing to bring legal action to enforce all rights arising under the '034 Patent.

30. Defendants have infringed and will continue to infringe by making, using, selling, offering to sell in, and/or importing into the United States white LED products that include structure(s) recited in at least one claim of the '034 Patent. Such products include, by way of example and without limitation, Defendants' white LED products, including the White Diffused LED, HT-N178TWV-5314, HT-110TW White, HT-121TW White, HT-12HTW5 White, HT-150TW White, HT-159RTW White, HT-170TW White, HT-182TW5 White, HT-191TW White, HT-193TW White, HT-260TW White, HT-280TW White, HT-D1711BP White, HT-E17C1BP White, HT-F196TW5

White, HT-F199TW5 White, HT-F104TW White, HT-F107TW White, HT-T138TW White, HT-T1401DNC White, HT-T5301TW White, HT-T7201BP White, HT-T7222BP White, HT-T169DNC White, HT-T169DND White, HT-T5301DNC-60 White, HT-T5301DNC White, HT-T5301DNC-A2 White, HT-T5301DND-A2 White, HT-T5335DND White, HT-T5301DND-60 White, HT-PT30A02 White, HT-T5301DND White, HT-PC56H01 White products and light bars incorporating white LEDs, including by way of example and without limitation HT-LB2331TW-5546.

31. Defendants have had actual knowledge of the '034 Patent at least since April 29, 2014. Defendants continue to, *inter alia*, make, sell, offer for sale, and/or import into the United States infringing white LED products, thus intending for their actions to result in infringement or disregarding an objectively high likelihood that such actions will result in infringement. Defendants' infringement is therefore willful.

32. On information and belief, Defendants have knowingly induced infringement, and have had specific intent to induce infringement of the '034 Patent by, *inter alia*, marketing, selling, supporting sales, and/or distributing infringing white LED products. Defendants' customers, including without limitation manufacturers and contract manufacturers of products including LEDs, directly infringe the '034 Patent by, *inter alia*, making, using, selling, offering to sell in, and/or importing white LED products, or products that include white LEDs, with structure(s) recited in at least one claim of the '034 Patent.

33. On information and belief, Defendants have and will continue to commit contributory infringement of the '034 Patent by selling their infringing LED products, which are material components without substantial non-infringing uses, to customers that

incorporate those products into devices to be sold and/or imported into the United States. On information and belief, Defendants had knowledge and continue to have knowledge that such components are especially made or adapted for use in such a manner that would/will infringe the '034 Patent. Defendants' customers directly infringe the '034 Patent by, *inter alia*, making, using, selling, offering to sell in, and/or importing into the United States white LED products, or products that include white LEDs, with structure(s) recited in at least one claim of the '034 Patent.

34. As a result of Defendants' infringement of the '034 Patent, Cree has suffered and will continue to suffer irreparable and monetary damages in an amount to be determined at trial, but in no event less than a reasonable royalty, together with interest and costs as fixed by the Court.

COUNT IV: INFRINGEMENT OF U.S. PATENT NO. 7,910,938

35. Cree repeats and re-alleges each and every allegation of the foregoing paragraphs as though fully set forth herein.

36. Cree is the owner of United States Patent No. 7,910,938 ("the '938 Patent") titled "Encapsulant Profile for Light Emitting Diodes." The '938 Patent was duly and legally issued by the United States Patent and Trademark Office on March 22, 2011. A true and correct copy of the '938 Patent is attached as Exhibit D.

37. As the owner of the '938 Patent, Cree is authorized and has standing to bring legal action to enforce all rights arising under the '938 Patent.

38. Defendants have infringed and will continue to infringe by making, using, selling, offering to sell in, and/or importing into the United States encapsulated LED products that include structure(s) recited in at least one claim of the '938 Patent. Such

products include, by way of example and without limitation, Defendants' HT-U16DSWH.

39. Defendants have had actual knowledge of the '938 Patent at least since June 14, 2013. Defendants continue to, *inter alia*, make, sell, offer for sale, and/or import into the United States infringing encapsulated LED products, thus intending for their actions to result in infringement or disregarding an objectively high likelihood that such actions will result in infringement. Defendants' infringement is therefore willful.

40. On information and belief, Defendants have knowingly induced infringement, and have had specific intent to induce infringement of the '938 Patent by, *inter alia*, marketing, selling, supporting sales, and/or distributing infringing encapsulated LED products. Defendants' customers, including without limitation manufacturers and contract manufacturers of products including LEDs, directly infringe the '938 Patent by, *inter alia*, making, using, selling, offering to sell in, and/or importing encapsulated LED products, or products that include encapsulated LEDs, with structure(s) recited in at least one claim of the '938 Patent.

41. On information and belief, Defendants have and will continue to commit contributory infringement of the '938 Patent by selling their infringing LED products, which are material components without substantial non-infringing uses, to customers that incorporate those products into devices to be sold and/or imported into the United States. On information and belief, Defendants had knowledge and continue to have knowledge that such components are especially made or adapted for use in such a manner that would/will infringe the '938 Patent. Defendants' customers directly infringe the '938 Patent by, *inter alia*, making, using, selling, offering to sell in, and/or importing into the

United States encapsulated LED products, or products that include encapsulated LED products, with structure(s) recited in at least one claim of the '938 Patent.

42. As a result of Defendants' infringement of the '938 Patent, Cree has suffered and will continue to suffer irreparable and monetary damages in an amount to be determined at trial, but in no event less than a reasonable royalty, together with interest and costs as fixed by the Court.

COUNT V: INFRINGEMENT OF U.S. PATENT NO. 8,766,298

43. Cree repeats and re-alleges each and every allegation of the foregoing paragraphs as though fully set forth herein.

44. Cree is the owner of United States Patent No. 8,766,298 ("the '298 Patent") titled "Encapsulant Profile for Light Emitting Diodes." The '298 Patent was duly and legally issued by the United States Patent and Trademark Office on July 1, 2014. A true and correct copy of the '298 Patent is attached as Exhibit E.

45. As the owner of the '298 Patent, Cree is authorized and has standing to bring legal action to enforce all rights arising under the '298 Patent.

46. Defendants have infringed and will continue to infringe by making, using, selling, offering to sell in, and/or importing into the United States encapsulated LED products that include structure(s) recited in at least one claim of the '298 Patent. Such products include, by way of example and without limitation, Defendants' HT-U16DSWH product.

47. As a result of Defendants' infringement of the '298 Patent, Cree has suffered and will continue to suffer irreparable and monetary damages in an amount to be

determined at trial, but in no event less than a reasonable royalty, together with interest and costs as fixed by the Court.

COUNT VI: INFRINGEMENT OF U.S. PATENT NO. 8,362,605

48. Cree repeats and re-alleges each and every allegation of the foregoing paragraphs as though fully set forth herein.

49. Cree is the owner, by assignment on September 12, 2014, of United States Patent No. 8,362,605 (“the ’605 Patent”) titled “Apparatus and Method for Use in Mounting Electronic Elements.” The ’605 Patent was duly and legally issued by the United States Patent and Trademark Office on January 29, 2013. A true and correct copy of the ’605 Patent is attached as Exhibit F.

50. As the owner of the ’605 Patent, Cree is authorized and has standing to bring legal action to enforce all rights arising under the ’605 Patent.

51. Defendants have infringed and will continue to infringe by making, using, selling, offering to sell in, and/or importing into the United States surface mount lead frame LED products that include structure(s) recited in at least one claim of the ’605 Patent. Such products include, by way of example and without limitation, Defendants’ HT-T169-NB-5538 product.

52. Defendants have had actual knowledge of the ’605 Patent at least since July 2013. Defendants continue to, *inter alia*, make, sell, offer for sale, and/or import into the United States infringing surface mount lead frame based LED products, thus intending for their actions to result in infringement or disregarding an objectively high likelihood that such actions will result in infringement. Defendants’ infringement is therefore willful.

53. On information and belief, Defendants have knowingly induced infringement and have had specific intent to induce infringement of the '605 Patent by *inter alia* marketing, selling, supporting sales, and/or distributing infringing surface mount lead frame based LED products. Defendants' customers, including without limitation manufacturers and contract manufacturers of products including LEDs, directly infringe the '605 Patent by *inter alia*, making, using, selling, offer to sell in, and/or importing surface mount lead frame based LED products, or products including surface mount lead frame based LEDs, with structure(s) recited in at least one claim of the '605 Patent.

54. On information and belief, Defendants have and will continue to commit contributory infringement of the '605 Patent by selling their infringing LED products, which are material components without substantial non-infringing uses, to customers that incorporate those products into devices to be sold and/or imported into the United States. On information and belief, Defendants had knowledge and continue to have knowledge that such components are especially made or adapted for use in such a manner that would/will infringe the '605 Patent. Defendants' customers directly infringe the '605 Patent by *inter alia* making, using, selling, offering to sell in, and/or importing into the United States surface mount lead frame based LED products, or products including surface mount lead frame based LEDs, with structure(s) recited in at least one claim of the '605 Patent.

55. As a result of Defendants' infringement of the '605 Patent, Cree has suffered and will continue to suffer irreparable and monetary damages in an amount to be

determined at trial, but in no event less than a reasonable royalty, together with interest and costs as fixed by the Court.

PRAYER FOR RELIEF

WHEREFORE, Cree prays for entry of judgment against each Defendant (and its subsidiaries, successors, parents, affiliates, officers, directors, agents, servants, and employees) as follows:

- A. An entry of judgment in favor of Cree and against Defendants that Defendants willfully infringe the '175, '945, '034, '938, and '605 Patents;
- B. An entry of judgment in favor of Cree and against Defendants that Defendants infringe the '945, '034, '175, '938, '298, and '605 Patents under 35 U.S.C. § 271;
- C. A permanent injunction against further infringement of the '945, '034, '175, '938, '298, and '605 Patents by Defendants and all persons in active concert or participation with it pursuant to 35 U.S.C. § 283;
- D. An award of damages adequate to compensate Cree for Defendants' infringement and willful infringement together with prejudgment interest from the date of infringement began, but in no event less than a reasonable royalty;
- E. An award of any other damages permitted under 35 U.S.C. §§ 284 and 285, including without limitation treble damages; and
- F. Such other and further relief as this Court or a jury may deem just and proper.

JURY DEMAND

Cree requests a trial by jury.

Dated: September 15, 2014

Respectfully submitted,

s/ Christopher G. Hanewicz

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