

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

LIGHTING SCIENCE GROUP
CORPORATION,

Plaintiff,

Case No.:

JURY TRIAL DEMANDED

v.

HALCO LIGHTING TECHNOLOGIES,
LIMITED LIABILITY COMPANY,

Defendant.

_____ /

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Lighting Science Group Corporation, through its attorneys, alleges the following:

PARTIES

1. Plaintiff Lighting Science Group Corporation (“LSG” and/or “Plaintiff”) is a corporation organized and existing under the laws of Delaware, with its principal place of business at 811 N. Atlantic Avenue, Cocoa Beach, FL 32931.

2. Upon information and belief, Defendant Halco Lighting Technologies, Limited Liability Company (“Halco” and/or “Defendant”) is a Foreign Limited Liability Company organized and existing under the laws of the state of Delaware with its principal place of business located at 2940 A Pacific Drive, Norcross, Georgia, 30071, but does business throughout the United States, including Florida and whose registered agent is C T Corporation System, located at 1201 Peachtree Street, NE, Fulton, Atlanta, Georgia, 30361.

JURISDICTION AND VENUE

3. This is a claim for patent infringement and arises under the patent laws of the United States, Title 35 of the United States Code. This Court has jurisdiction over the subject matter of this claim under 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Defendant because Defendant is transacting business within this District and has committed acts and, on information and belief, will continue to commit acts within this District giving rise to this action, including offering to sell and selling infringing products and/or placing infringing products, directly or through intermediaries (including distributors, retailers, and others), into the stream of commerce in such a way as to reach customers in this District. Defendant has purposefully and voluntarily sold one or more of its infringing products with the expectation that they will be purchased by consumers in this District. These infringing products have been and continue to be purchased by consumers in this District. Defendant has committed acts of patent infringement within the United States and more particularly, within this District.

5. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and 1400(b).

FACTS

6. Plaintiff is a world leader in the invention, development, and sale of LED lighting solutions. Plaintiff's lighting scientists have earned more than 375 patents for their innovations in the LED field.

7. Among Plaintiff's diverse product array of LED lighting solutions is a line of highly efficient lighting devices that can be retrofitted into existing lighting units, offered to the public under the brand GLIMPSE®.

8. Plaintiff's GLIMPSE® lighting family of products have enjoyed significant success in the market.

9. The function of the GLIMPSE® lighting family of products are protected by patents, including the asserted patents.

10. Upon information and belief, Defendant has infringed and will continue to infringe at least one claim of each of the asserted patents by making, using, selling or offering to sell in, or importing into the United States, downlight luminaires, including, but not limited to, the SDL4FR7/827/LED, SDL6FR12/827/LED, DL6FR9/827/ECO/LED, DL4FR9/827/ECO/LED, DL6FR12/930/LED, DL6FR12/927/RT/LED, DL4FR9/927/RT/LED, and DL6FR18/927/RT/LED family of products (the "Accused Family of Products").

11. Specifically, upon information and belief, Defendant received the Accused Family of Products in the United States and thereafter distributed and/or sold the Accused Family of Products to its customers in the United States.

12. Upon information and belief, as a result of the foregoing distribution of the Accused Family of Products by Defendant, the Accused Family of Products are offered for sale throughout the United States online, on both Defendant's website and by Defendant at retail locations throughout the United States including, at least, Graybar, located in Orlando, Florida.

13. Upon information and belief, Defendant's conduct constitutes direct infringement of the asserted patents, whether such infringement is literal or under the doctrine of equivalents.

14. Upon information and belief, Defendant is continuing to engage in its infringing activities. The Accused Family of Products remain for sale including, at least, on their own website, www.halcolighting.com, as well as www.lightbulbdistrict.com, www.lightdisty.com and www.lightbulbs.com, for example, at the following links:

- <https://www.halcolighting.com/index.jsp?path=product&part=8816&ds=dept&process=search&qdx=0&ID=%2CLuminaires%2CLEED.Indoor.Luminaires%2CECO.Downlights>
- <https://www.halcolighting.com/index.jsp?path=product&part=8820&ds=dept&process=search&qdx=0&ID=%2CLuminaires%2CLEED.Indoor.Luminaires%2CECO.Downlights>
- <http://www.lightbulbdistrict.com/halco-99948-sdl6fr12-827-led-11-5-2700-proled>
- <http://www.lightdisty.com/halco-dl4fr9-927-rt-led-4-retrofit-downlight-9w-2700k-optional-trim-finish-99924.html>
- <https://www.lightbulbs.com/product/halco-80855>

Attached hereto as Composite Exhibit A.

15. The Accused Family of Products have no substantially non-infringing use.

16. Plaintiff has not licensed or authorized any of the actions of Defendant, either expressly or by implication. Defendant has no license to practice any of the asserted patents.

17. Plaintiff has been injured by the infringing conduct of Defendant, and is entitled to damages adequate to compensate it for such infringement.

18. Defendant's infringing conduct has caused and continues to cause irreparable injury to Plaintiff, for which remedies at law are inadequate to compensate Plaintiff. The award of a permanent injunction against further manufacture, use, sale, importation, and/or offer for sale of Accused Family of Products that infringe any of the asserted patents is warranted.

COUNT I
(Infringement of U.S. Patent No. 8,201,968)

19. Plaintiff repeats and re-alleges Paragraphs 1-18 as though fully set forth herein.

20. Plaintiff is the owner by assignment of United States Patent No. 8,201,968, entitled "Low Profile Light," which was duly and legally issued by the United States Patent and Trademark

Office (“USPTO”) on June 19, 2012 (the “‘968 Patent”). A true and correct copy of the ‘968 Patent is attached hereto as Exhibit B.

21. The ‘968 Patent is valid and enforceable and Plaintiff has the full right to recover for past infringement damages and the right to recover future royalties, damages and income.

22. To the extent any marking or notice was required by 35 U.S.C. § 287, Plaintiff, and all predecessors in interest and/or implied or express licensees of the ‘968 Patent, if any, have complied with the marking requirements of 35 U.S.C. § 287 by placing a notice of the ‘968 Patent on all goods made, offered for sale, sold, and/or imported into the United States that embody one or more claims of that patent and/or providing actual or constructive notice to Defendant.

23. Upon information and belief, Defendant has infringed and will continue to infringe at least Claim 1 of the ‘968 Patent by, among other activities, making, using, selling or offering to sell in or importing into the United States its SDL6FR12/827/LED and SDL4FR7/827/LED products, as detailed in the attached preliminary and exemplary infringement chart, attached hereto as Exhibit C. This chart is not intended to limit Plaintiff’s right to modify this chart or any other claim chart or allege that other activities of Defendant infringe the identified claims of the ‘968 Patent or any other patents. Exhibit C is hereby incorporated by reference in its entirety. Each claim element in Exhibit C that is mapped to the accused product shall be considered an allegation within the meaning of the Federal Rules of Civil Procedure and therefore a response to each allegation is required.

24. Defendant is liable for direct infringement, either literally or under the doctrine of equivalents pursuant to 35 U.S.C. § 271 (a).

25. Plaintiff has at no time either expressly or impliedly licensed Defendant to practice the ‘968 Patent.

26. Defendant's infringement has injured Plaintiff, and Plaintiff is entitled to recover damages adequate to compensate it for such infringement.

27. Upon information and belief, Defendant's acts of infringement are willful, warranting the assessment of increased damages pursuant to 35 U.S.C. § 284, and warrant a finding that this is an exceptional case, pursuant to 35 U.S.C. § 285.

28. Defendant's infringing activities have injured and will continue to injure Plaintiff, unless and until this Court enters an injunction prohibiting further infringement and, specifically, enjoining further manufacture, use, sale, importation, and/or offer for sale of products that come within the scope of the claims of the '968 Patent.

COUNT II
(Infringement of U.S. Patent No. 8,672,518)

29. Plaintiff repeats and re-alleges Paragraphs 1-18 as though fully set forth herein.

30. Plaintiff is the owner by assignment of United States Patent No. 8,672,518 entitled "Low Profile Light And Accessory Kit For The Same," which was duly and legally issued by the USPTO on March 18, 2014 (the "'518 Patent"). A true and correct copy of the '518 Patent is attached hereto as Exhibit D.

31. The '518 Patent is valid and enforceable and Plaintiff has the full right to recover for past infringement damages and the right to recover future royalties, damages and income.

32. To the extent any marking or notice was required by 35 U.S.C. § 287, Plaintiff, and all predecessors in interest and/or implied or express licensees of the '518 Patent, if any, have complied with the marking requirements of 35 U.S.C. § 287 by placing a notice of the '518 Patent on all goods made, offered for sale, sold, and/or imported into the United States that embody one or more claims of that patent and/or providing actual or constructive notice to Defendant.

33. Upon information and belief, Defendant has infringed and will continue to infringe at least Claim 1 of the '518 Patent by, among other activities, making, using, selling or offering to sell in or importing into the United States its SDL4FR7/827/LED, SDL6FR12/827/LED, DL6FR9/827/ECO/LED, DL4FR9/827/ECO/LED, DL6FR12/930/LED, DL6FR12/927/RT/LED, DL4FR9/927/RT/LED, and DL6FR18/927/RT/LED products, as detailed in the attached preliminary and exemplary infringement chart, Exhibit E. This chart is not intended to limit Plaintiff's right to modify this chart or any other claim chart or allege that other activities of Defendant infringe the identified claims of the '518 Patent or any other patents. Exhibit E is hereby incorporated by reference in its entirety. Each claim element in Exhibit E that is mapped to the accused product shall be considered an allegation within the meaning of the Federal Rules of Civil Procedure and therefore a response to each allegation is required.

34. Defendant is liable for direct infringement, either literally or under the doctrine of equivalents, pursuant to 35 U.S.C. § 271 (a).

35. Plaintiff has at no time either expressly or impliedly licensed Defendant to practice the '518 Patent.

36. Defendant's infringement has injured Plaintiff, and Plaintiff is entitled to recover damages adequate to compensate it for such infringement.

37. Upon information and belief, Defendant's acts of infringement are willful, warranting the assessment of increased damages pursuant to 35 U.S.C. § 284, and warrant a finding that this is an exceptional case, pursuant to 35 U.S.C. § 285.

38. Defendant's infringing activities have injured and will continue to injure Plaintiff, unless and until this Court enters an injunction prohibiting further infringement and, specifically, enjoining further manufacture, use, sale, importation, and/or offer for sale of products that come

within the scope of the claims of the '518 Patent.

COUNT III
(Infringement of U.S. Patent No. 8,968,844)

39. Plaintiff repeats and re-alleges Paragraphs 1-18 as though fully set forth herein.

40. Plaintiff is the owner by assignment of United States Patent No. 8,968,844 entitled "Low Profile Light And Accessory Kit For The Same," which was duly and legally issued by the USPTO on March 3, 2015 (the "'844 Patent"). A true and correct copy of the '844 Patent is attached hereto as Exhibit F.

41. The '844 Patent is valid and enforceable and Plaintiff has the full right to recover for past infringement damages and the right to recover future royalties, damages and income.

42. To the extent any marking or notice was required by 35 U.S.C. § 287, Plaintiff, and all predecessors in interest and/or implied or express licensees of the '844 Patent, if any, have complied with the marking requirements of 35 U.S.C. § 287 by placing a notice of the '844 Patent on all goods made, offered for sale, sold, and/or imported into the United States that embody one or more claims of that patent and/or providing actual or constructive notice to Defendant.

43. Upon information and belief, Defendant has infringed and will continue to infringe at least Claim 1 and 24 of the '844 Patent by, among other activities, making, using, selling or offering to sell in or importing into the United States its DL6FR9/827/ECO/LED, DL4FR9/827/ECO/LED, DL6FR12/930/LED, DL6FR12/927/RT/LED, DL4FR9/927/RT/LED, and DL6FR18/927/RT/LED products, as detailed in the attached preliminary and exemplary infringement chart, Exhibit G. This chart is not intended to limit Plaintiff's right to modify this chart or any other claim chart or allege that other activities of Defendant infringe the identified claims of the '844 Patent or any other patents. Exhibit G is hereby incorporated by reference in its

entirety. Each claim element in Exhibit G that is mapped to the accused product shall be considered an allegation within the meaning of the Federal Rules of Civil Procedure and therefore a response to each allegation is required.

44. Defendant is liable for direct infringement, either literally or under the doctrine of equivalents, pursuant to 35 U.S.C. § 271 (a).

45. Plaintiff has at no time either expressly or impliedly licensed Defendant to practice the '844 Patent.

46. Defendant's infringement has injured Plaintiff, and Plaintiff is entitled to recover damages adequate to compensate it for such infringement.

47. Upon information and belief, Defendant's acts of infringement are willful, warranting the assessment of increased damages pursuant to 35 U.S.C. § 284, and warrant a finding that this is an exceptional case, pursuant to 35 U.S.C. § 285.

48. Defendant's infringing activities have injured and will continue to injure Plaintiff, unless and until this Court enters an injunction prohibiting further infringement and, specifically, enjoining further manufacture, use, sale, importation, and/or offer for sale of products that come within the scope of the claims of the '844 Patent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully asks this Court to enter judgment against Defendant and against its respective subsidiaries, successors, parents, affiliates, officers, directors, agents, servants, and employees, and all persons in privity or active concert or participation with Defendant, granting the following relief:

- A. the entry of judgment in favor of Plaintiff and against Defendant;

- B. a preliminary injunction prohibiting further infringement of each of the '968 Patent, the '518 Patent, and the '844 Patent by Defendant, its agents, employees, representatives, successors and assigns and those acting in privity or in concert with them;
- C. a permanent injunction prohibiting further infringement of each of the '968 Patent, the '518 Patent, and the '844 Patent by Defendant, its agents, employees, representatives, successors and assigns and those acting in privity or in concert with them;
- D. an award of actual damages against Defendant for damages arising from the infringement of each of the '968 Patent, the '518 Patent, and the '844 Patent including treble damages for willful infringement, pursuant to 35 U.S.C. § 284;
- E. an award of damages against Defendant for pre-judgment and post-judgment interest on the damages awarded, including an award of prejudgment interest, pursuant to 35 U.S.C. § 284, from the date of each act of infringement of the '968 Patent, the '518 Patent, and the '844 Patent by Defendant to the day a damages judgment is entered and a further award of post-judgment interest, pursuant to 28 U.S.C. § 1961, continuing until such judgment is paid, at the maximum rate allowed by law;
- F. the entry of judgment that this case is exceptional, and award treble damages, attorney fees, and the costs of this action, pursuant to 35 U.S.C. § 285;
- G. in the event a final injunction is not granted, a compulsory ongoing royalty; and
- H. such other relief to which Plaintiff is entitled under law, and any other and further relief that this Court or a jury may deem just and proper.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands a trial by jury on all issues so triable.

/s/Mark F. Warzecha _____

Mark F. Warzecha

Florida Bar No. 95779

WIDERMANN MALEK PLLC

1990 W. New Haven Ave., Ste. 201

Melbourne, Florida 32904

Tel. (321) 255-2332

Fax (321) 255-2351

MFW@USLegalTeam.com