

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SEMILEDS CORPORATION and SEMILEDS
OPTOELECTRONICS CO., LTD.,

Plaintiffs,

v.

CREE, INC.,

Defendant.

C.A. No. _____

DEMAND FOR JURY TRIAL

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs SemiLEDs Corporation (“SemiLEDs”) and SemiLEDs Optoelectronics Co., Ltd. (“SemiLEDs Optoelectronics”) bring this action against defendant Cree, Inc. (“Cree”) for patent infringement under the patent laws of the United States, Title 35, United States Code §§ 1 *et seq.* In support of its claims, Plaintiffs SemiLEDs and SemiLEDs Optoelectronics state and allege as follows:

Parties

1. Plaintiff SemiLEDs is a Delaware corporation with a principal place of business at 3F, No.11 Ke Jung Rd., Chu-Nan Site, Hsinchu Science Park, Chu-Nan 350, Miao-Li County, Taiwan, R.O.C.

2. Plaintiff SemiLEDs Optoelectronics is a Taiwanese company with a principal place of business at 3F, No.11 Ke Jung Rd., Chu-Nan Site, Hsinchu Science Park, Chu-Nan 350, Miao-Li County, Taiwan, R.O.C.

3. Defendant Cree is a North Carolina corporation with a principal place of business at 4600 Silicon Drive, Durham North Carolina 27703.

Jurisdiction and Venue

4. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338.

5. Cree is subject to personal jurisdiction in this Court. Cree's infringing products are distributed and sold in Delaware, and Cree has otherwise purposefully availed itself of the benefits of Delaware law, including by initiating actions in courts in this state.

6. Cree has placed infringing products into the stream of commerce throughout the United States, including Delaware, and those products have been offered for sale and/or sold and used within this judicial district. Cree's website directs Delaware customers to distributors, including distributors who are located in and/or routinely sell products in Delaware.

7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400.

Factual Allegations

8. SemiLEDs and SemiLEDs Optoelectronics are leading innovators of high brightness metal alloy vertical light emitting diodes.

9. On November 10, 2009, United States Patent No. 7,615,789 ("the '789 patent") entitled "Vertical Light Emitting Diode Device Structure" was duly and legally issued. SemiLEDs Optoelectronics is the owner by assignment of the '789 patent. A copy of the '789 patent is attached hereto as Exhibit A.

10. SemiLEDs Optoelectronics is the sole owner of the '789 patent and has full rights to initiate litigation and otherwise to enforce the patent.

11. On January 12, 2010, United States Patent No. 7,646,033 ("the '033 patent") entitled "Systems and Methods for Producing White-Light Emitting Diodes" was duly

and legally issued. SemiLEDs is the owner by assignment of the '033 patent. A copy of the '033 patent is attached hereto as Exhibit B.

12. SemiLEDs is the sole owner of the '033 patent and has full rights to initiate litigation and otherwise to enforce the patent.

13. On November 18, 2008, United States Patent No. D580,888 (“the ‘888 patent”) entitled “Light Emitting Diode Device With Electrode” was duly and legally issued. SemiLEDs Optoelectronics is the owner by assignment of the ‘888 patent. A copy of the ‘888 patent is attached hereto as Exhibit C.

14. The ‘888 patent was assigned on its face to Semi-Photonics Co., Ltd. Semi-Photonics Co., Ltd. changed its name to SemiLEDs Optoelectronics Co., Ltd.

15. SemiLEDs Optoelectronics is the sole owner of the ‘888 patent and has full rights to initiate litigation and otherwise to enforce the patent.

16. Cree has infringed and is still infringing the ‘789, 033 and ‘888 patents by making, importing, offering for sale, selling or using LED chips, LED components or lighting products incorporating Cree LED chips or Cree LED Components (collectively, “Cree Products”) that embody the patented inventions, and Cree will continue to do so unless enjoined by this Court from further violation of 35 U.S.C. § 1 *et seq.*

COUNT I
(Cree’s Infringement of the ‘789 Patent)

17. Plaintiffs SemiLEDs and SemiLEDs Optoelectronics reallege the allegations of paragraphs 1-16 as if fully set forth herein.

18. Cree has infringed the ‘789 patent by making, using, importing, offering for sale, or selling without license or authority in this district and elsewhere in the United States infringing Cree Products, including but not limited to the Cree EZ1000 product, products having

similar epitaxial structures to that used in the EZ1000 product and products incorporating such EZ1000 and similar epitaxial structure products.

19. On information and belief, Cree has knowledge of the '789 patent and has willfully, deliberately and intentionally infringed the '789 patent.

20. Unless Cree and its agents, servants, subsidiaries, affiliates, employees, attorneys, representatives, and all others acting on their behalf are enjoined from infringing the '789 patent, those entities will continue to infringe the patent and SemiLEDs Optoelectronics will be greatly and irreparably harmed. Because SemiLEDs Optoelectronics and Cree are competitors with respect to the products at issue, money damages are inadequate.

COUNT II
(Cree's Infringement of the '033 Patent)

21. Plaintiffs SemiLEDs and SemiLEDs Optoelectronics reallege the allegations of paragraphs 1-20 as if fully set forth herein.

22. Cree has infringed the '033 patent by making, using, importing, offering for sale, or selling without license or authority in this district and elsewhere in the United States infringing Cree Products, including but not limited to the Cree XLAMP XP-E product, products having similar wavelength conversion structures to that used in the XLAMP XP-E product and products incorporating such EZ1000 and similar wavelength conversion structure products.

23. On information and belief, Cree has knowledge of the '033 patent and has willfully, deliberately and intentionally infringed the '033 patent.

24. Unless Cree and its agents, servants, subsidiaries, affiliates, employees, attorneys, representatives, and all others acting on their behalf are enjoined from infringing the '033 patent, those entities will continue to infringe the patent and SemiLEDs will be greatly and

irreparably harmed. Because SemiLEDs and Cree are competitors with respect to the products at issue, money damages are inadequate.

COUNT III
(Cree's Infringement of the '888 Patent)

25. Plaintiffs SemiLEDs and SemiLEDs Optoelectronics reallege the allegations of paragraphs 1-24 as if fully set forth herein.

26. Cree has infringed the '888 patent by making, using, importing, offering for sale, or selling without license or authority in this district and elsewhere in the United States infringing Cree Products, including but not limited to the Cree EZ900 and EZ1000 products, products having similar n-contact structures to those used in the EZ900 or EZ1000 products and products incorporating such EZ900, EZ1000 and similar n-contact structure products, each of which embody the design of the '888 patent.

27. On information and belief, Cree has knowledge of the '888 patent and has willfully, deliberately and intentionally infringed the '888 patent.

28. Cree obtained one or more samples of SemiLEDs LED chips in 2006 and had access to SemiLEDs' patented design as reflected in the prosecution history of Cree's U.S. Patent No. D566,056. On information and belief, Cree had access to SemiLEDs patented design prior to and during the design of the n-contact electrode implemented on Cree's EZ900 and EZ1000 products.

29. Unless Cree and its agents, servants, subsidiaries, affiliates, employees, attorneys, representatives, and all others acting on their behalf are enjoined from infringing the '888 patent, those entities will continue to infringe the patent and SemiLEDs Optoelectronics will be greatly and irreparably harmed. Because SemiLEDs Optoelectronics and Cree are competitors with respect to the products at issue, money damages are inadequate.

Prayer for Relief

WHEREFORE, plaintiffs SemiLEDs and SemiLEDs Optoelectronics respectfully request the following relief:

- a) A judgment that Cree has infringed the '789 patent;
- b) A judgment that Cree's infringement of the '789 patent has been, and continues to be, willful and deliberate;
- c) Permanent injunctive relief prohibiting Cree and its subsidiaries, affiliates, officers, agents, servants, employees, licensees, and all other persons acting or attempting to act in active concert or participation with them or acting on their behalf, from infringement of the '789 patent;
- d) A judgment that Cree has infringed the '033 patent;
- e) A judgment that Cree's infringement of the '033 patent has been, and continues to be, willful and deliberate;
- f) Permanent injunctive relief prohibiting Cree and its subsidiaries, affiliates, officers, agents, servants, employees, licensees, and all other persons acting or attempting to act in active concert or participation with them or acting on their behalf, from infringement of the '033 patent;
- g) A judgment that Cree has infringed the '888 patent;
- h) A judgment that Cree's infringement of the '888 patent has been, and continues to be, willful and deliberate;
- i) Permanent injunctive relief prohibiting Cree and its subsidiaries, affiliates, officers, agents, servants, employees, licensees, and all other persons

acting or attempting to act in active concert or participation with them or acting on their behalf, from infringement of the '888 patent;

- j) A judgment that Cree be ordered to account for and pay all damages caused by reason of its infringement pursuant to 35 U.S.C. §§ 284 and 289, including enhanced damages under 35 U.S.C. § 284 in an amount to be determined by the Court;
- k) A judgment that Cree be ordered to pay SemiLEDs' and SemiLEDs Optoelectronics' costs, expenses and
- l) reasonable attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285;
- m) An award of pre-judgment and post-judgment interest on the damages caused to SemiLEDs and SemiLEDs Optoelectronics by Cree's infringement; and
- n) other and further relief as the Court may deem just and proper under the circumstances.

Jury Demand

Plaintiffs SemiLEDs and SemiLEDs Optoelectronics respectfully request a jury trial on all issues so triable.

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