

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

| | | |
|---|---|--|
| Bluestone Innovations Florida, L.L.C., a Florida Limited Liability Company |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No.: <u>6:11-cv-63-Orl-31GJK</u> |
| |) | |
| Formosa Epitaxy Inc., a Foreign Corporation |) | INJUNCTIVE RELIEF REQUESTED JURY TRIAL DEMANDED |
| |) | |
| |) | |
| Defendant. |) | |
| |) | |

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Bluestone Innovations Florida, L.L.C. (“Bluestone”), for its Complaint against Formosa Epitaxy Inc. by and through its attorneys, alleges as follows:

THE PARTIES

1. Plaintiff Bluestone is a Florida limited liability company located at 1970 E. Osceola Parkway, Suite 10, Kissimmee, Florida 34743-8630.
2. On information and belief, Formosa Epitaxy Inc. (“Forepi”) is a foreign corporation existing under the laws of Taiwan with a principal place of business located at No 99, Lun Yuan 1st Road, Lung-Tan, Taoyuan, Taiwan, Republic of China.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States (Title 35 of the United States Code). The Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a). On information

and belief, Forepi is subject to this Court's specific and general personal jurisdiction, pursuant to due process and/or the Florida Long Arm Statute (Fla. Stat. §48.193), due to at least its substantial business in this forum, through a tortuous act as described herein, through its manufacturing of a good(s) which caused injury in the State of Florida and for at least a portion of the infringements and acts alleged herein, which may have been committed by an agent of Forepi.

4. On information and belief, within this District, Forepi, directly and/or through intermediaries and agents, has solicited, advertised (including through websites), offered to sell, sold and/or distributed infringing products, and/or has induced the sale and use of infringing products.

5. Further, on information and belief, Forepi is subject to the Court's general jurisdiction, including from regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Florida.

6. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, from and within this Judicial District, Forepi has committed at least a portion of the infringements at issue in this case. Without limitation, within this District, Forepi, directly and/or through intermediaries, has advertised (including through websites), offered to sell, sold and/or distributed infringing products, and/or has induced the sale and use of infringing products.

FACTUAL ALLEGATIONS

A. The Patents-in-Suit

7. Bluestone owns patents relating to leading edge technologies for fabricating nitrides that can be used in optoelectronic devices, including light emitting diodes (“LEDs”), and edge and surface emitting laser diodes.

8. United States Patent No. 5,977,612 (the “‘612 patent”), entitled “Semiconductor Devices Constructed from Crystallites”, was duly and legally issued by the United States Patent and Trademark Office (“USPTO”) on November 2, 1999. A copy of the ‘612 patent is attached hereto as Exhibit A.

9. Bluestone is the owner of the ‘612 Patent by virtue of an assignment and owns all rights and title to the ‘612 patent.

10. United States Patent No. 6,605,832 (the “‘832 patent”), entitled “Semiconductor Structures Having Reduced Contact Resistance”, was duly and legally issued by the USPTO on August 12, 2003. A copy of the ‘832 patent is attached hereto as Exhibit B.

11. Bluestone is the owner of the ‘832 Patent by virtue of an assignment and owns all rights and title to the ‘832 patent.

B. Infringement of the Patents-in-Suit by Forepi

12. On information and belief, Forepi has been and is engaged in the manufacture, importation, offering for sale, and/or sale of LED semiconductor devices and other optoelectric devices, such as gallium nitride (“GaN”) LED wafers and chips, indium gallium nitride (“InGaN”) LED wafers and chips, for example model no. FI1313-BL,

throughout the United States, including in this Judicial District, which lead to and did cause direct or indirect infringement of the patents at issue in this lawsuit.

COUNT I
INFRINGEMENT OF THE '612 PATENT

13. Bluestone realleges and incorporates by reference each and every allegation set forth in the proceeding paragraphs 1-12 as if fully set forth here.

14. Forepi has committed acts which include manufacturing, using, selling, offering to sell, or importing into the United States, a product that infringes one or more claims of the '612 patent.

15. As a direct and proximate result of Forepi's infringement, Bluestone will continue to suffer serious irreparable injury and damages for which Bluestone is entitled to relief.

16. As a direct and proximate result of Forepi's infringement, Bluestone will continue to suffer serious irreparable injury and damages unless Forepi's infringement is enjoined.

17. On information and belief, Forepi's infringement of the '612 patent has been willful and deliberate, without license, and with full knowledge of the '612 patent.

COUNT II
INFRINGEMENT OF THE '832 PATENT

18. Bluestone realleges and incorporates by reference each and every allegation set forth in the proceeding paragraphs 1-17 as if fully set forth here.

19. Forepi has committed acts which include manufacturing, using, selling, offering to sell, or importing into the United States, a product that infringes one or more claims of the '832 patent.

20. As a direct and proximate result of Forepi's infringement, Bluestone will continue to suffer serious irreparable injury and damages for which Bluestone is entitled to relief.

21. As a direct and proximate result of Forepi's infringement, Bluestone will continue to suffer serious irreparable injury and damages unless Forepi's infringement is enjoined.

22. On information and belief, Forepi's infringement of the '832 patent has been willful and deliberate, without license, and with full knowledge of the '832 patent.

PRAYER FOR RELIEF

WHEREFORE, Bluestone respectfully requests that this Court enter judgment in its favor and against Forepi and grant the following relief:

A. That this Court adjudge and decree that Forepi has been and is currently infringing, inducing others to infringe, and/or committing acts of contributory infringement with respect to the '612 patent;

B. That this Court enter an order that Forepi and its officers, agents, servants, employees, successors and assigns, and those persons acting in concert with them, be permanently enjoined from infringing, inducing others to infringe, and/or committing acts of contributory infringement with respect to the '612 patent;

C. That this Court adjudge and decree that Forepi has been and is currently infringing, inducing others to infringe, and/or committing acts of contributory infringement with respect to the '832 patent;

D. That this Court enter an order that Forepi and its officers, agents, servants, employees, successors and assigns, and those persons acting in concert with them, be

permanently enjoined from infringing, inducing others to infringe, and/or committing acts of contributory infringement with respect to the '832 patent;

E. That this Court award damages to Bluestone to compensate for each of the unlawful actions set forth in Bluestone's complaint;

F. That this Court award interest on such damages to Bluestone;

G. That this Court treble the damages award to Bluestone pursuant to 35 U.S.C. § 284 and 271 (a), (b), and (c);

H. That this Court determine that this patent infringement case is exceptional and award Bluestone its costs and attorneys' fees incurred in this action pursuant to 35 U.S.C. § 285; and

I. That this Court award such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff respectfully requests a trial by jury on all the issues triable thereby.

Respectfully submitted,

ROETZEL & ANDRESS, LPA

/s/Brian E. Dickerson
BRIAN E. DICKERSON (0106615)
420 South Orange Avenue
CNL Center II, Seventh Floor
P.O. Box 6507
Orlando, Florida 32802-6507
Direct: (239) 649.2702
Phone: (407) 896.2224
Fax: (407) 835.3596
Email: bdickerson@ralaw.com

SUNWOO LEE
JON CROCKER
KEVIN MITTLER
600 14th Street, NW, Suite 400

Washington, DC 20005
Phone: (202) 625-0600
Fax: (202) 338-6340
Email: slee@ralaw.com
Email: jcrocker@ralaw.com
Email: kmittler@ralaw.com
Counsel of Record

Attorneys for the Plaintiff
Bluestone Innovations Florida, L.L.C.