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18 Attorneys for Plaintiff
19 TOYODA GOSEI CO., LTD.

CV12 0823

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

20 TOYODA GOSEI CO., LTD.,

21 Plaintiff,

22 v.

23 FORMOSA EPITAXY INC.,

24 Defendant.

Case No.:

COMPLAINT FOR PATENT
INFRINGEMENT

DEMAND FOR JURY TRIAL

EX FAX

1 Plaintiff Toyota Gosei Co., Ltd. ("Toyota Gosei") alleges against defendant Formosa Epitaxy
2 Inc. ("ForEpi") as follows:

3 **THE PARTIES**

4 1. Toyota Gosei is a foreign corporation existing under the laws of Japan with a principal
5 place of business located at 1 Haruhinagahata Kiyosu, Aichi 452-8564, Japan.

6
7 2. On information and belief, ForEpi is a foreign corporation existing under the laws of
8 Taiwan with its principal place of business located at No. 99, Lun Yuan 1st Road, Lung-Tan, Taoyuan,
9 Taiwan, Republic of China. ForEpi conducts business throughout this judicial district and throughout
10 the United States.

11 **JURISDICTION**

12 3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C.
13 §§ 1331 and 1338(a), in that this action arises under the federal patent statutes, 35 U.S.C. §§ 271 and
14 281-285.

15
16 4. This Court has personal jurisdiction over ForEpi because ForEpi has committed
17 infringing acts giving rise to this action within California and within this judicial district. Moreover,
18 ForEpi has established minimum contacts within the forum such that the exercise of jurisdiction over
19 ForEpi would not offend traditional notions of fair play and substantial justice. For example, ForEpi
20 has reported selling at least \$1 million in light-emitting diode ("LED") products in California.

21 **VENUE AND INTRADISTRICT ASSIGNMENT**

22
23 5. Venue in the Northern District of California is proper pursuant to 28 U.S.C. §§ 1391(b),
24 (c), (d) and 1400(b) because ForEpi has committed acts within this judicial district giving rise to this
25 action and ForEpi has and continues to conduct business in this judicial district, including completed
26 sales of at least \$1 million in LEDs.

1 6. Venue in the Northern District of California is also proper because ForEpi has, in at
2 least two prior cases, filed motions to transfer LED-related litigation to and/or consented to personal
3 jurisdiction in this District.

4 7. Toyoda Gosei has a subsidiary located at 2540 North First Street in San Jose,
5 California. This office, located in the San Jose Division in the county of Santa Clara, is the United
6 States headquarters for Toyoda Gosei's non-automotive LED operations.

7 **BACKGROUND**

8
9 8. Katsuhide Manabe, Hisaki Kato, Michinari Sassa, Shiro Yamazaki, Makoto Asai, Naoki
10 Shibata, and Masayoshi Koike are co-inventors of the following related United States Patents: United
11 States Patent 6,005,258, entitled "Light-Emitting Semiconductor Device Using Group III Nitrogen
12 Compound Having Emission Layer Doped with Donor and Acceptor Impurities" ("the '258 Patent")
13 (attached as Exhibit 1); United States Patent 6,265,726, entitled "Light-Emitting Aluminum Gallium
14 Indium Nitride Compound Semiconductor Device Having an Improved Luminous Intensity" ("the '726
15 Patent") (attached as Exhibit 2); and United States Patent 7,138,286, entitled "Light-Emitting
16 Semiconductor Device Using Group III Nitrogen Compound" ("the '286 Patent") (attached as Exhibit
17 3). The United States Patent Office duly issued the '258 Patent on December 21, 1999, the '726 Patent
18 on July 24, 2001 and the '286 Patent on November 21, 2006.

19
20 9. The '258 Patent, the '726 Patent, and the '286 Patent share a common specification,
21 which describes, among other things, "a light-emitting semiconductor device . . . designed to improve
22 luminous intensity and to obtain a purer blue color."

23
24 10. Michinari Sassa, Naoki Shibata, Shinya Asami, Masayoshi Koike, Junichi Umezaki,
25 and Takahiro Kozawa are co-inventors of United States Patent 5,753,939, entitled "Light-Emitting
26 Semiconductor Device Using a Group III Nitride Compound and Having a Contact Layer upon which
27

1 an Electrode is Formed" ("the '939 Patent") (attached as Exhibit 4). The United States Patent Office
2 duly issued the '939 Patent on May 19, 1998.

3 11. The '939 Patent contains a specification which describes, among other things, "a light-
4 emitting semiconductor device having an improved metal electrode and semiconductor structure that
5 lowers the driving voltage of the device."

6 12. Norikatsu Koide, Shinya Asami, Junichi Umezaki, Masayoshi Koike, Shiro Yamasaki,
7 and Seiji Nagai are co-inventors of the following related United States Patents: United States Patent
8 6,040,588, entitled "Semiconductor Light-Emitting Device" ("the '588 Patent") (attached as Exhibit 5)
9 and United States Patent 6,420,733, entitled "Semiconductor Light-Emitting Device and
10 Manufacturing Method Thereof" ("the '733 Patent") (attached as Exhibit 6). The United States Patent
11 Office duly issued the '588 Patent on March 21, 2000 and the '733 Patent on July 16, 2002.
12

13 13. The '733 Patent and the '588 Patent share a common specification which describes,
14 among other things, a "method of manufacturing a semiconductor light-emitting device."
15

16 14. Naoki Shibata and Makoto Asai are co-inventors of the following related United States
17 Patents: United States Patent 6,191,436, entitled "Optical Semiconductor Device" ("the '436 Patent")
18 (attached as Exhibit 7) and United States Patent 6,933,169, entitled "Optical Semiconductor Device"
19 ("the '169 Patent") (attached as Exhibit 8). The United States Patent Office duly issued the '436 Patent
20 on February 20, 2001 and the '169 Patent on August 23, 2005.

21 15. The '436 Patent and the '169 Patent share a common specification which describes,
22 among other things, an "LED ha[ving] a thin highly resistive or insulative layer formed below an
23 electrode pad in order to divert current flow from the region below an electrode pad" to obtain better
24 current efficiency.
25

1 16. Toyoda Gosei is the assignee of and owns all title and rights to the '258, '726, '286, '939,
2 '588, '733, '436, and '169 Patents (collectively "the Asserted Patents").

3 **COUNT I**

4 **FOREPI'S PATENT INFRINGEMENT OF THE '258 PATENT**

5 17. Toyoda Gosei restates and realleges each of the allegations set forth above and
6 incorporates them herein.

7 18. ForEpi has infringed and continues to infringe the '258 Patent by making, using, selling,
8 and/or offering to sell within the United States products that embody one or more of the claims of the
9 '258 Patent, contributing to the infringement of the '258 Patent, inducing others to infringe the '258
10 Patent, or carrying out other acts constituting infringement under 35 U.S.C. § 271. Such infringing
11 conduct includes, but is not limited to, making, using, operating, selling, or offering to sell GaN LEDs
12 that practice one or more claims of the '258 Patent.
13

14 19. ForEpi does not have a license or permission to use the subject matter claimed in the
15 '258 Patent.
16

17 20. As a direct and proximate result of ForEpi's infringement of the '258 Patent, Toyoda
18 Gosei has been injured and has suffered significant financial damage.

19 21. On information and belief, ForEpi will continue to infringe the '258 Patent, and thus
20 cause irreparable injury and damage to Toyoda Gosei, unless enjoined by this court.

21 **COUNT II**

22 **FOREPI'S PATENT INFRINGEMENT OF THE '726 PATENT**

23 22. Toyoda Gosei restates and realleges each of the allegations set forth above and
24 incorporates them herein.

25 23. ForEpi has infringed and continues to infringe the '726 Patent by making, using, selling,
26 and/or offering to sell within the United States products that embody one or more of the claims of the
27

1 '726 Patent, contributing to the infringement of the '726 Patent, inducing others to infringe the '726
2 Patent, or carrying out other acts constituting infringement under 35 U.S.C. § 271. Such infringing
3 conduct includes, but is not limited to, making, using, operating, selling, or offering to sell GaN LEDs
4 that practice one or more claims of the '726 Patent.

5 24. ForEpi does not have a license or permission to use the subject matter claimed in the
6 '726 Patent.

7 25. As a direct and proximate result of ForEpi's infringement of the '726 Patent, Toyoda
8 Gosei has been injured and has suffered significant financial damage.

9 26. On information and belief, ForEpi will continue to infringe the '726 Patent, and thus
10 cause irreparable injury and damage to Toyoda Gosei, unless enjoined by this court.

11
12 **COUNT III**

13 **FOREPI'S PATENT INFRINGEMENT OF THE '286 PATENT**

14 27. Toyoda Gosei restates and realleges each of the allegations set forth above and
15 incorporates them herein.

16 28. ForEpi has infringed and continues to infringe the '286 Patent by making, using, selling,
17 and/or offering to sell within the United States products that embody one or more of the claims of the
18 '286 Patent, contributing to the infringement of the '286 Patent, inducing others to infringe the '286
19 Patent, or carrying out other acts constituting infringement under 35 U.S.C. § 271. Such infringing
20 conduct includes, but is not limited to, making, using, operating, selling, or offering to sell GaN LEDs
21 that practice one or more claims of the '286 Patent.

22 29. ForEpi does not have a license or permission to use the subject matter claimed in the
23 '286 Patent.

24 30. As a direct and proximate result of ForEpi's infringement of the '286 Patent, Toyoda
25 Gosei has been injured and has suffered significant financial damage.

1 31. On information and belief, ForEpi will continue to infringe the '286 Patent, and thus
2 cause irreparable injury and damage to Toyoda Gosei, unless enjoined by this court.

3 **COUNT IV**

4 **FOREPI'S PATENT INFRINGEMENT OF THE '939 PATENT**

5 32. Toyoda Gosei restates and realleges each of the allegations set forth above and
6 incorporates them herein.

7 33. ForEpi has infringed and continues to infringe the '939 Patent by making, using, selling,
8 and/or offering to sell within the United States products that embody one or more of the claims of the
9 '939 Patent, contributing to the infringement of the '939 Patent, inducing others to infringe the '939
10 Patent, or carrying out other acts constituting infringement under 35 U.S.C. § 271. Such infringing
11 conduct includes, but is not limited to, making, using, operating, selling, or offering to sell GaN LEDs
12 that practice one or more claims of the '939 Patent.
13

14 34. ForEpi does not have a license or permission to use the subject matter claimed in the
15 '939 Patent.

16 35. As a direct and proximate result of ForEpi's infringement of the '939 Patent, Toyoda
17 Gosei has been injured and has suffered significant financial damage.
18

19 36. On information and belief, ForEpi will continue to infringe the '939 Patent, and thus
20 cause irreparable injury and damage to Toyoda Gosei, unless enjoined by this court.

21 **COUNT V**

22 **FOREPI'S PATENT INFRINGEMENT OF THE '588 PATENT**

23 37. Toyoda Gosei restates and realleges each of the allegations set forth above and
24 incorporates them herein.

25 38. ForEpi has infringed and continues to infringe the '588 Patent by making, using, selling,
26 and/or offering to sell within the United States products that embody one or more of the claims of the
27

1 '588 Patent, contributing to the infringement of the '588 Patent, inducing others to infringe the '588
2 Patent, or carrying out other acts constituting infringement under 35 U.S.C. § 271. Such infringing
3 conduct includes, but is not limited to, making, using, operating, selling, or offering to sell GaN LEDs
4 that practice one or more claims of the '588 Patent.

5 39. ForEpi does not have a license or permission to use the subject matter claimed in the
6 '588 Patent.

7 40. As a direct and proximate result of ForEpi's infringement of the '588 Patent, Toyoda
8 Gosei has been injured and has suffered significant financial damage.

9 41. On information and belief, ForEpi will continue to infringe the '588 Patent, and thus
10 cause irreparable injury and damage to Toyoda Gosei, unless enjoined by this court.

11
12 **COUNT VI**

13 **FOREPI'S PATENT INFRINGEMENT OF THE '733 PATENT**

14 42. Toyoda Gosei restates and realleges each of the allegations set forth above and
15 incorporates them herein.

16 43. ForEpi has infringed and continues to infringe the '733 Patent by making, using, selling,
17 and/or offering to sell within the United States products that embody one or more of the claims of the
18 '733 Patent, contributing to the infringement of the '733 Patent, inducing others to infringe the '733
19 Patent, or carrying out other acts constituting infringement under 35 U.S.C. § 271. Such infringing
20 conduct includes, but is not limited to, making, using, operating, selling, or offering to sell GaN LEDs
21 that practice one or more claims of the '733 Patent.

22 44. ForEpi does not have a license or permission to use the subject matter claimed in the
23 '733 Patent.

24 45. As a direct and proximate result of ForEpi's infringement of the '733 Patent, Toyoda
25 Gosei has been injured and has suffered significant financial damage.

1 46. On information and belief, ForEpi will continue to infringe the '733 Patent, and thus
2 cause irreparable injury and damage to Toyoda Gosei, unless enjoined by this court.

3 **COUNT VII**

4 **FOREPI'S PATENT INFRINGEMENT OF THE '436 PATENT**

5 47. Toyoda Gosei restates and realleges each of the allegations set forth above and
6 incorporates them herein.

7 48. ForEpi has infringed and continues to infringe the '436 Patent by making, using, selling,
8 and/or offering to sell within the United States products that embody one or more of the claims of the
9 '436 Patent, contributing to the infringement of the '436 Patent, inducing others to infringe the '436
10 Patent, or carrying out other acts constituting infringement under 35 U.S.C. § 271. Such infringing
11 conduct includes, but is not limited to, making, using, operating, selling, or offering to sell GaN LEDs
12 that practice one or more claims of the '436 Patent.
13

14 49. ForEpi does not have a license or permission to use the subject matter claimed in the
15 '436 Patent.

16 50. As a direct and proximate result of ForEpi's infringement of the '436 Patent, Toyoda
17 Gosei has been injured and has suffered significant financial damage.
18

19 51. On information and belief, ForEpi will continue to infringe the '436 Patent, and thus
20 cause irreparable injury and damage to Toyoda Gosei, unless enjoined by this court.

21 **COUNT VIII**

22 **FOREPI'S PATENT INFRINGEMENT OF THE '169 PATENT**

23 52. Toyoda Gosei restates and realleges each of the allegations set forth above and
24 incorporates them herein.

25 53. ForEpi has infringed and continues to infringe the '169 Patent by making, using, selling,
26 and/or offering to sell within the United States products that embody one or more of the claims of the
27

1 '169 Patent, contributing to the infringement of the '169 Patent, inducing others to infringe the '169
2 Patent, or carrying out other acts constituting infringement under 35 U.S.C. § 271. Such infringing
3 conduct includes, but is not limited to, making, using, operating, selling, or offering to sell GaN LEDs
4 that practice one or more claims of the '169 Patent.

5 54. ForEpi does not have a license or permission to use the subject matter claimed in the
6 '169 Patent.

7 55. As a direct and proximate result of ForEpi's infringement of the '169 Patent, Toyoda
8 Gosei has been injured and has suffered significant financial damage.

9 56. On information and belief, ForEpi will continue to infringe the '169 Patent, and thus
10 cause irreparable injury and damage to Toyoda Gosei, unless enjoined by this court.

11
12 **PRAYER FOR RELIEF**

13 WHEREFORE, Toyoda Gosei prays for the following relief:

14 A. a judgment that ForEpi has infringed, induced others to infringe, and/or contributorily
15 infringed one or more claims of the Asserted Patents and is liable to Toyoda Gosei for such
16 infringement;

17 B. an award of damages adequate to compensate Toyoda Gosei for ForEpi's infringement
18 of the Asserted Patents, including costs and pre-judgment and post-judgment interest;

19 C. a post judgment equitable accounting of damages for the period of infringement of the
20 Asserted Patents following the period of damages established by Toyoda Gosei at trial;

21 D. an order enjoining ForEpi from infringing, inducing others to infringe, and contributing
22 to the infringement of the Asserted Patents;

23 E. an order requiring ForEpi to deliver for destruction all infringing products in its
24 possession;

1 F. a finding that this case is exceptional pursuant to 35 U.S.C. § 285, including an award
2 of attorneys' fees; and

3 G. such other and further relief as the Court deems Toyoda Gosei may be entitled to in law
4 and equity.

5
6 DATED: February 21, 2012

7 Respectfully submitted,

8 By: 

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10 Lisa Kobialka (State Bar No. 191404)
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24 Attorneys for Plaintiff
25 TOYODA GOSEI CO., LTD.
26
27
28

JURY DEMAND

A jury trial is demanded on all issues so triable, pursuant to Rule 38(b) of the Federal Rules of Civil Procedure.

DATED: February 21, 2012

Respectfully submitted,

By:  _____

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