

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

LED TECH DEVELOPMENT, LLC,

Plaintiff

v.

HOME DEPOT U.S.A., INC.,

Defendant.

Case No.

JURY TRIAL DEMANDED

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff LED Tech Development, LLC (“LED Tech”) alleges as follows:

**PARTIES**

1. LED Tech is a Delaware limited liability company with a principal place of business located at 719 West Front St., Suite 242, Tyler, Texas 75702.
2. Defendant Home Depot U.S.A., Inc. (“Home Depot”) is a Delaware corporation with a principal place of business at 2455 Paces Ferry Road, Atlanta, Georgia 30339. Home Depot has appointed Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808, as its agent for service of process.

**JURISDICTION AND VENUE**

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. Accordingly, this Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).
4. On information and belief, Home Depot is subject to this Court’s jurisdiction because Home Depot has transacted business in this district, including, more specifically, directly and/or through intermediaries, using, importing, offering for sale,

and/or selling products and services in the State of Delaware. In addition, Home Depot is a corporation organized and existing under the laws of the State of Delaware. Thus, Home Depot has purposefully availed itself of the benefits of the state of Delaware and the exercise of jurisdiction over Home Depot would not offend traditional notions of fair play and substantial justice.

5. Venue is proper in this District under 28 U.S.C. §§ 1391 (b)-(d) and 1400(b) because Home Depot is subject to personal jurisdiction in this District, and has committed acts of patent infringement in this District.

### **FACTUAL BACKGROUND**

6. LED Tech is the owner by assignment of U.S. Patent No. 6,095,661 (the “‘661 patent”). The ‘661 patent is entitled “Method and Apparatus for an L.E.D. Flashlight.” The ‘661 patent issued on August 1, 2000. A true and correct copy of the ‘661 patent is attached hereto as Exhibit A.

7. LED Tech is the owner by assignment of U.S. Patent No. 6,808,287 (the “‘287 patent”). The ‘287 patent is entitled “Method and Apparatus for a Pulsed L.E.D. Illumination Source.” The ‘287 patent issued on October 26, 2004. A true and correct copy of the ‘287 patent is attached hereto as Exhibit B.

### **COUNT I (Infringement of U.S. Patent No. 6,095,661)**

8. Home Depot has been and still is infringing at least claim 21 of the ‘661 patent, literally and under the doctrine of equivalents, by using, selling, offering to sell, or importing, without license or authority, products, including, but not limited to the Fenix 72 Lumens Max Performance Cree XP-G R4 LED Flashlight.

9. To the extent that facts learned in discovery show that Home Depot's infringement of the '661 patent is or has been willful, LED Tech reserves the right to request such a finding at the time of trial.

10. To the extent applicable, the requirements of 35 U.S.C. § 287(a) have been met with respect to the '661 patent.

11. As a result of Home Depot's infringement of the '661 patent, LED Tech has suffered monetary damages in an amount adequate to compensate for Home Depot's infringement, but in no event less than a reasonable royalty for the use made of the invention by Home Depot, together with interest and costs as fixed by the Court, and LED Tech will continue to suffer damages in the future unless Home Depot's infringing activities are enjoined by this Court.

12. Unless a permanent injunction is issued enjoining Home Depot and its agents, servants, employees, representatives, affiliates, and all others acting or in active concert therewith from infringing the '661 patent, LED Tech will be greatly and irreparably harmed.

**COUNT II**  
**(Infringement of U.S. Patent No. 6,808,287)**

13. Home Depot has been and still is infringing at least claim 1 of the '287 patent, literally and under the doctrine of equivalents, by using, selling, offering to sell, or importing, without license or authority, products, including, but not limited to the Fenix 72 Lumens Max Performance Cree XP-G R4 LED Flashlight.

14. To the extent that facts learned in discovery show that Home Depot's infringement of the '287 patent is or has been willful, LED Tech reserves the right to request such a finding at the time of trial.

15. To the extent applicable, the requirements of 35 U.S.C. § 287(a) have been met with respect to the ‘287 patent.

16. As a result of Home Depot’s infringement of the ‘287 patent, LED Tech has suffered monetary damages in an amount adequate to compensate for Home Depot’s infringement, but in no event less than a reasonable royalty for the use made of the invention by Home Depot, together with interest and costs as fixed by the Court, and LED Tech will continue to suffer damages in the future unless Home Depot’s infringing activities are enjoined by this Court.

17. Unless a permanent injunction is issued enjoining Home Depot and its agents, servants, employees, representatives, affiliates, and all others acting or in active concert therewith from infringing the ‘287 patent, LED Tech will be greatly and irreparably harmed.

**PRAYER FOR RELIEF**

LED Tech prays for the following relief:

1. A judgment that Home Depot has infringed one or more claims of the ‘661 and ‘287 patents;
2. A permanent injunction enjoining Home Depot and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or participation with it, from infringing the ‘661 and ‘287 patents;
3. An award of damages resulting from Home Depot’s acts of infringement in accordance with 35 U.S.C. § 284;

4. A judgment and order requiring Home Depot to provide an accounting and to pay supplemental damages to LED Tech, including, without limitation, prejudgment and post-judgment interest; and

5. Any and all other relief to which LED Tech may show itself to be entitled.

**JURY TRIAL DEMANDED**

LED Tech hereby demands a trial by jury of all issues so triable.

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BAYARD, P.A.

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