

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

<p>CREE, INC.,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>COOPER LIGHTING, LLC,</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">Case No. 13-cv-169</p> <p style="text-align: center;">JURY TRIAL DEMANDED</p>
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COMPLAINT FOR PATENT INFRINGEMENT

NOW COMES Plaintiff, CREE, INC. (“Cree”), and complains of Defendant, COOPER LIGHTING, LLC (“Cooper”), as follows:

Parties

1. Plaintiff Cree is a North Carolina corporation having a principal place of business at 4600 Silicon Drive, Durham, North Carolina 27703. Cree also has facilities at 9201 Washington Avenue, Racine, Wisconsin (formerly the headquarters of Ruud Lighting, Inc. (“Ruud”), which has now legally merged into Cree).

2. On information and belief, Defendant, Cooper, is a Delaware limited liability corporation with its principal place of business at 1121 Highway 74 South, Peachtree City, Georgia.

Jurisdiction and Venue

3. This action arises under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, including without limitation 35 U.S.C. §§ 271 and 281. This Court has exclusive jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1400(b) because infringement by Cooper has occurred in this district. Venue is also proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and 1391(c) since a substantial part of the events giving rise to the claims occurred in this district, and Cooper does or has done business in this district and is subject to personal jurisdiction in this district. Litigation on related patents is pending in this district.

Background

Cree's Business

5. Cree is a market-leading innovator engaged in the design, manufacture and sale of lighting products including light emitting diode (“LED”) products and devices and apparatuses utilizing LEDs.

6. Cree's subsidiary Ruud, which was likewise engaged in the design, manufacture and sale of lighting products, legally merged into Cree effective January 1, 2013.

U.S. Patent No. 8,282,239

7. Kurt Wilcox, working for Ruud, invented a unique LED lighting apparatus lensing member with a reflector shield inserted therein, and lighting fixtures using such lighting apparatus lensing and reflector, and with respect to such invention, filed a patent application, (Serial No. 13/014,438) (“the ‘438 application”) with the USPTO, which was a continuation of application Serial No. 12/173,149 (“the ‘149 application”).

8. The ‘149 application matured into United States Patent No. 7,891,835, titled “Light-Directing Apparatus with Protected Reflector-Shield and Lighting Fixture Utilizing Same,” which issued on February 22, 2011 (“the ‘835 Patent”).

9. The '835 patent is the subject of a lawsuit currently pending in this District (Case No. 10-cv-00280) (Judge C. Clevert), wherein Ruud accuses Cooper of, *inter alia*, infringement of the '835 patent.

10. The '438 application matured into United States Patent No. 8,282,239, titled "Light-Directing Apparatus with Protected Reflector-Shield and Lighting Fixture Utilizing Same," which issued on October 9, 2012 ("the '239 patent") (Exhibit 1). The '239 patent is assigned to Cree and Cree owns and has all right, title and interest in and to the '239 patent. The '239 patent is valid and subsisting.

11. Cree has standing to sue for infringement of the '239 patent.

U.S. Patent No. 8,070,306

12. Alan J. Ruud, Kurt S. Wilcox, Steven R. Walczak and Wayne Guillien, working for Ruud, invented a unique LED lighting fixture and, with respect to such invention, filed with the United States Patent and Trademark Office ("USPTO") a patent application (Serial No. 12/629,986) ("the '986 application"), which was a continuation of application Serial No. 11/860,887 ("the '887 application"), which was a continuation-in-part of application Serial No. 11/541,908 ("the '908 application") (now abandoned).

13. The '887 application matured into United States Patent No. 7,686,469, titled "LED Lighting Fixture," which issued on March 30, 2010 ("the '469 patent").

14. The '469 patent is the subject of a lawsuit currently pending in this District (Case No. 10-cv-00280) (Judge C. Clevert), wherein Ruud accuses Cooper of, *inter alia*, infringement of the '469 patent.

15. The '986 application matured into United States Patent No. 8,070,306, titled "LED Lighting Fixture," which issued on December 6, 2011 ("the '306 patent"). A

reexamination certificate for the '306 patent issued on February 19, 2013 (Exhibit 2, '306 patent with reexamination certificate). The '306 patent is assigned to Cree and Cree owns and has all right, title and interest in and to the '306 patent. The '306 patent is valid and subsisting.

16. Cree has standing to sue for infringement of the '306 patent.

Cooper's Business

17. Cooper is in the business of manufacturing and selling lighting products throughout the United States, including in this judicial district.

18. Cooper made, offered for sale and sold, and continues to make, offer for sale and sell products, including its "Ventus LED" area/roadway luminaire, which infringe claims of the '306 patent.

19. Cooper has made, offered for sale and sold, and continues to make, offer for sale and sell the infringing "Ventus LED" area/roadway luminaire product throughout the United States, including within this judicial district.

20. Cooper, under its InVUE, McGraw-Edison, Lumark and Streetworks brands, has made, offered for sale and sold, and continues to make, offer for sale and sell lighting products which include Cooper's "AccuLED Optics" system that infringes claims of the '239 patent. Such infringement includes any products incorporating Cooper's "LightBAR" technology, which uses the "AccuLED Optics," including: Under its InVUE brand, Cooper's offering and selling infringing products known as its "Vision Site LED" area luminaire, "Mesa LED" decorative luminaire, and "Entri LED" architectural wall series luminaire products; under its McGraw-Edison brand, Cooper's offering and selling infringing products known as its "Ventus LED," "Talon LED," "Concise LED," "Valet LED" and "Impact Elite LED" luminaire products; under its Lumark brand, Cooper's offering and selling infringing products known as its "Cobrahead

LED,” “Ridgeview LED,” and “Navion LED” luminaires; and under its Streetworks brand, Cooper’s offering and selling infringing products known as its “Cobrahead LED,” “Ridgeview LED,” “Ventus LED” and “Navion LED” luminaires.

21. Cooper’s offering and selling of such products with the “AccuLED Optics” system has been throughout the United States, including within this judicial district.

22. On information and belief, Cooper had knowledge of the ‘239 patent beginning before its issuance and still proceeded to prepare for and commence infringement of the ‘239 patent, and continued to do so after issuance of the patent. On information and belief, Cooper’s infringement of the ‘239 patent is willful and intentional.

23. On information and belief, Cooper had knowledge of the ‘306 patent beginning before its issuance and still proceeded to prepare for and commence infringement of the ‘306 patent, and continued to do so after issuance of the patent. On information and belief, Cooper’s infringement of the ‘306 patent is willful and intentional.

COUNT I
INFRINGEMENT OF THE ‘239 PATENT

24. Paragraphs 1-23 are realleged and incorporated by reference as if fully set forth herein.

25. Cooper has infringed claims of the ‘239 patent at least by making, using, selling or offering to sell products which include Cooper’s “AccuLED Optics” system, including those referred to above in Paragraph 21. Such conduct by Cooper is without Cree’s consent.

26. Such conduct by Cooper constitutes direct patent infringement, such infringement being literal and/or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(a).

27. Cree has been and continues to be irreparably harmed, and has suffered and continues to suffer damages, by Cooper’s infringement of the ‘239 patent. Cree is entitled to

recover damages adequate to compensate it for the infringement that has occurred in an amount to be determined at trial.

28. Cree will continue to be harmed and damaged until Cooper is enjoined from such direct infringement of the '239 patent by the Court.

COUNT II
INFRINGEMENT OF THE '306 PATENT

29. Paragraphs 1-28 are realleged and incorporated by reference as if fully set forth herein.

30. Cooper has infringed claims of the '306 patent at least by making, using, selling or offering to sell products which include Cooper's "Ventus LED" area/roadway luminaire product. Such conduct by Cooper is without Cree's consent.

31. Such conduct by Cooper constitutes direct patent infringement, such infringement being literal and/or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(a).

32. Cree has been and continues to be irreparably harmed, and has suffered and continues to suffer damages, by Cooper's infringement of the '306 patent. Cree is entitled to recover damages adequate to compensate it for the infringement that has occurred in an amount to be determined at trial.

33. Cree will continue to be harmed and damaged until Cooper is enjoined from such direct infringement of the '306 patent by the Court.

Request for Relief

WHEREFORE, Plaintiff, Cree Inc., prays that this Court enter judgment in its favor and against Defendant, Cooper Lighting, LLC, and its subsidiaries, successors, parents, affiliates, officers, directors, agents, servants, and employees as follows:

- A. An entry of judgment in favor of Cree and against Cooper that Cooper willfully infringes the '306 and '239 patents;
- B. A permanent injunction against further infringement of the '306 and '239 patents by Cooper and all persons in active concert or participation with it pursuant to 35 U.S.C. § 283;
- C. An award of damages adequate to compensate Cree for Cooper's willful infringement together with prejudgment interest from the date infringement began, but in no event less than a reasonable royalty;
- D. An award of any other damages permitted under 35 U.S.C. §§ 284 and 285; and
- E. Such other and further relief as this Court or a jury may deem just and proper.

Jury Demand

Cree requests a trial by jury.

DATED: February 19, 2013

s/ Christopher G. Hanewicz

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