

Arnold B. Calmann
Katherine A. Escanlar
SAIBER LLC
One Gateway Center, 10th Floor
Newark, New Jersey 07102-5311
Telephone: 973.622.3333
Facsimile: 973.286.2465
abc@saiber.com
kae@saiber.com

Of Counsel:
Edward Han
Marc A. Cohn
ARNOLD & PORTER LLP
555 Twelfth Street NW
Washington, DC 20004-1206
Telephone: 202.942.5000
Facsimile: 202.942.5999
Ed.Han@aporter.com
Marc.Cohn@aporter.com

Attorneys for Plaintiff
Honeywell International Inc.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

HONEYWELL INTERNATIONAL INC.,

Plaintiff,

v.

CREE, INC.,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

DOCUMENT FILED ELECTRONICALLY

COMPLAINT FOR PATENT INFRINGEMENT

For its Complaint, Plaintiff Honeywell International Inc. (“Honeywell”) alleges as follows:

THE PARTIES

1. Honeywell is a corporation organized and existing under the laws of the State of Delaware with a principal place of business and address at 101 Columbia Road, P.O. Box 2245, Morristown, New Jersey, 07962-2245.

2. Honeywell is the owner of all right, title, and interest to U.S. Patent No. 6,373,188 B1 (the “188 Patent”) and U.S. Reissued Patent No. RE41,685 (“the ‘685 Reissue,” a reissue of U.S. Patent No. 6,666,567).

3. On information and belief, Defendant Cree, Inc. (“Cree”) is a North Carolina Corporation with a principal place of business at 4600 Silicon Drive, Durham, North Carolina, 27703 and operations in North Carolina, California, Sweden, Hong Kong, Japan, and Austria, and has relationships with distributors throughout North America.

JURISDICTION AND VENUE

4. This action arises under the Patent Laws of the United States, Title 35 of the United States Code.

5. This court had subject matter jurisdiction over the causes of action asserted herein pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This court has personal jurisdiction over Cree. On information and belief, Cree has systematic and continuous contacts in this judicial district, regularly transacts business within this district, and regularly avails itself of the benefits of this district. On information and belief, Cree also sells and distributes products in this district, and derives substantial revenues from sales in this district.

7. Venue is proper in this District under 28 U.S.C. §§ 1391(a), 1391(c), and 1400(b).

INFRINGEMENT OF U.S. PATENT NO. 6,373,188 AND
U.S. REISSUED PATENT NO RE41,685

8. On April 16, 2002, the United States Patent and Trademark Office (“USPTO”) duly and legally issued United States Patent No. 6,373,188 entitled “Efficient Solid-State Light Emitting Device With Excited Phosphors For Producing a Visible Light Output” (the “’188 Patent”) to Burgess R. Johnson and Wei Yang. A true and correct copy of the ‘188 Patent is attached as Exhibit A.

9. Honeywell owns all substantial rights in the ‘188 Patent, including the right to exclude others from making, using, importing, offering for sale, or selling products covered by one or more claims of the ‘188 Patent, the right to bring actions for infringement of the ‘188 Patent, and the right to demand damages as well as injunctive relief.

10. On January 11, 2011, the USPTO duly and legally issued an *Ex Parte* Reexamination Certificate for the ‘188 Patent (U.S. Patent No. 6,373,188 C1; Application Number 90/009,200). A true and correct copy of the Reexamination Certificate is attached as Exhibit B.

11. On December 23, 2003, the USPTO duly and legally issued United States Patent No. 6,666,567 entitled “Methods and Apparatus For a Light Source With a Raised LED Structure” (the “’567 patent”) to Alan Stuart Feldman, Brian David Cull, and Dennis Michael Davey. On September 14, 2010, the USPTO duly and legally reissued the ‘567 patent as United States Reissued Patent No. RE41,685 entitled “Light Source With Non-White and Phosphor-Based White LED Devices, and LCD Assembly” (the “’685 Reissue”). A true and correct copy of the ‘685 Reissue is attached as Exhibit C.

12. Honeywell owns all substantial rights in the ‘685 Reissue, including the right to exclude others from making, using, importing, offering for sale, or selling products covered by

one or more claims of the '685 Reissue, the right to bring actions for infringement of the '685 Reissue, and the right to demand damages as well as injunctive relief.

COUNT I: INFRINGEMENT OF THE '188 PATENT

13. Honeywell realleges paragraphs 1–12 above as if fully set forth herein.

14. On information and belief, Cree has infringed and continues to infringe the '188 Patent in violation of 35 U.S.C. § 271, literally and/or under the doctrine of equivalents, by, without limitation: making, using, offering to sell, and/or selling in the United States phosphor-based LEDs and/or products incorporating same that are covered by at least claim 28 of the '188 Patent. On information and belief, such products include, for example and without limitation, LEDs marked with the following part numbers (as well as products insubstantially different therefrom): MPLEZW-A1-R100-0000C040F, XPGWHT-L1-0000-00E51, XPGWHT-L1-0000-00F51, XPGWHT-L1-0000-00G51, MCE4WT-A2-0000-000JE5, MCE4WT-A2-0000-000K01, XREWHT-L1-0000-00902, XRCWHT-L1-R250-00901, XRCWHT-L1-R250-006E5, XRCWHT-L1-R250-005E7, XPEWHT-L1-R250-008E7, XPCWHT-L1-R250-006E7, XPCWHT-L1-R250-00A01, XPCWHT-L1-R250-008E5, XPEWHT-L1-0000-00A02, MCE4WT-A2-0000-000HE7, XREWHT-L1-0000-00801, XREWHT-L1-0000-006E6, MCE4WT-A2-0000, XREWHT-L1-0000-005E7, XPEWHT-L1-R250-00AE5, XMLAWT-00-0000-0000T5051, XMLAWT-00-0000-0000T6051, XREWHT-L1-0000-00801, XMLAWT-00-0000-000LT20E7, XMLHVW-Q0-0000-0000LT251, XMLHVW-Q0-0000-0000LS3E8, XBDWHT-00-0000-00000LAE7, XPGWHT-H1-0000-00CE7, XTEAWT-00-0000-000000F51, XBDWHT-00-0000-000000E51, XPEHEW-H1-0000-00BE7, XBDWHT-00-0000-00000HCE7, XPEWHT-L1-0000-00BE7, XTEHVW-Q0-0000-00000LG51, XTEHVW-Q0-0000-00000LDE5, XPGWHT-U1-0000-009E7, XPGWHT-L1-R250-00H51, XPEWHT-L1-0000-

009E7, XPEHEW-L1-0000-00F51, MXRAWT-02-0000-0D0HG430H, MXRAWT-02-0000-0D0HH250H, XPGBWT-01-R250-00FC2, XPGBWT-L1-R250-00FE4, XPGBWT-L1-R250-00FE7, XPGBWT-H1-R250-00EE7, XQBAWT-00-0000-00000HXE5, XQBAWT-02-0000-00000LO51, XQBAWT-02-0000-00000HXE7, XMLBWT-00-0000-000LT50E4, XMLBWT-02-0000-0000T6051 (collectively, “phosphor-based LED products”).

15. On information and belief, also in violation of 35 U.S.C. § 271, Cree has indirectly infringed and continues to indirectly infringe the ‘188 Patent. On information and belief, in addition to Cree’s direct infringement, Cree’s customers also directly infringe the ‘188 Patent by their use of Cree’s phosphor-based LED products in the United States. On information and belief, Cree has knowingly induced infringement and has had specific intent to induce infringement of the ‘188 Patent by its activities relating to the marketing, sales, support, and distribution of its phosphor-based LED products. On information and belief, Cree has committed and intended to commit contributory infringement of the ‘188 Patent, and Cree knew that its phosphor-based LED products, and/or any components thereof, were especially made or adapted for use in infringing the ‘188 Patent, having no substantial non-infringing use, and that they would be combined in an infringing manner. On information and belief, Cree has contributed to the infringement of the ‘188 Patent by marketing, supporting, distribution, offering for sale and/or selling the phosphor-based LED products, and/or components thereof, to its customers.

16. Cree has had actual knowledge of the ‘188 patent since no later than October 19, 2007, when Honeywell filed an original Complaint against Cree in the United States District Court for the Eastern District of Texas, Case No. 2:07-cv-00463, alleging infringement of the ‘188 Patent. Notwithstanding its knowledge of the ‘188 Patent, as well as Honeywell’s

allegations of infringement and the confirmation of the '188 Patent claims in reexamination, Cree has continued to infringe, directly and indirectly, the '188 Patent as alleged herein.

17. On information and belief, Cree's direct and indirect infringement of the '188 Patent has been and continues to be willful, making this an exceptional case under 35 U.S.C. § 285 and entitling Honeywell to treble damages under 35 U.S.C. § 284.

18. Cree should be ordered to pay damages to Honeywell that adequately compensate Honeywell for Cree's infringement of the '188 Patent, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT II: INFRINGEMENT OF THE '685 REISSUE

19. Honeywell realleges paragraphs 1–19 above as if fully set forth herein.

20. On information and belief, Cree has infringed and continues to infringe the '188 Patent in violation of 35 U.S.C. § 271, literally and/or under the doctrine of equivalents, by, without limitation: making, using, offering to sell, and/or selling in the United States LED systems and arrays of LEDs and/or products incorporating same that are covered by at least claim 10 of the '685 Reissue. On information and belief, such products include, for example and without limitation, LED systems, arrays of LEDs, and/or products incorporating same marked with the following part numbers (as well as products insubstantially different therefrom): LR24-38SKA35, LR24-32SKA35, LR6-DR1000, LR6-DR650XP, LR4-30XP, LR4-15, CR24-44W-40K, CR6, LMR020-0650-CCF9, LMR040-0700-27F9, LR6, LE6, LE6C, LMH060-2900-40F9-20200TW, LMH060-2000-30F9-20200TW, LMH020-0850-27G9-00000TW, LMH020-1250-27G9-00000TW, CR22-14L-30K-S, CR-LE-20L-30K-S, CR22-20L-30K-S, KR6-9L-35K-120v, CS14-40L-HE-35K-10V (collectively, "LED system products").

21. On information and belief, also in violation of 35 U.S.C. § 271, Cree has indirectly infringed and continues to indirectly infringe the '685 Reissue. On information and belief, in addition to Cree's direct infringement, Cree's customers also directly infringe the '685 Reissue by their use of Cree's LED system products. On information and belief, Cree has knowingly induced infringement and has had specific intent to induce infringement of the '685 Reissue by its activities relating to the marketing, support, and distribution of its LED system products. On information and belief, Cree had committed and intended to commit contributory infringement of the '685 Reissue, and Cree knew that its LED system products, and/or any components thereof, were especially made or adapted for use in infringing the '685 Reissue, having no substantial non-infringing use, and that they would be combined in an infringing manner. On information and belief, Cree has contributed to the infringement of the '685 Reissue by marketing, supporting, distribution, offering for sale and/or selling the phosphor-based LED products, and/or components thereof, to its customers.

22. Cree has had actual knowledge of the '685 Reissue since no later than the date of the filing of this Complaint. Cree's continued direct and indirect infringement of the '685 Reissue after said date would be willful, making this an exceptional case under 35 U.S.C. § 285 and entitling Honeywell to treble damages under 35 U.S.C. § 284.

23. Cree should be ordered to pay damages to Honeywell that adequately compensate Honeywell for Cree's infringement of the '685 Reissue, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

PRAYER FOR RELIEF

WHEREFORE, Honeywell respectfully requests the following relief:

24. Judgment in favor of Honeywell, and against Cree, that Cree has and continues to directly infringe, induce infringement, and contribute to infringement of one or more claims of the '188 Patent;

25. Judgment in favor of Honeywell, and against Cree, that Cree's infringement of the '188 Patent has been and continues to be willful;

26. Judgment in favor of Honeywell, and against Cree, that Cree has and continues to directly infringe, induce infringement, and contribute to infringement of one or more claims of the '685 Reissue;

27. Judgment awarding Honeywell damages adequate to compensate for Cree's infringement in an amount to be proven at trial, together with pre-judgment and post-judgment interest and costs, as fixed by the Court;

28. Judgment enhancing the damages due to Cree's willful infringement, pursuant to 35 U.S.C. § 284;

29. Judgment declaring that this is an exceptional case and awarding Honeywell its reasonable costs and attorneys' fees in this matter, pursuant to 35 U.S.C. § 285;

30. Judgment in favor of Honeywell, and against Cree, that interest, costs, and expenses be awarded in favor of Honeywell; and

31. Such other relief as the Court may deem just and proper.

JURY DEMAND

Honeywell demands trial by jury in this action on all issues so triable.

Dated: March 31, 2014

Respectfully submitted,

SAIBER LLC

Attorneys for Plaintiff
Honeywell International Inc.

s/ Arnold B. Calmann
Arnold B. Calmann
Katherine A. Escanlar
One Gateway Center, 10th Floor
Newark, New Jersey 07102-5311
abc@saiber.com
kae@saiber.com

Of Counsel:

Edward Han
Marc A. Cohn
ARNOLD & PORTER LLP
555 Twelfth Street NW
Washington, DC 20004-1206
Telephone: 202.942.5000
Facsimile: 202.942.5999
Ed.Han@aporter.com
Marc.Cohn@aporter.com

LOCAL CIVIL RULE 11.2 CERTIFICATION

Under Local Civil Rule 11.2, the undersigned counsel for Honeywell International Inc. hereby certifies that this matter is not the subject of any other action asserted by Honeywell International Inc. in any other court, or of any pending arbitration or administrative proceeding.

Dated: March 31, 2014

s/ Arnold B. Calmann
Arnold B. Calmann

LOCAL CIVIL RULE 201.1 CERTIFICATION

Under Local Civil Rule 201.1, the undersigned counsel for Honeywell International Inc. hereby certifies that Honeywell International Inc. seeks damages, excluding interest, costs and punitive damages, in excess \$150,000. This action is, therefore, not appropriate for compulsory arbitration.

Dated: March 31, 2014

s/ Arnold B. Calmann
Arnold B. Calmann