

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

LEXINGTON LUMINANCE LLC

Plaintiff,

v.

LG ELECTRONICS, INC.;
LG ELECTRONICS U.S.A., INC.;
LG INNOTEK CO., LTD.; and
LG INNOTEK USA, INC.,

Defendants.

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Civil Action No. 16-12175

JURY DEMANDED

PLAINTIFF’S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Lexington Luminance LLC (“Lexington” or “Plaintiff”) files this complaint for patent infringement against LG Electronics, Inc.; LG Electronics U.S.A., Inc.; LG Innotek Co., Ltd.; and LG Innotek USA, Inc. and states as follows:

THE PARTIES

1. Plaintiff Lexington Luminance LLC is a limited liability company organized under the laws of Massachusetts with its principal place of business at 468 Lowell Street, Lexington, Massachusetts 02420.
2. On information and belief, Defendant LG Electronics, Inc. (“LG Electronics”) is a Korean corporation and may be served at its corporate headquarters at LG Twin Tower 128, Yeoul-daero, Yeongdeungpo-gu, Seoul, Korea. LG Electronics may be served with process in Korea pursuant to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents, Article 1, November 15, 1965 T.I.A.S. No. 6638, 20 U.S.T. 361 (U.S. Treaty 1969).

3. On information and belief, Defendant LG Electronics U.S.A., Inc. (“LG Electronics USA”) is a corporation organized and existing under the laws of Delaware having a principal place of business at 1000 Sylvan Avenue, Englewood Cliffs, New Jersey 07632. LG Electronics USA may be served by serving its registered agent United States Corporation Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808. Upon information and belief, LG Electronics USA is a wholly owned subsidiary of LG Electronics.

4. On information and belief, Defendant LG Innotek Co., Ltd. (“LG Innotek”) is a Korean corporation and may be served at its corporate headquarters at Seoul Square 20F, Hangang-daero, Jung-Gu, Seoul 100-714, Korea. LG Innotek may be served with process in Korea pursuant to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents, Article 1, November 15, 1965 T.I.A.S. No. 6638, 20 U.S.T. 361 (U.S. Treaty 1969). Upon information and belief, LG Innotek is a wholly owned subsidiary of LG Electronics.

5. On information and belief, Defendant LG Innotek USA., Inc. (“LG Innotek USA”) is a corporation organized and existing under the laws of California having a principal place of business at 2540 N. 1st Street, Suite 400, San Jose, CA 95131. LG Innotek USA may be served by serving its registered agent GKL Corporate/Search, Inc., One Capitol Mall, Suite 600, Sacramento, CA 95814. Upon information and belief, LG Innotek USA is a wholly owned subsidiary of LG Innotek.

6. Defendants LG Electronics, LG Electronics USA, LG Innotek, and LG Innotek USA are collectively referred to as “Defendants.” On information and belief, Defendants are doing business in the United States and, more particularly, in the Commonwealth of Massachusetts and this judicial District, by designing, marketing, making, using, selling, importing, and/or

offering for sale products that infringe the patent claims involved in this action or by transacting other business in this District.

JURISDICTION AND VENUE

7. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code. Jurisdiction as to these claims is conferred on this Court by 35 U.S.C. §§1331 and 1338(a).

8. Venue is proper in the District of Massachusetts under 28 U.S.C. §§1391 and 1400(b). On information and belief, Defendants have committed acts of infringement in this judicial district and has purposely transacted business in this judicial District.

9. This Court has personal jurisdiction over the Defendants. Defendants, directly or through intermediaries, have conducted and do conduct substantial business in this forum, such substantial business including but not limited to: (i) at least a portion of the infringements alleged herein; (ii) purposefully and voluntarily placing one or more infringing products or services into the stream of commerce with the expectation that they will be purchased and used by consumers in this forum; or (iii) regularly doing or soliciting business, engaging in other persistent courses of conduct, or deriving substantial revenue from goods and services provided to individuals in the Commonwealth of Massachusetts and in this District. These infringing products have been and continue to be purchased by consumers in the District of Massachusetts. Defendants have committed acts of patent infringement within the United States and, more particularly, within the District of Massachusetts.

PATENT INFRINGEMENT

10. Lexington incorporates by reference paragraphs 1-9 as if fully set forth herein.

11. On August 30, 2005, United States Patent No. 6,936,851 B2 entitled “Semiconductor Light-Emitting Device and Method for Manufacturing the Same” was duly and legally issued after full and fair examination. Lexington is the owner of all right, title, and interest in and to the patent by assignment, with full right to bring suit to enforce the patent, including the right to recover for past infringement damages and the right to recover future royalties, damages, and income.

12. On September 30, 2013, an *ex parte* reexamination no. 90/012,964 was initiated for United States Patent No. 6,936,851 B2. An *ex parte* reexamination certificate was issued on December 5, 2014 for United States Patent No. 6,936,851 C1. The patent, together with the *ex parte* reexamination certificate, is attached hereto as Exhibit A. United States Patent No. 6,936,851 B2 and 6,936,851 C1 are collectively known as the ‘851 patent or the patent-in-suit.

13. The ‘851 patent has been previously asserted in this District in (1) *Lexington Luminance LLC v. Feit Electric Company, Inc.*, No. 1:12-cv-11554 (D. Mass.); (2) *Lexington Luminance LLC v. Osram Sylvania, Inc.*, No. 1:12-cv-11551 (D. Mass.); (3) *Lexington Luminance LLC v. Lighting Science Group Corporation*, No. 1:12-cv-11552 (D. Mass.); (4) *Lexington Luminance LLC v. Amazon.com Inc.*, No. 1:12-cv-12216 (D. Mass.); and (5) *Lexington Luminance LLC v. Google, Inc.*, No. 1:12-cv-12218 (D. Mass.); *Lexington Luminance LLC v. Samsung Electronics Co., Ltd; et al.*, No. 1:16-cv-11138 (D. Mass.); and *Lexington Luminance LLC v. TCL Multimedia Holdings Ltd. et al.*, No. 1:16-cv-11458 (D. Mass.).

14. In *Lexington Luminance LLC v. Google, Inc.*, No. 1:12-cv-12218 (D. Mass.) (“the Google case”), Lexington claimed infringement of the ‘851 patent by the Nexus 4 phone, and the Nexus 7 and Nexus 10 tablet computers. Lexington filed an amended complaint on May 27, 2015 alleging infringement by the Nexus 4 phone. On May 27, 2015, Lexington also served

preliminary infringement contentions to Google, explaining how the Nexus 4 infringed the pre-reexamined '851 patent. Lexington later voluntarily dropped its allegations against the Nexus 4, leaving the Nexus 7 and Nexus 10 tablet computers in the case. The Nexus 4 was co-developed by Google and LG Electronics. *See* https://en.wikipedia.org/wiki/Nexus_4. On information and belief, Google supplied most of the software, including its Android operating system, for the Nexus 4. *Id.* On information and belief, LG Electronics supplied most of the hardware for the Nexus 4. *Id.* In the *Google* case, Lexington had accused the light-emitting diodes (“LEDs”) used in the backlighting of the Nexus 4 display of infringing claims 1 and 15-18 of the '851 patent. On information and belief, given LG Electronics' role in the provision of the Nexus 4 hardware, LG Electronics has been aware of the events in the *Google* case since at least as early as approximately May 27, 2015. On information and belief, LG Electronics has been aware how it infringed the '851 patent since approximately May 27, 2015.

15. On October 18, 2016, LG Innotek filed a petition for *Inter Partes* Review of the patent-in-suit. On information and belief, LG Innotek has been aware of the patent-in-suit since prior to October 18, 2016.

16. Upon information and belief, US-based LG Electronics USA is a wholly owned subsidiary of the Korea-based LG Electronics. *See* <http://www.lg.com/us/commercial/about-display/corporate-profile>. On information and belief, LG Electronics USA is responsible for sales of consumer electronics and mobile products within the United States. *Id.* On information and belief, given LG Electronics USA's role within LG Electronics, information pertaining to a United States patent known by LG Electronics would have been shared with its United States subsidiary, LG Electronics USA unless LG Electronics USA took steps to be willfully blind to

such facts. On information and belief, LG Electronics USA knew of or was willfully blind to the existence of the patent-in-suit.

17. Upon information and belief, Korea-based LG Innotek is a wholly owned subsidiary of the Korea-based LG Electronics. On information and belief, LG Innotek supplies the light-emitting diodes used by LG Electronics. On information and belief, given LG Innotek's role within LG Electronics, information pertaining to a United States patent pertaining to light-emitting diodes known by LG Electronics would have been shared with its LED supplier, LG Innotek unless LG Innotek took steps to be willfully blind to such facts. On information and belief, LG Innotek knew of or was willfully blind to the existence of the patent-in-suit. Similarly, on information and belief, given LG Innotek's role within LG Electronics, information pertaining to a United States patent pertaining to light-emitting diodes known by LG Innotek would have been shared with its parent, LG Electronics unless LG Electronics took steps to be willfully blind to such facts. On information and belief, LG Electronics knew of or was willfully blind to the existence of the patent-in-suit.

18. Upon information and belief, US-based LG Innotek USA is a wholly owned subsidiary of the Korea-based LG Innotek. On information and belief, LG Innotek USA is responsible for sales of LEDs within the United States. On information and belief, given LG Innotek USA's role within LG Innotek, information pertaining to a United States patent pertaining to LEDs known by LG Innotek would have been shared with its United States subsidiary, LG Innotek USA unless LG Innotek USA took steps to be willfully blind to such facts. On information and belief, LG Innotek USA knew or was willfully blind to the existence of the patent-in-suit.

19. The '851 patent is valid and enforceable.

20. On information and belief, to the extent any marking or notice was required by 35 U.S.C. § 287, Plaintiff, and all predecessors in interest and/or implied or express licensees of the '851 patent, if any, have complied with the marking requirements of 35 U.S.C. § 287 by placing a notice of the '851 patent on all goods made, offered for sale, sold, and/or imported into the United States that embody one or more claims of that patent and/or providing actual or constructive notice to Defendants.

21. Upon information and belief, Defendants have infringed and/or continue to infringe (literally and/or under the doctrine of equivalents) one or more claims of the '851 patent in this judicial district and elsewhere in Massachusetts and the United States, including at least claim 1, by, among other things, placing infringing LEDs into the stream of commerce with the expectation that they will be purchased by consumers in this District; and making, using, offering for sale, selling, and/or importing televisions, computer displays, mobile telephones, computers, and other electronic devices that use an LED-illuminated LCD display. The foregoing devices are collectively referred to as the "Accused Products."

22. By way of example only, and without limitation, exemplary infringing consumer electronics devices include television models such as the LG 42in TV Cinema 42LM3400-UC 42" Full 3D 1080p HD LED LCD Television, LG 47" 47LB6100 Smart LED HD TV, and LG 50LN5750 50" LED Full 1080p HD TV, and other similar products, which perform substantially the same function as the devices embodied in one or more claims of the '851 patent in substantially the same way to achieve the same result.

23. Upon information and belief, since at least May 27, 2015, Defendants have had knowledge of the '851 patent and have had knowledge of their infringement of the '851 patent.

24. On information and belief, the Accused Products constitute or use LEDs that use a patterned sapphire substrate that infringes one or more claims of the '851 patent. The Accused Products constitute LEDs or use LEDs for purposes including, without limitation, backlighting of the displays or consumer electronics products.

25. Defendants have been at no time, either expressly or impliedly, licensed under the '851 patent.

26. Defendants' acts of infringement have caused damage to Plaintiff. Plaintiff is entitled to recover from Defendants the damages sustained by Plaintiff as a result of the wrongful acts of Defendants in an amount subject to proof at trial. Defendants' infringement of Plaintiff's rights under the '851 patent will continue to damage Plaintiff's business, causing irreparable harm, for which there is no adequate remedy of law, unless enjoined.

27. Upon information and belief, since at least May 27, 2015, Defendants deliberately infringed the '851 patent and acted recklessly and in disregard to the '851 patent by making, having made, using, importing, and offering for sale products that infringe the '851 Patent. Upon information and belief, the risks of infringement were known to Defendants and/or were so obvious under the circumstances that the infringement risks should have been known. Upon information and belief, Defendants have willfully infringed and/or continue to willfully infringe the '851 Patent.

28. Upon information and belief, since at least May 27, 2015, Defendants also indirectly infringe the '851 Patent by inducing infringement by others, such as resellers, and/or end-users of the Accused Products, of one or more claims of the '851 Patent in violation of 35 U.S.C. § 271. Upon information and belief, Defendants knew of the '851 Patent and knew of its infringement, including by way of this lawsuit and earlier as described above.

29. Upon information and belief, Defendants' affirmative acts of selling the Accused Products, causing the Accused Products to be manufactured and distributed, and providing instruction manuals for the Accused Products have induced and continue to induce Defendants' manufacturers, resellers, and/or end-users to make or use the Accused Products in their normal and customary way to infringe the '851 Patent. Defendants specifically intended and were aware that these normal and customary activities would infringe the '851 Patent. Defendants performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '851 Patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury for all issues so triable.

PRAYER

WHEREFORE, Plaintiff prays for judgment that:

1. Defendants have infringed the '851 patent;
2. Plaintiff recover actual damages under 35 U.S.C. § 284;
3. Plaintiff be awarded supplemental damages for any continuing post-verdict infringement up until final judgment;
4. Plaintiff be awarded a compulsory ongoing royalty;
5. Plaintiff be awarded an accounting of damages;
6. Plaintiff be awarded enhanced damages for willful infringement as permitted under the law;
7. A judgment and order requiring Defendants to pay to Plaintiff pre-judgment and post-judgment interest on the damages awarded, including an award of pre-judgment interest,

pursuant to 35 U.S.C. § 284, from the date of each act of infringement of the '851 patent by Defendants to the day a damages judgment is entered, and a further award of post-judgment interest, pursuant to 28 U.S.C. § 1961, continuing until such judgment is paid, at the maximum rate allowed by law;

8. An award to Plaintiff of the costs of this action and its reasonable attorneys' fees pursuant to 35 U.S.C. §285;

9. Such other and further relief as the Court deems just and equitable.

DATED: October 27, 2016

Respectfully submitted,

/s/David S. Godkin
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