

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

NICHIA CORPORATION,)	
)	
Plaintiff,)	C.A. No. 2:16-cv-1455
)	
v.)	Jury Trial Demanded
)	
LOWE’S HOME CENTERS, LLC and L G SOURCING, INC.)	
)	
)	
Defendants.)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Nichia Corporation (“Nichia”), by its undersigned counsel, with knowledge as to its own acts and status, and upon information and belief as to the acts and status of others, for its Complaint against defendants Lowe’s Home Centers, LLC (“Lowe’s”) and L G Sourcing, Inc. (“LGS”), alleges as follows:

PRELIMINARY STATEMENT

1. This is an action for patent infringement under the United States patent laws, 35 U.S.C. § 1, *et seq.* The accused products are LED lighting products that are imported into the United States, and/or made, used, sold, and/or offered for sale, in the United States, in the State of Texas, and in this judicial district, by defendants Lowe’s and LGS. The LED devices in the accused lighting products infringe at least one of claims 1, 2, 4-8, 10, 12, 13, and 15-20 of U.S. Patent No. 9,490,411 (the “’411 Patent”), which is owned for all purposes by Plaintiff Nichia.

2. By this lawsuit, Nichia seeks relief for Lowe's and LGS's past and ongoing infringement of Nichia's '411 Patent by virtue of their incorporation of infringing LED devices into the accused lighting products.

THE PARTIES

3. Plaintiff Nichia Corporation is a corporation organized and existing under the laws of Japan, with its principal place of business at 491 Oka, Kaminaka-Cho, Anan-Shi, Tokushima, Japan 774-8601.

4. Defendant Lowe's Home Centers LLC is a corporation organized and existing under the laws of the State of North Carolina with its principal place of business at 1605 Curtis Bridge Rd., Wilkesboro, NC 28697. Lowe's Home Centers LLC may be served with process by serving its registered agent, Corporation Service Company, at 327 Hillsborough Street, Raleigh, NC 27603.

5. Defendant LGS is a corporation organized and existing under the laws of the State of North Carolina with its principal place of business at 1605 Curtis Bridge Rd., North Wilkesboro, NC 28659. LGS is a wholly owned subsidiary of Lowe's Companies, Inc. LGS may be served with process by serving its registered agent, Corporation Service Company, at 327 Hillsborough Street, Raleigh, NC 27603.

6. Lowe's sources and acquires the products that it sells at its nationwide retail outlets through LGS. LGS sources those products from over 500 vendors in 21 countries, primarily in Asia. As part of this arrangement, Lowe's and LGS import into the United States, and sell and/or offer for sale at Lowe's retail outlets nationwide, including in the State of Texas and in this judicial district, lighting products that contain light-emitting diode ("LED") devices.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. Lowe's and LGS are subject to personal jurisdiction in this judicial district because each of them is present within, has minimum contacts with, and regularly conducts business in, the State of Texas and the Eastern District of Texas.

9. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b).

10. Among other things, Lowe's and LGS have purposefully availed themselves of the privileges of conducting business in the State of Texas and in this judicial district; Lowe's and LGS have sought protection and benefit from the laws of the State of Texas; Lowe's and LGS have solicited business in, transacted business within, and have attempted to derive financial benefit from residents of the State of Texas and this judicial district; and Nichia's cause of action arises directly from Lowe's and LGS's business contacts and other activities in the State of Texas and in this judicial district.

11. More specifically, the accused LED lighting products have been imported into, offered for sale, and/or sold by or on behalf of Lowe's and LGS in the Eastern District of Texas, and the accused Lowe's and LGS lighting products have been, and continue to be, used in the Eastern District of Texas. Lowe's and LGS, directly and/or through their agents and intermediaries, have placed the lighting products at issue in this lawsuit into the stream of commerce throughout the United States through established distribution channels, with the expectation and/or knowledge that they will be offered for sale, sold, and used in the State of Texas and in this judicial district. Without limiting the foregoing, Lowe's and LGS distribute

infringing lighting products throughout the United States through a regional distribution center network that includes a distribution center located in Mount Vernon, Texas.

12. Lowe's and LGS sell and offer for sale infringing LED lighting products in retail stores in the State of Texas and throughout this judicial district, including at sixteen Lowe's Home Improvement retail stores in this judicial district. For example, these retail stores currently sell and/or offer for sale such infringing LED lighting products as the Utilitech 75 W Equivalent Par38 (440606) Warm White Led Flood Light Bulb, model number YGA08A36-15W-830-40D; 65 W Equivalent Dimmable Daylight LED Flood Light Bulb (777488), model number YGA08A48-BR30-10W-850-1; and 65 W Equivalent Dimmable Soft White LED Flood Light Bulb (441161), model number YGA08A48-BR30-10W-827-1.

13. Lowe's and LGS have participated in patent-infringement lawsuits in judicial districts throughout the United States, including in the Eastern District of Texas.

THE PATENT-IN-SUIT

14. U.S. Patent No. 9,490,411, entitled "Light Emitting Device, Resin Package, Resin-Molded Body, and Methods for Manufacturing Light-Emitting Device, Resin Package and Resin-Molded Body," was duly and lawfully issued by the U.S. Patent and Trademark Office on November 8, 2016. A true and correct copy of the '411 Patent is attached as Exhibit A. The '411 Patent is a continuation of Application No. 13/969,182, filed on August 16, 2013, which is a continuation of Application No. 12/737,940, filed as Application No. PCT/JP2009/004170 on August 27, 2009, now Patent No. 8,530,250 (the "'250 Patent").

15. The '411 Patent lists Hirofumi Ichikawa, Masaki Hayashi, Shimpei Sasaoka, and Tomohide Miki as inventors.

16. Nichia is the owner of the '411 Patent by valid assignment from the inventors. Nichia owns all rights, title, and interest in the '411 Patent, including the right to sue for and recover all past, present, and future damages for infringement of the '411 Patent.

17. The Abstract of the '411 Patent provides as follows:

A method of manufacturing a light emitting device having a resin package which provides an optical reflectivity equal to or more than 70% at a wavelength between 350 nm and 800 nm after thermal curing, and in which a resin part and a lead are formed in a substantially same plane in an outer side surface, includes a step of sandwiching a lead frame provided with a notch part, by means of an upper mold and a lower mold, a step of transfer-molding a thermosetting resin containing a light reflecting material in a mold sandwiched by the upper mold and the lower mold to form a resin-molded body in the lead frame and a step of cutting the resin-molded body and the lead frame along the notch part.

DEFENDANTS' INFRINGING CONDUCT

18. Lowe's and LGS import into the United States, and sell, and/or offer for sale in the United States, LED lighting products that incorporate LED devices that infringe at least claim 1 of the '411 Patent, which reads:

1. A light emitting device comprising:

a resin package comprising a resin part and a metal part including at least two metal plates, said resin package having four outer lateral surfaces and having a concave portion having a bottom surface; and

a light emitting element mounted on the bottom surface of the concave portion and electrically connected to the metal part,

wherein at least a portion of an outer lateral surface of the resin part and at least a portion of an outer lateral surface of the metal part are coplanar at an outer lateral surface of the resin package,

wherein both a part of the metal part and a part of the resin part are disposed in a region below an upper surface of the metal part, on four outer lateral surfaces of the resin package, and

wherein a notch is formed in the metal part at each of the four outer lateral surfaces of the resin package.

19. The LED devices in the Accused LED lighting products are light emitting devices that include a resin package comprising a resin part and a metal part including at least two metal plates. In addition, in the LED devices found in the Accused LED lighting products, the resin package has four outer lateral surfaces, a concave portion having a bottom surface, and a light emitting element mounted on the bottom surface of the concave portion and electrically connected to the metal part. In these LED devices, at least a portion of an outer lateral surface of the resin part and at least a portion of an outer lateral surface of the metal part are coplanar at an outer lateral surface of the resin package. Moreover, both a part of the metal part and a part of the resin part are disposed in a region below an upper surface of the metal part, on four outer lateral surfaces of the resin package. In addition, in these LED devices, a notch is formed in the metal part at each of the four outer lateral surfaces of the resin package. Further, the LED devices in the Accused LED lighting products also include the additional elements of at least one of claims 2, 4-8, 10, 12, 13, and 15-20 of the '411 patent.

20. Lowe's and LGS, directly and/or through intermediaries and agents, import into the United States, and sell, and/or offer for sale in the United States, including in this judicial district, lighting products, such as the Utilitech 75 W Equivalent Par38 (440606) Warm White Led Flood Light Bulb, that incorporate the infringing LED devices.

COUNT I
(Infringement of U.S. Patent No. 9,490,411)
(35 U.S. C. § 271(a))

21. Nichia repeats and re-alleges each and every allegation of paragraphs 1-20 as if fully set forth herein.

22. The '411 Patent is valid and enforceable.

23. By its importation into the United States, and use, sale and/or offer for sale in the United States, of lighting products that incorporate infringing LED devices, including but not limited to, for example, the Utilitech 75 W Equivalent Par38 (440606) Warm White Led Flood Light Bulb, model number YGA08A36-15W-830-40D, 65 W Equivalent Dimmable Daylight LED Flood Light Bulb (777488), model number YGA08A48-BR30-10W-850-1, and 65 W Equivalent Dimmable Soft White LED Flood Light Bulb (441161), model number YGA08A48-BR30-10W-827-1, Lowe's and LGS have been and are now infringing, literally or under the doctrine of equivalents, at least one of claims 1, 2, 4-8, 10, 12, 13, and 15-20 of the '411 Patent, in the State of Texas, in this judicial district, and elsewhere, in violation of 35 U.S.C. § 271(a).

24. Lowe's and LGS's actions are without the consent of Nichia.

25. Nichia has been and will continue to be damaged by Lowe's and LGS's infringement of the '411 Patent.

26. Nichia has been and will continue to be irreparably harmed unless the Defendants' infringement of the '411 Patent is enjoined.

JURY DEMAND

27. Nichia hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Nichia Corporation prays that the Court enter judgment against Defendants Lowe's and LGS, and in favor of Nichia, as follows:

A. Finding that the '411 Patent was duly and lawfully issued, and is valid and enforceable.

B. Finding that Lowe's and LGS have infringed one or more of the claims of the '411 Patent;

C. Awarding damages to Nichia in accordance with 35 U.S.C. § 284 and 35 U.S.C. § 154(d), including pre-judgment and post-judgment interest, to compensate Nichia for Lowe's and LGS's infringement of the '411 Patent;

D. Ordering preliminary and permanent injunctive relief restraining and enjoining Lowe's and LGS, as well as their officers, agents, attorneys, employees, and those acting in privity or active concert with them, from infringement of the '411 Patent for the full term thereof;

E. Finding that this case is exceptional pursuant to 35 U.S.C. § 285;

F. Awarding Nichia its costs and attorneys' fees; and

G. Awarding Nichia such other and further relief as this Court deems just and proper.

DATED: December 27, 2016

Respectfully submitted,

By: /s/ Otis Carroll

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*Applications for admission *pro hac vice* are filed herewith.