

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

RETROLED COMPONENTS, LLC,
Plaintiff,

v.

PRINCIPAL LIGHTING GROUP, LLC
Defendant.

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Civil Case No.: 6:18-cv-55

JURY TRIAL DEMANDED

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff RetroLED Components, LLC (“RetroLED” or “Plaintiff”) files this Complaint for Declaratory Judgment of Patent Invalidity and Non-Infringement pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the Laws Patent of the United States, 35 U.S.C. § 1 *et seq.*, against Defendant Principal Lighting Group, LLC (“Principal Lighting”) and alleges the following:

THE PARTIES

1. Plaintiff RetroLED Components, LLC is a limited liability company formed under the laws of the State of Texas. RetroLED has its principal place of business at 1515 North Grandview Avenue, Odessa, Texas 79761 within the Western District of Texas.

2. On information and belief, Defendant Principal Lighting Group, LLC is a company formed under the laws of the State of Delaware with its headquarters at 3490 Venture Drive, San Angelo, Texas 76905. Principal Lighting is registered with the State of Texas to transact business in the state and has a registered agent for

service of process at 206 East 9th Street, Suite 1300, Austin, Texas 78701. On information and belief, Principal Lighting offers LED lights and accessories throughout the Western District of Texas through distributors in Austin and San Antonio.

JURISDICTION AND VENUE

3. This action arises under the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, as well as the Patent Laws of the United States, Title 35 of the United States Code, and this Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court may exercise general personal jurisdiction over Principal Lighting as its headquarters is in San Angelo, Texas, it is registered to do business in the State of Texas and its registered agent for service of process is located in this District.

5. Additionally, this Court has specific personal jurisdiction as to Principal Lighting as it has purposefully directed its activities at residents of this District, specifically RetroLED, as discussed *infra*. Further, RetroLED's declaratory judgment claim arises out of Principal Lighting's activities within this District, specifically, again, as to RetroLED, as discussed *infra*. Finally, the assertion of personal jurisdiction in this District is reasonable and fair.

6. Venue is proper in this District and Division under 28 U.S.C. § 1391(b)(2) as a substantial part of the events giving rise to the claim occurred in this District.

INTRODUCTION

7. This is an action for a declaration that United States Patent No. 9,311,835 is invalid (the “’835 Patent”), a declaration that RetroLED does not contributorily infringe the ’835 Patent and for RetroLED’s reasonable attorneys’ fees pursuant to 35 U.S.C. § 285.

THE PATENT-IN-SUIT

8. United States Patent No. 9,311,835 (the “’835 Patent”) was issued by the United States Patent and Trademark Office, on April 12, 2016 naming Thomas C. Breihof as the inventor, listing SignComp, LLC as the assignee and titled “Lighting Mount for Interior-Lighted Signage and Method of Retrofitting a Lighted Sign.” A true and correct copy of the ’835 Patent is attached hereto as Exhibit I. On information and belief, the ’835 Patent has since been assigned to the Principal Lighting Group, LLC, the defendant in this declaratory judgment action.

9. Claim 1 of the patent recites, in relevant part,

one and only one end cap at each of said opposite end portions of said elongate support member, each of said end caps having an inwardly-facing side and an outwardly-facing side, said inwardly-facing sides configured to frictionally engage and be supported at a respective one of said opposite end portions of said elongate support member;

a mechanical coupling element at each of said outwardly-facing sides of said end caps, said mechanical coupling element configured to engage a single electro-mechanical mount for a gas-discharge lamp, wherein said mechanical coupling element comprises electrically insulative material and does not retain any electrical conductors along or through said mechanical coupling element for powering the plurality of electric lamp units;

(the ’835 Patent, cl. 1.)

BACKGROUND

10. Plaintiff refers to and incorporates herein all the allegations of the previous paragraphs.

11. Early lighting systems relied on incandescent light bulbs in which a current ran through a wire filament to provide light. These incandescent systems were common from the time of Edison through today. Incandescent bulbs are, however, relatively inefficient and generate a great deal of heat for the amount of light produced. Additionally, incandescent bulbs have a relatively short life as the number of usable hours is limited by the integrity of the filament.

12. To overcome a number of these issues, gas-discharge lamps—commonly called “fluorescent” tubes—emerged on the market. Fluorescent lighting systems addressed some of the disadvantages of the incandescent system, including heat and cost inefficiency, and have been used widely since the 1950s in a number of environments, including places such as schools and business where fluorescent lighting systems provided cost-efficient lighting.

13. Fluorescent lighting systems are not without their own drawbacks. As explained in United States Patent Application Publication No. 2009/0027916,

during the operation of a fluorescent lamp, electric current passes through the electrodes at a high frequency about 120 times per second, causing sparkling of light that is harmful to the eyes. In order to eliminate this problem, a high-frequency electronic ballast may be used. The use of a high-frequency electronic ballast in a fluorescent lamp saves power consumption and stabilizes the electric current, preventing the problem of sparkling of light. However, the high-frequency electronic ballast of a fluorescent lamp is not detachable. When the fluorescent lamp is damaged, the high-frequency electronic ballast

cannot be removed from the fluorescent lamp for a repeat use. Further, because conventional fluorescent lamps have a mercury coating coated on the inside wall of the respective lamp tube, the used fluorescent lamps must be properly disposed of to prevent pollution to the environment.

(Ex. II, U.S. Pat. Pub. No. 2009/0027916 (the “Huang Reference”), at ¶ 6.)

14. The disadvantages of fluorescent lighting systems are further discussed in United States Patent Application Publication No. 2004/0062041, stating “fluorescent lamps

suffer from a number of disadvantages. For example, the ionizable material and fill gases used to generate the illumination pattern are relatively hazardous materials. Care must be taken to dispose of the fluorescent light fixtures to avoid releasing these materials into the environment. Moreover, fluorescent lamps require the use of a ballast transformer to cause the fluorescent lamps to illuminate. Ballasts frequently fail and require replacement. Moreover, as noted above, the energy costs for operating fluorescent lamps need further improvement.

(Ex. III, U.S. Pat. Pub. No. 2004/0062041 (the “Cross Reference”), at ¶ 6.)

15. Due to these drawbacks and disadvantages, inventors began to experiment with other solutions, including solid state lighting—such as light emitting diodes (LEDs) as a cleaner, safer, more pleasing light source. As stated in United States Patent No. 8,419,223,

Lighting systems based on LED light sources are a fairly new technology in the lighting field. LED's are desirable because they have an extremely long life, and they use far less power than fluorescent tubes of equivalent output.

(Ex. IV, U.S. Pat. No. 8,419,223 (the “Withers Reference”), at col. 1, ll. 39-42.)

RetroLED

16. Plaintiff refers to and incorporates herein all the allegations of the previous Paragraphs.

17. RetroLED has been in the business of providing components for modular light sticks for various lighting systems since 2015. As part of its work in this field, RetroLED has developed the Trinity-360 system to allow for easy custom installation of LED replacements for existing fluorescent lighting systems in large business environments, signs and other locations.

18. As part of its Trinity-360 system, RetroLED uses a number of end caps in its systems, including TSLEC, REC, TOREC, TBEREC, SSLEC, SREC, EC-T-12 HO, EC-T-8 and EC-T-12 end caps. These end caps can be used in any number of applications, from new sign cabinets to retrofit cabinets. Further, the end caps come in rigid or fixed as well as spring-loaded varieties.

19. The Trinity-360 systems are manufactured in Odessa, Texas in the Western District of Texas.

THE SUBSTANTIAL CONTROVERSY BETWEEN THE PARTIES

20. Plaintiff refers to and incorporates herein all the allegations of the previous Paragraphs.

21. On February 12, 2018, Mr. Sidney Norton, one of the managers of RetroLED, received a letter from Wasif Qureshi, a lawyer stating that he represents Principal Lighting Group. (*See generally* Ex. V, Feb. 12, 2018 Letter from Mr. Qureshi to Mr. Norton (“Qureshi Letter”).)

22. In this letter, Mr. Qureshi accuses RetroLED of contributorily infringing the '835 Patent, providing “formal notice that RetroLED has infringed and continues to infringe at least Principal’s U.S. Patent No. 9,311,835” and stating that “RetroLED’s marketing and sales of its ‘Rigid’ end caps at minimum renders RetroLED liable for contributory infringement under 35 U.S.C. § 271(c) of at least claim 1 of the '835 Patent.” (*Id.* at 1.)

23. The Qureshi Letter continues, stating that Principal Lighting has “strong reason to believe that RetroLED’s “Rigid” end caps—*e.g.*, part No. EC-T-12 HO and TOREC—are used in assemblies that infringe the '835 Patent and there is no substantial non-infringing use of these end caps.” (*Id.* at 1.)

24. To leave no doubt about the threat of litigation, the Qureshi Letter stated

Because RetroLED does not have permission or license from Principal to market or sell components for products covered by the '835 Patent, RetroLED is liable for infringing the '835 Patent under 35 U.S.C. § 271. Moreover, to the extent RetroLED was previously unaware of the '835 Patent for purposes of contributory infringement or otherwise, this letter constitutes such notice and can also be used to support a finding of willful infringement, which could lead to Principal being awarded enhanced damages should it prevail in litigation.

(*Id.* at 1.)

25. As explained below, the '835 Patent is invalid. Further, RetroLED cannot contributorily infringe the '835 Patent because the accused end caps are capable of substantial non-infringing uses.

26. As explained immediately above, there is a substantial controversy between RetroLED and Principal Lighting regarding the invalidity and non-infringement of the '835 Patent. This controversy is sufficiently real and immediate to be justiciable under Article III of the United States Constitution.

COUNT I: INVALIDITY OF UNITED STATES PATENT NO. 9,311,835

27. Plaintiff refers to and incorporates herein all the allegations of the previous Paragraphs.

28. As the Qureshi Letter asserted infringement of Claim 1 of the '835 Patent, this claim will be the focus of RetroLED's invalidity analysis. Claim 1 recites

A lamp support assembly for interior lighting of a sign, said lamp support assembly comprising:

an elongate support member for supporting a plurality of electric lamp units, said elongate support member having opposite end portions;

one and only one end cap at each of said opposite end portions of said elongate support member, each of said end caps having an inwardly-facing side and an outwardly-facing side, said inwardly-facing sides configured to frictionally engage and be supported at a respective one of said opposite end portions of said elongate support member;

a mechanical coupling element at each of said outwardly-facing sides of said end caps, said mechanical coupling element configured to engage a single electro-mechanical mount for a gas-discharge lamp, wherein said mechanical coupling element comprises electrically insulative material and does not retain any electrical conductors along or through said mechanical coupling element for powering the plurality of electric lamp units; and

wherein said elongate support member and said end caps are releasably supportable by and between two

and only two of the mounts when the two mounts are aligned directly opposite one another and supported in spaced arrangement on respective frame portions of the sign.

(Ex. I, the '835 Patent, cl. 1.)

29. The '835 Patent was filed on November 22, 2011 but claims priority to a provisional application filed on November 24, 2010.¹

30. Even assuming that the '835 Patent is entitled to the November 24, 2010 priority date, the '835 Patent is invalid pursuant to 35 U.S.C. § 102(b), § 102(e) and/or § 103.

The Huang Reference Invalidates the '835 Patent Pursuant to 35 U.S.C. § 102(b)

31. Section 102(b) provides

A person shall be entitled to a patent unless . . . the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States

35 U.S.C. § 102(b).

32. The Huang Reference, United States Patent Application Publication No. 2009/0027916, was published on January 29, 2009—more than one year before the claimed priority of the '835 Patent, November 24, 2010—making it prior art to the '835 Patent pursuant to 35 U.S.C. § 102(b).

¹ As the application was filed under and is subject to the pre-AIA patent laws, all citations to the law will be to the pre-AIA sections of Title 35.

The Preamble is not Limiting.

33. The preamble of Claim 1 of the '835 patent recites: "A lamp support assembly for interior lighting of a sign, said lamp support assembly comprising:" In this case, the preamble is not a limitation.

The First Limitation is met by the Huang Reference's Disclosure

34. The first limitation of Claim 1 recites "an elongate support member for supporting a plurality of electric lamp units, said elongate support member having opposite end portions."

35. This first limitation of claim 1 is met by the Huang Reference, which discloses the first limitation in at least Figures 1, 3, 4 & 5 as well as various paragraphs of the publication.

36. A detail from Figure 2 is reproduced below:

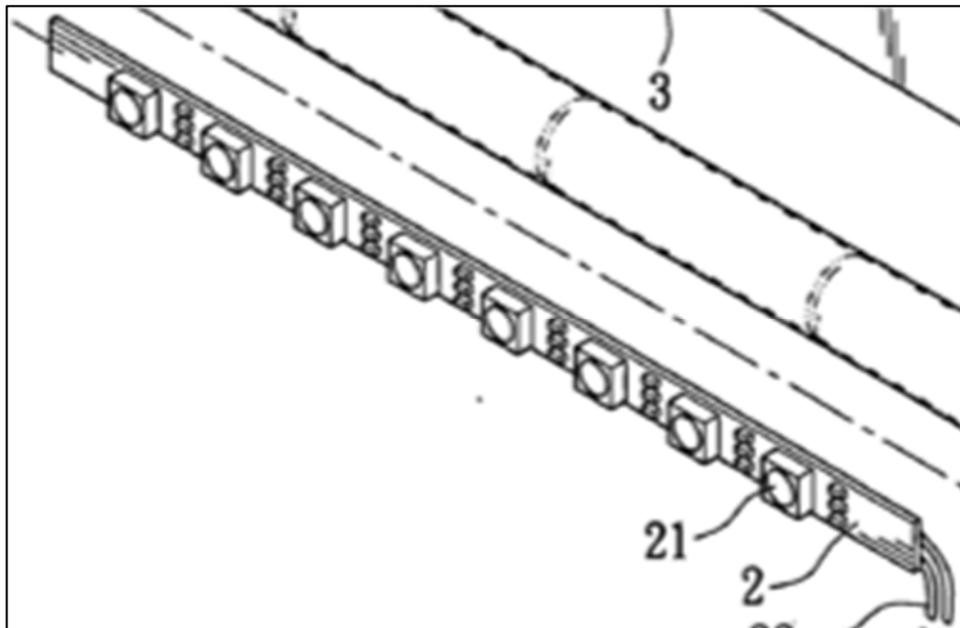


Fig. a. Detail from Figure 2 of the '835 Patent showing the elongate support member.

37. As described in Paragraph 19 of the Huang Reference, “The circuit board 2 is a narrow elongated (*sic*) having a plurality of LEDs (light emitting diodes) 21 installed in one side thereof and arranged in an array” (Ex. II, the Huang Reference, at ¶ 19.) Additionally, as is clear from Figure a above, there are opposite end portions for the circuit board 2 from the Huang Reference. Thus, the Huang Reference meets the first limitation of Claim 1.

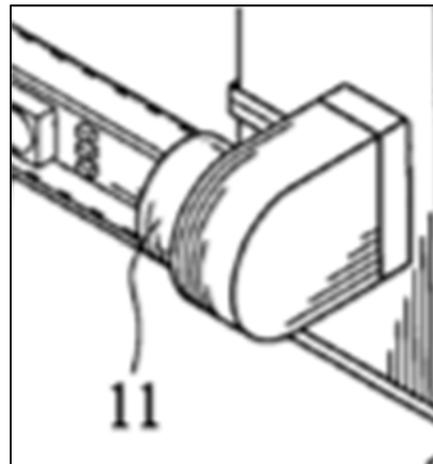
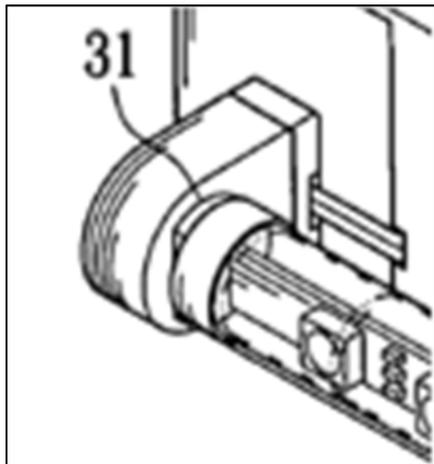
The Second Limitation is met by the Huang Reference’s Disclosure

38. The second limitation of Claim 1 recites

one and only one end cap at each of said opposite end portions of said elongate support member, each of said end caps having an inwardly-facing side and an outwardly-facing side, said inwardly-facing sides configured to frictionally engage and be supported at a respective one of said opposite end portions of said elongate support member

39. This limitation is met by the Huang Reference as found in Figures 1, 3, 4 & 5 as well as various paragraphs from the reference.

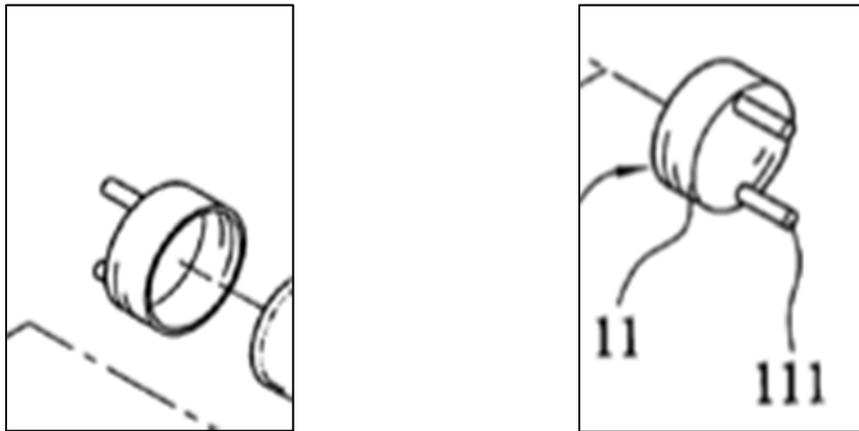
40. Two details from Figure 1 of the '835 Patent are reproduced below, showing one end cap on each of the respective ends of the elongate support member.



Figures b. and c. Details from Figure 1 of the '835 Patent showing the end caps on each of the respective ends of the elongate support member."

41. In accordance with the Huang Reference, "the end caps 11 are respectively capped on the two distal ends of the tube 1 to hold the circuit board 2 firmly inside the tube 11." (*Id.* at ¶20.) Thus, the Huang Reference discloses one end cap at each end of the elongate support member.

42. Additionally, the end caps have an inwardly and outwardly facing side, as demonstrated by details from Figure 4 below.



Figures d. and e. Details of Figure 4 of the '835 Patent showing the inwardly facing side and outwardly facing sides of the end caps.

43. The inwardly-facing sides of the two end caps, denoted by number 11, are disposed opposite the mounting pins, denoted by number 111. The outwardly-facing sides are disposed where the mounting pins project from the end cap.

44. Finally, with respect to this limitation, the Huang reference discloses "inwardly-facing sides configured to frictionally engage and be supported at a respective one of said opposite end portions of said elongate support member" required by this second limitation. This is made clear in Paragraph 20 of the Huang

Reference. According to this Paragraph, “the end caps 11 . . . *hold the circuit board 2 firmly* inside the tube 11.” (Ex. II, the Huang Reference, at ¶ 20 (emphasis added).) This holding firmly of the circuit board (the elongate support member) by the end caps meets requirement that the end caps “frictionally engage and be supported at a respective one of said opposite end portions of said elongate support member.”

45. Thus, the Huang Reference discloses the second limitation of Claim 1 of the '835 Patent.

The Third Limitation is met by the Huang Reference's Disclosure

46. The third limitation of claim 1 of the '835 Patent recites

a mechanical coupling element at each of said outwardly-facing sides of said end caps, said mechanical coupling element configured to engage a single electro-mechanical mount for a gas-discharge lamp, wherein said mechanical coupling element comprises electrically insulative material and does not retain any electrical conductors along or through said mechanical coupling element for powering the plurality of electric lamp units;

47. As noted above and in Figures d. and e., there are mounting pins on each of the outwardly-facing sides of the end caps. Further, these mounting pins are “configured to engage a single electro-mechanical mount for a gas-discharge lamp” as explained in the Abstract of the Huang Reference as well as Paragraphs 7, 8, 19 and 24.

48. The Abstract of the Huang Reference describes two end caps “connectable to connectors of a conventional fluorescent bulb holder to secure the tube to the conventional fluorescent bulb holder.” Further, additional paragraphs of the Huang Reference reiterate and clarify how the end caps are connectable as follows:

- It is the main object of the present invention to provide an LED lamp tube, which is directly connectable to a conventional fluorescent bulb holder to substitute for a fluorescent bulb, (*id.* at ¶ 7);
- To achieve these and other objects of the present invention, the LED lamp tube comprises . . . two end caps . . . connectable to a conventional fluorescent bulb holder to substitute for a fluorescent bulb holder to secure the tube to the conventional fluorescent bulb holder, (*id.* at ¶ 8);
- Referring to Figs. 1 and 2, an LED lamp tube in accordance with the present invention is shown connectable to connectors 31 of a conventional fluorescent bulb holder 3, (*id.* at ¶ 19);
- The end caps 11 each have mounting pins 111 for installation in the connectors 31 of the fluorescent bulb holder 3, (*id.*); and
- Each end cap 11 of the LED lamp tube according to this embodiment has a set of mounting pins 111 adapted to fit different [] connectors 31 of any of a variety of conventional fluorescent bulb holders 3. (*Id.* at ¶ 24.)

49. Finally, the LEDs disclosed in the Huang Reference are powered by an electrical cord separate and apart from the mounting pins and end caps as disclosed in Figures 2, 3, 6 and 7 and described in Paragraphs 8 and 19. Each of Paragraphs 8 and 19 describe a power cord extending from at least one circuit board for connection to a power supply to obtain the necessary working voltages for the LEDs. (*See* Ex. II, the Huang Reference, at ¶¶ 8 & 19.)

50. Thus, the third limitation of Claim 1 of the '835 Patent is met by the Huang Reference.

The Fourth Limitation is met by the Huang Reference's Disclosure

51. The fourth limitation of Claim 1 recites “wherein said elongate support member and said end caps are releasably supportable by and between two and only two of the mounts when the two mounts are aligned directly opposite one another and supported in spaced arrangement on respective frame portions of the sign.”

52. This limitation is met by the disclosures in at least Figures 1 and 2 and described in Paragraphs 7, 8, 19, 21, 24 and 25 of the Huang Reference. As noted above, with respect to limitation 3, the Huang Reference discloses a lamp tube connectable to conventional fluorescent bulb holders. (*Supra* at ¶¶ 48.)

53. Further, in Paragraph 21, the Huang Reference makes clear that the end caps are releasably supportable stating

When one or some of the LEDs 21 failed, *the user can detach the LED lamp tube from the fluorescent bulb holder 3*, and then open one end cap 11 from the tube 1, and then remove the circuit board 2 out of the tube 1. After replacement of the failed LED(s) 21 with new LED(s), the circuit board 2 is put in the tube 1 again, and then the respective end cap 11 is fastened to the tube 1, and *then the LED lamp tube is installed in the fluorescent bulb holder 3 again*.

(Ex. II, the Huang Reference, at ¶ 21 (emphases added).)

54. Finally, the Huang Reference discloses the use of the LED lamp tube “in any of a variety of wall lamps, desk lamps, exhibition lamps, art lamps, projection lamps, car lamps, advertising lights, light signboards, and etc.” (*Id.* at ¶ 25.)

55. Therefore, the Huang Reference meets each and every limitation of Claim of the '835 Patent and the '835 Patent is invalid pursuant to 35 U.S.C. § 102(b).

The Withers Reference Invalidates the '835 Patent Pursuant to 35 U.S.C. § 102(e)

56. Section 102(e) provides

A person shall be entitled to a patent unless . . . the invention was described in - . . . a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent

35 U.S.C. § 102(e).

57. The Withers Reference, United States Patent No. 8,419,223 issued on April 16, 2013 and has a priority date of April 23, 2009. On information and belief, April 23, 2009 is before Mr. Breihof invented the claimed invention of the '835, making it prior art to the '835 Patent pursuant to 35 U.S.C. § 102(e).

The Preamble is not Limiting.

58. The preamble of Claim 1 of the '835 patent recites: “A lamp support assembly for interior lighting of a sign, said lamp support assembly comprising:” In this case, the preamble is not a limitation.

The First Limitation is met by the Withers Reference's Disclosure

59. The first limitation of Claim 1 recites “an elongate support member for supporting a plurality of electric lamp units, said elongate support member having opposite end portions.”

60. This limitation is met by the heat sink base plate 22 and the LED light sources 28, to which a “number of LED light sources are attached.” (Ex. IV, the Withers Reference, at col. 1, l. 65 – col. 2, l.1.) As illustrated in Figures 2 and 5, the elongate support member has opposite end portions, which are attached to the dummy end caps. (*Id.* at col. 1, ll. 63-64.)

61. Thus, the first limitation of the '835 Patent is met by the Withers Reference.

The Second Limitation is met by the Withers Reference's Disclosure

62. The second limitation of Claim 1 recites

one and only one end cap at each of said opposite end portions of said elongate support member, each of said end caps having an inwardly-facing side and an outwardly-facing side, said inwardly-facing sides configured to frictionally engage and be supported at a respective one of said opposite end portions of said elongate support member

63. This limitation is met by the Withers Reference as found in Figures 1, 3, 4 & 5 as well as various paragraphs from the reference.

64. Figures 2 & 5 disclose this limitation. Further, the Abstract and Summary provide additional support:

- The LED light tube includes end caps with electrodes at each end, with the electrodes providing physical mounting structure to mount the LED light tube in an existing LED light fixture, (Abs.);
- At one end of the tube body is a first dummy end cap and at the other end is a second dummy end cap, (*id.* at col 1, ll. 58-60); and
- Attached to the tube body is a heat sink base plate, which is attached to the first and the second dummy end caps. (*Id.* at col. 1, ll. 63-64.)

65. As noted above, the heat sink base plate is attached to the first and second dummy end caps. (Ex. IV, the Withers Reference, at col. 1, ll. 63-64.) Where the end caps attach to the heat sink base plate is the inwardly-facing side, (*id.*), while the outwardly-facing side is the opposite side of the end cap where the electrodes are. (*Id.* at Abs.)

66. Thus, the Withers Reference discloses the second limitation of Claim 1 of the '835 Patent.

The Third Limitation is met by the Withers Reference's Disclosure

67. The third limitation of claim 1 of the '835 Patent recites

a mechanical coupling element at each of said outwardly-facing sides of said end caps, said mechanical coupling element configured to engage a single electro-mechanical mount for a gas-discharge lamp, wherein said mechanical coupling element comprises electrically insulative material and does not retain any electrical conductors along or through said mechanical coupling element for powering the plurality of electric lamp units;

68. As noted in the Abstract, the Withers Reference discloses electrodes on the dummy end caps that provide “physical mounting structure to mount the LED light tube in an existing LED light fixture.” Further, Figure 5 of the Withers Reference discloses that there are no electrical conductors along or through the electrodes for powering the electrical lamps as shown below.

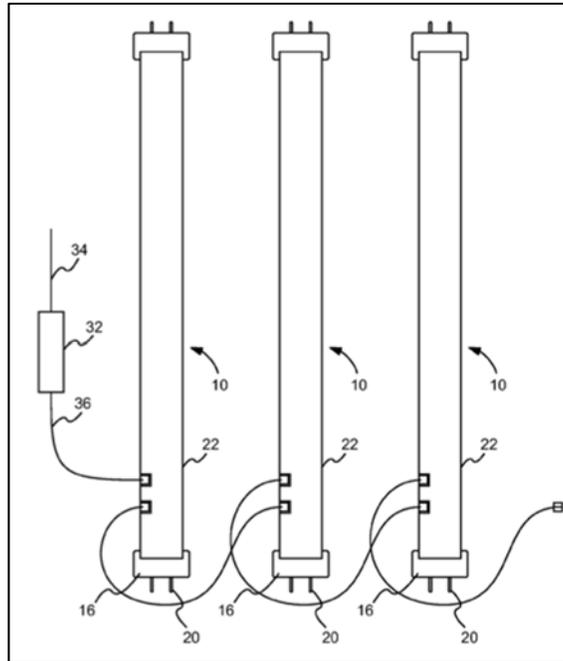


Fig. f. A Reproduction of Figure 5 from the Withers Reference.

69. Instead of powering the LEDs (electrical lamps) through the electrodes, element 38, provides as power in a daisy chain from one tube to another. In the specification, the Withers Reference describes Figure 5 as

a view of the light tube of the invention in which the power input to the light tubes 10 enters the tube at the side, rather than at the end caps. In this configuration, the electrodes are still not electrically active, but are present for mounting the light tube to the lighting fixture. The tubes of FIG. 5 are chained together so that one light source powers multiple light tubes.

(*Id.* at col. 4, ll. 13-19; *see also id.* at col. 2, ll. 25-33, col. 3, ll. 26-33.)

70. Finally, the Withers reference discloses that the electrode pins “are proportioned so that they fit in a standard fluorescent light fixture, but they are electrically non-active.” (Ex. IV, the Withers Reference, at col. 1, ll. 61-62.)

71. Thus, the Withers Reference meets the third limitation of the '835 Patent.

The Fourth Limitation is met by the Withers Reference's Disclosure

72. The fourth limitation of Claim 1 recites "wherein said elongate support member and said end caps are releasably supportable by and between two and only two of the mounts when the two mounts are aligned directly opposite one another and supported in spaced arrangement on respective frame portions of the sign."

73. This limitation is disclosed by Figure 5 of the Withers Reference and within the Withers Reference specification when it describes the electrodes as "merely there for physically connecting the LED lighting tube 10 with the fluorescent light fixture, and specifically with the tombstone or other light connections that are used with the fluorescent light structure." (*Id.* at col. 3, ll. 29-33; *see also id.* at col. 1, ll. 37-38 (noting the huge variety of light boxes in which fluorescent lights and thus the invention disclosed in the Withers Reference could be used.)

74. For at least these reasons, the Withers Reference discloses the fourth limitation of claim 1 of the '835 Patent.

75. Therefore, the Withers Reference meets each and every limitation of Claim of the '835 Patent and the '835 Patent is invalid pursuant to 35 U.S.C. § 102(e).

The Huang Reference, the Withers Reference and/or the Cross Reference, in Some Combination, Invalidate the '835 Patent Pursuant to 35 U.S.C. § 103

76. As noted *supra* the Huang Reference and Withers Reference Claim 1 of the '835 Patent on their own. To the extent that any single limitation is missing from either reference, the two references together, each reference with the Cross Reference

or all three references in combination would render the patent obvious and invalid pursuant to 35 U.S.C. § 103.

77. A person of ordinary skill in the art would be motivated to combine the Huang Reference, the Withers Reference and/or the Cross Reference at least because each reference deals with retrofit light sources for lighting devices with two fittings for each light source, e.g. for substitution of fluorescent tubes.

78. Therefore, the '835 Patent is invalid as obvious pursuant to 35 U.S.C. § 103.

79. Because the '835 Patent is invalid as anticipated under § 102(b) and § 102(e) and is also obvious pursuant to § 103, the Court should render judgment reflecting this fact.

COUNT II: NON-INFRINGEMENT OF UNITED STATES PATENT NO. 9,311,835

80. Plaintiff refers to and incorporates herein all the allegations of the previous Paragraphs.

81. In the Qureshi Letter, RetroLED is only accused of infringement pursuant to 271(c), contributory infringement. (Ex. V, Qureshi Letter, at 1.) For that reason, RetroLED is only seeking a declaration that it does not contributorily infringe the '835 Patent—and only that it does not contributorily infringe.

82. 35 U.S.C § 271(c) provides that

Whoever offers to sell or sells within the United States or imports into the United States a component of a patented machine, manufacture, combination or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not

a staple article or commodity of commerce suitable for substantial noninfringing use, shall be liable as a contributory infringer.

83. In the letter, Mr. Qureshi states that “there is no substantial non-infringing use” for the end caps provided by RetroLED. Because Principal Lighting, through Mr. Qureshi, is only accusing Retro LED of contributory infringement, the dispositive question is whether the accused RetroLED end caps, EC-T-12 HO and TOREC, have no substantial non-infringing use.

84. The accused devices have substantial non-infringing use. Specifically, the accused end caps could at the very least be used by the inventions disclosed in the Huang Reference, the Withers Reference and/or the Cross Reference.

85. Because there are substantial non-infringing uses for the accused end caps, Retro LED is entitled to a declaration that it does not contributorily infringe the '835 Patent and respectfully request this Court provide such a declaration.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff RetroLED Components, LLC demands a trial by jury for all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff RetroLED Components, LLC respectfully requests this Court enter judgment in its favor against Principal Lighting Communications, LLC, granting the following relief:

- A. For a declaration that the '835 Patent is invalid pursuant to 35 U.S.C. § 102 and § 103;

- B. For a declaration that RetroLED does not contributorily infringe the '835 Patent pursuant to 35 U.S.C. § 271(c);
- C. An award of RetroLED Components, LLC's costs of suit and reasonable attorneys' fees pursuant to 35 U.S.C. § 285, or as otherwise permitted by law; and
- D. Any further relief this Court deems just and proper.

Respectfully submitted,

Dated: February 23, 2018

/s/ J. Scott Denko

J. Scott Denko

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