

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

FILED - CLERK
U.S. DISTRICT COURT
2010 MAY 26 AM 10:51

Bluestone Innovations Texas, L.L.C.)
)
Plaintiff,)
v.)
)
OSRAM GMBH;)
OSRAM OPTO SEMICONDUCTORS GMBH)
& CO.;)
OSRAM SYLVANIA INC.; AND)
SEMILEDS INC.)
)
Defendants.)

TX EASTERN-MARSHALL

BY _____

C. A. No. **2 - 1 0 C V - 1 7 2**

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Bluestone Innovations Texas, L.L.C. (“Bluestone”), for its Complaint against Defendants OSRAM GmbH, OSRAM Opto Semiconductor GmbH & Co., OSRAM Sylvania Inc., and SemiLEDs Inc. (collectively “Defendants”), by and through its attorneys, alleges as follows:

I. THE PARTIES

1. Plaintiff Bluestone is a Texas limited liability company located at 350 N. St. Paul Street, Dallas, Texas.

2. On information and belief, OSRAM Gesellschaft mit beschränkter Haftung a.k.a. OSRAM GmbH (“OSRAM”) is a foreign corporation under the laws of Germany with a principal place of business located at Hellabrunner Strasse 1, 81543 Munich, Germany.

3. On information and belief, OSRAM has subsidiaries including OSRAM Opto Semiconductor GmbH & Co. (“OSRAM OS”) and OSRAM Sylvania Inc. (“OSI”) in the United States.

4. On information and belief, OSRAM OS is a foreign corporation under the laws of Germany with a principal place of business located at Leibnizstr. 4, Regensburg, Bayern 93055, Germany.

5. On information and belief, OSRAM OS has facilities in San Jose/Santa Clara, California.

6. On information and belief, OSI is the North American business of OSRAM GmbH of Germany with a principal place of business located at 100 Endicott Street, Danvers, MA 01923.

7. On information and belief, OSI has offices or employees in Dallas, Houston, and San Antonio, Texas.

8. On information and belief, SemiLEDs Inc. ("SemiLEDs") is a corporation incorporated under the law of Idaho with a principal place of business located at 999 Main Street, Suite 1010, Boise, ID 83702, USA.

II. JURISDICTION AND VENUE

9. This is an action for patent infringement arising under the patent laws of the United States (Title 35 of the United States Code). The Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a). On information and belief, Defendants are subject to this Court's specific and general personal jurisdiction, pursuant to due process and/or the Texas Long Arm Statute, due at least to their substantial business in this forum, including at least a portion of the infringements alleged herein. On information and belief, within this district Defendants, directly and/or through intermediaries, have advertised (including through websites), offered to sell, sold and/or distributed infringing products, and/or have induced the sale and use of infringing products. Further, on information and belief, Defendants are subject to the Court's general jurisdiction, including from regularly doing or soliciting business, engaging in other

persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas.

10. On information and belief, OSRAM regularly imports its product into the United States through, for example, the port of Huston, Texas.

11. On information and belief, OSI has offices or employees in Dallas, Texas, Houston, Texas, and San Antonio, Texas.

12. On information and belief, SemiLEDs sells or offers to sell its product to customers located in Texas, for example, Houston, Texas.

13. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). On information and belief, from and within this Judicial District each Defendant has committed at least a portion of the infringements at issue in this case. Without limitation, within this district Defendants, directly and/or through intermediaries, have advertised (including through websites), offered to sell, sold and/or distributed infringing products, and/or have induced the sale and use of infringing products.

III. FACTUAL ALLEGATIONS

A. The Patent-in-Suit

14. Bluestone owns patents relating to leading edge technologies for fabricating nitride films that can be used in optoelectronic devices including light emitting diodes (“LEDs”) and edge and surface emitting laser diodes.

15. United States Patent No. 6,448,102 (the “‘102 Patent”) entitled “Method for Nitride Based Laser Diode With Growth Substrate Removed” was duly and legally issued by the United States Patent and Trademark Office on September 10, 2002. A copy of the ‘102 Patent is attached hereto as Exhibit A.

16. Bluestone is the owner of the '102 Patent by virtue of an assignment and owns all rights and title to the '102 Patent.

B. Infringement of the Patent-in-Suit by OSRAM, OSRAM OS and OSI

17. On information and belief, OSRAM, OSRAM OS and OSI have been and are engaged in the manufacture, importation, offering for sale, and/or sale of optoelectronic devices including laser diodes and nitride based laser diodes, for example, model no. G6SG, throughout the United States, including in this Judicial District, which lead to and did cause direct or indirect infringement of the patent at issue in this lawsuit.

18. On information and belief, OSRAM, OSRAM OS and OSI are jointly and severally liable for their individual and collective acts taken in furtherance of the manufacture, importation, offering for sale, or sale of optoelectronic devices including laser diodes and nitride based laser diodes in the United States, which include, but not limited to, model no. G6SG.

C. Infringement of the Patent-in-Suit by Semileds

19. On information and belief, Semileds has been and is engaged in the manufacture, importation, offering for sale, and/or sale of LED chips including blue LEDs model no. SL-V-B15AA or SL-V-B40AC throughout the United States, including in this Judicial District, which lead to and did cause direct or indirect infringement of the patent at issue in this lawsuit.

**CAUSE OF ACTION
(INFRINGEMENT OF THE '102 PATENT)**

20. Bluestone realleges and incorporates by this reference each and every allegation set forth in the preceding paragraphs 1 through 19 as if fully set forth here.

21. Defendants have committed acts which include manufacturing, using, selling, offering to sell, or importing into the United States, a product that infringes one or more claims of the '102 Patent.

22. As a direct and proximate result of Defendants' infringement, Bluestone will continue to suffer serious irreparable injury and damages for which Bluestone is entitled to relief.

23. As a direct and proximate result of Defendants' infringement, Bluestone will continue to suffer serious irreparable injury and damages unless Defendants' infringement is enjoined.

24. On information and belief, Defendants' infringement of the '102 Patent has been willful and deliberate, without license, and with full knowledge of the '102 Patent.

PRAYER FOR RELIEF

WHEREFORE, Bluestone respectfully requests that this Court enter judgment in its favor and against Defendants and grant the following relief:

A. That this Court adjudge and decree that each of the Defendants has been and is currently infringing, inducing others to infringe, and/or committing acts of contributory infringement with respect to the '102 Patent;

B. That this Court enter an order that each of the Defendants and its officers, agents, servants, employees, successors and assigns, and those persons acting in concert with them, be preliminary and permanently enjoined from infringing, inducing other to infringe, and/or committing acts of contributory infringement with respect to the '102 Patent;

C. That this Court award damages to Bluestone to compensate it for each of the unlawful actions set forth in Bluestone's complaint;

D. That this Court award interest on such damages to Bluestone;

E. That this Court treble the damages award to Bluestone pursuant to 35 U.S.C. § 284 and 271 (a), (b), and (c);

F. That this Court determine that this patent infringement case is exceptional and award Bluestone its costs and attorneys' fees incurred in this action pursuant to 35 U.S.C. § 285; and

G. That this Court award such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff respectfully requests a trial by jury on all issues triable thereby.

Respectfully submitted,

SMITH & GILSTRAP

By: /s/ J. Rodney Gilstrap

J. RODNEY GILSTRAP

P.O. Drawer A

Marshall, TX 75671

903-938-8321

903-938-8331 (fax)

gilstrap1957@yahoo.com

ATTORNEY FOR BLUESTONE
INNOVATIONS TEXAS, L.L.C.