

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

HARVATEK CORPORATION,

Plaintiff,

v.

**NICHIA CORPORATION AND NICHIA
AMERICAN CORPRATION,**

Defendants.

Civil Action No. 6:13-cv-901

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement in which Harvatek Corporation (“Harvatek” or “Plaintiff”) makes the following allegations against Nichia Corporation (“Nichia Corp.”) and Nichia America Corporation (“Nichia America”) (collectively, “Defendants”):

PARTIES

1. Plaintiff Harvatek is a Taiwanese corporation, with its principal place of business located at No.18, Lane 522, Sec.5, Chung Hwa Road, Hsinchu City 30094, Taiwan (R.O.C.).

2. Harvatek was founded in 1995 in Hsinchu, Taiwan. The company is principally engaged in the research, development, design, and manufacturer of semiconductor chips and light emitting diode (LED) packages. Harvatek’s products are used as luminous sources for communication products, information technology products, household appliances, automobiles, security products, among others.

3. On information and belief, Defendant Nichia Corp. is a corporation organized under the laws of Japan with its principal place of business at 491 Oka, Kaminaka-Cho, Anan-

Shi, TOKUSHIMA 774-8601, Japan. On information and belief, Nichia Corp. may be served via office or director at the above address.

4. On information and belief, Nichia America is a subsidiary of Nichia Corp. and a corporation organized under the laws of the state of Michigan with its principle place of business at 48561 Alpha Drive, Ste. 100, Wixom, MI 48393. Nichia America may be served via its registered agent: Susumu Wako, 48561 Alpha Drive., Ste. 100, Wixom, MI 48393.

JURISDICTION AND VENUE

5. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, each Defendant has transacted business in this district, and has committed and/or induced acts of patent infringement in this district.

7. On information and belief, each Defendant is 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 its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) 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 and in this Judicial District. Furthermore, Nichia Corp has previously availed itself of the jurisdiction of this Court by bringing suit in the Eastern District of Texas.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 6,008,529

8. Plaintiff is the owner by assignment of United States Patent No. 6,008,529 (“the ’529 Patent”) titled “Laser Diode Package.” The ’529 Patent issued on December 28, 1999. A true and correct copy of the ’529 Patent is attached as Exhibit A.

9. Upon information and belief, Defendants directly or through intermediaries have been and are now infringing the ’529 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, making, using, providing, supplying, distributing, selling, and/or offering for sale products and/or systems (including at least its model numbers NCSU034B, NCSU033B, NSSU123, NSSU100D, and NSSU100C) that includes a package comprising, a substrate on which a laser diode is mounted on, a first and second plated-through conduit each having one end connected to a first and second bonding pad and another end connected to a first and second circuit contact as covered by one or more claims of the ’529 Patent. Defendants are directly infringing, literally infringing, and/or infringing the ’529 Patent under the doctrine of equivalents. Defendants are thus liable for infringement of the ’529 Patent pursuant to 35 U.S.C. § 271.

10. On information and belief, to the extent any marking was required by 35 U.S.C. § 287, all predecessors in interest to the ’529 Patent complied with any such requirements.

11. As a result of Defendants’ infringement of the ’529 Patent, Plaintiff has suffered monetary damages and is entitled to a money judgment in an amount adequate to compensate for Defendants’ infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendants, together with interest and costs as fixed by the court, and Plaintiff will continue to suffer damages in the future unless Defendants’ infringing activities are enjoined by this Court.

12. Unless a permanent injunction is issued enjoining Defendants and their agents, servants, employees, representatives, affiliates, and all others acting on in active concert therewith from infringing the '529 Patent, Plaintiff will be greatly and irreparably harmed.

COUNT II
INFRINGEMENT OF U.S. PATENT NO. 6,300,674

13. Plaintiff is the owner by assignment of United States Patent No. 6,300,674 ("the '674 Patent") titled "Flat Package for Semiconductor Diodes." The '674 Patent issued on October 9, 2001. A true and correct copy of the '674 Patent is attached as Exhibit B.

14. Upon information and belief, Defendants directly or through intermediaries have been and are now infringing the '674 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, making, using, providing, supplying, distributing, selling, and/or offering for sale products and/or systems (including at least its model numbers NSSM032, NSSM227A, NSSW064A, NSSB064, NSSR064, NESW064A, NESL064A, NESB064, NESG064, NESA064, NHSW064, NHSL064, NHSB064, NHSG064, NSSW063A, NHSW046A, NHSB046A, NHSW046, NHSL046, NHSB046, NHSG046, NHSA046, and NHSW046H) that includes a flat package comprising, a semiconductor diode with a top and bottom surface and two electrodes, two contact pads for electrically connecting with the package, and a protective glue covering the diode and contact pads as covered by one or more claims of the '674 Patent. Defendants are directly infringing, literally infringing, and/or infringing the '674 Patent under the doctrine of equivalents. Defendants are thus liable for infringement of the '674 Patent pursuant to 35 U.S.C. § 271.

15. On information and belief, to the extent any marking was required by 35 U.S.C. § 287, all predecessors in interest to the '674 Patent complied with any such requirements.

16. As a result of Defendants' infringement of the '674 Patent, Plaintiff has suffered monetary damages and is entitled to a money judgment in an amount adequate to compensate for Defendants' infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendants, together with interest and costs as fixed by the court, and Plaintiff will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court.

17. Unless a permanent injunction is issued enjoining Defendants and their agents, servants, employees, representatives, affiliates, and all others acting on in active concert therewith from infringing the '674 Patent, Plaintiff will be greatly and irreparably harmed.

COUNT III
INFRINGEMENT OF U.S. PATENT NO. 6,841,934

18. Plaintiff is the owner by assignment of United States Patent No. 6,841,934 ("the '934 Patent") titled "White Light Source from Light Emitting Diode." The '934 Patent issued on January 11, 2005. A true and correct copy of the '934 Patent is attached as Exhibit C.

19. Upon information and belief, Defendants directly or through intermediaries have been and are now infringing the '934 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, making, using, providing, supplying, distributing, selling, and/or offering for sale products and/or systems (including at least its model numbers NFSW157A, NFSW157A-H3, NS2W157AR, NS2W157AR-H3, NSSW157A, NSSW157-H3, NESW157B, NHSW157B, NSSW757A-V1, NS2W757A-V1, NF2W757AR-V1, NVSW119B, NVSW219B, NJSW172, NFSW172, NSSW064A, NESW064A, NHSW064, NSSW063A, NHSW046A, NHSW046, NHSW046H, NSSW088A, NSSW129, NNSW208C, NSSW206C, NSSW204C, NS2W157BR, NSSW157B, NESW157B, NF2W557BR, and NS2W557BR) that include a light emitting diode, having a light emitting diode chip, a bottom electrode, a second

electrode, emitting a short wavelength color light, a split metal substrate with a first and second metal sections, connected to the first and second electrodes, a fluorescent glue covering the LED chip converting the short wavelength color light into white light, and terminals for said LED formed by the outer ends of the first and second metal section, not covered by said fluorescent glue as covered by one or more claims of the '934 Patent. Defendants are directly infringing, literally infringing, and/or infringing the '934 Patent under the doctrine of equivalents. Defendants are thus liable for infringement of the '934 Patent pursuant to 35 U.S.C. § 271.

20. On information and belief, to the extent any marking was required by 35 U.S.C. § 287, all predecessors in interest to the '934 Patent complied with any such requirements.

21. As a result of Defendants' infringement of the '934 Patent, Plaintiff has suffered monetary damages and is entitled to a money judgment in an amount adequate to compensate for Defendants' infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendants, together with interest and costs as fixed by the court, and Plaintiff will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court.

22. Unless a permanent injunction is issued enjoining Defendants and their agents, servants, employees, representatives, affiliates, and all others acting on in active concert therewith from infringing the '934 Patent, Plaintiff will be greatly and irreparably harmed.

COUNT IV
INFRINGEMENT OF U.S. PATENT NO. D659,655

23. Plaintiff is the owner by assignment of United States Patent No. D659,655 ("the '655 Patent") titled "Led Package Base." The '655 Patent issued on May 15, 2012. A true and correct copy of the '655 Patent is attached as Exhibit B.

24. Upon information and belief, Defendants directly or through intermediaries have been and are now infringing the '655 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, making, using, providing, supplying, distributing, selling, and/or offering for sale products and/or systems (including at least its model numbers NNSW208C, NNSW206C, and NNSW204C) which embody the design covered by the '655 Patent.

25. Defendants' products including at least its model numbers NNSW208C, NNSW206C, and NNSW204C) infringe the '655 Patent because they include substantially the same design elements as claimed and shown in at least Figures 1-3, and 6-8 of the '655 Patent. The Accused Products include substantially the same packaging elements as shown and claimed in the '655 Patent

26. On information and belief, to the extent any marking was required by 35 U.S.C. § 287, all predecessors in interest to the '655 Patent complied with any such requirements.

27. As a result of Defendants' infringement of the '655 Patent, Plaintiff has suffered monetary damages and is entitled to a money judgment in an amount adequate to compensate for Defendants' infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendants, together with interest and costs as fixed by the court, and Plaintiff will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court.

28. Unless a permanent injunction is issued enjoining Defendants and their agents, servants, employees, representatives, affiliates, and all others acting on in active concert therewith from infringing the '655 Patent, Plaintiff will be greatly and irreparably harmed.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter:

1. A judgment in favor of Plaintiff that Defendants have infringed the '674, '934, and '655 Patents;
2. A permanent injunction enjoining Defendants and their officers, directors, agents servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement, inducing the infringement of, or contributing to the infringement of the '674, '934, and '655 Patents, or such other equitable relief the Court determines is warranted;
3. A judgment and order requiring Defendants pay to Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for Defendants' infringement of the '674, '934, and '655 Patents as provided under 35 U.S.C. § 284, and an accounting of ongoing post-judgment infringement; and
4. Any and all other relief, at law or equity, to which Plaintiff may show itself to be entitled.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

DATED November 22, 2013

Respectfully submitted,

By: \s\ Hao Ni

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