**IN THE UNITED STATES DISTRICT COURT**
**FOR THE EASTERN DISTRICT OF VIRGINIA**
**ALEXANDRIA DIVISION**

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| APPOTRONICS CORPORATION LIMITED,<br><br>*Plaintiff*,<br><br>v.<br><br>DELTA ELECTRONICS, INC.,<br><br>*Defendant*. | Civil Action No. 19-cv-1165<br><br>**COMPLAINT AND DEMAND FOR JURY TRIAL** |

## COMPLAINT

Plaintiff Appotronics Corporation Limited ("Appotronics"), by and through its undersigned counsel, files this complaint under 35 U.S.C. § 256 for Correction of Patent Inventorship against Defendant Delta Electronics, Inc. ("Delta"), and further alleges as follows, upon actual knowledge with respect to itself and its own acts, and upon information and belief as to all other matters. Appotronics seeks relief from this Court because Delta misappropriated Appotronics' technology by secretly filing a patent application based on technology provided by Appotronics, naming Delta employees rather than the true inventors from Appotronics. Appotronics seeks recovery of its intellectual property rights which have been wrongfully taken by Delta and correction of inventorship of the resulting patent, U.S. Patent No. 9,024,241 ("the '241 Patent"), under Section 256.

## OVERVIEW

1. This is an action for correction of patent inventorship by Appotronics.

2. Appotronics is a world leader in laser display technology for projectors and televisions for an array of applications, including movie theatres, corporate installations, and other

large venues. The mission of the company is to focus on research and innovation of laser display technology and products, enhance people's life quality, and satisfy new requirements for information displays in the high-speed communication and artificial intelligence era.

3. The company was founded in 2006 by Dr. Yi Li, who built the company by leveraging his experience in illumination and display technology and with the goal of delivering the highest quality display technology in the world. In 2007, Appotronics invented the first blue laser-based phosphors laser display technology with commercial potential which is called ALPD®. ALPD® generates images using laser-excited fluorescent materials and mixed multi-color laser lines.

4. Appotronics' ALPD® technology is a major breakthrough that overcomes the limitations of light sources like mercury-based lamps and light emitting diodes (LEDs). It also overcomes the problem of speckle in a traditional system that uses separate red, green, and blue laser sources to generate an image.This has led to significant reduction in cost and improvements in efficiency and reliability, making Appotronics' technology one of the most innovative laser display technologies in the world.

5. In the years since, Appotronics has continuously improved its ALPD® technology, enabling it to deliver increasingly higher levels of brightness and of color reproduction accuracy.

6. In 2010, aware of Appotronics' expertise in the field of laser displays, Delta approached a then-affiliate of Appotronics, Appotronics (China) Corporation ("Appotronics (China)"), which has since changed its name to YLX Incorporated ("YLX"), in order to improve the light source being used in Delta's projectors. In this project, YLX was responsible for performing engineering work to design a light source to replace the light source in Delta's projectors in order to achieve certain target performance levels.

7. The parties executed a confidentiality agreement effective July 22, 2010, and work on this project began around January 2011, led by Drs. Li and Fei Hu, who worked at that time at YLX.

8. From the beginning of the project through August 2011, YLX made several disclosures of its light source designs to Delta, including 3D drawings and prototypes, that, among other things, fully described the inventions later disclosed and claimed in the '241 Patent, assigned to Delta.

9. Around August 21, 2011, Delta engineers visited YLX to discuss the project. On or about August 23, 2011, YLX demonstrated a working prototype using a light source module that embodied the key invention claimed by the '241 Patent. Delta was given possession of the prototype, as confirmed by a receipt signed by Delta, which enabled Delta to examine and study the system in detail.

10. On the next day, August 24, 2011, Kirk Chang, a representative of Delta, emailed Dr. Yi Li to discuss delaying the demonstration of the projector with the new light source at a trade show, expressing excitement about YLX's invention, but wanting to not yet make it public. Mr. Chang further suggested that the parties jointly file for IP protection based on the light source prototype disclosed by YLX.

11. Dr. Li immediately replied on August 25, 2011, and warned Delta not to pursue patent rights on the invention, which was created solely by YLX employees and afterwards shown to representatives of Delta.

12. On September 22, 2011, less than one month after receiving the working prototype and other detailed information about YLX's improved illumination system, Delta, secretly and without notice to YLX, filed a United States provisional patent application for the subject matter

invented by Drs. Li and Hu and previously disclosed to Delta. This application was given U.S. Provisional Application No. 61/537,687 ("the '687 Provisional Application").

13. Delta falsely named its own employees as inventors on the '687 Provisional Application, listing project head Kirk (Keh-Su) Chang and employees Bor Wang and Chien-Hao Hua as the only inventors. The '687 Provision Application (and all applications claiming priority to it) fail to list any of the true inventors of this subject matter from YLX. Delta's actions were intentional, willful and malicious, as it was fully aware of the roles of Drs. Hu and Li in inventing the improved illumination system claimed in the '687 Provisional Application. Further, the filing of the '687 Provisional Application was in breach of the Confidentiality Agreement between the parties which prohibited Delta from using confidential information obtained from YLX to advance its own business purposes.

14. The '687 Provisional Application ultimately led to the issuance of the '241 Patent. This patent recites and claims subject matter, including the improved illumination system and technology devised by YLX, which was invented solely by Drs. Hu and Li. However, Delta intentionally omitted both of these individuals as named inventors on the '241 Patent.

15. Appotronics is now seeking recovery of its valuable intellectual property which Delta has misappropriated and wrongfully converted for its own use. Appotronics is the owner by assignment of the entire interest in the '241 Patent properly attributed to the only true inventors of the patent: Drs. Fei Hu and Yi Li.

## PARTIES

16. Plaintiff Appotronics Corporation Ltd. is a Chinese corporation with a registered place of business at 21F & 22F, High-Tech Zone Union Tower, No. 63, Xuefu Road, Nanshan District, Shenzhen 518000, China.

17. On information and belief, Defendant Delta Electronics, Inc. is a Taiwanese corporation having a principal place of business located at 186 Ruey Kuang Rd., Neihu, Taipei 11491, Taiwan.

**NATURE OF THE ACTION, JURISDICTION, AND VENUE**

18. Appotronics brings this action for Correction of Patent Inventorship under the patent laws of the United States, including 35 U.S.C. § 256.

19. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the action arises under the patent laws of the United States.

20. This Court has personal jurisdiction over Delta pursuant to 35 U.S.C. § 293. Delta is the current assignee of record of the ’241 Patent. Delta does not reside in the United States, and has not filed a written designation of an agent in the United States on whom may be served process or notice of proceedings affecting the patent rights of the ’241 Patent.

21. Venue is proper in this District pursuant to 28 U.S.C. § 1391.

**COUNT I – CORRECTION OF INVENTORSHIP OF U.S. PATENT NO. 9,024,241**

22. Appotronics incorporates paragraphs 1-21 above by reference.

23. The ’241 Patent, attached hereto at Exhibit 1, issued on May 5, 2015, and is entitled “Phosphor device and illumination system for converting a first waveband light into a third waveband light which is separated into at least two color lights and projection apparatus with the same.”

24. The ’241 Patent currently lists as inventors Bor Wang, Keh-Su Chang, and Chien-Hao Hua. The ’241 Patent has been assigned to Delta.

25. The invention of the ’241 Patent was conceived and reduced to practice by Drs. Fei Hu and Yi Li, both of whom worked at YLX at the time of the invention . Drs. Hu and Li, and in

turn YLX, have assigned all rights and interest in the technology covered by the ’241 Patent to plaintiff Appotronics Corporation Ltd.

26. As recited above, from the beginning of the project through August 2011, YLX made several disclosures of its light source designs to Delta, including 3D drawings and prototypes, that, among other things, fully described the inventions later disclosed and claimed in the ‘241 Patent. Delta stole the technology provided by Appotronics and secretly, and without Appotronics’ consent, filed a patent application based on that technology in order to wrongfully claim rights to the technology.

27. Drs. Fei Hu and Yi Li are the true and sole inventors of the subject matter claimed by the ’241 Patent. Bor Wang, Keh-Su Chang, and Chien-Hao Hua are not inventors of the subject matter claimed by the ’241 Patent and were provided with this subject matter solely through their interactions with Appotronics.

28. The failure of Drs. Fei Hu and Yi Li to be identified as the inventors of the subject matter disclosed and claimed in the ’241 Patent is erroneous and occurred without any knowledge, deception, or fraud on the part of Drs. Fei Hu and Yi Li or Appotronics.

29. Appotronics is the owner by assignment of the entire interest in the ’241 Patent. The ’241 Patent should be corrected pursuant to 35 U.S.C. § 256 to identify Drs. Fei Hu and Yi Li as the true and sole inventors.

30. In the alternative, should it be determined that Drs. Hu and Li are not the sole inventors of all claims of the ’241 Patent, they at least contributed substantial aspects of the claimed subject matter of the ’241 Patent and must be added as named joint inventors with the individuals currently identified on the ’241 Patent.

## PRAYER FOR RELIEF

WHEREFORE, Appotronics prays for the following relief:

31. An order of correction naming Drs. Fei Hu and Yi Li as the sole inventors of the '241 Patent.

32. Any and all other monetary or equitable relief as this Court deems just and proper.

## JURY TRIAL DEMANDED

Appotronics hereby demands a trial by jury.

Dated: September 6, 2019

By: */s/ Gary M. Hnath*

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