

EXHIBIT H

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EVERLIGHT ELECTRONICS CO.,
LTD, and EMCORE CORPORATION,

Plaintiffs,

No. 12-cv-11758

v

NICHIA CORPORATION, and
NICHIA AMERICA CORPORATION,

Defendants.
_____ /

JURY TRIAL - VOLUME IV

EXCERPTS OF PROCEEDINGS BEFORE THE HONORABLE GERSHWIN A. DRAIN
UNITED STATES DISTRICT JUDGE
Theodore Levin United States Courthouse
231 West Lafayette Boulevard
Detroit, Michigan
Friday, April 10, 2015

APPEARANCES:

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1 later.

2 Q. Those are the ones that Nichia points, allegedly points
3 to, is that right?

4 A. That's correct.

5 Q. So let's take a look at those. Put up Defendant's
6 Exhibit 99, please.

7 Can you tell us what this document is, Doctor? Or
8 it's a picture, really. What this is, Dr. Bretschneider?

9 A. This is one of the awards Nichia talks about. It states
10 it's a testimonial for phosphor award in recognition for your
11 remarkable achievements in your research and development of
12 white LED light sources.

13 Q. What's the date of this award?

14 A. November 30th, 2001.

15 Q. And remind us how that compares to the date of the filing
16 of the '925 patent.

17 A. That was about four years later.

18 Q. So then if we look at the specific individuals at Nichia
19 who are named, how many people are named?

20 A. Ten.

21 Q. Remind us how many named inventors there are?

22 A. Four.

23 Q. Are all four named inventors listed on this, this award?

24 A. No. I believe it's -- Mr. Moriguchi's name is not on the
25 award.

1 Q. And there are how many individuals who aren't named
2 inventors listed on this award?

3 A. Seven.

4 Q. So what conclusions do you draw based on these facts about
5 the significance of this award?

6 A. I think it was for work that was well after that
7 development and it can't be tied to that.

8 Q. Okay. So if we go again to another award that Nichia
9 allegedly points to, that's Defendant's Exhibit 109, please.

10 Can you tell us what this is, Dr. Bretschneider?

11 A. This is a technical innovation award from Lightfair
12 International from 2003.

13 Q. What is Lightfair?

14 A. Lightfair is one of the largest lighting trade shows in
15 the world. At least it's the largest in the U.S.

16 Q. And again, can you tell us when this award was given?

17 A. 2003.

18 Q. What product is specifically called out as winning this
19 award?

20 A. They give a specific product number, I'm not going to go
21 through that, but it's for a warm white LED.

22 Q. Okay. And have you looked at what this specific warm
23 white LED product is?

24 A. Yes, I have.

25 Q. And what did you find out?

1 size, was anyone skeptical about combining Dr. Nakamura's blue
2 LED with a yellow phosphor in controlling the particle size?

3 A. No. Again, this was very common in the phosphor industry.

4 Q. Okay. If we go to the next factor, which is long-felt
5 need for the claimed subject matter, can you remind us when the
6 red LED came out?

7 A. In the early 1960s.

8 Q. And when the green LED came out?

9 A. By 1970.

10 Q. And then how long did it take to come up with the blue
11 LED?

12 A. More than 20 years.

13 Q. Approximately what year did the blue LED get released?

14 A. It was released 1993.

15 Q. And then the white LED came out when?

16 A. Just after that.

17 Q. So what does that tell you about long-felt need?

18 A. The real need, the desire was for the blue LED, and I
19 believe that was stated in the Nobel Prize award.

20 Q. Okay. The last, the last secondary consideration is
21 simultaneous invention. Can you first just begin by telling us
22 why simultaneous invention is important in the obviousness
23 analysis?

24 A. If different independent groups come up with something at
25 the same time, then that's a good indication that everyone had

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