

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

EVERLIGHT ELECTRONICS CO., LTD.  
and EMCORE CORPORATION,

Plaintiffs,

Civil Action No.12-cv-11758  
HONORABLE GERSHWIN A. DRAIN

v.

NICHIA CORPORATION, and  
NICHIA AMERICA CORPORATION,

Defendants and  
Counter-plaintiffs,

v.

EVERLIGHT ELECTRONICS CO., LTD.,  
EMCORE CORPORATION, and  
EVERLIGHT AMERICAS, INC.,

Counter-Defendants,  
Defendant.

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**OPINION AND ORDER DENYING DEFENDANTS' MOTION FOR JUDGMENT  
AS A MATTER OF LAW OF INFRINGEMENT [#525], DENYING PLAINTIFFS'  
MOTION FOR JUDGMENT AS A MATTER OF LAW REGARDING  
ANTICIPATION OF CLAIMS 2 AND 3 OF U.S. PATENT NO. 5,998,925 [#554],  
AND DENYING DEFENDANTS' MOTION FOR JUDGMENT AS A  
MATTER OF LAW OF VALIDITY AND/OR FOR A NEW TRIAL [#556]**

**I. INTRODUCTION**

Everlight Electronics Co., Ltd. and Emcore Corporation (collectively, "Everlight") commenced this suit seeking a declaratory judgment of non-infringement, invalidity, and unenforceability of United States Patent No. 5,998,925 (the "'925 Patent") and United States Patent No. 7,531,960 (the "'960 Patent"), which patents were issued to Nichia Corporation and/or Nichia

America Corporation (collectively, “Nichia”). The patents-in-suit relate to light emitting diode (“LED”) technology, and the parties are business competitors in the manufacture and supply of white LEDs. The suit was brought pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201, 2202, and the patent laws of the United States, 35 U.S.C. § 1 et seq. Nichia filed counterclaims against Everlight for direct and indirect infringement of the ‘925 and ‘960 Patents.

From April 7, 2015 to April 21, 2015, the first phase of the trial in this matter (“Phase I”) was conducted before a jury. On April 21, 2015 and April 22, 2015, the jury deliberated, and the jury’s verdict was announced on April 22, 2015. According to the Verdict Form for Phase I of this case (the “Verdict Form”), the jury unanimously determined that:

1. Everlight did not prove by clear and convincing evidence that claims 2 and 3 of the ‘925 patent are invalid due to anticipation;
2. Everlight proved by clear and convincing evidence that claims 2, 3 and 5 of the ‘925 patent are invalid due to obviousness;
3. Everlight did not prove by clear and convincing evidence that claims 2, 3 and 5 of the ‘925 patent are invalid due to lack of enablement;
4. Everlight proved by clear and convincing evidence that claims 2, 14 and 19 of the ‘960 patent are invalid due to obviousness; and
5. Everlight proved by clear and convincing evidence that claims 2, 14 and 19 of the ‘960 patent are invalid due to lack of enablement.

Further, because the jury determined that each of the six claims at issue were invalid for at least one reason, the jury did not have to (and the jury did not) proceed to consider or determine any of Nichia’s infringement claims against Everlight. In light of the jury’s findings, the Court entered a judgment in favor of Everlight’s claims that claims 2, 3 and 5 of the ‘925 Patent and claims 2, 14, and 19 of the ‘960 Patent are invalid. *See* Dkt. No. 524, PgID 42974. Additionally, based on the jury’s findings, the Court entered a judgment in favor of Everlight dismissing Nichia’s

counterclaims that claims 2, 3 and 5 of the '925 Patent and claims 2, 14, and 19 of the '960 Patent are infringed. *See* Dkt. No. 524, PgID 42975.

The jury was not tasked with addressing Everlight's declaratory judgment claims that the '925 Patent and the '960 Patent are unenforceable due to inequitable conduct. Instead, this Court conducted a bench trial on June 15, 16 and 18, 2015 ("Phase II") to address Everlight's claims of inequitable conduct. On October 20, 2015, the Court ruled in favor of Nichia and against Everlight on Everlight's claim for unenforceability due to inequitable conduct with respect to both the '925 Patent and the '960 Patent. *See* Dkt. No. 601.

Presently before the Court are three motions:

- A. Nichia's Motion for Judgment as a Matter of Law ("JMOL") of Infringement [#525];
- B. Everlight's Motion for Judgment as a Matter of Law Regarding Anticipation of Claims 2 and 3 of the '925 Patent [#554]; and
- C. Nichia's Motion for Judgment as a Matter of Law of Validity and/or for a New Trial [#556].

These matters are fully briefed, and the Court finds that oral argument will not aid in their resolution.

Accordingly, these matters will be resolved on the briefs submitted. *See* E.D. Mich. L.R. 7.1(f)(2).

For the reasons that follow, all three motions are DENIED.

## II. FACTUAL BACKGROUND

The '925 Patent is entitled "Light Emitting Device Having a Nitride Compound Semiconductor and a Phosphor Containing a Garnet Fluorescent Material." The '925 Patent names Yoshinori Shimizu, Kensho Sakano, Yasunobu Noguchi, and Toshio Moriguchi as inventors. The application for the '925 Patent was filed with the United States Patent and Trademark Office ("USPTO") on July 29, 1997 via United States Patent Application No. 08/902,725. The '925 Patent

issued on December 7, 1999 to assignee Nichia Kagaku Kogyo Kabushiki Kaisha (d/b/a/ Nichia Corporation).

The '960 Patent is entitled "Light Emitting Device with Blue Light LED and Phosphor Components." The '960 Patent names Yoshinori Shimizu, Kensho Sakano, Yasunobu Noguchi, and Toshio Moriguchi as inventors. The application for the '960 Patent was filed with the USPTO on March 5, 2007 via United States Patent Application no. 11/682,014. The '960 Patent issued on May 12, 2009 to assignee Nichia Corporation.

Both the '925 Patent and the '960 Patent (collectively, "the patents-in-suit") relate to LEDs that implement a gallium-nitride-based semiconductor with a phosphor. The '925 Patent focuses on the use of yttrium-aluminum-garnet ("YAG") phosphors in LEDs to create a wide range of white light. The Abstract of the '925 Patent states as follows:

The white light emitting diode comprising a light emitting component using a semiconductor as a light emitting layer and a phosphor which absorbs a part of light emitted by the light emitting component and emits light of wavelength different from that of the absorbed light, wherein the light emitting layer of the light emitting component is a nitride compound semiconductor and the phosphor contains garnet fluorescent materials activated with cerium which contains at least one element selected from the group consisting of Y, Lu, Sc, La, Gd and Sm, and at least one element selected from the group consisting of Al, Ga and In and, and [sic] is subject to less deterioration of emission characteristic even when used with high luminance for a long period of time.

The Abstract of the '960 Patent claims priority to the '925 Patent and concerns how the phosphor is distributed in the resin covering the semiconductor component. The '960 Abstract states as follows:

A light emitting device includes a light emitting component; and a phosphor capable of absorbing a part of light emitted by the light emitting component and emitting light of a wavelength different from that of the absorbed light. A straight line connecting a point of chromaticity corresponding to a peak of the spectrum generated by the light emitting component and a point of chromaticity corresponding to a peak

of the spectrum generated by the phosphor is disposed along with the black body radiation locus in the chromaticity diagram.

Thus, the patents-in-suit cover the use of particular phosphors in white LED technology enabling efficient, long-lasting, high luminance LEDs in a wide variety of applications, including computer and cellular telephone displays.

### III. LAW & ANALYSIS

#### A. Standard of Review

##### 1. Rule 50 Motion for Judgment as a Matter of Law

“Judgment as a matter of law is appropriate when ‘viewing the evidence in the light most favorable to the non-moving party, there is no genuine issue of material fact for the jury, and reasonable minds could come to but one conclusion in favor of the moving party.’” *Tisdale v. Fed. Express Corp.*, 415 F.3d 516, 527 (6th Cir. 2005) (internal citations omitted). In reviewing a Rule 50(b) motion, “the evidence should be viewed in the light most favorable to the party against whom the motion is made, and that party given the benefit of all reasonable inferences.” *Parker v. Gen. Extrusions, Inc.*, 491 F.3d 596, 602 (6th Cir. 2007) (citation omitted). However, while the evidence of record must generally be considered in the light most favorable to the nonmoving party, “when an expert opinion is not supported by sufficient facts to validate it in the eyes of the law . . . it cannot support a jury’s verdict.” *Brooke Gp. Ltd. v. Brown & Williamson Tobacco Corp.*, 509 U.S. 209, 242 (1993). A Rule 50(b) motion should be granted only “if ‘reasonable minds could not come to a conclusion other than one favoring the movant.’” *Id.* (citation omitted).

##### 2. New Trial

District courts have broad discretion whether to grant a new trial. *Am. Seating Co. v. USSC Group, Inc.*, 2006 U.S. Dist. LEXIS 60128, at \*\*8-9 (W.D. Mich. Aug. 24, 2006); Fed. R. Civ. P.

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