

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

NICHIA CORPORATION,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:16-cv-00681-RGA
)	
TCL MULTIMEDIA TECHNOLOGY)	
HOLDINGS, LTD. and TTE TECHNOLOGY,)	
INC.,)	
)	
Defendants.)	

DEFENDANTS' INITIAL INVALIDITY CONTENTIONS

Pursuant to Paragraph 4(d) of the District of Delaware Default Standard for Discovery, including Discovery of Electronically Stored Information (“ESI”) (“Default Standard”) and in accordance with the Scheduling Order of February 16, 2017 (“Scheduling Order”) (Dkt. 28), defendants TCL Multimedia Technology Holdings, Ltd. and TTE Technology, Inc. (“Defendants”) provide the following initial invalidity contentions for the claims that plaintiff Nichia Corporation (“Nichia”) asserted in its Default Standard Paragraph 4(c) infringement contentions, served on May 5, 2017 (collectively, the “Asserted Claims”). As set forth herein, each of the Asserted Claims is invalid pursuant to 35 U.S.C. §§ 101, 102, 103 and/or 112.

I. PRELIMINARY STATEMENT & RESERVATIONS

On May 5, 2017, Nichia served its *Disclosure of Asserted Claims and Preliminary Infringement Contentions* (“Infringement Contentions”) on Defendants, alleging infringement of the following Asserted Claims:

- U.S. Patent No. 7,855,092 (“the ’092 Patent”) – claims 1-3, 7-9, and 12-13;
- U.S. Patent No. 8,309,375 (“the ’375 Patent”) – claim 4;
- U.S. Patent No. 7,915,631 (“the ’631 Patent”) – claims 1-2, 4, and 6-11; and

with the corresponding function in the claim.” *Noah Sys., Inc. v. Intuit Inc.*, 675 F.3d 1302, 1312 (Fed. Cir. 2012) (citations omitted); *Augme Techs., Inc. v. Yahoo! Inc.*, 755 F.3d 1326, 1338 (Fed. Cir. 2014).

For the avoidance of any doubt, where Defendants identify a claim term in an independent claim, Defendants further contend any asserted dependent claim is invalid based on the presence of the same term in the asserted dependent claim.

Given the disclosure in the specification, and as Defendants understand Nichia’s claim interpretations, the following means-plus-function claim limitations are indefinite and are thus invalid:

Claim 1

- “a control unit”
- “a driver”

Claim 2

- “a data storage”

Claim 8

- “dispersive member”

Claim 9

- “reflective member”

III. THE ’375 PATENT

A. Invalidity Under 35 U.S.C. § 101

The Asserted Claims of the ’375 Patent are invalid for failing to recite patentable subject matter under 35 U.S.C. § 101. Each of the Asserted Claims of the ’375 Patent are invalid for

double patenting because they cover the same invention claimed in the '092, '631 and '959 Patents.

Defendants' investigation concerning invalidity of the '375 Patent under Section 101 is ongoing. For example, the claim terms have not been construed, Nichia has not provided adequate infringement contentions or its proposed claim constructions, and discovery is ongoing. Thus, Defendants reserve the right to supplement and/or amend their invalidity contentions under Section 101, including for double patenting.

B. Invalidity Under 35 U.S.C. §§ 102 and 103

1. Identity of Prior Art²

Defendants identify the following references as prior art that anticipates and/or renders obvious the Asserted Claims of the '375 Patent under 35 U.S.C. § 102(a), (b) and (e) or 35 U.S.C. § 103, either alone or in combination.

United States Patents

Table 1			
Patent No.	Inventor(s)	Date of Issue	Basis
U.S. Patent No. 2,452,522	H. Leverenz	10/26/1948	103/State of the art
U.S. Patent No. 3,264,133	W. Brooks	08/02/1966	103/State of the art
U.S. Patent No. 3,510,732	R. Amans	5/5/1970	103/State of the art
U.S. Patent No. 3,593,055	J. Geusic	07/13/1971	103/State of the art
U.S. Patent No. 3,654,463	J. Geusic	04/04/1972	103/State of the art
U.S. Patent No. 3,691,482	D. Pinnow	09/12/1972	103/State of the art
U.S. Patent No. 3,699,478	D. Pinniow L. Van Uitert	10/17/1972	103/State of the art
U.S. Patent No. 3,755,697	D. Miller	08/28/1973	103/State of the art
U.S. Patent No. 3,763,405	T. Mitsuata	10/02/1973	103/State of the art
U.S. Patent No. 3,764,862	A. Jankowski	10/09/1973	103/State of the art
U.S. Patent No. 3,774,021	B. Johnson	11/20/1973	103/State of the art
U.S. Patent No. 3,774,086	C. Vincent, Jr.	11/20/1973	103/State of the art

² Defendants incorporate by reference all prior art references cited in the patents and patent publication listed herein and their file histories, as well as any patents later issuing from any applications listed herein.

U.S. Patent No. 3,816,576	F. Auzel	06/11/1974	103/State of the art
U.S. Patent No. 3,819,974	D. Stevenson W. Rhines H. Maruska	06/25/1974	103/State of the art
U.S. Patent No. 3,875,456	T. Kano T. Saitoh A. Suzuki T. Suzuki S. Minagawa Y. Otomo	04/01/1975	103/State of the art
U.S. Patent No. 3,909,788	G. Kaelin J. Pellegrino	09/30/1975	103/State of the art
U.S. Patent No. 3,932,881	Y. Mita E. Nagasaa	01/13/1976	103/State of the art
U.S. Patent No. 4,024,070	R. Schuil	05/17/1977	103/State of the art
U.S. Patent No. 4,090,189	C. Fisler	05/16/1978	103/State of the art
U.S. Patent No. 4,114,366	K. Renner C. Williams	09/19/1978	103/State of the art
U.S. Patent No. 4,167,307	W. Cirkler H. Kriiger	09/11/1979	103/State of the art
U.S. Patent No. 4,342,906	G. Hyatt	08/03/1972	103/State of the art
U.S. Patent No. 4,479,886	A. Kasenga	10/30/1984	103/State of the art
U.S. Patent No. 4,508,760	R. Olson R. Versic	04/02/1985	103/State of the art
U.S. Patent No. 4,550,256	G. Berkstresser T. Huo J. Shmulovich	10/29/1985	103/State of the art
U.S. Patent No. 4,599,537	S. Yamashita	07/08/1986	103/State of the art
U.S. Patent No. 4,641,925	B. Gasparaitis P. Richardson	02/10/1987	103/State of the art
U.S. Patent No. 4,678,338	K. Kitta Y. Kanazawa Y. Otomo	07/07/1987	103/State of the art
U.S. Patent No. 4,713,577	D. Gualtieri S. Lai	12/15/1987	103/State of the art
U.S. Patent No. 4,727,283	J. van Kemenade G. Sibers K. Johannes J. ter Vrugt	02/23/1988	103/State of the art
U.S. Patent No. 4,766,526	K. Morimoto H. Toki	08/23/1988	103/State of the art
U.S. Patent No. 4,772,885	K. Uehara W. Ohta T. Enomoto	09/20/1988	103/State of the art
U.S. Patent No. 4,797,890	F. Inaba	01/10/1989	103/State of the art
U.S. Patent No. 4,894,583	G. Berkstresser	01/16/1990	103/State of the art

	C. Brandle, Jr. J. Shmulovich		
U.S. Patent No. 4,922,103	K. Kawajiri H. Sunagawa N. Nozaki Y. Hosoi K. Takahashi	05/01/1990	103/State of the art
U.S. Patent No. 4,935,960	K. Takato T. Tojo K. Kinoshita Y. Yamamoto	06/19/1980	103/State of the art
U.S. Patent No. 4,966,862	J. Edmond	10/30/1990	103/State of the art
U.S. Patent No. 4,975,808	D. Bond K. Kaschke	12/04/1990	103/State of the art
U.S. Patent No. 4,992,704	J. Stinson	02/12/1991	103/State of the art
U.S. Patent No. 4,992,837	K. Sakai Y. Kushiro K. Nishimura	02/12/1991	103/State of the art
U.S. Patent No. 5,001,609	R. Garner D. Silverglate G. Smestad G. Smith J. Snyder	03/19/1991	103/State of the art
U.S. Patent No. 5,004,948	P. Kinczel L. Balazs G. Sajo	04/02/1991	103/State of the art
U.S. Patent No. 5,027,168	J. Edmond	06/25/1991	103/State of the art
U.S. Patent No. 5,058,997	J. Dickerson N. Poley	10/22/1991	103/State of the art
U.S. Patent No. 5,091,794	S. Suzuki	02/25/1992	103/State of the art
U.S. Patent No. 5,097,145	S. Hayashi	03/17/1992	103/State of the art
U.S. Patent No. 5,118,985	R. Patton K. Mishra E. Dale C. Lagos	06/02/1992	103/State of the art
U.S. Patent No. 5,126,214	H. Tokailin C. Hosokawa T. Kusomoto	06/30/1992	103/State of the art
U.S. Patent No. 5,126,868	S. Kizaki T. Ono K. Kozima M. Itakura T. Aoki	12/22/1989	103/State of the art
U.S. Patent No. 5,132,825	S. Miyadera	07/21/1992	103/State of the art
U.S. Patent No. 5,153,889	H. Sugawara M. Ishikawa	10/06/1992	103/State of the art

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