

VOLUME I OF II, PAGES A1 – A17821

Appeal Nos. 2016-1577, -1611

United States Court of Appeals
for the
Federal Circuit

EVERLIGHT ELECTRONICS CO., LTD.,

Plaintiff-Cross-Appellant,

EMCORE CORPORATION,

Plaintiff,

EVERLIGHT AMERICAS, INC.,

Counterclaim Defendant-Cross-Appellant,

– v. –

NICHIA CORPORATION and NICHIA AMERICA CORPORATION,

Defendants-Appellants.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF MICHIGAN IN CASE NO. 12-CV-11758
JUDGE GERSHWIN A. DRAIN

NON-CONFIDENTIAL JOINT APPENDIX

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1 A. Yes. These are some excerpts from the patent. In
2 Column 8 they are saying a highly efficient white light
3 emitting device, LED, can simply and economically -- there
4 we go -- be fabricated using solid state emitting device for
5 generating a shorter wavelength, which is transmitted through a
6 luminophor. That's their term in the patent for a phosphor.

7 Down conversion here -- forgot to highlight it --
8 yield white light.

9 Then also, in Column 7, they talking about an LED
10 emitting blue light, packaged with fluorescent materials,
11 phosphors. Phosphors change color, some of the light, and you
12 get white light.

13 Q. And just for the record, on slide 74, we have Column 8,
14 lines 18 to 25 of Plaintiff's Exhibit 11, and Column 7 and
15 lines 19 to 27 of the same exhibit.

16 THE COURT: What exhibit number is this one?

17 MR. TRaupMAN: Plaintiff's Exhibit 11, your Honor.

18 THE COURT: Could you identify the exhibit
19 numbers, because that's kind of helpful.

20 MR. TRaupMAN: I thought I had already. I
21 apologize.

22 THE COURT: If you did, I must have missed it.

23 MR. TRaupMAN: Well, I'm sure it was my mistake.

24 THE COURT: All right.

25 Q. (By Mr. Traupman, continuing) So if, Dr. Bretschneider,

1 it refers, the Baretz patent refers to a luminophor. What's a
2 luminophor?

3 A. Again, that's their term for a phosphor. They're trying
4 to use a very broad, general claim. It's just something that
5 emits light.

6 Q. So further down in the second blowout you have of Column
7 7, it refers to fluorescent organic and/or inorganic
8 fluoescers and phosphors, what's -- particularly focusing on
9 inorganic fluoescers and phosphors, what is being referred to
10 there?

11 A. These are inorganic powdered materials, what we would
12 typically call phosphors.

13 A. So to summarize, the Baretz patent discloses using what
14 color LED.

15 A. Blue.

16 Q. With what color phosphor?

17 A. Yellow.

18 Q. To get what color LED?

19 A. White.

20 Q. Actually, let me go back one more. It's -- they talk
21 about down conversion, down here. Do you see that,
22 Dr. Bretschneider?

23 A. Yes.

24 Q. What does it refer to when you say down converted or down
25 conversion?

1 does the inventors, there's Mr. Tadatsu and Dr. Nakamura, say
2 are the effect of their invention?

3 A. Here, this is paragraph nine, they're saying that
4 depending on the phosphor you do, you can get conversion of
5 light to a number of different wavelengths and you can use this
6 to basically change the color of the LED or make a color
7 correction.

8 Q. Okay. And if you're talking about conversion of light to
9 a number of different wavelengths, what does that tell you as a
10 person of ordinary skill in the art?

11 A. That's saying to a broad number, a broad range of
12 wavelengths, and one of the ways in the industry we talk about
13 white light is equal energy at all wavelengths, so this is very
14 clear, put everything in and you will get white.

15 Q. Again, the color of the LED is what, Dr. Bretschneider, in
16 the Tadatsu patent application?

17 A. It's blue.

18 Q. Getting to white, right?

19 A. Yes.

20 Q. So what color is the fluorescent dye or pigment?

21 A. The easiest way is to have it emit yellow light.

22 Q. And so did you analyze the validity of the claims of the
23 '925 patent in light of the Tadatsu application?

24 A. Yes. I detailed that in my report.

25 Q. Did you perform an element by element analysis of the

1 which you also have up here on the slide?

2 A. Again, these are other reference points where they're
3 talking about a fluorescent dye or a fluorescent pigment. So
4 again, they are talking about phosphors in multiple places.

5 Q. And just to be clear, on the left-hand side of this slide
6 you're showing what?

7 A. This is the parts of Claim 1 that are relevant and then we
8 get to Claim 2 itself.

9 Q. And then on the right-hand side of all these slides, what
10 are you showing?

11 A. This is where the elements are listed in, in this case,
12 the Tadatsu patent.

13 Q. In prior art references?

14 A. In prior art references, yes.

15 Q. And so what does that mean if these limitations are in the
16 prior art references?

17 A. That the claim should be invalid.

18 Q. So if we go to the next slide, slide 95, that's the second
19 limitation here on the left-hand side of the alleged invention
20 of the '925 patent. It says, wherein said light-emitting
21 component comprises a nitride compound semiconductor
22 represented by the formula up there on the screen, what's your
23 opinion about that limitation, whether or not it's disclosed in
24 the Tadatsu patent?

25 A. It's very clear in the Tadatsu patent, going back to Claim

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