

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

DOCUMENT SECURITY SYSTEMS,
INC.,

Plaintiff,

v.

CREE, INC.,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.* in which Document Security Systems, Inc. (“DSS” or “Plaintiff”) makes the following allegations against Defendant Cree, Inc. (“Cree” or “Defendant”).

PARTIES

1. Document Security Systems, Inc. is a publicly-traded New York corporation, and has a place of business in Plano, Texas. Founded in 1984, DSS is a global leader in brand protection, digital security solutions and anti-counterfeiting technologies.

2. In November 2016, DSS acquired a portfolio of patents covering technologies used in Light-Emitting Diode (“LED”) lighting products, including the patents-in-suit. The patents in this portfolio were originally assigned to Agilent Technologies, Inc. and/or the successors of its LED business. Since its recent acquisition of these patents, DSS has worked to expand its business efforts regarding LED technology. DSS is pursuing both licensing and

exploitation of this technology acquisition, and is establishing those activities within its Plano location.

3. On information and belief, Cree, Inc. is a North Carolina corporation with its principal place of business at 4600 Silicon Drive, Durham, North Carolina 27703-8475. Defendant Cree, Inc. can be served through its registered agent, Bradley D. Kohn, 4600 Silicon Drive, Durham, North Carolina 27703-8475.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. Accordingly, this Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Defendant in this action because, among other reasons, Defendant has committed acts within the Eastern District of Texas giving rise to this action and has established minimum contacts with the forum state of Texas. Defendant directly and/or through subsidiaries or intermediaries (including distributors, retailers, and others), has committed and continues to commit acts of infringement in this District by, among other things, making, using, importing, offering for sale, and/or selling products and/or services that infringe the patents-in-suit. Thus, Defendant purposefully availed itself of the benefits of doing business in the State of Texas and the exercise of jurisdiction over Defendant would not offend traditional notions of fair play and substantial justice. Cree is registered to do business in the State of Texas, and has appointed CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136 as its agent for service of process.

6. Venue is proper in this District under 28 U.S.C. §§ 1391 (b)-(c) and 1400(b) because Defendant is subject to personal jurisdiction in this District, has transacted business in

this District and has committed acts of patent infringement in this District.

BACKGROUND

7. DSS is the owner by assignment of United States Patent No. 6,949,771 (“the ’771 Patent”) entitled “Light Source.” The ’771 Patent was duly and legally issued by the United States Patent and Trademark Office on September 27, 2005. A true and correct copy of the ’771 Patent is included as Exhibit A.

8. DSS is the owner by assignment of United States Patent No. 7,256,486 (“the ’486 Patent”) entitled “Packing Device for Semiconductor Die, Semiconductor Device Incorporating Same and Method of Making Same.” The ’486 Patent was duly and legally issued by the United States Patent and Trademark Office on August 14, 2007. A true and correct copy of the ’486 Patent is included as Exhibit B.

9. DSS is the owner by assignment of United States Patent No. 7,279,355 (“the ’355 Patent”) entitled “Method for Fabricating a Packing Device for Semiconductor Die and Semiconductor Device Incorporating Same.” The ’355 Patent was duly and legally issued by the United States Patent and Trademark Office on October 9, 2007. A true and correct copy of the ’355 Patent is included as Exhibit C.

10. DSS is the owner by assignment of United States Patent No. 7,524,087 (“the ’087 Patent”) entitled “Optical Device.” The ’087 Patent was duly and legally issued by the United States Patent and Trademark Office on April 28, 2009. A true and correct copy of the ’087 Patent is included as Exhibit D.

11. DSS is the owner by assignment of United States Patent No. 7,919,787 (“the ’787 Patent”) entitled “Semiconductor Device with a Light Emitting Semiconductor Die.” The ’787 Patent was duly and legally issued by the United States Patent and Trademark Office on April 5,

2011. A true and correct copy of the '787 Patent is included as Exhibit E.

12. DSS owns all rights, title, and interest in and to the '771, '486, '355, '087, and '787 Patents (collectively, "asserted patents" or "patents-in-suit"), including all rights to sue and recover for past and future infringement.

COUNT I

INFRINGEMENT OF THE '771 PATENT

13. DSS references and incorporates by reference paragraphs 1 through 12 of this Complaint.

14. On information and belief, Defendant makes, uses, offers for sale, sells, and/or imports in the United States products and/or services that infringe various claims of the '771 Patent, and continues to do so. By way of illustrative example, Defendant's infringing products include without limitation, all versions and variations, including predecessor and successor models, of its XLamp ML-B, XLamp ML-C, XLamp ML-E, Xlamp MX-3S, XLamp XR-C, XLamp XR-E, XLamp MC-E, CLM1 Series Color, CLM2 Series, CLM3 Series Color, CLM4 Series, CLP6 Series White, CLP6 Series Color, SMD Full Color, SMD Full Color Side-View, XLamp CX Family, and XLamp XB-D Family LED products. Defendant's infringing products also include products, e.g., light bulbs, displays and fixtures that contain at least one infringing LED product. Defendant's infringing products are collectively referred to hereinafter as "'771 Accused Instrumentalities."

15. On information and belief, Defendant has directly infringed and continues to directly infringe the '771 Patent by, among other things, making, using, offering for sale, selling, and/or importing the '771 Accused Instrumentalities. On information and belief, such products

and/or services are covered by one or more claims of the '771 Patent's including at least claims 1 through 8 because they contain each element of those claims.

16. By making, using, offering for sale, selling, and/or importing the '771 Accused Instrumentalities infringing the '771 Patent, Defendant has injured DSS and is liable to DSS for infringement of the '771 Patent pursuant to 35 U.S.C. § 271(a) directly and/or under the doctrine of equivalents.

17. In addition, Defendant is actively inducing others, such as its affiliates, customers, and end users of Accused Instrumentalities, services based thereupon, and related products and/or processes, to directly infringe—and/or to combine outside of the United States in a manner that would infringe if such combination occurred within the United States—each and every claim limitation, including without limitation claims 1 through 8 of the '771 Patent, in violation of 35 U.S.C. §§ 271(b) and/or 271(f). Upon information and belief, Defendant's customers and/or end users have directly infringed and are directly infringing—and/or combining outside of the United States in a manner that would infringe if such combination occurred within the United States—each and every claim limitation, including without limitation claims 1 through 8 of the '771 Patent. Defendant has had actual knowledge of the '771 Patent at least as of service of this Complaint. Defendant is knowingly inducing its customers and/or end users to directly infringe—and/or to combine outside of the United States in a manner that would infringe if such combination occurred within the United States—the '771 Patent, with the specific intent to encourage such infringement, and knowing that the induced acts constitute patent infringement. Defendant's inducement includes, for example, providing technical guides, product data sheets, demonstrations, software and hardware specifications, installation guides, and other forms of support that induce its customers and/or end users to directly infringe—and/or

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