

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA**

LIGHTING SCIENCE GROUP
CORPORATION

Plaintiff,

v.

CREE, INC.

Defendant.

Civil Action No.

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Lighting Science Group Corporation, through its attorneys, alleges as follows:

THE PARTIES

1. Plaintiff Lighting Science Group Corporation (“LSG”) is a corporation organized and existing under the laws of Delaware, with its principal place of business at 1227 South Patrick Drive, Satellite Beach, Florida 32937.

2. Upon information and belief, Defendant Cree, Inc. (“Cree”) is a corporation organized and existing under the laws of North Carolina, having its principal place of business at 4600 Silicon Drive, Durham, North Carolina 27703.

JURISDICTION

3. This is a claim for patent infringement and arises under the patent laws of the United States, Title 35 of the United States Code. This Court has jurisdiction over the subject matter of this claim under 28 U.S.C. §§ 1331 and 1338(a).

4. Upon information and belief, this Court has personal jurisdiction over Defendant because the Defendant is transacting business within this District and has committed acts and, on information and belief, will continue to commit acts within this District giving rise to this action including offering to sell and selling infringing products and/or placing infringing product into the stream of commerce in such a way as to reach customers in this District.

VENUE

5. Venue is proper in this judicial District under 28 U.S.C. §§ 1391(b), (c) and 1400(b).

COUNT I
(Infringement of U.S. Patent No. 8,201,968)

6. Plaintiff repeats and realleges Paragraphs 1-5 as though fully set forth herein.

7. Plaintiff LSG is the owner by assignment of United States Patent No. 8,201,968, entitled “Low Profile Light,” which was duly and legally issued by the United States Patent and Trademark Office on June 19, 2012 (the “ ‘968 Patent”). A true and correct copy of the ‘968 Patent is attached hereto as Exhibit A.

8. Defendant Cree infringes and will continue to infringe at least claims 1-6, 9, 14, 17-20 and 22 of the ‘968 Patent by, among other activities, making, using, selling or offering to sell its T67 LED Downlight product.

9. Defendant’s T67 LED Downlight product is sold in competition with Plaintiff’s Glimpse downlight product, which is a commercial embodiment of the ‘968 patent. Plaintiff identifies the ‘968 patent, and further identifies the Glimpse downlight product as a commercial embodiment of the ‘968 patent, on its website (*see* www.lsgc.com/patents) and has done so since at least several months prior to commencing this action.

10. Defendant's infringement has injured Plaintiff, and Plaintiff is entitled to recover damages adequate to compensate it for such infringement.

11. Due to at least Plaintiff's identification of the Glimpse downlight product as a commercial embodiment of the '968 patent on its website, Defendant had knowledge of the '968 patent and its infringement of the '968 patent prior to the commencement of this action, yet proceeded to sell and offer to sell its T67 LED Downlight product despite an objectively high likelihood that its actions constituted infringement of a valid patent. Defendant knew or should have known of this objectively high risk. Accordingly, Defendant's acts of infringement are willful, warranting the assessment of increased damages pursuant to 35 U.S.C. § 284, and warrant a finding that this is an exceptional case, pursuant to 35 U.S.C. § 285.

12. Defendant's infringing activities have injured and will continue to injure Plaintiff, unless and until this Court enters an injunction prohibiting further infringement and, specifically, enjoining further manufacture, use, sale, importation, and/or offer for sale of products that come within the scope of the claims of the '968 Patent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully asks this Court to enter judgment against Defendant and against its respective subsidiaries, successors, parents, affiliates, officers, directors, agents, servants and employees, and all persons in active concert or participation with Defendant, granting the following relief:

- A. The entry of judgment in favor of Plaintiff and against Defendant;
- B. A preliminary injunction prohibiting further infringement of the '968 Patent;
- C. A permanent injunction prohibiting further infringement of the '968 Patent;

- D. An award of damages against Defendant for damages arising from the infringement of '968 Patent, including treble damages for willful infringement, pursuant to 35 U.S.C. § 284, together with prejudgment interest from the date the infringement began;
- E. The entry of judgment that this case is exceptional, and award treble damages, attorney fees and the costs of this action, pursuant to 35 U.S.C. § 285; and
- F. Such other relief to which Plaintiff is entitled under law, and any other and further relief that this Court or a jury may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands a trial by jury on all issues so triable.

Respectfully submitted this 7th day of June, 2013,

*Attorneys for the Plaintiff,
Lighting Science Group Corporation*

/s/ Andrew C. Ryan

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CERTIFICATE OF SERVICE

I hereby certify that on June 7, 2013, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to all counsel of record.

/s/ Andrew C. Ryan
Attorney