

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

NICHIA CORPORATION,)	
)	
Plaintiff,)	Civil Action No. 2:09-CV-346
)	
v.)	
JIAWEI NORTH AMERICA INC.,)	
JIAWEI TECHNOLOGY (HK) LTD., and)	
SHENZHEN JIAWEI INDUSTRIES CO.,)	
LTD.,)	
)	Jury Trial Demanded
Defendants.)	
)	

COMPLAINT

Plaintiff Nichia Corporation brings this Complaint against Jiawei North America Inc., Jiawei Technology (HK) Ltd., and Shenzhen Jiawei Industries Co. Ltd. (“Defendants” or collectively “Jiawei”) and in support alleges as follows:

THE PARTIES

1. Plaintiff Nichia Corporation (“Nichia”) is a corporation organized and existing under the laws of Japan.
2. On information and belief, Defendant Jiawei North America Inc. is a company existing under the laws of Canada, with a principal place of business located at 550 Alden Rd, Unit 108, Markham, Ontario, Canada L3R 6A8.
3. On information and belief, Defendant Jiawei Technology (HK) Ltd., is a company existing as a private limited liability company under the laws of the Hong Kong

Companies Ordinance, with a principal place of business located at Unit 1816, 18/F., Star House, No. 3 Salisbury Road, Tsimshatsui, Kowloon, Hong Kong.

4. On information and belief, Defendant Shenzhen Jiawei Industries Company Limited is a company existing under the laws of the China, with principal places of business located at Xinfu Industrial Area, Fuping Road, Longgang, Shenzhen, China and 1, 2, 3 and 4, Xinfu Industrial Zone, Central Community, Pingdi Subdistrict, Longgang District, Shenzhen, China, 518000.

JURISDICTION AND VENUE

5. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 and exclusive original jurisdiction pursuant to 28 U.S.C. § 1338(a).

6. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and 1400(b).

7. This Court has personal jurisdiction over Defendants because, on information and belief, they manufacture, import, distribute, market, sell and/or offer for sale infringing products in this judicial district.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 5,998,925

8. Plaintiff realleges and incorporates by reference, as if fully set forth herein, all of the allegations contained in paragraphs 1-7 of this Complaint.

9. U.S. Patent No. 5,998,925 (“the ’925 patent”), entitled “Light Emitting Device Having a Nitride Compound Semiconductor and a Phosphor Containing a Garnet Fluorescent Material,” was duly and legally issued on December 7, 1999, by the U.S. Patent and Trademark Office. A copy of the ’925 patent is attached as Exhibit A.

10. Nichia is the owner of the '925 patent by virtue of an assignment and owns all right and title to the '925 patent.

11. Upon information and belief, Defendants have infringed and continue to infringe one or more of the claims of the '925 patent, directly, contributorily, and/or by inducement, by making, using, selling, offering for sale and/or importing in this country (and in this judicial district), and inducing others to use, without license, certain devices containing infringing LEDs in violation of 35 U.S.C. § 271.

12. Upon information and belief, Defendants' acts of infringement of the '925 patent were, in whole or in part, done willfully and with knowledge of the '925 patent.

13. Plaintiff has been and will continue to be damaged by Defendants' infringement and will be irreparably harmed unless that infringement is enjoined.

COUNT II

INFRINGEMENT OF U.S. PATENT NO. 7,026,756

14. Plaintiff realleges and incorporates by reference, as if fully set forth herein, all of the allegations contained in paragraphs 1-13 of this Complaint.

15. U.S. Patent No. 7,026,756 ("the '756 patent"), entitled "Light Emitting Device with Blue Light LED and Phosphor Components," was duly and legally issued on April 11, 2006, by the U.S. Patent and Trademark Office. A copy of the '756 patent is attached as Exhibit B.

16. Nichia is the owner of the '756 patent by virtue of an assignment and owns all right and title to the '756 patent.

17. Upon information and belief, Defendants have infringed and continue to infringe one or more of the claims of the '756 patent, directly, contributorily, and/or by inducement, by

making, using, selling, offering for sale and/or importing in this country (and in this judicial district), and inducing others to use, without license, certain devices containing infringing LEDs in violation of 35 U.S.C. § 271.

18. Upon information and belief, Defendants' acts of infringement of the '756 patent were, in whole or in part, done willfully and with knowledge of the '756 patent.

19. Plaintiff has been and will continue to be damaged by Defendants' infringement and will be irreparably harmed unless that infringement is enjoined.

COUNT III

INFRINGEMENT OF U.S. PATENT NO. 7,531,960

20. Plaintiff realleges and incorporates by reference, as if fully set forth herein, all of the allegations contained in paragraphs 1-19 of this Complaint.

21. U.S. Patent No. 7,531,960 ("the '960 patent"), entitled "Light Emitting Device with Blue LED and Phosphor Components," was duly and legally issued on May 12, 2009, by the U.S. Patent and Trademark Office. A copy of the '960 patent is attached as Exhibit C.

22. Nichia is the owner of the '960 patent by virtue of an assignment and owns all right and title to the '960 patent.

23. Upon information and belief, Defendants have infringed and continue to infringe one or more of the claims of the '960 patent, directly, contributorily, and/or by inducement, by making, using, selling, offering for sale and/or importing in this country (and in this judicial district), and inducing others to use, without license, certain devices containing infringing LEDs in violation of 35 U.S.C. § 271.

24. Upon information and belief, Defendants' acts of infringement of the '960 patent were, in whole or in part, done willfully and with knowledge of the '960 patent.

25. Plaintiff has been and will continue to be damaged by Defendants' infringement and will be irreparably harmed unless that infringement is enjoined.

COUNT IV

INFRINGEMENT OF U.S. PATENT NO. 6,870,191

26. Plaintiff realleges and incorporates by reference, as if fully set forth herein, all of the allegations contained in paragraphs 1-25 of this Complaint.

27. U.S. Patent No. 6,870,191 ("the '191 patent"), entitled "Semiconductor Light Emitting Device," was duly and legally issued on March 22, 2005, by the U.S. Patent and Trademark Office. A copy of the '191 patent is attached as Exhibit D.

28. Nichia is the owner of the '191 patent by virtue of an assignment and owns all right and title to the '191 patent.

29. Upon information and belief, Defendants have infringed and continue to infringe one or more of the claims of the '191 patent, directly, contributorily, and/or by inducement, by making, using, selling, offering for sale and/or importing in this country (and in this judicial district), and inducing others to use, without license, certain devices containing infringing LEDs in violation of 35 U.S.C. § 271.

30. Upon information and belief, Defendants' acts of infringement of the '191 patent were, in whole or in part, done willfully and with knowledge of the '191 patent.

31. Plaintiff has been and will continue to be damaged by Defendants' infringement and will be irreparably harmed unless that infringement is enjoined.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following:

A. A judgment that Defendants have infringed one or more of the claims of U.S. Patent Nos. 5,998,925; 7,026,756; 7,531,960; and, 6,870,191;

B. A permanent injunction pursuant to 35 U.S.C. § 283, restraining and enjoining Defendants and their officers, agents, attorneys, employees, and those acting in privity or active concert with them, from infringement of one or more of the claims of U.S. Patent Nos. 5,998,925; 7,026,756; 7,531,960; and, 6,870,191 for the full terms thereof;

C. An award of damages to Plaintiff including pre-judgment and post-judgment interest, in an amount adequate to compensate for Defendants' infringement of one or more of the claims of U.S. Patent Nos. 5,998,925; 7,026,756; 7,531,960; and, 6,870,191;

D. An award of treble damages pursuant to 35 U.S.C. § 284 for willful infringement;

E. An award of Plaintiff's costs and reasonable attorney's fees;

F. A declaration that this case is exceptional pursuant to 35 U.S.C. § 285; and,

G. Such other and further relief as this Court deems just and proper.

JURY DEMAND

Plaintiff requests a trial by jury on all issues triable by a jury.

DATE: November 5, 2009

Respectfully submitted,

BY: /s/ Otis Carroll

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