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Attorneys for Plaintiffs
14 SEOUL SEMICONDUCTOR CO.,
LTD. and SEOUL VIOSYS CO., LTD.
15

16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA
18

19 SEOUL SEMICONDUCTOR CO.,
LTD., a Korean corporation, and
20 SEOUL VIOSYS CO., LTD., a Korean
corporation,
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Plaintiffs,
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v.
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24 K-MART CORPORATION, a
Michigan corporation,
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Defendant.
26
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CASE NO. 2:16-CV-16-6782

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiffs Seoul Semiconductor Co., Ltd. (“SSC”) and Seoul Viosys Co.,
2 LTD. (“SVC”) (collectively “Plaintiffs”) for their Complaint against defendant
3 Kmart Corporation (“Kmart” or “Defendant”) allege as follows:

4 **INTRODUCTION**

5 1. Plaintiffs bring this patent infringement action to protect their valuable
6 patented technology relating to light-emitting diode (LEDs) and LED lighting. An
7 LED is a semiconductor device that converts electrical energy into light. LEDs
8 have many advantages over conventional light sources, including lower energy
9 consumption, longer lifetime, and smaller size.

10 2. SSC was founded in 1992 with around 30 employees in a small space
11 of a commercial building in Bongchen-dong, Seoul. From those 30 employees, SSC
12 grew into one of the largest manufacturers of LEDs in the world. SVC is also a
13 leading company in the LED industry and affiliate company with SSC.

14 3. SSC’s success is in large part due to its investment into innovation
15 and respect for intellectual property. SSC has invested in R&D for the last two
16 decades. SSC invests over 10% of sales revenue into research and development
17 and owns one of the largest LED patent portfolios in the world, which includes
18 more than 10,000 patents worldwide. Professor Shuji Nakamura, who won a
19 Nobel prize for his the invention of efficient blue light-emitting diodes which has
20 enabled bright and energy-saving white light sources, has been a consultant to SSC
21 and is an inventor of a patent-in-suit.

22 **THE PARTIES**

23 4. Plaintiff SSC is a company organized and existing under the laws of
24 the Republic of Korea, with its principal place of business at 1B-25, 727, Wonsi-
25 dong, Danwon-gu, Ansan-city, Gyeonggi-do, Korea 425-851.

26 5. Plaintiff SVC is a company organized and existing under the laws of
27 the Republic of Korea, with its principal place of business at 65-16, Sandan-
28 ro163beon-gil, Danwon-gu, Ansan-si, Gyeonggi-do, Korea 425-851.

1 identified below is manufactured by and sold to Kmart by a company residing in
2 this District: Spotlite America Corporation (“Spotlite”) of Culver City, California.

3 9. Venue is proper within this judicial district under 28 U.S.C. §§1391(b)
4 and 1400(b). On information and belief, acts of patent infringement have been
5 committed in this District, a substantial part of the property at issue in this action is
6 situated in this district, and Kmart is subject to personal jurisdiction in this District.
7 In addition, venue is proper because Plaintiffs have suffered and are suffering harm
8 in this District.

9 **PATENTS-IN-SUIT**

10 10. On September 13, 2005, the United States Patent and Trademark
11 Office duly and legally issued U.S. Patent No. 6,942,731 (“the ’731 Patent”),
12 entitled “Method for Improving the Efficiency of Epitaxially Produced Quantum
13 Dot Semiconductor Components,” to Sellin et al. SSC is the owner by assignment
14 of the ’731 Patent. A true and correct copy of the ’731 Patent is attached hereto as
15 Exhibit 1.

16 11. On December 1, 2009, the United States Patent and Trademark Office
17 duly and legally issued U.S. Patent No. 7,626,209 (“the ’209 Patent”), entitled
18 “Light Emitting Diode Having Active Region of Multi Quantum Well Structure,” to
19 Lee et al. SSC is the owner by assignment of the ’209 Patent. A true and correct
20 copy of the ’209 Patent is attached hereto as Exhibit 2.

21 12. On March 15, 2011, the United States Patent and Trademark Office
22 duly and legally issued U.S. Patent No. 7,906,789 (“the ’789 Patent”), entitled
23 “Warm White Light Emitting Apparatus and Black Light Module Comprising the
24 Same,” to Jung et al. SSC is the owner by assignment of the ’789 Patent. A true
25 and correct copy of the ’789 Patent is attached hereto as Exhibit 3.

26 13. On May 31, 2011, the United States Patent and Trademark Office duly
27 and legally issued U.S. Patent No. 7,951,626 (“the ’626 Patent”), entitled “Light
28 Emitting Device and Method of Manufacturing the Same,” to Lee et al. SVC is the

1 owner by assignment of the '626 Patent. A true and correct copy of the '626 Patent
2 is attached hereto as Exhibit 4.

3 14. On July 19, 2011, the United States Patent and Trademark Office duly
4 and legally issued U.S. Patent No. 7,982,207 (“the '207 Patent”), entitled “Light
5 Emitting Diode,” to Kim et al. SSC is the owner by assignment of the '207 Patent.
6 A true and correct copy of the '207 Patent is attached hereto as Exhibit 5.

7 15. On March 4, 2014, the United States Patent and Trademark Office duly
8 and legally issued U.S. Patent No. 8,664,638 (“the '638 Patent”), entitled “Light-
9 Emitting Diode Having an Interlayer with High Voltage Density and Method for
10 Manufacturing the Same,” to Yoo et al. SVC is the owner by assignment of the
11 '638 Patent. A true and correct copy of the '638 Patent is attached hereto as Exhibit
12 6.

13 16. On October 14, 2014, the United States Patent and Trademark Office
14 duly and legally issued U.S. Patent No. 8,860,331 (“the '331 Patent”), entitled
15 “Light Emitting Device for AC Power Operations,” to Lee et al. SVC is the owner
16 by assignment of the '331 Patent. A true and correct copy of the '331 Patent is
17 attached hereto as Exhibit 7.

18 17. On January 19, 2016, the United States Patent and Trademark Office
19 duly and legally issued U.S. Patent No. 9,240,529 (“the '529 Patent”), entitled
20 “Textured Phosphor Conversion Layer Light Emitting Diode,” to DeMille et al.
21 SSC is the exclusive licensee of the '529 Patent with the right to sue for patent
22 infringement. A true and correct copy of the '529 Patent is attached hereto as
23 Exhibit 8.

24 **COUNT I**

25 **(PATENT INFRINGEMENT – '731 PATENT)**

26 18. Plaintiffs re-allege and incorporate the allegations set forth in
27 paragraphs 1-17 above as if fully set forth herein.

28

1 19. On information and belief, Kmart has infringed and continues to
2 infringe one or more claims of the '731 Patent, including but not limited to claim 1,
3 pursuant to 35 U.S.C. § 271(g) at least by without authority importing into the
4 United States or offering to sell, selling, and/or using within the United States
5 Spotlite's Kodak LED Lighting Bulb 41063 ("41063 LED Bulb"), which on
6 information and belief is made in China. Photographs of the 41063 LED Bulb and
7 its packaging are copied below, showing the model number, Spotlite's name and
8 address, and the "made in China" marking, respectively, within the added red boxes.



26 20. On information and belief, there is no adequate remedy under this title
27 for infringement on account of the importation or other use, offer to sell, or sale of
28 that product. The product that is made by the process covered by at least claim 1 of

1 the '731 Patent is not materially changed by subsequent processes and does not
2 become a trivial and nonessential component of another product.

3 21. On information and belief, Kmart has infringed at least claim 1
4 pursuant to 35 U.S.C. § 271(g) at least because the 41063 LED Bulb contains a
5 product that made by the patented process involving improving the efficiency of
6 epitaxially produced quantum dot semiconductor components having at least one
7 quantum dot layer, comprising the step of interrupting growth of the semiconductor
8 component each time after a layer of coherent quantum dots has been overgrown
9 with a layer of semiconductor material at least thick enough to completely cover all
10 the quantum dots, wherein the step of interrupting growth of the semiconductor
11 component is carried out for each quantum dot layer.

12 22. Kmart's infringement has caused and is continuing to cause damage
13 and irreparable injury to Plaintiffs. Plaintiffs will continue to suffer damage and
14 irreparable injury unless and until that infringement is enjoined by this Court, as a
15 remedy at law alone would be inadequate.

16 23. Plaintiffs are entitled to injunctive relief and damages in accordance
17 with 35 U.S.C. §§ 271, 281, 283, and 284.

18 24. At least as of the time Kmart is served with this Complaint, Kmart will
19 have actual notice of the '731 Patent and its infringement of that patent. On
20 information and belief, at least after service of this Complaint, Kmart's infringement
21 will be willful at minimum if Kmart does not discontinue infringing importation,
22 offers for sale, sale and use and remove the infringing products from its product
23 offerings. Such willful infringement would entitle Plaintiffs to enhanced damages
24 under 35 U.S.C. § 284 and a finding that this case is exceptional, entitling Plaintiffs
25 to an award of its reasonable attorneys' fees under 35 U.S.C. § 285.

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1 **COUNT II**

2 **(PATENT INFRINGEMENT – '209 PATENT)**

3 25. Plaintiffs re-allege and incorporate the allegations set forth in
4 paragraphs 1-24 above as if fully set forth herein.

5 26. On information and belief, Kmart has infringed and continues to
6 infringe one or more claims of the '209 Patent, including but not limited to claim 1,
7 pursuant to 35 U.S.C. § 271(a) at least by without authority making, using, offering
8 to sell, and/or selling the 41063 LED Bulb within the United States or importing the
9 41063 LED Bulb into the United States.

10 27. On information and belief, Kmart has infringed at least claim 1
11 pursuant to 35 U.S.C. § 271(a) at least because the 41063 LED Bulb contains a LED
12 comprising: a GaN-based N-type compound semiconductor layer; a GaN-based P-
13 type compound semiconductor layer; and an active region of a multi quantum well
14 structure having InGaN well layers and barrier layers alternately laminated, the
15 active region being interposed between the N-type and P-type compound
16 semiconductor layers, wherein at least one of the barrier layers in the active region
17 includes an undoped InGaN layer and a Si-doped GaN layer, and the Si-doped GaN
18 layer is positioned closer to the P-type compound semiconductor layer than the
19 undoped InGaN layer.

20 28. Kmart's infringement has caused and is continuing to cause damage
21 and irreparable injury to Plaintiffs. Plaintiffs will continue to suffer damage and
22 irreparable injury unless and until that infringement is enjoined by this Court, as a
23 remedy at law alone would be inadequate.

24 29. Plaintiffs are entitled to injunctive relief and damages in accordance
25 with 35 U.S.C. §§ 271, 281, 283, and 284.

26 30. At least as of the time Kmart is served with this Complaint, Kmart will
27 have actual notice of the '209 Patent and its infringement of that patent. On
28 information and belief, at least after service of this Complaint, Kmart's infringement

1 will be willful at minimum if Kmart does not discontinue infringing importation,
2 offers for sale, sale and use and remove the infringing products from its product
3 offerings. Such willful infringement would entitle Plaintiffs to enhanced damages
4 under 35 U.S.C. § 284 and a finding that this case is exceptional, entitling Plaintiffs
5 to an award of its reasonable attorneys' fees under 35 U.S.C. § 285.

6 **COUNT III**

7 **(PATENT INFRINGEMENT – '789 PATENT)**

8 31. Plaintiffs re-allege and incorporate the allegations set forth in
9 paragraphs 1-30 above as if fully set forth herein.

10 32. On information and belief, Kmart has infringed and continues to
11 infringe one or more claims of the '789 Patent, including but not limited to claim 1,
12 pursuant to 35 U.S.C. § 271(a) at least by without authority making, using, offering
13 to sell, and/or selling the 41063 LED Bulb within the United States or importing the
14 41063 LED Bulb into the United States.

15 33. On information and belief, Kmart has infringed at least claim 1
16 pursuant to 35 U.S.C. § 271(a) at least because the 41063 LED Bulb constitutes or
17 contains a warm white light emitting apparatus, comprising a first light emitting
18 diode (LED)-phosphor combination to generate a base light, the base light being
19 white or yellowish white; and a second LED-phosphor combination to generate a
20 Color Rendering Index (CRI) adjusting light, wherein the base light and the CRI
21 adjusting light together make a warm white light having a color temperature of 2500
22 to 4500K.

23 34. Kmart's infringement has caused and is continuing to cause damage
24 and irreparable injury to Plaintiffs. Plaintiffs will continue to suffer damage and
25 irreparable injury unless and until that infringement is enjoined by this Court, as a
26 remedy at law alone would be inadequate.

27 35. Plaintiffs are entitled to injunctive relief and damages in accordance
28 with 35 U.S.C. §§ 271, 281, 283, and 284.

1 horizontal plane, on the P-type semiconductor layer; and removing the etching mask
2 pattern and the P-type semiconductor layer exposed through the etching mask
3 pattern, wherein forming the etching mask pattern comprises: forming a photoresist
4 on the P-type semiconductor layer; exposing the photoresist to light; hard-baking
5 and developing the photoresist; and etching a side surface of the developed
6 photoresist to have the slope from the horizontal plane.

7 40. Kmart's infringement has caused and is continuing to cause damage
8 and irreparable injury to Plaintiffs. Plaintiffs will continue to suffer damage and
9 irreparable injury unless and until that infringement is enjoined by this Court, as a
10 remedy at law alone would be inadequate.

11 41. Plaintiffs are entitled to injunctive relief and damages in accordance
12 with 35 U.S.C. §§ 271, 281, 283, and 284.

13 42. At least as of the time Kmart is served with this Complaint, Kmart will
14 have actual notice of the '626 Patent and its infringement of that patent. On
15 information and belief, at least after service of this Complaint, Kmart's infringement
16 will be willful at minimum if Kmart does not discontinue infringing importation,
17 offers for sale, sale and use and remove the infringing products from its product
18 offerings. Such willful infringement would entitle Plaintiffs to enhanced damages
19 under 35 U.S.C. § 284 and a finding that this case is exceptional, entitling Plaintiffs
20 to an award of its reasonable attorneys' fees under 35 U.S.C. § 285.

21 COUNT V

22 (PATENT INFRINGEMENT – '207 PATENT)

23 43. Plaintiffs re-allege and incorporate the allegations set forth in
24 paragraphs 1-42 above as if fully set forth herein.

25 44. On information and belief, Kmart has infringed and continues to
26 infringe one or more claims of the '207 Patent, including but not limited to claim 1,
27 pursuant to 35 U.S.C. § 271(a) at least by without authority making, using, offering
28

1 to sell, and/or selling the 41063 LED Bulb within the United States or importing the
2 41063 LED Bulb into the United States.

3 45. On information and belief, Kmart has infringed at least claim 1
4 pursuant to 35 U.S.C. § 271(a) at least because the 41063 LED Bulb contains a LED
5 comprising: a substrate; an n-type semiconductor layer, an active layer, and a p-type
6 semiconductor layer arranged on the substrate; a transparent electrode layer
7 arranged on and in contact with the p-type semiconductor layer, the transparent
8 electrode layer comprising an opening exposing the p-type semiconductor layer; a
9 current blocking portion arranged in the opening; and an electrode pad arranged on
10 the current blocking portion.

11 46. Kmart's infringement has caused and is continuing to cause damage
12 and irreparable injury to Plaintiffs. Plaintiffs will continue to suffer damage and
13 irreparable injury unless and until that infringement is enjoined by this Court, as a
14 remedy at law alone would be inadequate.

15 47. Plaintiffs are entitled to injunctive relief and damages in accordance
16 with 35 U.S.C. §§ 271, 281, 283, and 284.

17 48. At least as of the time Kmart is served with this Complaint, Kmart will
18 have actual notice of the '207 Patent and its infringement of that patent. On
19 information and belief, at least after service of this Complaint, Kmart's infringement
20 will be willful at minimum if Kmart does not discontinue infringing importation,
21 offers for sale, sale and use and remove the infringing products from its product
22 offerings. Such willful infringement would entitle Plaintiffs to enhanced damages
23 under 35 U.S.C. § 284 and a finding that this case is exceptional, entitling Plaintiffs
24 to an award of its reasonable attorneys' fees under 35 U.S.C. § 285.

25 **COUNT VI**

26 **(PATENT INFRINGEMENT – '638 PATENT)**

27 49. Plaintiffs re-allege and incorporate the allegations set forth in
28 paragraphs 1-48 above as if fully set forth herein.

1 50. On information and belief, Kmart has infringed and continues to
2 infringe one or more claims of the '638 Patent, including but not limited to claim 1,
3 pursuant to 35 U.S.C. § 271(a) at least by without authority making, using, offering
4 to sell, and/or selling the 41063 LED Bulb within the United States or importing the
5 41063 LED Bulb into the United States.

6 51. On information and belief, Kmart has infringed at least claim 1
7 pursuant to 35 U.S.C. § 271(a) at least because the 41063 LED Bulb contains a LED
8 comprising: a substrate; a buffer layer disposed on the substrate; a gallium nitride-
9 based n-type contact layer disposed on the buffer layer; a gallium nitride based p-
10 type contact layer disposed on the gallium nitride-based n-type contact layer; an
11 active layer interposed between the gallium nitride-based n-type contact layer and
12 the gallium nitride-based p-type contact layer; a gallium nitride-based first lower
13 semiconductor layer interposed between the buffer layer and the gallium nitride-
14 based n-type contact layer; a gallium nitride-based first interlayer interposed
15 between the gallium nitride-based first lower semiconductor layer and the gallium
16 nitride-based n-type contact layer; and a gallium nitride-based second interlayer
17 interposed between the gallium nitride-based first interlayer and the gallium nitride-
18 based n-type contact layer, wherein the gallium nitride-based second interlayer has
19 higher dislocation density than that of the gallium nitride-based first lower
20 semiconductor layer and has dislocation density different from that of the gallium
21 nitride-based first interlayer, wherein the gallium nitride-based first interlayer
22 comprises a single composition and has lower dislocation density than that of the
23 buffer layer and has higher dislocation density than that of the gallium nitride-based
24 first lower semiconductor layer, and wherein the gallium nitride-based first
25 interlayer comprises the same composition as that of the gallium nitride-based n-
26 type contact layer.

27 52. Kmart's infringement has caused and is continuing to cause damage
28 and irreparable injury to Plaintiffs. Plaintiffs will continue to suffer damage and

1 irreparable injury unless and until that infringement is enjoined by this Court, as a
2 remedy at law alone would be inadequate.

3 53. Plaintiffs are entitled to injunctive relief and damages in accordance
4 with 35 U.S.C. §§ 271, 281, 283, and 284.

5 54. At least as of the time Kmart is served with this Complaint, Kmart will
6 have actual notice of the '638 Patent and its infringement of that patent. On
7 information and belief, at least after service of this Complaint, Kmart's infringement
8 will be willful at minimum if Kmart does not discontinue infringing importation,
9 offers for sale, sale and use and remove the infringing products from its product
10 offerings. Such willful infringement would entitle Plaintiffs to enhanced damages
11 under 35 U.S.C. § 284 and a finding that this case is exceptional, entitling Plaintiffs
12 to an award of its reasonable attorneys' fees under 35 U.S.C. § 285.

13 **COUNT VII**

14 **(PATENT INFRINGEMENT – '331 PATENT)**

15 55. Plaintiffs re-allege and incorporate the allegations set forth in
16 paragraphs 1-54 above as if fully set forth herein.

17 56. On information and belief, Kmart has infringed and continues to
18 infringe one or more claims of the '331 Patent, including but not limited to claim
19 11, pursuant to 35 U.S.C. § 271(a) at least by without authority making, using,
20 offering to sell, and/or selling the 41063 LED Bulb within the United States or
21 importing the 41063 LED Bulb into the United States.

22 57. On information and belief, Kmart has infringed at least claim 1
23 pursuant to 35 U.S.C. § 271(a) at least because the 41063 LED Bulb contains a LED
24 device comprising: a light emitting diode (LED) chip comprising a plurality of light
25 emitting cells connected in series, parallel, or series-parallel; a transparent member
26 covering the LED chip; a first phosphor configured to be excited by light emitted
27 from the LED chip and to emit light in a visible light range; and a second phosphor
28 configured to be excited by light emitted from the LED chip and to emit light in a

1 visible wavelength range, wherein the first phosphor has a longer decay time than
2 the decay time of the second phosphor.

3 58. Kmart's infringement has caused and is continuing to cause damage
4 and irreparable injury to Plaintiffs. Plaintiffs will continue to suffer damage and
5 irreparable injury unless and until that infringement is enjoined by this Court, as a
6 remedy at law alone would be inadequate.

7 59. Plaintiffs are entitled to injunctive relief and damages in accordance
8 with 35 U.S.C. §§ 271, 281, 283, and 284.

9 60. At least as of the time Kmart is served with this Complaint, Kmart will
10 have actual notice of the '331 Patent and its infringement of that patent. On
11 information and belief, at least after service of this Complaint, Kmart's infringement
12 will be willful at minimum if Kmart does not discontinue infringing importation,
13 offers for sale, sale and use and remove the infringing products from its product
14 offerings. Such willful infringement would entitle Plaintiffs to enhanced damages
15 under 35 U.S.C. § 284 and a finding that this case is exceptional, entitling Plaintiffs
16 to an award of its reasonable attorneys' fees under 35 U.S.C. § 285.

17 COUNT VIII

18 (PATENT INFRINGEMENT – '529 PATENT)

19 61. Plaintiffs re-allege and incorporate the allegations set forth in
20 paragraphs 1-60 above as if fully set forth herein.

21 62. On information and belief, Kmart has infringed and continues to
22 infringe one or more claims of the '529 Patent, including but not limited to claim 1,
23 pursuant to 35 U.S.C. § 271(a) at least by without authority making, using, offering
24 to sell, and/or selling the 41063 LED Bulb within the United States or importing the
25 41063 LED Bulb into the United States.

26 63. On information and belief, Kmart has infringed at least claim 1
27 pursuant to 35 U.S.C. § 271(a) at least because the 41063 LED Bulb contains a light
28 emitting device comprising: an LED chip emitting light at a first wavelength,

1 all others acting in concert or participation with them from continued infringement
2 under 35 U.S.C. § 271 of the '731 Patent, '209 Patent, '789 Patent, '626 Patent,
3 '207 Patent, '638 Patent, '331 Patent, and '529 Patent;

4 C. An award of damages adequate to compensate Plaintiffs for Kmart's
5 infringement the '731 Patent, '209 Patent, '789 Patent, '626 Patent, '207 Patent,
6 '638 Patent, '331 Patent, and '529 Patent, together with prejudgment and post-
7 judgment interest and costs pursuant to 35 U.S.C. § 284;

8 D. An order finding that Kmart's infringement is willful and enhancing
9 damages pursuant to 35 U.S.C. § 284;

10 E. An order finding that this is an exceptional case under 35 U.S.C. § 285
11 and awarding relief, including reasonable attorneys' fees, costs, and expenses;

12 F. An accounting of all infringing sales and other infringing acts by
13 Kmart, and an order compelling an accounting for infringing acts not presented at
14 trial and an award by the Court of additional damages for such acts; and

15 G. Any other relief to which Plaintiffs are entitled or that the Court seems
16 just and proper.

17 **JURY DEMAND**

18 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs
19 hereby demand trial by jury of all issues so triable.

20
21 DATED: September 9, 2016

Respectfully submitted,

LATHAM & WATKINS LLP

By /s/ Bradley A. Hyde

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