

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

NEXT LIGHTING CORP.,	§	
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	Civ. Action No.: 3:18-cv-1500
	§	
GENERAL ELECTRIC	§	JURY DEMANDED
COMPANY,	§	
	§	
<i>Defendant.</i>	§	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff NEXT Lighting Corp. (“Plaintiff” or “NEXT”) files this Complaint for Patent Infringement against Defendant General Electric Company (“Defendant” or “GE”) as follows:

NATURE OF LAWSUIT

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

THE PARTIES

1. NEXT is a corporation organized and existing under the laws of California. NEXT was founded in San Francisco in 2009 with a vision to develop environmentally friendly lighting solutions for the mass market. NEXT is an innovator in the lighting market, having developed extensible lighting platforms, control solutions, and efficient, low-glare lighting systems that optimize light distribution. An overview of some of NEXT’s innovations is available at www.nextlighting.com/products.

2. Upon information and belief, Defendant GE is a corporation organized and existing under the laws of the state of New York, having a place of business within this district

at 3202 Manor Way, Dallas, Texas 75235. GE may be served through its registered agent, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code. Jurisdiction as to these claims is conferred on this Court by 35 U.S.C. §§1331 and 1338(a).

4. Venue is proper within this District under 28 U.S.C. § 1400(b) because GE maintains a regular and established place of business in this District and has committed infringing acts in this District. Having purposefully availed itself of the privilege of conducting business within this District, Defendant should reasonably and fairly anticipate being brought into court here.

INFRINGEMENT OF UNITED STATES PATENT NO. 8,491,165

5. NEXT incorporates the above paragraphs as if fully set forth herein.

6. On July 23, 2013, United States Patent No. 8,491,165 (“the ’165 patent”) entitled “Lighting Unit Having Lighting Strips with Light Emitting Elements and a Remote Luminescent Material” was duly and legally issued after full and fair examination. NEXT is the owner of all right, title, and interest in and to the ’165 patent by assignment, with full right to bring suit to enforce the patent, including the right to recover for past infringement damages and the right to recover future royalties, damages, and income. A copy of the ’165 patent is attached hereto as Exhibit A.

7. Claim 34 of the ’165 patent states:

A lighting strip comprising:
a linear support structure;

an at least partially reflective reflector extending substantially along the length of said support; and

a plurality of open-air light emitting elements disposed along the length of said support structure, wherein light from said light emitting elements does not pass through secondary optics, and wherein the light from said light emitting elements is reflected at least once before leaving the lighting strip.

8. Upon information and belief, on or about October 7, 2015, GE established “Current, powered by GE” as a new brand. Upon information and belief, GE’s “Current” brand maintains a website accessible at <https://products.currentbyge.com>.

9. Defendant has infringed and continues to infringe (literally and/or under the doctrine of equivalents) one or more claims of the ’165 patent in this judicial district and elsewhere in the United States, by making, using, importing, selling, and offering for sale lighting products that incorporate the claimed lighting unit design (“Accused Products”). On information and belief, the Accused Products have been purchased by end-users located in this judicial district, installed in locations within this judicial district, and used by persons within this judicial district. *See* <https://www.ledsmagazine.com/articles/2016/09/ge-outfits-walmart-sainsbury-s-with-leds-but-where-s-the-iot.html>.

10. One example of Defendant’s infringing products is Defendant’s Lumination LED Luminaires – LIS Series. On information and belief, the LIS Series products are sold through the GE brand “Current, powered by GE”. GE’s website reveals exemplary information regarding the LIS Series product (<https://products.currentbyge.com/indoor-lighting/lumination-lis-series>). It is also depicted below:



11. Another example of Defendant's infringing products is Defendant's Lumination LED Luminaires – IS Series. On information and belief, the IS Series products are sold through the GE brand “Current, powered by GE”. GE's website reveals exemplary information regarding the IS Series product (<https://products.currentbyge.com/indoor-lighting/lumination-is-series>). It is also depicted below:



12. On information and belief, the Accused Products were previously sold through GE's lighting unit, which product was later subsumed into GE's “Current, powered by GE” brand.

13. Defendant's LIS Series Luminaire is a lighting strip incorporating a linear support structure. The LIS Series Luminaire uses a reflector extending substantially along the length of the support. The LIS Series Luminaire's reflector uses a high-reflectance finish. The LIS Series Luminaire also incorporates a plurality of open-air light emitting elements disposed along the length of the support structure. The LIS Series Luminaire uses high brightness light-emitting diodes ("LEDs"), advertised as producing 127 lumens per watt, as shown at <https://products.currentbyge.com/indoor-lighting/lumination-lis-series>. The LEDs are disposed along the length of the support structure. Light from the LIS Series Luminaire's LEDs does not pass through secondary optics. Light from the LIS Series Luminaire's LEDs is reflected at least once before leaving the lighting strip. The LIS Series Luminaire meets each and every limitation of claim 34 of the '165 patent.

14. Defendant's IS Series Luminaire is a lighting strip incorporating a linear support structure. The IS Series Luminaire uses a reflector extending substantially along the length of the support. The IS Series Luminaire's reflector uses a high-reflectance finish. The IS Series Luminaire also incorporates a plurality of open-air light emitting elements disposed along the length of the support structure. The IS Series Luminaire uses high brightness light-emitting diodes ("LEDs"), advertised as producing 125-128 lumens per watt, as the light emitting elements, as shown at https://products.currentbyge.com/sites/products.currentbyge.com/files/documents/document_file/IND094-GE-Lumination-Indirect-Suspended-IS-Series-Data-Sheet.pdf. The LEDs are disposed along the length of the support structure. Light from the IS Series Luminaire's LEDs does not pass through secondary optics. Light from the IS Series Luminaire's LEDs is reflected

at least once before leaving the lighting strip. The IS Series Luminaire meets each and every limitation of claim 34 of the '165 patent.

15. Defendant has infringed and continues to infringe (literally and/or under the doctrine of equivalents) one or more claims of the '165 patent in this judicial district and elsewhere in the United States, by making, using, importing, selling, and offering for sale the Accused Products that incorporate the claimed lighting unit design.

16. Defendant has been at no time, either expressly or impliedly, licensed under the '165 patent.

17. Defendant's acts of infringement have caused damage to NEXT. NEXT is entitled to recover from Defendant the damages sustained by NEXT as a result of the wrongful acts of Defendant in an amount subject to proof at trial.

18. To the extent required by law, NEXT has complied with the provisions of 35 U.S.C. § 287.

19. Defendant's infringement of the '165 patent continues to be willful and deliberate, entitling NEXT to enhanced damages and attorneys' fees. Additional allegations regarding Defendant's knowledge of the '165 patent and willful infringement will likely have evidentiary support after a reasonable opportunity for discovery. Upon information and belief, the risks of infringement were known to Defendant and/or were so obvious under the circumstances that the infringement risks should have been known. Defendant has acted despite an objectively high likelihood that its actions constituted infringement of the '165 patent. In addition, this objectively-defined risk was known or should have been known to Defendant. Defendant's actions constitute egregious behavior beyond typical infringement.

20. Further and in the alternative, at least since the filing and service of this Complaint, Defendant has been and now is actively inducing infringement of at least claim 34 of the '165 patent in violation of 35 U.S.C. § 271(b). Users of the Accused Products directly infringe at least claim 34 of the '165 patent when they use the Accused Products in the ordinary, customary, and intended way. Defendant's affirmative acts of selling the Accused Products, causing the Accused Products to be manufactured and distributed, and providing instruction manuals for the Accused Products have induced and continue to induce Defendant's manufacturers, resellers, and/or end-users to make or use the Accused Products in their normal and customary way to infringe the '165 and patent. For example, it can be reasonably inferred that retailers will re-sell the infringing products, and that end-users will use the infringing products, which will cause the Accused Products that are the subject of the claimed invention to be used. By way of example only, the lighting products that are the subject of the claimed invention are used when one of the Accused Products is turned on and its LEDs illuminated. In addition, Defendant provides instructional materials, such as user guides, that specifically teach end-users to use the Accused Products. For example, Defendant makes available an installation guide pertaining to the Accused Products at https://products.currentbyge.com/sites/products.currentbyge.com/files/documents/document_file/IND095-GE-Lumination-LED-Indirect-Suspended-IS-Series-Luminaire-Install-Guide.pdf. By providing such instructions, Defendant knows (and has known), or was willfully blind to the probability that its actions have, and continue to, actively induce infringement. These actions have induced and continue to induce the direct infringement of the '165 patent by end-users, businesses, distributors, resellers, and sales representatives.

DEMAND FOR JURY TRIAL

NEXT hereby demands a jury for all issues so triable.

PRAYER

WHEREFORE, NEXT respectfully requests that the Court:

1. Enter judgment that Defendant has infringed the '165 patent;
2. A judgment and order permanently enjoining Defendant and its directors, officers, employees, agents, parents, subsidiaries, affiliates, and all persons in active concert or participation with it from infringement, inducement to infringe, or contributory infringement of the '165 patent, including the making, use, sale, offer for sale, distribution, or promotion of products and/or services falling within the scope of the claims of the '165 patent pursuant to 35 U.S.C. § 283;
3. A judgment and order requiring Defendant to pay NEXT damages sufficient to compensate NEXT for Defendant's infringement of the '165 patent, in an amount not less than NEXT's lost profits and/or a reasonable royalty and interest and costs, pursuant to 35 U.S.C. § 284, and supplemental damages for any continuing post-verdict infringement up until entry of final judgment with an accounting, as needed;
4. A judgment and order awarding NEXT enhanced damages, pursuant to 35 U.S.C. § 284, if Defendant's acts of infringement of the '165 patent are determined to be willful;
5. An award of all costs and reasonable attorney's fees against Defendant, pursuant to 35 U.S.C. §§ 284 and 285, based on its infringement of the '165 patent; and
6. Award any other relief deemed just and equitable.

DATED: June 11, 2018

Respectfully submitted,

/s/ Robert D. Katz

Robert D. Katz

Texas Bar No. 24057936

Email: rkatz@katzfirm.com

KATZ PLLC

6060 N. Central Expressway, Suite 560

Dallas, TX 75206

Phone: (214) 865-8000

ATTORNEY FOR PLAINTIFF

NEXT LIGHTING CORP.