IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

E. FRED SCHUBERT,	)	
	)	
Plaintiff,	)	
	)	C.A. No. 12-922-GMS
v.	)	
	)	**JURY TRIAL DEMANDED**
CREE, INC.,	)	
	)	
Defendant.	)	

DECLARATION OF JULIO GARCERAN IN SUPPORT OF DEFENDANT'S MOTION TO TRANSFER VENUE TO THE MIDDLE DISTRICT OF NORTH CAROLINA

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Attorneys for Defendant Cree, Inc.

Dated: September 7, 2012
1074003 / 39395

I, Julio Garceran, hereby declare as follows:

1. I am the Chief Intellectual Property Counsel for Cree, Inc. ("Cree"). I have personal knowledge of the facts stated herein.

2. Founded in 1987, Cree is a North Carolina corporation with its corporate headquarters and principal place of business located in Durham, North Carolina which lies within the Middle District of North Carolina.

3. Cree has been headquartered in North Carolina since its inception, 25 years ago, and employs over 2,000 people in the United States.

4. All of Cree's executive officers are based in North Carolina. No Cree employee works in the State of Delaware.

5. Most Cree documents and witnesses potentially relevant to this litigation are located in North Carolina.

6. Cree has no offices, facilities or real estate in the State of Delaware.

7. The accused products have been identified as Cree's EZ Bright light emitting diode (LED") chips. *See* D.I. 1, at ¶16.

8. All of the relevant manufacturing steps for Cree's EZ Bright LED chips ("EZ LED chips") are performed in North Carolina.

9. The vast majority of the witnesses and documents relating to the manufacture of these products are in North Carolina.

10. None of the accused products were invented, designed, developed, manufactured, marketed, and/or sold in the State of Delaware.

11. Cree does not maintain any technical or business information about the accused products in Delaware.

12. Cree also does business without any particular focus on the State of Delaware.

13. In fiscal year 2011, Cree's revenues from all products sold totaled over $671M.

14. In comparison, during the same period of time, its total sales for all products sold in the State of Delaware was less than $48,000.00.

15. Therefore, 0.007% of Cree's revenues were derived from the State of Delaware. Accordingly, Cree's Delaware activities are but an extremely small fraction of Cree's total business.

16. Cree's relevant witnesses and records are primarily in North Carolina and not in Delaware.

17. Most of the Cree employees who may be witnesses are based in North Carolina.

18. To my knowledge, none of Cree's potential fact witnesses have any connection to Delaware.

19. Most of the engineers with knowledge of the processing steps for manufacturing the accused products are in North Carolina.

20. Most of the Cree documents and witnesses potentially relevant to this litigation are located in North Carolina and the record evidence concerning the alleged invention appears to be primarily in either New York or Massachusetts.

21. Cree has filed suit in the District of Delaware exactly one time in its history. *See Cree, Inc. v. SemiLEDs, Inc., et al.* No. 10-cv-866-RGA (D. Del.).

22. In that prior case, Cree asserted its patents against: SemiLEDs Corp. ("SemiLEDs"), SemiLEDs Optoelectronics Co., Ltd., ("SemiLEDs Optoelectronics") and Helios Crew Corp.("Helios").

23. SemiLEDs and Helios were incorporated in the State of Delaware. (*Cree, Inc. v. SemiLEDs Corp., et al.* Complaint, D.I. 1, at ¶¶ 2-5.)

24. The asserted patents and facts surrounding the instant case and those involving SemiLEDs, SemiLEDs Optoelectronics and Helios are different.

25. Further, the case was dismissed on June 27th, 2012, prior to the present action being filed.

I declare under the pains and penalty of perjury under the laws of the United States, that the foregoing is true and correct.

DATED: September 7, 2012 /s/ Julio Garceran
Julio Garceran

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CERTIFICATE OF SERVICE

I, David E. Moore, hereby certify that on September 7, 2012, the attached document was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading.

I further certify that on September 7, 2012, the attached document was Electronically Mailed to the following person(s):

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