UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

KONINKLIJKE PHILIPS ELECTRONICS N.V. AND PHILIPS SOLID-STATE LIGHTING SOLUTIONS, INC. Plaintiffs, v. NEXXUS LIGHTING, INC. Defendant.	CIVIL ACTION NO. 12-CV-10549-JLT

ANSWER OF DEFENDANT NEXXUS LIGHTING, INC. TO COMPLAINT AND COUNTERCLAIM

Defendant Nexxus Lighting Inc. ("Nexxus") responds to the numbered paragraphs of the Complaint filed by Plaintiffs Koninklijke Philips Electronics N.V. and Philips Solid-State Lighting Solutions, Inc. ("Plaintiffs") as follows:

NATURE OF ACTION

1. Nexxus admits that this action purports to be an action for patent infringement arising under the Patent Laws of the United States as codified in Title 35 of the United States Code, but denies any such patent infringement as alleged by Plaintiffs.

PARTIES

2. Nexxus is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2, and therefore denies same.

3. Nexxus is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3, and therefore denies same.

4. Nexxus admits the allegations of paragraph 4.

JURISDICTION AND VENUE

5. Nexxus admits that this Court has subject matter jurisdiction over Plaintiffs' claims for patent infringement under 28 U.S.C. § 1338(a), but denies any such patent infringement as alleged by Plaintiffs.

6. Nexxus admits the allegations of paragraph 6.

7. Nexxus admits that it has sold products in Massachusetts, but otherwise denies the allegations of paragraph 7. Nexxus denies that it has committed tortious activity in this judicial district as alleged by Plaintiffs.

8. Nexxus admits that venue is proper in this judicial district with respect to Plaintiffs' allegations against Nexxus, and admits that this Court has personal jurisdiction over Nexxus, but denies that it has committed tortious activity or acts of infringement in this judicial district.

FACTUAL BACKGROUND

9. Nexxus admits that its products include the Array LED PAR20, Array LED PAR30, Array LED PAR38, Array LED R30, Array LED MR16, Array LED MR16-HO, Array LED R16, and Array LED GU10, of which the Array LED PAR20, Array LED PAR30, Array LED PAR38, Array LED R30, and Array LED R16 can be installed in conventional light bulb sockets. Nexxus otherwise denies the allegations of paragraph 9.

COUNT I – ALLEGED PATENT INFRINGEMENT OF U.S. PATENT NO. 6,013,988

10. Nexxus repeats its responses to paragraphs 1-9 of the Complaint as though they were fully set forth herein.

11. Nexxus admits that the United States Patent and Trademark Office issued U.S. Patent No. 6,013,988 ("the '988 patent), entitled "Circuit Arrangement, and Signalling Light

Provided With the Circuit Arrangement," on January 11, 2000, to Marcel J. M. Bucks et al., but is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 11, and therefore denies same.

12. Nexxus denies the allegations of paragraph 12.

13. Nexxus denies the allegations of paragraph 13.

COUNT II – ALLEGED PATENT INFRINGEMENT OF U.S. PATENT NO. 6,250,774

14. Nexxus repeats its responses to paragraphs 1-9 of the Complaint as though they were fully set forth herein.

15. Nexxus admits that the United States Patent and Trademark Office issued U.S. Patent No. 6,250,774 ("the '774 patent), entitled "Luminaire" on June 26, 2001, to Simon H. A. Begemann et al., but is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 15, and therefore denies same.

16. Nexxus denies the allegations of paragraph 16.

17. Nexxus denies the allegations of paragraph 17.

18. Nexxus denies the allegations of paragraph 18.

COUNT III – ALLEGED PATENT INFRINGEMENT OF U.S. PATENT NO. 7,038,399

19. Nexxus repeats its responses to paragraphs 1-9 of the Complaint as though they were fully set forth herein.

20. Nexxus admits that the United States Patent and Trademark Office issued U.S. Patent No. 7,038,399 ("the '399 patent), entitled "Methods and Apparatus for Providing Power to Lighting Devices," on May 2, 2006, to Ihor A. Lys et al., but is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 20, and therefore denies same.

21. Nexxus denies the allegations of paragraph 21.

22. Nexxus denies the allegations of paragraph 22.

23. Nexxus denies the allegations of paragraph 23.

COUNT IV – ALLEGED PATENT INFRINGEMENT OF U.S. PATENT NO. 7,358,679

24. Nexxus repeats its responses to paragraphs 1-9 of the Complaint as though they were fully set forth herein.

25. Nexxus admits that the United States Patent and Trademark Office issued U.S. Patent No. 7,358,679 ("the '679 patent), entitled "Dimmable LED-Based MR16 Lighting Apparatus and Methods," on April 15, 2008, to Ihor a. Lys et al., but is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 25, and therefore denies same.

26. Nexxus denies the allegations of paragraph 26.

27. Nexxus denies the allegations of paragraph 27.

28. Nexxus denies the allegations of paragraph 28.

COUNT V – ALLEGED PATENT INFRINGEMENT OF U.S. PATENT NO. 7,737,643

29. Nexxus repeats its responses to paragraphs 1-9 of the Complaint as though they were fully set forth herein.

30. Nexxus admits that the United States Patent and Trademark Office issued U.S. Patent No. 7,737,643 ("the '643 patent), entitled "LED Power Control Methods and Apparatus," on June 15, 2010, to Ihor A. Lys, but is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 30, and therefore denies same.

31. Nexxus denies the allegations of paragraph 31.

32. Nexxus denies the allegations of paragraph 32.

33. Nexxus denies the allegations of paragraph 33.

COUNT VI – ALLEGED PATENT INFRINGEMENT OF U.S. PATENT NO. 7,802,902

34. Nexxus repeats its responses to paragraphs 1-9 of the Complaint as though they were fully set forth herein.

35. Nexxus admits that the United States Patent and Trademark Office issued U.S. Patent No. 7,802,902 ("the '902 patent), entitled "LED Lighting Fixtures," on September 28, 2010, to Timothy B. Moss et al., but is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 35, and therefore denies same.

36. Nexxus denies the allegations of paragraph 36.

37. Nexxus denies the allegations of paragraph 37.

38. Nexxus denies the allegations of paragraph 38.

AFFIRMATIVE DEFENSES

As its separate affirmative defenses to Plaintiffs' claims and allegations, Nexxus alleges as follows:

FIRST AFFIRMATIVE DEFENSE

39. The Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

40. Nexxus has not infringed and does not infringe any valid and enforceable claim of the '988, '774, '399, '679, '643, and '902 patents (collectively the "Philips patents").

THIRD AFFIRMATIVE DEFENSE

41. One or more claims of the Philips patents are invalid for failure to comply with one or more of the provisions of Part II of Title 35 of the United States Code, including sections 101, 102, and 103.

FOURTH AFFIRMATIVE DEFENSE

42. One or more claims of the Philips patents are invalid or unenforceable for failure to comply with Section 112 of Title 35 of the United States Code.

FIFTH AFFIRMATIVE DEFENSE

43. Damages to Plaintiff, if any, are limited by 35 U.S.C. §§ 286 and 287.

44. Nexxus specifically reserves the right to assert each and every other defense that may become evident in the course of discovery, including but not limited to laches, estoppel, and inequitable conduct.

COUNTERCLAIMS

Pursuant to Rule 13 of the Federal Rules of Civil Procedure, Defendant Nexxus Lighting Inc. ("Nexxus"), for its Counterclaims against Plaintiffs Koninklijke Philips Electronics N.V. and Philips Solid-State Lighting Solutions, Inc. ("Plaintiffs"), alleges as follows:

1. Nexxus is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 124 Floyd Smith Drive, Suite 300, Charlotte, North Carolina 28262.

2. Plaintiff Koninklijke Philips Electronics N.V. alleges that it is a corporation organized and existing under the laws of the Netherlands, with a principal place of business at Breitner Center, Amstelplein 2, 1096 BC Amsterdam, The Netherlands.

3. Plaintiff Philips Solid-State Lighting Solutions, Inc. alleges that it is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 3 Burlington Woods Drive, Burlington, Massachusetts 01803.

4. Nexxus' Counterclaims relate to Plaintiffs' claims for patent infringement and arise under the patent laws of the United States, Title 35, United States Code.

5. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a), and the Declaratory Judgment Act.

6. Personal jurisdiction and venue are proper in the District of Massachusetts in accordance with 28 U.S.C. § 1391(a) because Plaintiff Philips Solid-State Lighting Solutions, Inc. has its principal place of business within this district in the State of Massachusetts, and has already subjected itself to the personal jurisdiction of this Court.

FIRST COUNTERCLAIM – DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF THE '988 PATENT

7. Nexxus repeats the allegations of paragraphs 1-6 of these Counterclaims as though they were set forth fully herein.

8. Plaintiffs allege in the Complaint in this action that Plaintiff Koninklijke Philips Electronics N.V. is the owner of all right, title, and interest in U.S. Patent No. 6,013,988 ("the '988 patent"), which issued on January 11, 2000.

9. Plaintiffs allege that Nexxus has infringed the '988 patent.

10. Nexxus does not directly or indirectly infringe the '988 patent now, nor has it ever done so.

11. The '988 patent is invalid for failure to comply with one or more of sections of Title 35 of the United States Code and/or is unenforceable against Nexxus, including without limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

12. As a consequence of the foregoing, there exists an actual and justiciable controversy between Plaintiffs and Nexxus with respect to the alleged infringement and the validity and enforceability of the '988 patent.

13. Nexxus is entitled to judgment from this Court that the '988 patent is not infringed by Nexxus and is invalid and/or unenforceable.

SECOND COUNTERCLAIM – DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF THE '774 PATENT

14. Nexxus repeats the allegations of paragraphs 1-6 of these Counterclaims as though they were set forth fully herein.

15. Plaintiffs allege in the Complaint in this action that Plaintiff Koninklijke Philips Electronics N.V. is the owner of all right, title, and interest in U.S. Patent No. 6,250,774 ("the '774 patent"), which issued on June 26, 2001.

16. Plaintiffs allege that Nexxus has infringed the '774 patent.

17. Nexxus does not directly or indirectly infringe the '774 patent now, nor has it ever done so.

18. The '774 patent is invalid for failure to comply with one or more of sections of Title 35 of the United States Code and/or is unenforceable against Nexxus, including without limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

19. As a consequence of the foregoing, there exists an actual and justiciable controversy between Plaintiffs and Nexxus with respect to the alleged infringement and the validity and enforceability of the '774 patent.

20. Nexxus is entitled to judgment from this Court that the '774 patent is not infringed by Nexxus and is invalid and/or unenforceable.

THIRD COUNTERCLAIM – DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF THE '399 PATENT

21. Nexxus repeats the allegations of paragraphs 1-6 of these Counterclaims as though they were set forth fully herein.

22. Plaintiffs allege in the Complaint in this action that Plaintiff Philips Solid-State Lighting Solutions, Inc. is the owner of all right, title, and interest in U.S. Patent No. 7,038,399 ("the '399 patent"), which issued on May 2, 2006.

23. Plaintiffs allege that Nexxus has infringed the '399 patent.

24. Nexxus does not directly or indirectly infringe the '399 patent now, nor has it ever done so.

25. The '399 patent is invalid for failure to comply with one or more of sections of Title 35 of the United States Code and/or is unenforceable against Nexxus, including without limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

26. As a consequence of the foregoing, there exists an actual and justiciable controversy between Plaintiffs and Nexxus with respect to the alleged infringement and the validity and enforceability of the '399 patent.

27. Nexxus is entitled to judgment from this Court that the '399 patent is not infringed by Nexxus and is invalid and/or unenforceable.

FOURTH COUNTERCLAIM – DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF THE '679 PATENT

28. Nexxus repeats the allegations of paragraphs 1-6 of these Counterclaims as though they were set forth fully herein.

29. Plaintiffs allege in the Complaint in this action that Plaintiff Philips Solid-State Lighting Solutions, Inc. is the owner of all right, title, and interest in U.S. Patent No. 7,358,679 ("the '679 patent"), which issued on April 15, 2008.

30. Plaintiffs allege that Nexxus has infringed the '679 patent.

31. Nexxus does not directly or indirectly infringe the '679 patent now, nor has it ever done so.

32. The ‘679 patent is invalid for failure to comply with one or more of sections of Title 35 of the United States Code and/or is unenforceable against Nexxus, including without limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

33. As a consequence of the foregoing, there exists an actual and justiciable controversy between Plaintiffs and Nexxus with respect to the alleged infringement and the validity and enforceability of the ‘679 patent.

34. Nexxus is entitled to judgment from this Court that the ‘679 patent is not infringed by Nexxus and is invalid and/or unenforceable.

FIFTH COUNTERCLAIM – DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF THE ‘643 PATENT

35. Nexxus repeats the allegations of paragraphs 1-6 of these Counterclaims as though they were set forth fully herein.

36. Plaintiffs allege in the Complaint in this action that Plaintiff Philips Solid-State Lighting Solutions, Inc. is the owner of all right, title, and interest in U.S. Patent No. 7,737,643 (“the ‘643 patent”), which issued on June 15, 2010.

37. Plaintiffs allege that Nexxus has infringed the ‘643 patent.

38. Nexxus does not directly or indirectly infringe the ‘643 patent now, nor has it ever done so.

39. The ‘643 patent is invalid for failure to comply with one or more of sections of Title 35 of the United States Code and/or is unenforceable against Nexxus, including without limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

40. As a consequence of the foregoing, there exists an actual and justiciable controversy between Plaintiffs and Nexxus with respect to the alleged infringement and the validity and enforceability of the '643 patent.

41. Nexxus is entitled to judgment from this Court that the '643 patent is not infringed by Nexxus and is invalid and/or unenforceable.

SIXTH COUNTERCLAIM – DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF THE '902 PATENT

42. Nexxus repeats the allegations of paragraphs 1-6 of these Counterclaims as though they were set forth fully herein.

43. Plaintiffs allege in the Complaint in this action that Plaintiff Koninklijke Philips Electronics N.V. is the owner of all right, title, and interest in U.S. Patent No. 7,802,902 ("the '902 patent"), which issued on September 28, 2010.

44. Plaintiffs allege that Nexxus has infringed the '902 patent.

45. Nexxus does not directly or indirectly infringe the '902 patent now, nor has it ever done so.

46. The '902 patent is invalid for failure to comply with one or more of sections of Title 35 of the United States Code and/or is unenforceable against Nexxus, including without limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

47. As a consequence of the foregoing, there exists an actual and justiciable controversy between Plaintiffs and Nexxus with respect to the alleged infringement and the validity and enforceability of the '902 patent.

48. Nexxus is entitled to judgment from this Court that the '902 patent is not infringed by Nexxus and is invalid and/or unenforceable.

PRAYER FOR RELIEF

WHEREFORE, Nexxus requests that this Court enter judgment:

a) that Plaintiffs take nothing against Nexxus by its Complaint in this action;

b) finding, declaring, and adjudging in favor of Nexxus and against Plaintiffs, dismissing with prejudice all claims of Plaintiffs against Nexxus;

c) finding, declaring, and adjudging that every asserted claim of the '988, '774, '399, '679, '643, and '902 patents is invalid and/or unenforceable;

d) finding, declaring, and adjudging that Nexxus does not infringe any valid and enforceable claim of the '988, '774, '399, '679, '643, and '902 patents, directly or indirectly, either literally or under the doctrine of equivalents, nor has it ever done so;

e) finding this to be an exceptional case under Section 285 of Title 35 of the United States Code, and awarding to Nexxus its costs (including expert witness fees), disbursements, and reasonable attorney's fees incurred in this action and such other relief as may be appropriate; and

f) granting such other and further relief as this Court may deem just and proper.

Respectfully submitted,

NEXXUS LIGHTING, INC.

By its attorneys,

/s/ Victor H. Polk, Jr.,
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Dated: May 16, 2012

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants as of May 16, 2012.

/s/ Victor H. Polk, Jr.