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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Epistar Corporation,

Plaintiff,

vs.

Lowe’s Companies, Inc.,
Lowe’s Home Centers, LLC

Defendants.

Case 2:17-cv-03219-JAK-KS

VERDICT FORM

REDACTED

<p>FILED CLERK, U.S. DISTRICT COURT</p> <p>12/06/2021</p> <p>CENTRAL DISTRICT OF CALIFORNIA</p> <p>BY: _____ TJ _____ DEPUTY</p>

When answering the following questions and filling out this Verdict Form, please follow the directions provided throughout the form. Your answer to each question must be unanimous. Please refer to the Jury Instructions if you are unsure about the meaning or usage of any legal term that appears in the questions below.

WE, THE JURY, unanimously agree to the answers to the following questions and return them under the instructions of this court as our verdict in this case:

1 **I. INFRINGEMENT**

2 *For questions in this section, "Yes" is a finding for Epistar and "No" is a*
3 *finding for Lowe's.*

4 **A. The '780 Patent:**

5 **QUESTION 1:** Has Epistar proven that it is more likely than not that every
6 requirement of Claims 1, 3, and 7 of the '780 Patent is included in at least one of
7 Lowe's accused products?

8 Claim 1 Yes No

9 Claim 3 Yes No

10 Claim 7 Yes No

11
12 **B. The '771 Patent:**

13 **QUESTION 2:** Has Epistar proven that it is more likely than not that every
14 requirement of Claims 36 and 38 of the '771 Patent is included in at least one of
15 Lowe's accused products?

16 Claim 36 Yes No

17 Claim 38 Yes No

18
19 **II. WILLFULNESS**

20 **A. '738 Patent**

21 **QUESTION 3:** Has Epistar proven that it is more likely than not that Lowe's
22 actually knew, intentionally ignored, or recklessly disregarded that its actions
23 constituted infringement of the '738 Patent?

24 Yes No

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26 **B. '780 Patent**

27 If you answered "Yes" to any part of Question 1, answer the following
28 question.

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Oohata '741	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Marchl	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Sickmiller	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

b. Differences Between the Claims and the Cited Art

QUESTION 7: What difference(s), if any, existed between Claims 1-3, and 8 of the '738 Patent and the prior art at the time of the claimed invention? *Check any that applies.*

i. Oohata '090

Lowe's Contention: Oohata '090 in view of the knowledge of a person having ordinary skill in the art disclose all elements of Claims 1-3 and 8 of the '738 Patent

Epistar's Contention 1: Oohata '090 does not disclose a substrate

Epistar's Contention 2: Oohata '090 does not disclose epitaxial light-emitting stack layers

Epistar's Contention 3: Oohata '090 does not disclose a plurality of electrically connected epitaxial light-emitting stack layers

Epistar's Contention 4: Oohata '090 does not disclose that the P-contact and the N-contact are disposed on the same side of the epitaxial light-emitting stack layer.

Epistar's Contention 5: Oohata '090 does not disclose a first conductive semiconductor stack layer

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ii. Oohata '741 and Marchl

- Lowe's Contention:** Oohata '741 in view of Marchl disclose all elements of Claims 1-3 of the '738 Patent
- Epistar's Contention 1:** Oohata '741 does not disclose a substrate
- Epistar's Contention 2:** Oohata '741 does not disclose epitaxial light-emitting stack layers
- Epistar's Contention 3:** Oohata '741 does not disclose a plurality of electrically connected epitaxial light-emitting stack layers
- Epistar's Contention 4:** Oohata '741 does not disclose that the P-contact and the N-contact are disposed on the same side of the epitaxial light-emitting stack layer.
- Epistar's Contention 5:** Oohata '741 does not disclose a first conductive semiconductor stack layer

iii. Oohata '741, Marchl and Sickmiller

- Lowe's Contention:** Oohata '741 in view of Marchl and Sickmiller disclose all elements of Claim 8 of the '738 Patent
- Epistar's Contention 1:** The combination does not disclose a substrate
- Epistar's Contention 2:** The combination does not disclose epitaxial light-emitting stack layers
- Epistar's Contention 3:** The combination does not disclose a plurality of electrically connected epitaxial light-emitting stack layers
- Epistar's Contention 4:** The combination does not disclose that the P-contact and the N-contact are

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disposed on the same side of the epitaxial light-emitting stack layer.

 Epistar’s Contention 5: The combination does not disclose a first conductive semiconductor stack layer

c. Secondary Considerations

QUESTION 8: Which of the following factors, if any, has Epistar established by the evidence with respect to the claimed invention (*check any that applies*)?

- commercial success of a product due to the merits of the claimed invention
- a long felt need for the solution that is provided by the claimed invention
- acceptance by others of the claimed invention as shown from the licensing of the claimed invention

B. The ’780 Patent

a. Scope and Content of the Prior Art

QUESTION 9: Were the following references within the scope and content of the prior art at the time of the claimed invention?

Nakamura	Yes <input checked="" type="checkbox"/>	No <u> </u>
Sugiura	Yes <u> </u>	No <input checked="" type="checkbox"/>

b. Differences Between the Claims and the Cited Art

QUESTION 10: What difference(s), if any, existed between Claims 1, 3, and 7 of the ’780 Patent and the prior art at the time of the claimed invention? *Check any that applies.*

Nakamura and Sugiura

 Lowe’s Contention: Nakamura and Sugiura disclose all

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elements of claims 1, 3, and 7 of the '780 Patent

Epistar's Contention 1: Sugiura does not disclose a light emitting stack layer

Epistar's Contention 2: Sugiura does not disclose a first conductive-type semiconductor layer

Epistar's Contention 3: Sugiura does not disclose an active layer

Epistar's Contention 4: Sugiura does not disclose a second conductive-type semiconductor layer

Epistar's Contention 5: Nakamura does not disclose a sidewall of the substrate comprising a first area and a second area

Epistar's Contention 6: Nakamura does not disclose a substantially flat first area

Epistar's Contention 7: Nakamura does not disclose a substantially textured second area

Epistar's Contention 8: Nakamura does not disclose a convex-concave structure

c. Secondary Considerations

QUESTION 11: Which of the following factors, if any, has Epistar established by the evidence with respect to the claimed invention (*check any that applies*)?

commercial success of a product due to the merits of the claimed invention

a long felt need for the solution that is provided by the claimed invention

acceptance by others of the claimed invention as shown from the licensing of the claimed invention

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ANTICIPATION

For all questions in this section, "Yes" is a finding for Lowe's and "No" is a finding for Epistar.

The '771 Patent:

QUESTION 12: Has Lowe's established that it is highly probable that Claims 36 and 38 of Epistar's '771 Patent were anticipated by Kunio, or in other words, not new?

Claim 36 Yes No
Claim 38 Yes No

IV. FINDINGS ON DAMAGES

When analyzing damages, you should consider infringement of the '738 Patent, which has already been determined, as well as any "Yes" answers you provided, if any, to Questions 1 and 2 concerning infringement of the '771 and '780 Patents, and any "No" answers you provided, if any, to Question 12 concerning anticipation of the '771 Patent.

Follow the instructions below regarding each patent.

'738 Patent

Assume the '738 Patent is valid and answer the following question.

For any infringing sales, what is the amount Epistar has proven it is entitled to as a reasonable royalty.

(a) The jury concludes that a reasonable royalty should be assessed based on a royalty rate of _____% on \$_____ in total sales; or,

(b) The jury concludes that a reasonable royalty should be assessed as a one-time payment of \$ 707,000.

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'780 Patent

If you answered "Yes" to any part of Question 1 concerning infringement of the '780 Patent, assume the '780 Patent is valid and answer the following question. If you answered "No" to all of Question 1, do not answer this question.

For any infringing sales, what is the amount Epistar has proven it is entitled to as a reasonable royalty.

- (a) The jury concludes that a reasonable royalty should be assessed based on a royalty rate of _____% on \$_____ in total sales; or,
- (b) The jury concludes that a reasonable royalty should be assessed as a one-time payment of \$ 707,000.

'771 Patent

If you answered "Yes" to any part of Question 2 concerning infringement of the '771 Patent, and you answered "No" to any part of Question 12 concerning anticipation, answer the following question. If you answered "No" to all of Question 2, or "Yes" to all of Question 12, do not answer this question,

For any infringing sales, what is the amount Epistar has proven it is entitled to as a reasonable royalty.

- (a) The jury concludes that a reasonable royalty should be assessed based on a royalty rate of _____% on \$_____ in total sales; or,
- (b) The jury concludes that a reasonable royalty should be assessed as a one-time payment of \$ 707,000.

1 **V. CONCLUSION**

2 You have now reached the end of the verdict form and should review it to ensure
3 it accurately reflects your unanimous determinations. The Presiding Juror should then
4 sign and date the verdict form in the spaces below and notify the Marshal that you have
5 reached a verdict. The verdict form should then be placed in the envelope that has been
6 provided to you. The Presiding Juror should keep possession of the envelope and bring
7 it into the Courtroom when the jury returns there with the Marshal.

8
9 Date: 12/6/21

By: **REDACTED**
Presiding Juror

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