

Lack of Detail Dooms Patent Infringement Complaint Involving Complex Technology

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A recent decision from the District of New Jersey serves as a reminder to practitioners that the level of detail required to adequately plead patent infringement will depend on factors such as the complexity of the technology involved, and the materiality of particular claim elements to the infringement analysis. In *Lexington Luminance LLC v. Bulbrite Industries, Inc.*, No. 22-3787, ECF No. 17 (Jan. 10, 2023), Judge John Michael Vazquez granted a Motion to Dismiss a complaint for patent infringement, finding that the complaint failed to provide enough detail to plead direct infringement based on the materiality of the claim limitations and the complexity of the technology at issue.

In *Lexington*, plaintiff sued for infringement of a patent – the ‘851 Patent – directed to an improvement in the manufacturing of semiconductor light-emitting devices (“LEDs”). *Id.* at 2. The ‘851 Patent offered a solution to a lattice mismatch problem that could generate structural defects and cause premature degradation of the LED. *Id.* at 2-3. Plaintiff asserted claims of direct infringement, induced infringement, and willful infringement against accused products manufactured and/or sold by Defendant Bulbrite Industries.

Two key claim elements from the ‘851 Patent were at issue in the Court’s decision: (i) “an active layer disposed on said first layer;” and (ii) “whereby the plurality of inclined lower portions are configured to guide extended lattice defects away from propagating into the active layer.” *Id.* at 7.

As to the first element, Plaintiff’s complaint simply recited the claim language in alleging Defendant’s accused products practiced this limitation, and further cited to an article published in 2002, which Plaintiff alleged established the claim element exists in all light bulbs that use LEDs. *Id.* at 7-8. As to the second element, Plaintiff’s complaint once again simply recited the claim language, and further cited to an image appearing in the ‘851 Patent, to which Plaintiff then added two arrows allegedly pointing toward “an inclined lower portion.” *Id.* at 8-9.

In addressing Defendant’s Motion to Dismiss, the Court first looked to the ‘851 Patent itself and its prosecution history, and determined that the two key claim elements at issue were material to the infringement analysis. *Id.* at 10. The Court then considered whether each key claim element at issue was adequately pled. For the “active layer disposed on said first layer” limitation, Judge Vazquez found that “merely reciting the language of this limitation and citing to a 20-year-old article, without more, does not suffice given the materiality of this element.” *Id.* With respect to the “plurality of inclined lower portions” limitation, Judge Vazquez found that “merely

identifying the inclined lower portions without pleading facts sufficient to infer the claimed guiding function” was insufficient to plead infringement. *Id.* at 12.

In reaching this conclusion, Judge Vazquez relied on the Federal Circuit’s decision in *Bot M8 LLC v. Sony Corporation of America*, 4 F.4th 1342 (Fed. Cir. 2021), which holds that more is required to assert a plausible claim of infringement under the *Iqbal/Twombly* standard than simply reciting the claim elements and asserting that the accused product has those elements. *Lexington, supra* at 6. Judge Vazquez further agreed that “a higher level of detail in pleading infringement may—depending on the complexity of the technology—be demanded for elements clearly “material” to novelty and non-obviousness.” *Id.* at 10 (citing *Vervain, LLC v. Micron Tech, Inc.*, No. 21-00487, 2022 WL 23469, at *5 (W.D. Tex. Jan. 3, 2022)).

Finally, in addition to dismissing Plaintiff’s claim for direct infringement, Judge Vazquez further held that without a valid pending claim of direct infringement, Plaintiff’s claims for induced infringement and willful infringement must also fail. *Id.* at 13. Accordingly, Plaintiff’s entire complaint was dismissed without prejudice, and Plaintiff was permitted an opportunity to file an amended pleading that cured the deficiencies identified in the Court’s opinion.

A copy of Judge Vazquez’s January 10, 2023 Opinion in *Lexington Luminance LLC v. Bulbrite Industries, Inc.*, No. 22-3787, ECF No. 17 (Jan. 10, 2023), is attached.