

1 Patrick Cummins
2 CA Bar No.: 294400
3 Patrick@CumminsIP.com
4 Cummins IP PLLC
5 3426 PEPPERHILL RD
6 LEXINGTON, KY 40502
7 TEL: 502.445.9880
8 *Counsel for Plaintiff,*
9 *DS Advanced Enterprises, Ltd.*

10 **U.S. DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 DS ADVANCED ENTERPRISES,) Case No.: '23CV1335 BEN JLB
13 LTD.,)
14 A CORPORATION,) **COMPLAINT FOR PATENT**
15 *Plaintiff,*) **INFRINGEMENT**
16 v.) **AND**
17 LOWE’S COMPANIES, INC.,) **DEMAND FOR JURY TRIAL**
18 A CORPORATION,)
19 LOWE’S HOME CENTERS, LLC,)
20 A CORPORATION,)
21 LF, LLC,)
22 A CORPORATION, and)
23 YANKON LIGHTING, INC.,)
24 A CORPORATION,)
25 *Defendants.*)

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1 Plaintiff, DS ADVANCED ENTERPRISES, LTD (“PLAINTIFF”), by and
2 through counsel CUMMINS IP PLLC, for its complaint against the following
3 defendants: Defendant LOWE’S COMPANIES, INC., Defendant LOWE’S HOME
4 CENTERS, LLC, Defendant LF, LLC, and Defendant YANKON LIGHTING, INC.
5 (collectively “DEFENDANTS”), allege as follows:

6 **PARTIES**

7 1. PLAINTIFF, DS Advanced Enterprises, LTD. (“DSAE”), is an Ontario
8 corporation with a principal place of business at 34 Park Court, Niagara-on-the-Lake,
9 ON L0S 1J0, Canada.

10 2. PLAINTIFF is the owner of U.S. Patent 11,054,118 (see Exhibit 1) and sells
11 lighting products in the United States and internationally.

12 3. DEFENDANT Lowe’s Companies, Inc. is a North Carolina corporation with a
13 principal place of business at 1000 Lowe’s Boulevard, Mooresville, North Carolina
14 28117.

15 4. DEFENDANT Lowe’s Home Centers, LLC is a North Carolina corporation with a
16 principal place of business at 2626 Glenwood Avenue, Suite 550, Raleigh, North
17 Carolina 27608.

18 5. DEFENDANT LF, LLC is a North Carolina corporation with a principal place of
19 business at 1000 Lowe’s Boulevard, Mooresville, North Carolina 28117.

20 6. DEFENDANT Yankon Lighting, Inc. is a Texas Corporation with a principal
21 place of business at 1581 Corporate Dr. STE 100, McKinney, Texas 75069-8211.

22 **JURISDICTION AND VENUE**

23 7. This Court has original jurisdiction over the subject matter of this action pursuant
24 to 28 U.S.C. §1331 and §1338, as the dispute between the parties presents a substantial
25 question of federal patent law.

26 8. The Court also has jurisdiction pursuant to 28 U.S.C. §2201(a), as Plaintiff seeks a
27 declaration of rights in relation to Defendants.

1 9. This Court has personal jurisdiction over the Defendants. Defendants are
2 regularly conducting business in California State and this District both directly and
3 indirectly, and, upon information and belief, deriving substantial revenue from business
4 transacted within California State and this District by advertising, distributing, offering
5 for sale, and/or selling of unauthorized goods in California State and this District, and
6 thus are subject to personal jurisdiction in this District.

7 10. Venue is proper in this district under 28 U.S.C. §1391(b)(3) and 28 U.S.C.
8 §1400(b).

9 **BACKGROUND**

10 11. This is an action for Patent Infringement of U.S. Patent 11,054,118 (“the DSAE
11 Patent”) under 35 U.S.C. § 271 based on each DEFENDANT’S unauthorized
12 commercial using, offering for sale, and selling in and from the United States, and
13 importing into the United States, DEFENDANTS’ lighting products, directly, indirectly,
14 and/or by equivalence, and/or by the inducement of another.

15 12. PLAINTIFF designs and sells, in the United States and worldwide, their patented
16 lighting fixtures, which are sold through manufacturers and/or by contacting
17 PLAINTIFF through their website: www.dsaent.com. A screenshot of PLAINTIFF’S
18 website, from July 23, 2021 (available via the Wayback Machine at
19 www.archive.org/web), is provided as Exhibit 3.

20 13. An authorized manufacturer of PLAINTIFF’S patented lighting fixtures includes
21 Zhejiang Foxsun Lighting Co., Ltd. (“Foxsun”).

22 14. Each DEFENDANT is infringing each and every Claim (see Tables 1-10 below)
23 of the DSAE Patent, by each DEFENDANT’S direct, indirect, and/or by equivalence,
24 using, selling, and offering for sale in and from the United States, and/or importing into
25 the United States, DEFENDANTS’ lighting products, and/or by inducing such
26 infringement.

1 15. The DSAE Patent was duly and legally issued on July 6, 2021, and names David
2 Sherman as the inventor. Attached as Exhibit 1 is a true and correct copy of the DSAE
3 Patent.

4 16. PLAINTIFF is the owner of the entire right, title, and interest in and to the validly
5 issued DSAE Patent, which was assigned to PLAINTIFF by an Assignment. A copy of
6 the Assignment is provided as Exhibit 2.

7 17. Upon information and belief, on or before September 5, 2022, DEFENDANTS
8 sold, in the United States and internationally, DEFENDANTS' lighting products (*e.g.*,
9 see Exhibits 4-8) that infringe the DSAE Patent.

10 18. Exhibit 4 provides a screenshot of the LOWE'S DEFENDANTS' (LOWE'S
11 COMPANIES, INC., LOWE'S HOME CENTERS, LLC, and LF, LLC) website, via
12 which a "Utilitech" "Item #5041630 Model #MQTL1183-LED12K9027" can be
13 purchased. The Exhibit 4 screenshot was captured on or before May 8, 2023.

14 19. Exhibit 5 provides a screenshot of LOWE'S DEFENDANTS' website, via which
15 a "Utilitech" "Item #5041631 Model #MQTL1181-LED12K9027" can be purchased.
16 The Exhibit 5 screenshot was captured on or before May 8, 2023.

17 20. Exhibit 6 provides a screenshot of LOWE'S DEFENDANTS' website, via which
18 a "Utilitech" "Item #5041632 Model #MQTL1182-LED12K9027" can be purchased.
19 The Exhibit 6 screenshot was captured on or before May 8, 2023.

20 21. Exhibit 7 provides a screenshot of LOWE'S DEFENDANTS' website, via which
21 a "Utilitech" "Item #5041633 Model #MQTL1181-LED12K9027" can be purchased.
22 The Exhibit 7 screenshot was captured on or before May 8, 2023.

23 22. Exhibit 8 provides a screenshot of LOWE'S DEFENDANTS' website, via which
24 a "Utilitech" "Item #5041634 Model #MQTL1181-LED12K9027" can be purchased.
25 The Exhibit 8 screenshot was captured on or before May 8, 2023.

26 23. Exhibit 9 provides a screenshot of the LOWE'S DEFENDANTS' website, which
27 indicates that a customer published, on "September 5, 2022," a question regarding the
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1 infringing product (Item #5041634). Exhibit 9, therefore, provides evidence that the
2 infringing products have been sold and/or manufactured by DEFENDANTS since
3 September 5, 2022 (if not earlier). The Exhibit 9 screenshot was captured on or before
4 May 8, 2023.

5 24. The LOWE’S DEFENDANTS own the trademark “Utilitech” for use with goods
6 that include “electric lighting fixtures, names recessed cans and trims,” as evidenced by
7 the screenshot of the USPTO.gov website provided as Exhibit 12.

8 25. Exhibit 10 provides a screenshot of a website for the company Intertek, which, in
9 Intertek’s ordinary course of business, provides compliance and certification testing for
10 numerous companies including, but not limited to, the DEFENDANTS. The Exhibit 10
11 screenshot was captured on or before May 8, 2023.

12 26. The Exhibit 10 screenshot indicates that the company “Zhejiang Yankon Group
13 Co., Ltd.,” and hence Yankon Lighting, Inc. (“the YANKON DEFENDANT”), provides
14 products under the trade name “Utilitech” and these products include those having the
15 “Model Nos. MQTL1181-LED10K...MQTL1182-LED12K...[and] MQTL1183-
16 LED12K.” These are the same model numbers provided in the screenshots of the
17 LOWE’S DEFENDANTS’ website, provided in Exhibits 4-8.

18 27. Exhibit 10 is provided to evidence collaboration between the DEFENDANTS to
19 manufacture and sell the DEFENDANTS’ infringing lighting products provided in
20 Exhibits 4-8.

21 28. Exhibit 11 provides a screenshot of www.yankon.com, which states that Zhejiang
22 Yankon Group Co., Ltd. is headquartered in the Zhejiang Province of China but has
23 branches in the United States. Selecting the orange circle depicted over the United
24 States on the map in Exhibit 11 will execute a browser link to yankon-lighting.com,
25 which is owned by the YANKON DEFENDANT.

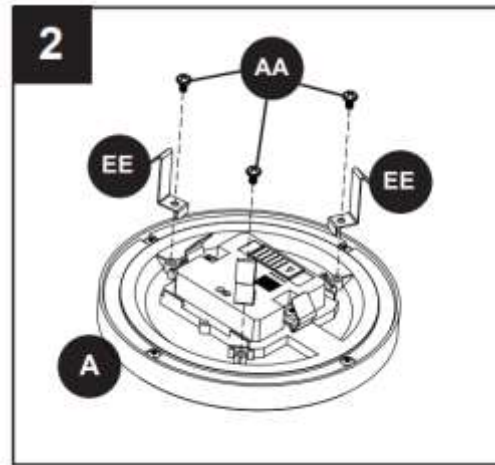
29. TABLE 1 below provides a Claim mapping of Claim 1 from the DSAE Patent, and illustrates examples of how DEFENDANTS’ products (e.g., Item #5041631 and Item #5041633) infringe at least Claim 1 of the DSAE Patent.

30. Images in the right column of Table 1 include photographs of: products purchased directly from the LOWE’S DEFENDANTS, and screenshots of an instruction manual available through the LOWE’S DEFENDANTS’ website (e.g., Scroll to “Overview” and select “Manual PDF” at <https://www.lowes.com/pd/Utilitech/5013345333>).

31. TABLE 1:

<u>Claim 1 from DSAE Patent</u>	Images of product and manual for Lowe’s: Item #5041631 Model #MQTL1181-LED10K9027, and Item #5041633 Model #MQTL1181-LED10K9027
1. An apparatus to detachably attach an LED light fixture to at least one of a ceiling, and a recessed lighting fixture housing, the apparatus comprises:	See Attached Images.

1 a plurality of retrofit clips (102) adaptable
2 to attach with a body of the LED light
3 fixture by screwing them into a plurality of
4 screw holes (110);
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17 a plurality of new construction clips (104);
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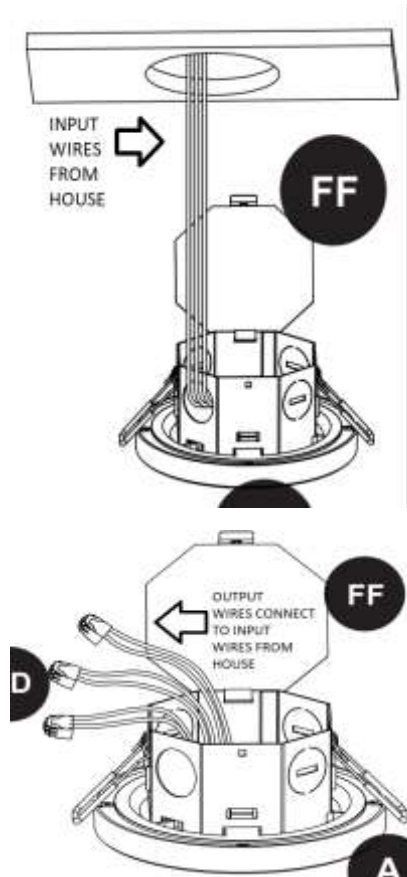
a plurality of connecting posts (106) to hold the new construction clips (104);



a metal housing (108) to embody a complete fixture (112);



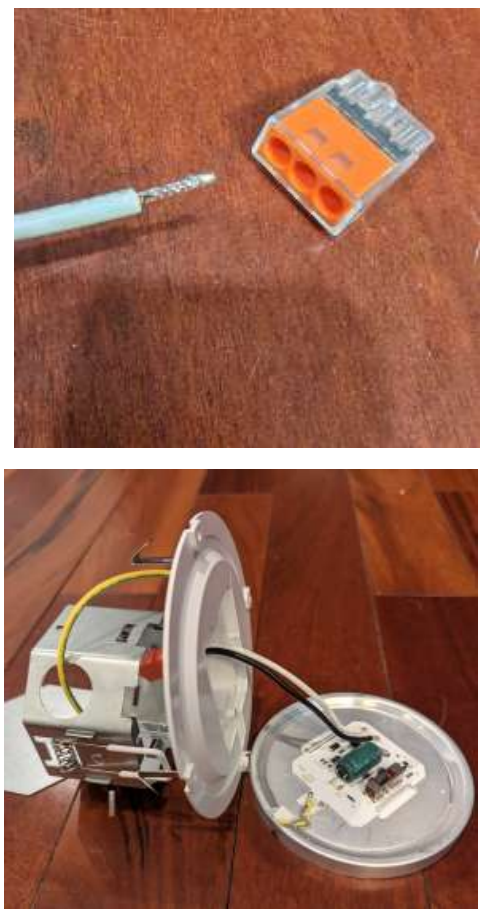
1 a junction box (116) to hold a plurality of
2 connection wirings, wherein the junction
3 box (116) comprises a plurality of output
4 wires; and
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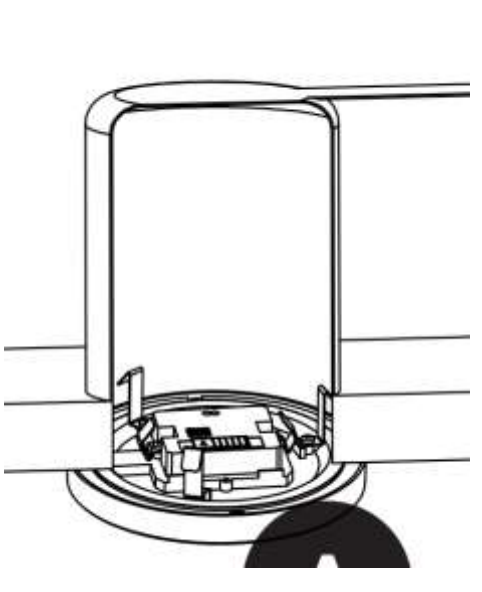
(Some text and arrows added for context)

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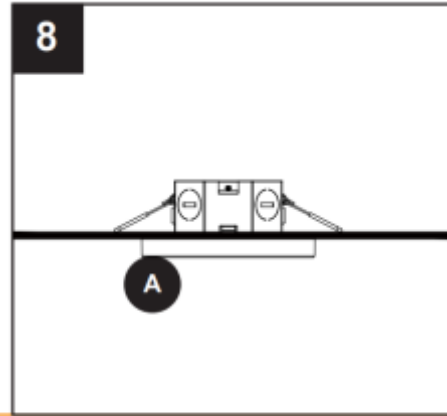
a twist connector (118) to attach the output wires of the junction box (116) to the metal housing (108),



wherein the retrofit clips (102) make a friction fit inside the recessed lighting fixture housing to secure the complete fixture (112) inside,



1 wherein the new construction clips (104)
2 are attached to the connecting posts (106)
3 if the recessed lighting fixture housing is
4 not present.



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10 From Lowe’s website:

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12 “One recessed downlight, three ways to
13 install! The versatile 3 in 1 recessed
14 downlight comes with everything you
15 need to either hardwire to existing ceiling
16 j-box, direct wire to the fixture with
17 attachable integrated j-box, or install in
18 existing can with the E26 screw in base.”

19 See:

20 [https://www.lowes.com/pd/Utilitech/5013](https://www.lowes.com/pd/Utilitech/5013345333)
21 [345333](https://www.lowes.com/pd/Utilitech/5013345333)
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24 32. TABLE 2 below provides a Claim mapping of Claim 1 from the DSAE Patent,
25 and illustrates examples of how DEFENDANTS’ products (*e.g.*, Item #5041630, Item
26 #5041632, and Item #5041634) infringe at least Claim 1 of the DSAE Patent.
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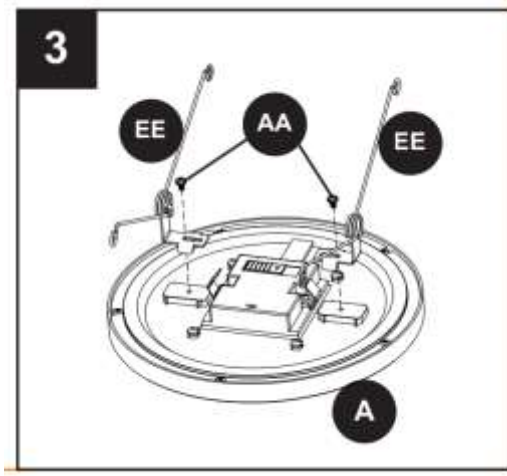
33. Images in the right column of Table 2 include photographs of: products purchased directly from the LOWE’S DEFENDANTS, and screenshots of an instruction manual available through the LOWE’S DEFENDANTS’ website (e.g., Scroll to “Overview” and select “Manual PDF” at [https://www.lowes.com/pd/ Utilitech-UT-5-or-6-IN-CCT-3-1-UNIV-DL-6-Ct-White-5-in-or-6-in-800-Lumen-Cool-White-Round-Dimmable-Recessed-Downlight-6-Pack/5013469735](https://www.lowes.com/pd/Utilitech-UT-5-or-6-IN-CCT-3-1-UNIV-DL-6-Ct-White-5-in-or-6-in-800-Lumen-Cool-White-Round-Dimmable-Recessed-Downlight-6-Pack/5013469735)).

34. TABLE 2:

<p><u>Claim 1 from the DSAE Patent</u></p>	<p>Images from product and manual for Lowe’s:</p> <p>Item #5041630 Model #MQTL1183-LED12K9027</p> <p>Item #5041632 Model #MQTL1182-LED12K9027</p> <p>Item #5041634 Model #MQTL1182-LED12K9027</p>
<p>1. An apparatus to detachably attach an LED light fixture to at least one of a ceiling, and a recessed lighting fixture housing, the apparatus comprises:</p>	<p>See Attached Images.</p>

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a plurality of retrofit clips (102) adaptable to attach with a body of the LED light fixture by screwing them into a plurality of screw holes (110);



a plurality of new construction clips (104);



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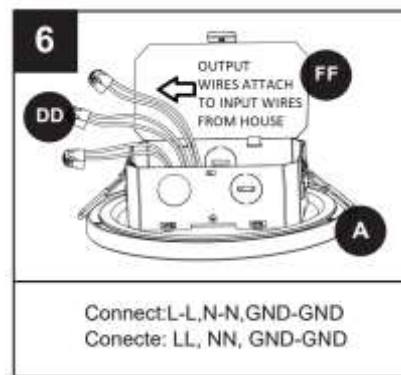
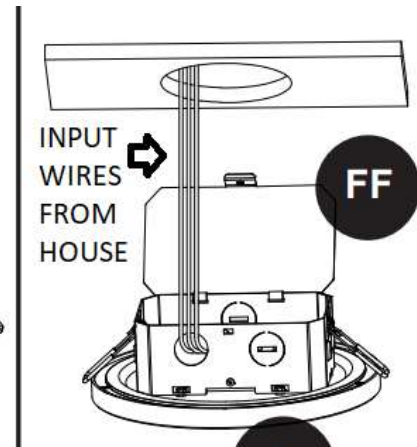
a plurality of connecting posts (106) to hold the new construction clips (104);



a metal housing (108) to embody a complete fixture (112);



1 a junction box (116) to hold a plurality of
2 connection wirings, wherein the junction
3 box (116) comprises a plurality of output
4 wires; and
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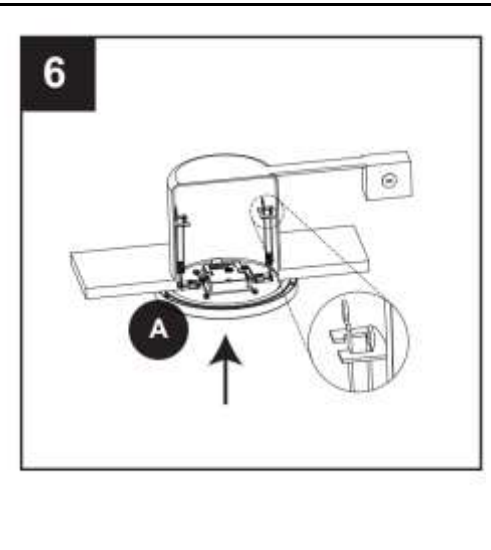
(Some text and arrows added for context.)

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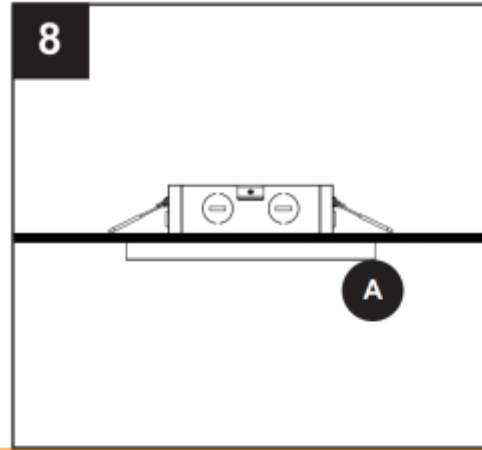
a twist connector (118) to attach the output wires of the junction box (116) to the metal housing (108),



wherein the retrofit clips (102) make a friction fit inside the recessed lighting fixture housing to secure the complete fixture (112) inside,



1 wherein the new construction clips (104)
2 are attached to the connecting posts (106)
3 if the recessed lighting fixture housing is
4 not present.



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10 From Lowe's website:

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12 "One recessed downlight, three ways to
13 install! The versatile 3 in 1 recessed
14 downlight comes with everything you
15 need to either hardwire to existing ceiling
16 j-box, direct wire to the fixture with
17 attachable integrated j-box, or install in
18 existing can with the E26 screw in base."

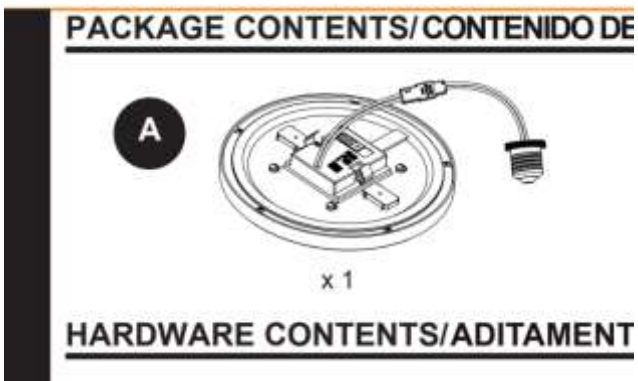
19 See:

20 <https://www.lowes.com/pd/Utilitech-UT-5-or-6-IN-CCT-3-1-UNIV-DL-6-Ct-White-5-in-or-6-in-800-Lumen-Cool-White-Round-Dimmable-Recessed-Downlight-6-Pack/5013469735>
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35. TABLE 3 below provides a Claim mapping of Claim 2 from the DSAE Patent, and illustrates examples of how DEFENDANTS’ products (e.g., Item #5041630, Item #5041632, and Item #5041634) infringe at least Claim 2 of the DSAE Patent.

36. Images in the right column of Table 3 include a screenshot of an instruction manual available through the LOWE’S DEFENDANTS’ website (e.g., Scroll to “Overview” and select “Manual PDF” at [https://www.lowes.com/pd/ Utilitech-UT-5-or-6-IN-CCT-3-1-UNIV-DL-6-Ct-White-5-in-or-6-in-800-Lumen-Cool-White-Round-Dimmable-Recessed-Downlight-6-Pack/5013469735](https://www.lowes.com/pd/Utilitech-UT-5-or-6-IN-CCT-3-1-UNIV-DL-6-Ct-White-5-in-or-6-in-800-Lumen-Cool-White-Round-Dimmable-Recessed-Downlight-6-Pack/5013469735)).

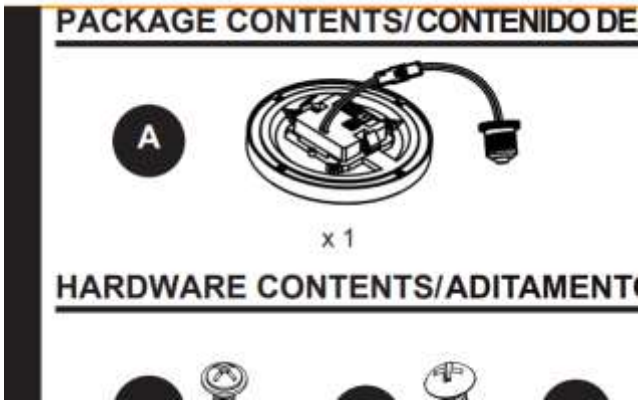
37. **TABLE 3:**

<p><u>Claim 2 from DSAE Patent</u></p>	<p>Images from product and manual for Lowe’s:</p> <p>Item #5041630 Model #MQTL1183-LED12K9027</p> <p>Item #5041632 Model #MQTL1182-LED12K9027</p> <p>Item #5041634 Model #MQTL1182-LED12K9027</p>
<p>2. The apparatus according to claim 1 comprises a socket adapter (114) to replace a light bulb in the recessed lighting fixture housing.</p>	

38. TABLE 4 below provides a Claim mapping of Claim 2 from the DSAE Patent, and illustrates examples of how DEFENDANTS’ products (e.g., Item #5041631 and Item #5041633) infringe at least Claim 2 of the DSAE Patent.

39. Images in the right column of Table 4 include a screenshot of an instruction manual available through the LOWE’S DEFENDANTS’ website (e.g., Scroll to “Overview” and select “Manual PDF” at <https://www.lowes.com/pd/Utilitech/5013345333>).

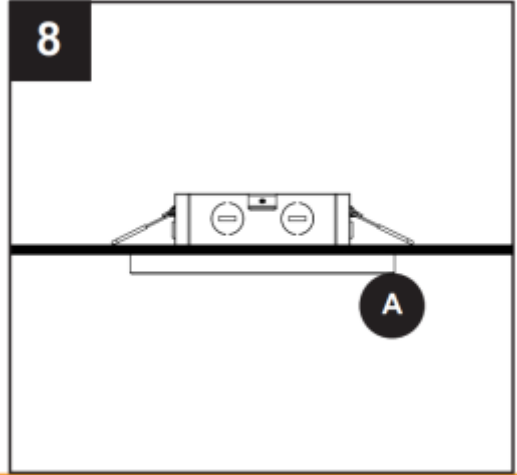
40. TABLE 4:

<p><u>Claim 2 from DSAE Patent</u></p>	<p>Images of product and manual for Lowe’s: Item #5041631 Model #MQTL1181-LED10K9027, and Item #5041633 Model #MQTL1181-LED10K9027</p>
<p>2. The apparatus according to claim 1 comprises a socket adapter (114) to replace a light bulb in the recessed lighting fixture housing.</p>	 <p>The image is a screenshot of a product manual. At the top, it says 'PACKAGE CONTENTS/CONTENIDO DE'. Below this, there is a diagram of a socket adapter with a circular base and a plug, labeled with a circled 'A'. Underneath the diagram is 'x1'. At the bottom, it says 'HARDWARE CONTENTS/ADITAMENTI'. There are also some small icons at the very bottom of the screenshot.</p>

41. TABLE 5 below provides a Claim mapping of Claim 3 from the DSAE Patent, and illustrates examples of how DEFENDANTS’ products (e.g., Item #5041630, Item #5041632, and Item #5041634) infringe at least Claim 3 of the DSAE Patent.

42. Images in the right column of Table 5 include a screenshot of an instruction manual available through the LOWE’S DEFENDANTS’ website (e.g., Scroll to “Overview” and select “Manual PDF” at [https://www.lowes.com/pd/ Utilitech-UT-5-or-6-IN-CCT-3-1-UNIV-DL-6-Ct-White-5-in-or-6-in-800-Lumen-Cool-White-Round-Dimmable-Recessed-Downlight-6-Pack/5013469735](https://www.lowes.com/pd/Utilitech-UT-5-or-6-IN-CCT-3-1-UNIV-DL-6-Ct-White-5-in-or-6-in-800-Lumen-Cool-White-Round-Dimmable-Recessed-Downlight-6-Pack/5013469735)).

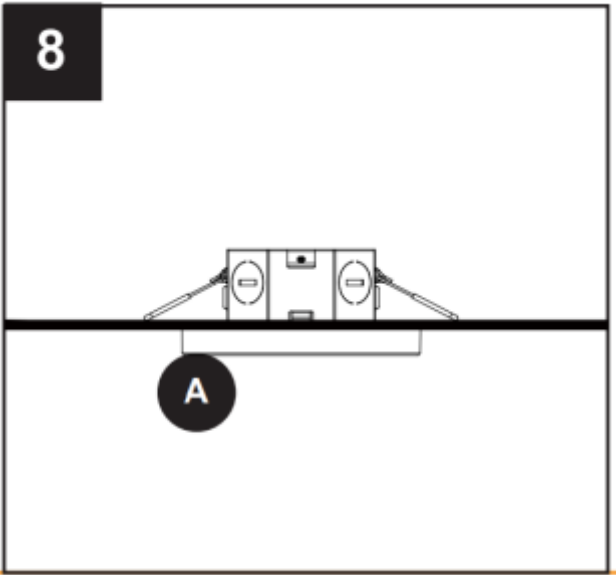
43. TABLE 5:

<p><u>Claim 3 from DSAE Patent</u></p>	<p>Images from product and manual for Lowe’s: Item #5041630 Model #MQTL1183-LED12K9027 Item #5041632 Model #MQTL1182-LED12K9027 Item #5041634 Model #MQTL1182-LED12K9027</p>
<p>3. The apparatus according to claim 1, wherein the new construction clips (104) squeeze ceiling material placed between the new construction clips (104) and an extremity of the metal housing (108).</p>	

1 44. TABLE 6 below provides a Claim mapping of Claim 3 from the DSAE Patent,
 2 and illustrates examples of how DEFENDANTS’ products (e.g., Item #5041631 and
 3 Item #5041633) infringe at least Claim 3 of the DSAE Patent.

4 45. Images in the right column of Table 6 include a screenshot of an instruction
 5 manual available through the LOWE’S DEFENDANTS’ website (e.g., Scroll to
 6 “Overview” and select “Manual PDF” at
 7 <https://www.lowes.com/pd/Utilitech/5013345333>).

8 46. TABLE 6:

<p>9 <u>Claim 3 from DSAE Patent</u></p>	<p>Images of product and manual for Lowe’s: Item #5041631 Model #MQTL1181- LED10K9027, and Item #5041633 Model #MQTL1181- LED10K9027</p>
<p>16 3. The apparatus according to claim 1, 17 wherein the new construction clips (104) 18 squeeze ceiling material placed between 19 the new construction clips (104) and an 20 extremity of the metal housing (108).</p>	

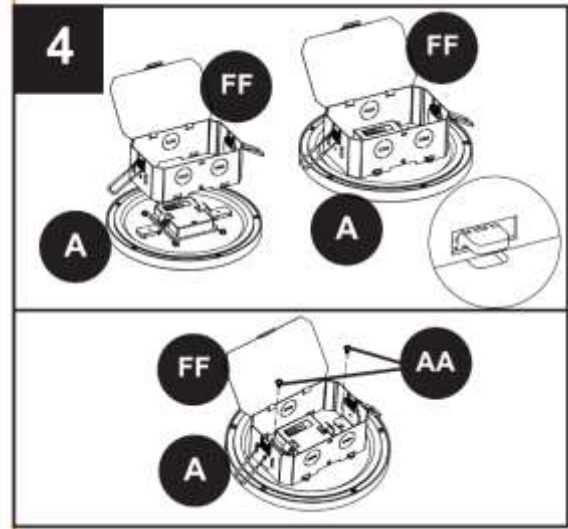
1 47. TABLE 7 below provides a Claim mapping of Claim 4 from the DSAE Patent,
 2 and illustrates examples of how DEFENDANTS’ products (*e.g.*, Item #5041630, Item
 3 #5041632, and Item #5041634) infringe at least Claim 4 of the DSAE Patent.

4 48. Images in the right column of Table 7 include an image of a product purchased
 5 directly from the LOWE’S DEFENDANTS, and a screenshot of an instruction manual
 6 available through the LOWE’S DEFENDANTS’ website (*e.g.*, Scroll to “Overview” and
 7 select “Manual PDF” at [https://www.lowes.com/pd/ Utilitech-UT-5-or-6-IN-CCT-3-1-
 8 UNIV-DL-6-Ct-White-5-in-or-6-in-800-Lumen-Cool-White-Round-Dimmable-
 9 Recessed-Downlight-6-Pack/5013469735](https://www.lowes.com/pd/Utilitech-UT-5-or-6-IN-CCT-3-1-UNIV-DL-6-Ct-White-5-in-or-6-in-800-Lumen-Cool-White-Round-Dimmable-Recessed-Downlight-6-Pack/5013469735)).

10 49. TABLE 7:

<p>11 <u>Claim 4 from DSAE Patent</u></p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p>	<p>Images from product and manual for Lowe’s: Item #5041630 Model #MQTL1183- LED12K9027 Item #5041632 Model #MQTL1182- LED12K9027 Item #5041634 Model #MQTL1182- LED12K9027</p>
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1 4. The apparatus according to claim 1,
2 wherein the complete fixture (112)
3 comprises a plurality electrical systems,
4 clips, and accessories.
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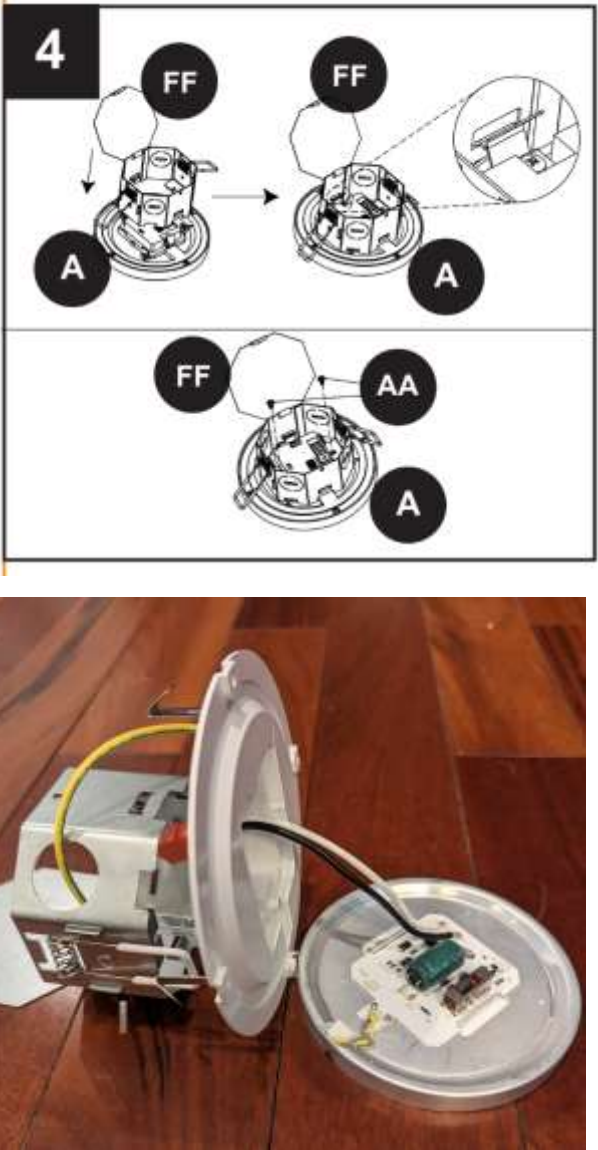


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18 50. TABLE 8 below provides a Claim mapping of Claim 4 from the DSAE Patent,
19 and illustrates examples of how DEFENDANTS' products (*e.g.*, Item #5041631 and
20 Item #5041633) infringe at least Claim 4 of the DSAE Patent.

21 51. Images in the right column of Table 8 include an image of a product purchased
22 directly from the LOWE'S DEFENDANTS, and a screenshot of an instruction manual
23 available through the LOWE'S DEFENDANTS' website (*e.g.*, Scroll to "Overview" and
24 select "Manual PDF" at <https://www.lowes.com/pd/Utilitech/5013345333>).

52.

TABLE 8:

<p><u>Claim 4 from DSAE Patent</u></p>	<p>Images of product and manual for Lowe's: Item #5041631 Model #MQTL1181-LED10K9027, and Item #5041633 Model #MQTL1181-LED10K9027</p>
<p>4. The apparatus according to claim 1, wherein the complete fixture (112) comprises a plurality electrical systems, clips, and accessories.</p>	

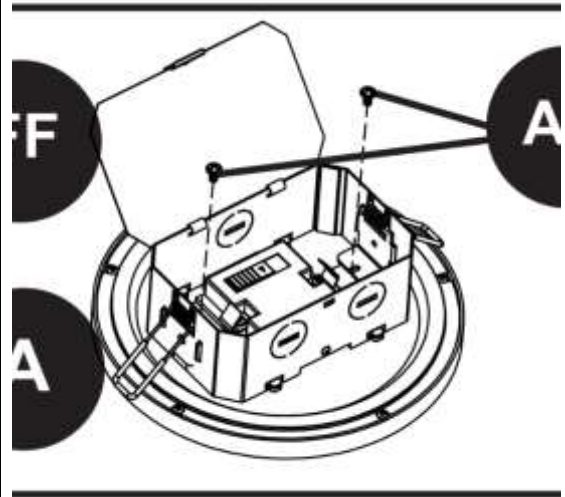
53. TABLE 9 below provides a Claim mapping of Claim 5 from the DSAE Patent, and illustrates examples of how DEFENDANTS’ products (e.g., Item #5041630, Item #5041632, and Item #5041634) infringe at least Claim 5 of the DSAE Patent.

54. Images in the right column of Table 9 include an image of a product purchased directly from the LOWE’S DEFENDANTS, and a screenshot of an instruction manual available through the LOWE’S DEFENDANTS’ website (e.g., Scroll to “Overview” and select “Manual PDF” at [https://www.lowes.com/pd/ Utilitech-UT-5-or-6-IN-CCT-3-1-UNIV-DL-6-Ct-White-5-in-or-6-in-800-Lumen-Cool-White-Round-Dimmable-Recessed-Downlight-6-Pack/5013469735](https://www.lowes.com/pd/Utilitech-UT-5-or-6-IN-CCT-3-1-UNIV-DL-6-Ct-White-5-in-or-6-in-800-Lumen-Cool-White-Round-Dimmable-Recessed-Downlight-6-Pack/5013469735)).

55. TABLE 9:

<u>Claim 5 from DSAE Patent</u>	Images from product and manual for Lowe’s: Item #5041630 Model #MQTL1183-LED12K9027 Item #5041632 Model #MQTL1182-LED12K9027 Item #5041634 Model #MQTL1182-LED12K9027

1 5. The apparatus according to claim 1,
2 wherein the junction box (116) allows an
3 LED driver to be installed and comprises a
4 predefined area to attach a plurality of
5 wires.

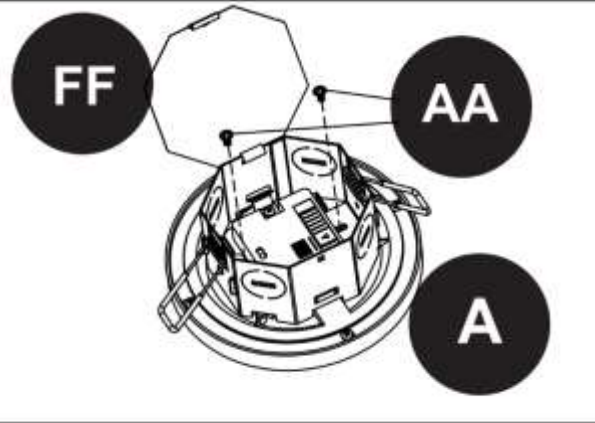



21 56. TABLE 10 below provides a Claim mapping of Claim 5 from the DSAE Patent,
22 and illustrates examples of how DEFENDANTS' products (*e.g.*, Item #5041631 and
23 Item #5041633) infringe at least Claim 5 of the DSAE Patent.

24 57. Images in the right column of Table 10 include an image of a product purchased
25 directly from the LOWE'S DEFENDANTS, and a screenshot of an instruction manual
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27
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1 available through the LOWE’S DEFENDANTS’ website (e.g., Scroll to “Overview” and
 2 select “Manual PDF” at <https://www.lowes.com/pd/Utilitech/5013345333>).

3 58. TABLE 10:

<p>4 <u>Claim 5 from DSAE Patent</u></p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p>	<p>Images of product and manual for Lowe’s: Item #5041631 Model #MQTL1181- LED10K9027, and Item #5041633 Model #MQTL1181- LED10K9027</p>
<p>10</p> <p>11 5. The apparatus according to claim 1, 12 wherein the junction box (116) allows an 13 LED driver to be installed and comprises a 14 predefined area to attach a plurality of 15 wires.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p>	 

1 59. Tables 1-10 include respective Installation Manual images that have been
2 appended with text for explanation. For example, the phrases “Input wires from house”
3 and “Output wires attach to input wires from house” have been appended by
4 PLAINTIFF to the Installation Manual images for context and explanation.

5 60. On April 14, 2021, PLAINTIFF received email communication (“the Foxsun
6 Communication”) from Foxsun indicating that sales orders for PLAINTIFF’S lighting
7 products have been received by Foxsun.

8 61. The Foxsun Communication included attached sales orders, which, in the ordinary
9 course of business, expressly identified the receiving party: Lowe’s. Copies of just two
10 of these sales orders are attached as Exhibit 13 (“the Sales Orders”).

11 62. The Sales Orders have been edited in Exhibit 13 to highlight where “Lowe’s” is
12 expressly identified. Upon information and belief, the Chinese characters surrounding
13 the word “Lowe’s” translate to English as: “We are waiting for Lowe’s to finalize the
14 needed amount.”

15 63. The Sales Orders include a Notice that advises the DEFENDANTS of the
16 intellectual property associated with PLAINTIFF’S lighting products.

17 64. As emphasized in Exhibit 13, and upon information and belief, the Chinese
18 characters highlighted below each table in the Sales Orders, and adjacent to item “2,”
19 translate to English as: “The product must satisfy the technical and intellectual property
20 rules of the country in which the product is being sold,” and thereafter indicates that the
21 buyer is liable for any “intellectual property violations.”

22 65. At least in view of these written intellectual property Notices being incorporated
23 into the multiple Sales Orders, PLAINTIFF asserts that DEFENDANTS’ conduct
24 subsequent to receiving these Notices amounts to Willful Patent Infringement per 35
25 U.S. Code § 284.

26 66. Upon information and belief, the LOWES DEFENDANTS canceled their orders
27 for PLAINTIFF’S lighting products subsequent to Foxsun creating the Sales Orders.
28

1 67. Upon information and belief, the LOWES DEFENDANTS directed the
2 YANKON DEFENDANT to manufacture lighting products that infringe on the DSAE
3 Patent, subsequent to LOWES DEFENDANTS canceling their orders for PLAINTIFF'S
4 lighting products.

5 68. Upon information and belief, Foxsun had previously provided samples to the
6 YANKON DEFENDANT and/or an associate of the YANKON DEFENDANT, in
7 furtherance of encouraging the YANKON DEFENDANT to order PLAINTIFF'S
8 lighting products.

9 69. Upon information and belief, PLAINTIFF has been, and continues to be, damaged
10 by the unlawful acts of the DEFENDANTS, including, but not limited to, loss of sales,
11 loss of profits, loss of market share, among other economic hardships.

12 70. PLAINTIFF sent DEFENDANTS cease and desist letters on or around May 8,
13 2023, via USPS certified mail. DEFENDANTS acknowledged and responded to these
14 letters on or around June 11, 2023.

15 71. Upon information and belief, PLAINTIFF provides a fair assessment of damages
16 owed by the LOWES DEFENDANTS to be \$16,192,036.08 USD, which is herein
17 requested, and which is at least based on a reasonable assessment of lost sales of
18 PLAINTIFF'S lighting products since September 22, 2022, minus estimated costs of
19 materials (per Exhibit 13) and freight from China for those infringing products.

20 72. Upon information and belief, PLAINTIFF provides a fair assessment of damages
21 owed by the YANKON DEFENDANT to be \$1,747,144.08 USD, which is herein
22 requested, and which is at least based on a reasonable assessment of lost sales of
23 PLAINTIFF'S lighting products since September 22, 2022, minus estimated costs of
24 materials.

25 73. PLAINTIFF'S fair assessment of damages is further based on the equivalent of
26 sales of 2 units a week of Utilitech Item #5041634 and 1 unit a week of Utilitech Item
27
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1 #5041633, from each store of LOWE’S DEFENDANTS’ “1,737” stores (see Exhibit
2 14), since September 22, 2022.

3 74. Should PLAINTIFF’S assessment of damages from Paragraphs 71-73 be rejected
4 by this Court, PLAINTIFF requests the owed damages be determined based on
5 considering PLAINTIFF as a trader-intermediary, between a manufacturer(s) (*e.g.*,
6 Foxsun, YANKON DEFENDANT, etc.) and a retailer(s) (*e.g.*, LOWE’S
7 DEFENDANTS), and that total sales be based on the equivalent of sales of 2 units a
8 week of Utilitech Item #5041634 and 1 unit a week of Utilitech Item #5041633, from
9 each store of LOWE’S DEFENDANTS’ “1,737” stores (see Exhibit 14).

10 75. In accordance with Paragraph 74, and should PLAINTIFF’S assessment of
11 damages from Paragraphs 71-73 be rejected by this Court, PLAINTIFF requests the
12 damages owed by LOWE’S DEFENDANTS to be \$4,082,783.76 USD and damages
13 owed by YANKON DEFENDANT to be \$523,959.92 USD.

14 76. Upon information and belief, Defendants have not stopped engaging in their
15 willful and reckless infringing activities.

16 77. Upon information and belief, DEFENDANTS have infringed, directly, indirectly,
17 and/or by equivalents, the DSAE Patent by using, selling, and offering for sale
18 DEFENDANTS’ lighting products from the United States, and importing into the United
19 States, DEFENDANTS’ lighting products that embody each and every claim element of
20 each respective claim of the DSAE Patent.

21 78. Upon information and belief, DEFENDANTS have known of the existence of the
22 DSAE Patent, and their egregious acts of infringement have been willful and in reckless
23 disregard for the PLAINTIFF’S rights per the DSAE Patent, without any basis for
24 believing that DEFENDANTS had a right to engage in the infringing conduct.

25 79. PLAINTIFF has sustained, and is likely to continue sustaining, actual damages
26 due to DEFENDANTS’ activities, including lost sales and reduced market share
27 resulting from DEFENDANTS’ infringing conduct.

28

1 80. Unless enjoined by this Court, DEFENDANTS will continue to infringe the
2 DSAE Patent and cause PLAINTIFF to suffer irreparable harm for which there is no
3 adequate remedy at law. PLAINTIFF is thus entitled to an injunction against
4 DEFENDANTS.

5
6 **COUNT 1**

7 **(Infringement of the DSAE Patent)**

8 81. PLAINTIFF repeats and realleges paragraphs 1-80 of this Complaint, as if fully
9 set forth herein.

10 82. PLAINTIFF is the owner of all right, title, and interest in and to the validly issued
11 DSAE Patent including all rights to enforce the DSAE Patent.

12 83. Upon information and belief, DEFENDANTS have been and are infringing,
13 directly, indirectly, and/or by equivalents, the DSAE Patent by using, selling, offering
14 for sale from the United States, and/or importing into the United States, including within
15 California State and this District, DEFENDANT'S Products in violation of 35 U.S.C. §
16 271.

17 84. Upon information and belief, DEFENDANTS' alleged infringement has been, and
18 continues to be knowing, intentional, egregious, and willful.

19 85. DEFENDANTS' alleged acts of infringement of the DSAE Patent have caused
20 and will continue to cause PLAINTIFF damages for which PLAINTIFF is entitled to
21 compensation pursuant to 35 U.S.C. § 284.

22 86. DEFENDANTS' alleged acts of infringement of the DSAE Patent have caused
23 and will continue to cause PLAINTIFF immediate and irreparable harm unless such
24 infringing activities are enjoined by this Court pursuant to 35 U.S.C. § 283.

25 87. This case is exceptional and, therefore, PLAINTIFF is entitled to an award of
26 attorneys' fees pursuant to 35 U.S.C. § 285.

27 **WHEREFORE**, Plaintiff requests judgment against Defendants as follows:
28

1 **(as regarding Count 1 ...)**

2 1. Adjudging, finding, and declaring that DEFENDANTS' lighting products have
3 and do infringe, directly or by equivalents, the DSAE Patent, in violation of 35 U.S.C. §
4 271, and/or that each respective DEFENDANT is otherwise liable as an infringer of the
5 DSAE Patent pursuant to 35 U.S.C. §§ 271(a), 271(b), and/or 271(c);

6 2. Granting an injunction and permanently enjoining DEFENDANTS and
7 DEFENDANTS' employees, agents, officers, servants, directors, attorneys, successors,
8 affiliates, subsidiaries, and assigns, and all of those in active concert and participation
9 with any of the foregoing persons or entities from infringing the DSAE Patent, including
10 all making, using, importing, advertising, offering for sale and selling DEFENDANTS'
11 infringing lighting products on any online shopping platforms, any online sales platform,
12 as well as others distributing or selling DEFENDANTS' infringing lighting products to
13 the public and/or retailers, permanently remove from their respective platforms any and
14 all sales pages illustrating, featuring, mentioning, selling, offering for sale
15 DEFENDANTS' lighting products, or any other relevant products, pursuant to 35 U.S.C.
16 §283;

17 3. Ordering DEFENDANTS to account for all sales (domestically and
18 internationally), revenues, profits, and expenses, and ordering DEFENDANTS to pay
19 PLAINTIFF for DEFENDANTS' wrongful gains and in furtherance of deterrence,
20 and/or otherwise pay actual and compensatory damages adequate to compensate
21 PLAINTIFF for DEFENDANTS' infringement of the DSAE Patent, with pre-judgment
22 and post-judgment interest and costs, pursuant to 35 U.S.C. § 284; and

23 4. Ordering that damages be awarded and increased in an amount up to three times
24 the actual amount assessed, as deterrence, pursuant to 35 U.S.C. § 284;

25 5. Declaring this case exceptional and awarding PLAINTIFF its reasonable
26 attorneys' fees, pursuant to 35 U.S.C. §285.

1 6. Ordering DEFENDANTS to provide PLAINTIFF with sufficient information to
2 determine any past and/or present source of manufacturing, any suppliers, and any
3 distributors of DEFENDANTS' lighting products;

4 7. Ordering DEFENDANTS to provide PLAINTIFF with sufficient information to
5 determine details regarding communications, relevant decisions for action, and/or
6 inaction with respect to infringing the DSAE Patent, manufacturing DEFENDANTS'
7 lighting products, importing DEFENDANTS' lighting products, and/or otherwise
8 making DEFENDANTS' lighting products available for purchase.

9 8. Ordering DEFENDANTS to provide PLAINTIFF with sufficient information to
10 determine details regarding relevant communications, purchases, cancelations, and/or
11 agreements between *any* DEFENDANT and Foxsun, and/or between any
12 DEFENDANTS themselves.

13 9. Ordering DEFENDANTS to pay for expenses incurred by PLAINTIFF for and
14 associated with monitoring DEFENDANTS' infringing activities, and interacting with
15 DEFENDANTS, their agents, and any other persons or entities to prevent
16 DEFENDANTS' infringing activities.

17 10. An order requiring DEFENDANTS to pay enhanced damages, as a deterrence,
18 due to DEFENDANTS' reckless, egregious, and willful acts.

19 11. An order directing DEFENDANTS issue a signed, written apology to
20 PLAINTIFF.

21 12. Awarding any such other and further relief as this Court deems just and proper.
22

23 **JURY DEMAND**

24 Pursuant to Rule 38, Fed. R. Civ. P., Plaintiff demands a trial by jury on all issues
25 so triable.

26
27 Dated: July 20, 2023

1 **CUMMINS IP PLLC**
2 */s/ Patrick Cummins,*
3 Patrick Cummins, CA Bar No. 294400
4 3426 Pepperhill Rd.
5 Lexington, KY 40502
6 Telephone: (502) 445-9880
7 Patrick@CumminsIP.com
8 *Counsel for Plaintiff,*
9 *DS Advanced Enterprises, Ltd.*

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