

McKeever, Patrick J. (SDO)

From: Tom W. Cunningham <tcunningham@brookskushman.com>
Sent: Tuesday, May 11, 2021 12:23 PM
To: Day, Evan S. (Perkins Coie)
Cc: Bombach, Miguel J. (Perkins Coie); PerkinsServiceSuperLightingWDTexCase@perkinscoie.com; Frank A. Angileri
Subject: RE: Jiaxing Super Lighting Electric Appliance Co. v. CH Lighting Tech. Ltd. et al, No. 6:20-CV-00018-ADA (WDTX): subpoenas to GE Current

Evan:

Current Lighting's production pursuant to the subpoena can be downloaded here.

<https://app.everlaw.com/17137/dl/k1B0zZNO6df2X-PTUZR9pcWoLDgYQQWRbDcmSulW4pao>

The password is: 370I8U5h6I4H

These are all being produced as Confidential-Attorneys' Eyes Only.

If you have any problems with the download, let me know.

Best,

Tom

Thomas W. Cunningham
Shareholder



1000 Town Center, 22nd Floor | Southfield, MI 48075

Main: (248) 358-4400 | Direct: (248) 226-2847

tcunningham@BrooksKushman.com

www.BrooksKushman.com | www.BKpostgrant.com

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From: Day, Evan S. (Perkins Coie) <EDay@perkinscoie.com>
Sent: Thursday, April 22, 2021 2:41 AM
To: Tom W. Cunningham <tcunningham@brookskushman.com>
Cc: Bombach, Miguel J. (Perkins Coie) <MBombach@perkinscoie.com>; PerkinsServiceSuperLightingWDTexCase@perkinscoie.com; Frank A. Angileri <fangileri@brookskushman.com>
Subject: RE: Jiaxing Super Lighting Electric Appliance Co. v. CH Lighting Tech. Ltd. et al, No. 6:20-CV-00018-ADA (WDTX): subpoenas to GE Current

Tom,

Thanks again for the call last week. To confirm our verbal agreement on the call, we agreed that Super Lighting will limit its document requests to technical documents (e.g. specifications, datasheets, schematics, circuit diagrams, etc.) relating to the GE Current products identified in Super Lighting's infringement contentions, and GE Current will produce those documents on a rolling basis but no later than May 13.

Best regards,
Evan

Evan Day | Perkins Coie LLP

D. +1.858.720.5743

E. EDay@perkinscoie.com

From: Tom W. Cunningham <tcunningham@brookskushman.com>

Sent: Thursday, April 15, 2021 10:07 AM

To: Day, Evan S. (SDO) <EDay@perkinscoie.com>

Cc: Bombach, Miguel J. (SDO) <MBombach@perkinscoie.com>; *Perkins Service Super Lighting WDTex Case <PerkinsServiceSuperLightingWDTexCase@perkinscoie.com>; Frank A. Angileri <fangileri@brookskushman.com>

Subject: RE: Jiaxing Super Lighting Electric Appliance Co. v. CH Lighting Tech. Ltd. et al, No. 6:20-CV-00018-ADA (WDTX): subpoenas to GE Current

Evan:

My client has been unavailable so I have not been able to discuss your latest email. I am scheduled to discuss with Current tomorrow morning (my time) so perhaps it would be prudent to discuss tomorrow afternoon.

Best,

Tom

From: Day, Evan S. (Perkins Coie) <EDay@perkinscoie.com>

Sent: Tuesday, April 13, 2021 7:27 PM

To: Tom W. Cunningham <tcunningham@brookskushman.com>

Cc: Bombach, Miguel J. (Perkins Coie) <MBombach@perkinscoie.com>; PerkinsServiceSuperLightingWDTexCase@perkinscoie.com; Frank A. Angileri <fangileri@brookskushman.com>

Subject: RE: Jiaxing Super Lighting Electric Appliance Co. v. CH Lighting Tech. Ltd. et al, No. 6:20-CV-00018-ADA (WDTX): subpoenas to GE Current

Tom,

The issue with your request to increase the time period is that Elliott has not filed the motion that they threatened to file and it is not clear if or when such a motion will be filed. The current situation is that we have served a valid subpoena and your client is refusing to comply with it because of a motion that is purely hypothetical at this point and would almost certainly be denied as untimely even if filed today. Therefore, although we're certainly willing to discuss allowing GE Current more time to collect documents after the resolution of the motion (assuming that one will in fact be filed soon and decided promptly), any such agreement would need at this point to be backed up by a commitment that GE Current will produce documents no later than a week before the close of fact discovery (i.e. by May 13) absent a decision granting an Elliott motion to strike, i.e. GE Current would need to produce if the motion is denied, not filed, or still pending at that point. However, Super Lighting agrees that no documents would need to be produced if such a motion was granted at that point.

If GE Current is willing to commit to producing documents under the terms above, Super Lighting is willing as a compromise to limit the request to the exemplary products identified in the infringement contentions. However, Super Lighting maintains that neither the contentions themselves (which include reasonably similar products sold by GE Current to Elliott) nor the subpoena are so limited and reserves the right to seek relief regarding the full scope of production sought by the subpoena if judicial intervention is required.

Regards,
Evan

Evan Day | Perkins Coie LLP

D. +1.858.720.5743

E. EDay@perkinscoie.com

From: Tom W. Cunningham <tcunningham@brookskushman.com>

Sent: Tuesday, April 13, 2021 8:04 AM

To: Day, Evan S. (SDO) <EDay@perkinscoie.com>

Cc: Bombach, Miguel J. (SDO) <MBombach@perkinscoie.com>; *Perkins Service Super Lighting WDTex Case <PerkinsServiceSuperLightingWDTexCase@perkinscoie.com>; Frank A. Angileri <fangileri@brookskushman.com>

Subject: RE: Jiaxing Super Lighting Electric Appliance Co. v. CH Lighting Tech. Ltd. et al, No. 6:20-CV-00018-ADA (WDTX): subpoenas to GE Current

Evan:

I am discussing with my client but there are a few issues I foresee that I would like to further discuss with them.

First, your request does not seem to be limited to the four Elliott products that were newly identified in the Infringement Contentions. Is it not so limited?

Second, a five day response would defeat the purpose of waiting. Current Lighting would still have to undergo the burden to collect and review the documents in advance – because a 5 day turn-around is simply not feasible. This time period would have to be increased.

Finally, do you agree if the motion to strike the contentions is granted, that no documents need be produced?

Thanks.

Tom

From: Day, Evan S. (Perkins Coie) <EDay@perkinscoie.com>

Sent: Friday, April 9, 2021 1:15 PM

To: Tom W. Cunningham <tcunningham@brookskushman.com>

Cc: Bombach, Miguel J. (Perkins Coie) <MBombach@perkinscoie.com>; PerkinsServiceSuperLightingWDTexCase@perkinscoie.com; Frank A. Angileri <fangileri@brookskushman.com>

Subject: RE: Jiaxing Super Lighting Electric Appliance Co. v. CH Lighting Tech. Ltd. et al, No. 6:20-CV-00018-ADA (WDTX): subpoenas to GE Current

Tom,

After discussing this issue further with our client, Super Lighting will agree that GE Current may wait to produce responsive documents pending the outcome of Defendants' expected motion to strike infringement contentions with respect to GE Current (if such a motion is filed within the next week), if GE Current agrees that if the motion is denied,

GE Current will produce responsive technical and purchase decision documents within five days of the ruling. Specifically, GE Current would agree to produce responsive technical documents for Request No. 13 with respect to the products identified in the subpoena, as well any documents responsive to Request Nos. 26 and 27, and 31 that exist. If GE Current is unwilling to agree, Super Lighting will move to compel on those document requests.

Regards,
Evan

Evan Day | Perkins Coie LLP

D. +1.858.720.5743

E. EDay@perkinscoie.com

From: Tom W. Cunningham <tcunningham@brookskushman.com>

Sent: Thursday, April 08, 2021 3:16 PM

To: Day, Evan S. (SDO) <EDay@perkinscoie.com>

Cc: Bombach, Miguel J. (SDO) <MBombach@perkinscoie.com>; *Perkins Service Super Lighting WDTex Case <PerkinsServiceSuperLightingWDTexCase@perkinscoie.com>; Frank A. Angileri <fangileri@brookskushman.com>

Subject: RE: Jiaxing Super Lighting Electric Appliance Co. v. CH Lighting Tech. Ltd. et al, No. 6:20-CV-00018-ADA (WDTX): subpoenas to GE Current

Evan:

This confirms our conversation today regarding the subpoena served by Jiaxing on Current Lighting Solutions, LLC ("Current Lighting").

The parties agreed to extend the date for Current Lighting to respond/file a motion to quash the subpoena (with all rights under Fed. R. Civ. P. 45 reserved) by 14 days to April 23, 2021. This will allow the parties to continue to discuss the subpoena.

You indicated that that certain Current Solution products sold by Elliott were added to Jiaxing's final infringement contentions. I asked if you would be willing to limit the subpoena to these products at issue in the final infringement contentions. You indicated you were not willing to do that but would limit the subpoena to any LED Tubes purchased by Current Lighting Solutions from CH and/or any LED Tubes sold by Current Lighting Solutions to Elliott – whether identified in the contentions or not.

I asked if the defendants in the underlying litigation had objected to the new addition of these Current Lighting LED Tubes to the final infringement contentions. You indicated there is an objection and that the defendants intend to file a motion to strike these products from the contentions – but they have not yet done so. I asked if Jiaxing would be willing to stay a response to the subpoena until the issue was resolved as to whether these products would be included in the underlying case. This would remove the substantial burden of producing the requested information and providing a witness for deposition before the Court has even determined if the products will remain in the case. You stated Jiaxing would not agree to such a stay.

I asked if Jiaxing would withdraw its request for e-mail and other communications between Current Lighting and the parties to the lawsuit, given that the Texas Court only allowed email discovery upon a showing of good cause. (Request No. 21, among others). I asked if you had filed any motion to demonstrate good cause, or a motion to compel, to seek these same communications from the parties to the lawsuit, and you stated that Jiaxing had not. You indicated that Jiaxing would not withdraw these requests.

I asked if Jiaxing would withdraw its request for "when, where and how", Current Lighting learned about this case (Request Nos. 32 and 33) because it was not relevant to any issues in the case – and you said you would not.

I asked if Jiaxing would withdraw its request for All “documents and things that relate to [the parties in the litigation]” – including documents those parties clearly already have – you indicated you would only limit it to all documents and things relating to any LED Tubes purchased by Current Lighting Solutions from CH and/or any LED Tubes sold by Current Lighting Solutions to Elliott – whether accused in the contentions or not. To evaluate the scope of relating to, I asked if this would include esoteric things like a mailing label on a shipment of products from Current Lighting to Elliott. You said you would take that under advisement.

I asked what specific technical documents you were seeking for the accused products and you stated: (1) technical specifications and schematics, (2) certification materials such as UL submission and (3) testing documents. I stated I would discuss with my client to determine the burden associated with producing these documents and get back to you.

Lastly, the parties agreed to meet one week from today to further discuss matters taken under advisement.

Best regards,

Tom

Thomas W. Cunningham
Shareholder



1000 Town Center, 22nd Floor | Southfield, MI 48075

Main: (248) 358-4400 | Direct: (248) 226-2847

tcunningham@BrooksKushman.com

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From: Day, Evan S. (Perkins Coie) <EDay@perkinscoie.com>

Sent: Wednesday, April 7, 2021 5:26 PM

To: Tom W. Cunningham <tcunningham@brookskushman.com>

Cc: Bombach, Miguel J. (Perkins Coie) <MBombach@perkinscoie.com>;

PerkinsServiceSuperLightingWDTexCase@perkinscoie.com; Frank A. Angileri <fangileri@brookskushman.com>

Subject: RE: Jiaxing Super Lighting Electric Appliance Co. v. CH Lighting Tech. Ltd. et al, No. 6:20-CV-00018-ADA (WDTX): subpoenas to GE Current

Tom,

Thanks. How about 2 PM EDT/ 11 AM PDT tomorrow?

Regards,
Evan

Evan Day | Perkins Coie LLP

D. +1.858.720.5743

E. EDay@perkinscoie.com

From: Tom W. Cunningham <tcunningham@brookskushman.com>
Sent: Wednesday, April 07, 2021 7:19 AM
To: Day, Evan S. (SDO) <EDay@perkinscoie.com>
Cc: Bombach, Miguel J. (SDO) <MBombach@perkinscoie.com>; *Perkins Service Super Lighting WDTex Case <PerkinsServiceSuperLightingWDTexCase@perkinscoie.com>; Frank A. Angileri <fangileri@brookskushman.com>
Subject: RE: Jiaxing Super Lighting Electric Appliance Co. v. CH Lighting Tech. Ltd. et al, No. 6:20-CV-00018-ADA (WDTX): subpoenas to GE Current

I am available Thursday from 1:30 PM – 5:00 PM EST.

From: Day, Evan S. (Perkins Coie) <EDay@perkinscoie.com>
Sent: Tuesday, April 6, 2021 1:09 PM
To: Tom W. Cunningham <tcunningham@brookskushman.com>
Cc: Bombach, Miguel J. (Perkins Coie) <MBombach@perkinscoie.com>; PerkinsServiceSuperLightingWDTexCase@perkinscoie.com; Frank A. Angileri <fangileri@brookskushman.com>
Subject: RE: Jiaxing Super Lighting Electric Appliance Co. v. CH Lighting Tech. Ltd. et al, No. 6:20-CV-00018-ADA (WDTX): subpoenas to GE Current

Tom,

We disagree that there was ever a “March 26 date to serve objections.” The objection deadline set by the rule was March 19, the production deadline set by the subpoena itself was March 26, and the parties agreed to move both by two weeks from the original respective dates.

Nevertheless, we’re willing to discuss the scope of the production and deposition topics in order to try to resolve Current Lighting’s compliance without court intervention. Please let me know your availability tomorrow or Thursday to discuss.

Best regards,
Evan

Evan Day | Perkins Coie LLP
D. +1.858.720.5743
E. EDay@perkinscoie.com

From: Tom W. Cunningham <tcunningham@brookskushman.com>
Sent: Monday, April 05, 2021 7:20 PM
To: Day, Evan S. (SDO) <EDay@perkinscoie.com>
Cc: Bombach, Miguel J. (SDO) <MBombach@perkinscoie.com>; *Perkins Service Super Lighting WDTex Case <PerkinsServiceSuperLightingWDTexCase@perkinscoie.com>; Frank A. Angileri <fangileri@brookskushman.com>
Subject: RE: Jiaxing Super Lighting Electric Appliance Co. v. CH Lighting Tech. Ltd. et al, No. 6:20-CV-00018-ADA (WDTX): subpoenas to GE Current

Evan:

Attached are Current Lighting’s objections to the subpoena.

Our understanding was that the parties agreed to a 14 day extension of the March 26 date to serve objections. Thus, we disagree that any objections are waived.

Moreover, the subpoena was improper on its face in that Jiaxing did not meet its burden under Rule 45(d) of “taking reasonable steps to avoid imposing an undue burden or expense” on Current. As mere examples, you request “All

documents relating to LED Tube Lamps”, “All documents relating to [any of Plaintiffs] and/or [any of Defendants]” – without any time limitations. The subpoena defines “relating,” to mean, among other things, “involving” and “mentioning”. Indeed, Current Lighting has business relationships with parties on both sides of the dispute and these requests seek production of every document in Current Lighting’s possession that relates to, mentions and involves these parties – even documents that the parties, including the plaintiffs themselves, created and already have in their possession. These requests also clearly, on their face, seek documents that are attorney-client privileged and highly confidential. Finally, the subpoena is invalid as unduly burdensome on its face because it seeks production of documents in San Diego, well outside the 100 miles of where Current resides, as required by Fed. R. Civ. P. 45(c)(2).

We are willing to work with you on the scope of the requests. Please let us know if you are willing to do so. However, if you do not wish to discuss the scope, and continue the position that all objections are waived, please let me know by close-of-business tomorrow, so we may consider Current Lighting’s rights to instead file a motion to quash, which has no 14 day time limit.

Best,

Tom

Thomas W. Cunningham
Shareholder



1000 Town Center, 22nd Floor | Southfield, MI 48075

Main: (248) 358-4400 | Direct: (248) 226-2847

tcunningham@BrooksKushman.com

www.BrooksKushman.com | www.BKpostgrant.com

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From: Day, Evan S. (Perkins Coie) <EDay@perkinscoie.com>

Sent: Monday, April 5, 2021 7:55 PM

To: Tom W. Cunningham <tcunningham@brookskushman.com>

Cc: Bombach, Miguel J. (Perkins Coie) <MBombach@perkinscoie.com>;

PerkinsServiceSuperLightingWDTexCase@perkinscoie.com

Subject: RE: Jiaying Super Lighting Electric Appliance Co. v. CH Lighting Tech. Ltd. et al, No. 6:20-CV-00018-ADA (WDTX): subpoenas to GE Current

Tom,

My understanding was that you had sought an extension both for objections and for your document production. Since your objections were due on the earlier of 14 days after the subpoena was served or the date production was due, the agreed extension moved the due date for the objections from March 19 to April 2. Because you did not serve objections by that date, we understand that you have waived any objections on behalf of GE Current and will be making a complete production on April 9.

Best regards,
Evan

Evan Day | Perkins Coie LLP

D. +1.858.720.5743

E. EDay@perkinscoie.com

From: Tom W. Cunningham <tcunningham@brookskushman.com>

Sent: Monday, April 05, 2021 4:24 PM

To: Day, Evan S. (SDO) <EDay@perkinscoie.com>

Cc: Bombach, Miguel J. (SDO) <MBombach@perkinscoie.com>; *Perkins Service Super Lighting WDTex Case <PerkinsServiceSuperLightingWDTexCase@perkinscoie.com>

Subject: RE: Jiaxing Super Lighting Electric Appliance Co. v. CH Lighting Tech. Ltd. et al, No. 6:20-CV-00018-ADA (WDTX): subpoenas to GE Current

Evan:

The subpoena I have has a document due date of March 26, 2021.

I have a 14 day extension making the due date April 9.

Are we looking at the same subpoena?

Best,

Tom

Thomas W. Cunningham
Shareholder



1000 Town Center, 22nd Floor | Southfield, MI 48075

Main: (248) 358-4400 | Direct: (248) 226-2847

tcunningham@BrooksKushman.com

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From: Day, Evan S. (Perkins Coie) <EDay@perkinscoie.com>

Sent: Monday, April 5, 2021 7:10 PM

To: Tom W. Cunningham <tcunningham@brookskushman.com>

Cc: Bombach, Miguel J. (Perkins Coie) <MBombach@perkinscoie.com>; PerkinsServiceSuperLightingWDTexCase@perkinscoie.com

Subject: Jiaxing Super Lighting Electric Appliance Co. v. CH Lighting Tech. Ltd. et al, No. 6:20-CV-00018-ADA (WDTX): subpoenas to GE Current

Mr. Cunningham,

I understand that you represent GE Current in regard to the attached subpoenas, which were served over a month ago. In previous telephone discussions with you, we agreed on behalf of the Super Lighting Plaintiffs in the underlying matter to give GE Current a 14-day extension on its response to the subpoenas, which meant that the response was due this past Friday, April 2; however, we have received no further response. Please confirm that GE Current will produce responsive documents promptly and provide a date and time when it will make a witness available regarding the noticed topics. We are generally available if you would like to discuss this matter further, but we will need to take action on behalf of Super Lighting to enforce the subpoena on if we do not receive a further response.

Best regards,
Evan

Evan Day | Perkins Coie LLP
SENIOR COUNSEL
11452 El Camino Real, Suite 300
San Diego, CA 92130-2080
D. +1.858.720.5743
F. +1.858.720.5799
E. EDay@perkinscoie.com

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