

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

QUASAR SCIENCE LLC
Petitioner,

v.

COLT INTERNATIONAL CLOTHING, INC. d/b/a COLT LED
Patent Owner.

Case: IPR2023-00614
U.S. Patent No. 10,566,895

**DECLARATION OF DAVID L. HOFFMAN IN SUPPORT
OF PATENT OWNER'S RESPONSE**

DECLARATION OF DAVID L. HOFFMAN IN SUPPORT OF PATENT OWNER'S RESPONSE

I, David L. Hoffman, declare as follows:

1. I make all of the statements in this declaration of my own personal knowledge, or where I expressly indicate, upon my information and sincere belief. If called as a witness, I could and would competently testify to the truth of the matters to which I attest in this declaration.

2. I am a lawyer licensed to practice law in California since 1989 and prior to that I was licensed to practice law in Washington DC since about 1985. I have been a licensed patent attorney and have practiced patent law since 1986 including both patent prosecution and patent litigation. Over the approximately 38 years that I have been a patent lawyer, I have evaluated claim scope and patent infringement at least hundreds of times in various technologies including mechanical arts and electronic arts. Attached as Appendix A is my CV.

3. I have represented Colt International Clothing, Inc. dba Colt LED ("Colt") and its principal, Guillermo ("Memo") Macias as patent prosecution counsel on LED lighting technology for commercial image recording and other matters for over ten years.

4. One purpose of this declaration is to provide evidence of commercial success of the claimed invention, including showing that Colt's commercial

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embodiment comes within certain claims of U.S. Patent No. 10,566,895 (the ‘895 Patent) and also that certain models of LED tube lights made and sold by Quasar Science, LLC (Delaware LLC), the Petitioner (“Petitioner Quasar”) and its predecessor, Quasar Science, LLC (California LLC)(“Old Quasar”), also are made in accordance with at least certain claims of the ‘895 Patent.

5. Exhibit 2052 contains various true and correct photos of Patent Owner Colt’s bicolor LED tube light. Colt simply calls it the “Bicolor” (herein “Colt’s Bicolor LED Tube”). Colt’s Bicolor LED Tube has all of the elements of claims 1-3, 6, 8-9 and 12-13 of the ‘895 Patent. My analysis is from taking apart and examining Colt’s Bicolor LED Tube and confirmed by Exhibit 2068, the Declaration of Guillermo Macias (“Macias Decl.”), where cited in the claim chart of Exhibit 2053 referred to below. Exhibit 2068, ¶39.

6. Exhibit 2053 is a claim chart I prepared showing how Colt’s Bicolor LED Tube meets claims 1-3, 6, 8-9 and 12-13 of the ‘895 Patent.

7. Exhibit 2054 is a true and correct copy of a web page from the Wayback Machine, from Old Quasar’s website at www.quasarscience.com of November 2016 showing Specifications for “All Quasar products,” from <https://web.archive.org/web/20161123195106/http://www.quasarscience.com/pages/specifications>, Printed/Accessed December 13, 2023.

8. Exhibit 2055 is a true and correct copy of a web page from the Wayback Machine, from Old Quasar's website at www.quasarscience.com of November 2016 showing information for Old Quasar's Q-Line model lamps including its "S-Switch" models (at PDF2) and Crossfade models (at PDF3) from <https://web.archive.org/web/20161120111322/http://www.quasarscience.com/pages/q-line>, Printed/Accessed December 13, 2023.

9. Exhibit 2056 is a true and correct copy of a web page from the Wayback Machine, from Old Quasar's website at www.quasarscience.com of February 2017 showing details concerning Old Quasar's S-Switch Lamp models <https://web.archive.org/web/20170209215712/http://www.quasarscience.com/products/q-led-s-switch-linear-lamps?variant=3592534851>, Printed/Accessed December 13, 2023.

10. Exhibit 2057 is a true and correct copy of photos that I took of Old Quasar's S-Switch model, four-foot size.

11. Exhibit 2058 is a true and correct copy of a Q50XG INFO SHEET for Old Quasar's Crossfade model, four-foot size that I accessed/printed from the Wayback Machine (internet archive) of Old Quasar's website from <https://web.archive.org/web/20180712172527/http://admin.quasarscience.com/ph>

[otometrics/2018-05-30-Q50XG%20Info%20Sheet.pdf](https://www.quasarscience.com/collections/lights/products/crossfade) on or about December 13, 2023. (Petitioner Quasar still maintains the www.quasarscience.com website.)

12. Exhibit 2059 is a claim chart showing one exemplary way that the ‘895 Patent’s claims 1, 3, 6, 8-9 and 12-13 cover Old Quasar’s S-Switch products. This bicolor LED tube has all of the elements of claims 1, 3, 6, 8-9 and 12-13 of the ‘895 Patent. My analysis is from taking apart and examining Old Quasar’s S-Switch bicolor LED tubular light and from Exhibit 2100, the Declaration of Expert Ken Fisher (“Fisher Decl.”) where cited in the claim chart of Exhibit 2059. I also measured the diameter of Old Quasar’s S-Switch bicolor LED tubular light and found it to be within about 41 mm and within no more than about 1.5 inches.

13. Exhibit 2060 is a true and correct copy of various photos of Old Quasar’s Crossfade product, four-foot length (“Crossfade Photos”).

14. Exhibit 2061 is a true and correct copy of various photos I took of Petitioner Quasar’s Crossfade X product, two-foot length (“Crossfade X Photos”).

15. Exhibit 2062 is a true and correct copy of an information page on the Crossfade product from Petitioner Quasar’s website which I downloaded from <https://www.quasarscience.com/collections/lights/products/crossfade>, Printed/Accessed December 13, 2023 (“Crossfade Info Page”).

16. Exhibit 2063 is a true and correct copy of an information page on the Crossfade X product from Petitioner Quasar’s website which I downloaded from <https://www.quasarscience.com/collections/lights/products/crossfade-x>, Printed/Accessed December 13, 2023 (“Crossfade X Info Page”).

17. Exhibit 2064 is true and correct copy of third-party marketing from BH Photo’s website at https://www.bhphotovideo.com/c/product/1686089-REG/quasar_science_921_2303_crossfade_x_linear_led.html for Petitioner Quasar’s Crossfade X product which I printed/accessed on 11/11/2023 (“BH Photo Crossfade X”).

18. Old Quasar’s marketing materials admit that were on the Quasar Products web site as the web page shown in Exhibit 2032 and reproduced below touting the “0CC” and no green or magenta spikes:

SPECIFICATIONS

At Quasar Science, we attempt to optimize the conjunction between excellent CRI, lasting color performance and maximum output, producing the highest lumens per watt possible while retaining Quasar Science’s renown color spectrum.



All Quasar products have a CRI of 95+
with 0CC (no Magenta or Green spikes)

A color rendering index (CRI) is a quantitative measure of the ability of a light source to reveal the colors of various objects faithfully in comparison with an ideal or natural light source. Light sources with a high CRI are desirable in color-critical applications such as neonatal care, photography and cinematography. It is defined by the International Commission on Illumination (CIE) as follows:

19. Exhibit 2065 is a claim chart showing one exemplary way that the ‘895 Patent’s claims 1, 6, 8-9 and 12-13 cover Old Quasar’s and Petitioner Quasar’s Crossfade and Crossfade X products. These “crossfade bicolor” LED tubes have all of the elements of claims 1, 3, 6, 8-9 and 12-13 of the ‘895 Patent. My analysis is from taking apart and examining Old Quasar’s and Petitioner Quasar’s Crossfade and Crossfade X products, the Declaration of Expert Ken Fisher (Exhibit 2100) where cited in the claim chart of Exhibit 2065. I also measured the diameter of these Crossfade/Crossfade X products and found them to be within about 41 mm and within no more than about 1.5 inches.

20. Exhibit 2093 is a true and correct copy of Petitioner’s Objections and Answers to Patent Owner’s Interrogatory Nos. 1 – 5, served January 12, 2024 (unredacted Confidential version) showing sales and rental revenues of “Old Quasar’s” S-Switch model bicolor LED tubular lights and its Crossfade model, and also Petitioner’s sales and rental revenues of its Crossfade models. Exhibit 2094 is a public version thereof with redactions of material (the sales/rental numbers) asserted to be Confidential by Petitioner.

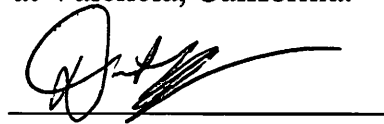
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under COLT INTERNATIONAL CLOTHING, INC EXHIBIT 2051 Page 7 of 12

Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

In signing this Declaration, I understand that the Declaration will be filed as evidence in a contested case before the Patent Trial and Appeal Board of the United States Patent and Trademark Office. I acknowledge that I may be subject to cross-examination in the case and that cross-examination will take place within the United States. If cross-examination is required of me, I will appear for cross-examination within the United States during the time allotted for cross-examination.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 29th day of January 2024 at Valencia, California.

A handwritten signature in black ink, appearing to read 'D. Hoffman', is written over a horizontal line.

Name: David L. Hoffman

APPENDIX A

DAVID L. HOFFMAN, ESQ.
CURRICULUM VITAE

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LEGAL PRACTICE

2021	NOLAN HEIMANN LLP (Partner)	Encino, California
2011-2021	HOFFMAN PATENT GROUP (owner)	Valencia, California
2003-2011	LAW OFFICES OF DAVID L. HOFFMAN (owner)	Valencia, California
1996-2002	CISLO & THOMAS LLP (Partner)	Santa Monica, Calif.
1989-1995	CHRISTIE, PARKER & HALE (Associate)	Pasadena, California
1985-1989	SUGHRUE MION (Associate)	Washington, DC

EDUCATION

JD, May 1985
UNIVERSITY OF PENNSYLVANIA LAW SCHOOL Philadelphia, PA
Top 40%. Appellate court competition. Copy editor for law school paper.

BS, June 1982
MASSACHUSETTS INSTITUTE OF TECHNOLOGY Cambridge, MA
GPA: 4.7 (5.0 scale), Top 20%. Member Chi Epsilon (Civil Engineering Honor Society), Tau Beta Pi (Engineering Honor Society) Invitee.

LITIGATION EXAMPLES

Lead counsel in Paw Partners, Inc. v. Baker Bristol Pet Hospital Inc. and Dietz Kumar, LLC, Case No. 8:19-cv-01872 JLS, Central District of California (2019), counsel for Plaintiff in trademark and trade dress and unfair competition case—resolved the matter at mediation

Consulting counsel for counterclaims related to theft of trade secrets in arbitration

Lead counsel for defense in Redux Pictures, LLC v. Below the Line et al (2020), Central District of California, convinced Plaintiff's counsel to drop the litigation even before service of the complaint

Lead counsel for Plaintiff in Sani-Tech v. Andocksysteme and Servolift and lead counsel for defense in Andocksysteme v. Sani-Tech (2018), resolved patent dispute before close of pleadings

Lead counsel in cyber piracy, trademark and unfair competition case, represented Defendant and obtained walkaway settlement against multibillion dollar manufacturer represented by two large law firms.

Softbelly's, Inc. v. Boone Consumer Group, Inc., Central District of California: Lead counsel in patent, unfair competition, copyright and trade libel case. Won preliminary injunction for Plaintiff Softbelly's against several companies **even though patent was only recently issued and not previously litigated**. Handled patent reexamination during case and saved patent's key claims in a successful appeal in patent office.

Co-counsel (not of record) for plaintiff Seymour v. InnCom and Senercomm, Central District of California: Case settled early following mediation.

Holcomb Healthcare and Amway Corporation v. Nikken, Inc. and Nu-Magnetics, Middle District of Tennessee: While with Ciso & Thomas, we represented defendants Nikken and Nu-Magnetics in patent and unfair competition case involving magnetic therapeutic products. Plaintiffs were represented by a very large patent firm. Settled large multi-million dollar case.

Nikken, Inc. v. Homedics, Inc., Central District of California: While with Ciso & Thomas, we represented Plaintiffs Nikken and Nu-Magnetics in patent infringement case involving magnetic therapeutic products. Defendants were represented by a large patent firm. Firm won at trial on a multi-million dollar claim.

Guthy-Renker Fitness v. Icon Health & Fitness, 44 U.S.P.Q.2d 1344, 48 U.S.P.Q. 2d 1058 (C.D.Cal. 1998): While with Ciso & Thomas, we represented plaintiff Guthy-Renker in declaratory judgment action on patent and trade dress for exercise equipment. Won motion to proceed with this California case and to stay case brought by Icon Health/Precor in Seattle in spite of other related suits that were consolidated there. Decision reported. Thereafter, settled multi-million dollar case.

Moore v. Minolta, Central District of California: While with Christie, Parker & Hale, we represented plaintiff in Multi-million dollar lawsuit. I successfully handled patent office reissue of patent and thereafter case settled favorably.

Successfully settled trademark infringement and counterfeiting lawsuit brought by multinational electronics company against my client, a local computer peripheral company.

PROFESSIONAL AFFILIATIONS AND ACCOMPLISHMENTS

California Bar

Registered Patent Attorney

Courts: Central, Northern and Southern Districts of California, Eastern District of Michigan, Ninth Circuit Court of Appeals, Federal Circuit Court of Appeals, Eleventh Circuit Court of Appeals

Associations: Los Angeles Intellectual Property Law Association, Los Angeles County Bar Association -- Intellectual Property Law Division, Santa Clarita Bar Association, San Fernando Valley Bar Association
Competent Toastmaster Award, Provisors and All Cities Networking Groups

Instructor for Patent Resources Group's patent review course

Who's Who Millennium Edition

Who's Who Among Rising Young Americans in 1992

EXAMPLARY AUTHORSHIPS

Sobering Trademark Stories, David L. Hoffman, Esq., Copyright 2017 (authored book about trademark, trade dress and unfair competition litigation)

"The Need for a Reliable Test of Software Patentability," David L. Hoffman, Los Angeles Lawyer, July/August 2014

"Determining the Value of a Patent," David L. Hoffman, Valley Lawyer, July 2014

"Patents, Trademarks & Copyrights, Oh My!," David L. Hoffman, Santa Clarita Magazine, July 2002.

"Copyright Basics," David L. Hoffman, Santa Clarita Magazine, June 2002.

"Why Do I Need A Trademark Registration?," David L. Hoffman, Santa Clarita Magazine, January 2002.

"Tailoring Nondisclosure Agreements to Client Needs," David L. Hoffman and Robert J. Lauson, Los Angeles Lawyer, Special Technology Law Issue, Vol. 23, No. 7, October 2000.

"Cease-and-Desist Letters in Intellectual Property Disputes," David L. Hoffman and Robert J. Lauson, Los Angeles Lawyer, Vol. 22, No. 6, September 1999, Reprinted in Computer Lawyer, Vol. 16, No. 12, December 1999.

"Recent Changes In Foreign Copyright Laws," Perspectives, Summer 1995.

"When To Consult A Patent Attorney," Perspectives, Fall 1994.