

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

LIGHTING SCIENCE GROUP  
CORPORATION,

Plaintiff,

v.

GLOBALUX LIGHTING LLC,

Defendant.

Case Nos. 6:16-cv-681-Orl-37-KRS  
6:16-cv-680-Orl-37-KRS  
6:16-cv-679-Orl-37-KRS  
6:16-cv-678-Orl-37-KRS  
6:16-cv-677-Orl-37-KRS  
6:16-cv-413-Orl-37-KRS  
6:16-cv-343-Orl-37-KRS  
6:16-cv-338-Orl-37-KRS

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**SHOW CAUSE ORDER**

The actions identified in the caption of this Show Cause Order ("**Lighting Science Cases**")\* are before the Court on the Notice of Pendency of Other Actions ("**Notice**") filed by Lighting Science Group Corporation ("**Plaintiff**") in each case. (See Docs. 6, 12.) In each Lighting Science Case, the Court entered a Related Case Order and Track Two Notice ("**RC Order**"), which directed Plaintiff's counsel, Mark F. Warzecha ("**Counsel**") to comply with Local Rule 1.04(d) and:

[F]ile and serve a certification as to whether the instant action should be designated as a similar or successive case pursuant to Local Rule 1.04(a)(b).

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\* To save space, the caption provides the case numbers for all eight Lighting Science Cases, but it identifies only one Defendant from Lighting Science Case Number 6:16-cv-681-Orl-37KRS ("**Case 681**"). Further, because no meaningful difference exists between the Notices and pertinent Orders filed in the Lighting Science Cases, the Court only cites to the docket numbers assigned to the documents filed in Case 681.

(See Doc. 10, p. 1.) Local Rule 1.04(d) provides in pertinent part:

***All counsel of record in any case have a continuing duty promptly to inform the Court and counsel of . . . any other case*** within the purview of this rule, as well as the existence of any ***similar or related case or proceeding*** pending before any other court or administrative agency.<sup>†</sup> Counsel shall notify the Court by filing and serving a “Notice of Pendency of Related Actions” that identifies and describes any related case.

Cases are “related because of either a common question of fact or any other prospective duplication in the prosecution or resolution of the cases.” Local Rule 1.04(b).

Here, the Lighting Science Cases concern three U.S. Patent Nos. 8,201,968 (“**968 Patent**”), 8,672,518 (“**518 Patent**”), and 8,967,844 (“**844 Patent**”):

Plaintiff	Defendant	Case	Patent
Lighting Science Group Corp.	Hypericon, Inc.	16-cv-343 (“ <b>Case 343</b> ”)	‘518 Patent ‘844 Patent
Lighting Science Group Corp.	Sunoco Lighting, Inc.	16-cv-677 (“ <b>Case 677</b> ”)	‘518 Patent ‘844 Patent
Lighting Science Group Corp.	Panor Corporation	16-cv-678 (“ <b>Case 678</b> ”)	‘518 Patent ‘844 Patent
Lighting Science Group Corp.	S E L S, Inc.	16-cv-679 (“ <b>Case 679</b> ”)	‘518 Patent ‘844 Patent ‘968 Patent
Lighting Science Group Corp.	EELS Company, Ltd.	16-cv-680 (“ <b>Case 380</b> ”)	‘518 Patent ‘844 Patent ‘968 Patent
Lighting Science Group Corp.	Globalux Lighting LLC	Case 681	‘518 Patent ‘844 Patent ‘968 Patent
Lighting Science Group Corp.	Sea Gull Lighting Products LLC	16-cv-338 (“ <b>Case 338</b> ”)	‘968 Patent ‘844 Patent
Lighting Science Group Corp.	Nicor, Inc.	16-cv-413 (“ <b>Case 413</b> ”)	‘518 Patent ‘968 Patent

<sup>†</sup> The U.S. Patent and Trademark Office is an administrative agency.

As the table above shows: (1) Cases 679, 680 and 681 involve all three of the Patents-at-Issue; (2) Cases 343, 677 and 678 involve two of the Patents-at-Issue—the ‘518 and ‘844 Patents; and (3) the final two Lighting Science Cases—Cases 338 and 413—concern the ‘968 Patent and either the ‘844 Patent or the ‘518 Patent. Three closed patent infringement actions filed by Plaintiff in this Court also involve the Patents-at-Issue (“**Closed Cases**”). Specifically, in closed Case No. 6:16-cv-344-Orl-40GJK, Plaintiff claimed that all three Patents-at-Issue were infringed, and in Case Nos. 6:13-cv-587-Orl-37GJK and 6:14-cv-195-Orl-37GJK, Plaintiff claimed that the ‘968 Patent was infringed. Thus, the Closed Cases also are “related” to the pending Lighting Science Cases. Further, these cases are not unrelated or dissimilar because a different Defendant is named in each case. Regardless of who the infringer is, claims from the same patents must be construed consistently. Indeed, duplicitous *Markman* proceedings is the precise evil avoided by compliance with Local Rule 1.04.

Despite the obvious relatedness among the Lighting Science Cases and the Closed Cases, Counsel filed a Notice in each Lighting Science Case denying that “any pending or closed civil” case is related to a Lighting Science Case:

  X   IS NOT related to any pending or closed civil or criminal case filed with this Court, or any other Federal or State court, or administrative agency.

(See Doc. 12.)<sup>‡</sup> Such negative responses are inexplicable, and the Court can discern no

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<sup>‡</sup> Counsel received copies of the following form to facilitate compliance with the RC Order and Local Rule 1.04:

good faith basis for them. Further, the Court cannot find that the false Notices were harmless.

The disclosure requirements imposed by Local Rule 1.04 and the RC Order promote procedural fairness and simplicity, and “secure just, expeditious and inexpensive determination of all proceedings.” See Local Rule 1.01(b). Absent diligent compliance with these requirements, related cases are unnecessarily complicated, delayed, and multiplied. See *id.* Indeed, because of the Notices in these Lighting Science Cases: (1) the Court has already expended precious resources to identify the actual related cases and to issue this Show Cause Order; and (2) because the false Notices have undermined the Court’s confidence in the veracity of Counsel’s filings, additional judicial resources will likely be expended to confirm the accuracy of such filings as these cases proceed.

**CONCLUSION**

Accordingly, it is hereby **ORDERED**:

\_\_\_\_\_ **NOTICE OF PENDENCY OF OTHER ACTIONS**

In accordance with Local Rule 1.04(d), I certify that the instant action:

\_\_\_\_\_ IS related to pending or closed civil or criminal case(s) previously filed in this Court, or any other Federal or State court, or administrative agency as indicated below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ IS NOT related to any pending or closed civil or criminal case filed with this Court, or any other Federal or State court, or administrative agency.

(Doc. 10-1 (“**Form Notice**”))

1. Counsel is **DIRECTED TO SHOW CAUSE**, on or before **June 1, 2016**, why the Court should not impose sanctions on him for his violations of Local Rule 1.04 and the RC Orders entered in each Lighting Science Case.
2. On or before **May 31, 2016**, Plaintiff is **DIRECTED TO FILE** an amended Notice of Pendency of Related Cases in each open Lighting Science Case.
3. The amended Notices must conform to the Form Notice and must identify **every** pending or closed civil or criminal case filed with this Court, **or any other Federal or State court, or administrative agency.**

**DONE AND ORDERED** in Chambers in Orlando, Florida, on May 18, 2016.



  
ROY B. DALTON JR.  
United States District Judge

Copies:

Counsel of Record