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11 Attorneys for Defendant
12 RAYVIO, INC.

13 **IN THE UNITED STATES DISTRICT COURT**
14 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
15 **SAN JOSE DIVISION**

16 NITRIDE SEMICONDUCTORS CO.,
LTD., a Japanese corporation,

17 Plaintiff,

18 vs.

19 RAYVIO, INC., a Delaware corporation,

20 Defendant.

Case No. 5:17-cv-02952-EJD

**DEFENDANT RAYVIO, INC.'S
INVALIDITY CONTENTIONS**

[PATENT L. R. 3-3]

Hon. Edward J. Davila

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1 **I. INTRODUCTION**

2 Pursuant to N.D. Cal. Patent L.R. (“Patent Rule”) 3-3 and the Court’s Scheduling Order
3 (Dkt. 37), Defendant RayVio, Inc. (“RayVio”) serves these Invalidity Contentions on Plaintiff
4 Nitride Semiconductors, Inc. (“Nitride”). These Invalidity Contentions are based on Defendant’s
5 current knowledge of U.S. Patent No. 6,861,270 (“the ’270 Patent”), Defendant’s current
6 understanding and interpretation of the scope of the patent claims as set forth in Nitride’s
7 Infringement Contentions, and Defendant’s current understanding of the prior art.

8 RayVio reserves the right to supplement these Invalidity Contentions to the extent
9 permitted under the Local Rules. RayVio investigation is ongoing. This case is currently in the
10 early stages of discovery. As discovery proceeds, RayVio may learn of additional prior art and
11 information regarding the validity of the Asserted Claims of the ’270 patent. Moreover, Nitride
12 has not yet provided its proposed constructions pursuant to Patent L.R. 4-1 and 4-2. Additional
13 prior art may become relevant based on Nitride’s proposed constructions for the Asserted Claims.
14 Nitride’s constructions may also change the scope of the Asserted Claims thereby altering the
15 bases of invalidity of the Asserted Claims under 35 U.S.C. §§101, 102, 103, and 112.

16 While RayVio has considered Nitride’s Infringement Contentions, the contentions are
17 vague, ambiguous, and fail to specifically identify where each limitation of each asserted claim is
18 found in the accused products. Further, RayVio is not aware of whether Nitride will contend that
19 any limitations of the Asserted Claims are not disclosed by the prior art disclosed herein and, if
20 so, which specific limitations Nitride may allege are not disclosed in each particular prior art
21 reference disclosed herein. It is also unclear whether Nitride will allege that any of the disclosed
22 prior art references do not qualify as prior art. RayVio reserves the right to supplement these
23 Invalidity Contentions to the extent permitted under the Local Rules to address these and other
24 issues and information that may arise during discovery.

25 **II. THE ASSERTED CLAIMS OF THE PATENTS-IN-SUIT**

26 In Plaintiff’s Infringement Contentions, Nitride alleges that RayVio infringes claims 1, 2,
27 5, 8, 9, and 12 (collectively “Asserted Claims”).
28

1 **III. THE ASSERTED CLAIMS OF THE '270 PATENT ARE EACH INVALID FOR**
2 **ANTICIPATION UNDER 35 U.S.C. § 102 AND/OR OBVIOUSNESS UNDER 35**
3 **U.S.C. § 103 IN VIEW OF THE PRIOR ART [PATENT RULES 3-3(A), (B) AND**
4 **(C)]**

4 Pursuant to Patent Rules 3-3(a), (b) and (c), RayVio contends that each of the Asserted
5 Claims is invalid as anticipated by the prior art under 35 U.S.C. § 102 and/or as obvious in view
6 of the prior art under 35 U.S.C. § 103. The identification of any patent or patent publication
7 herein shall be deemed to include any counterpart patent or application filed, published, or issued
8 anywhere in the world.

9 RayVio's claim charts in Exhibits 1-27 cite particular teachings and disclosures in the
10 prior art that identify where each limitation is found in the reference. One of ordinary skill in the
11 art would read the reference as a whole and in the context of the knowledge, literature, and
12 publications in the field. RayVio cites exemplary portions of the prior art references in Exhibits
13 1-27. RayVio reserves the right to rely on uncited portions of the prior art references in these
14 exhibits, as well as other publications and expert testimony, to *inter alia* provide context and
15 assist in understanding the cited portions and as evidence that a claim limitation is known or
16 disclosed. Further, any citation to a figure in the exhibits is inclusive of all discussions of that
17 figure in the reference. To establish bases for combinations of certain cited references that render
18 the Asserted Claims obvious, RayVio reserves the right to rely on the general knowledge of one
19 or ordinary skill in the art and common sense as well as uncited portions of the prior art
20 references, other publications, and documents incorporated by reference.

21 Because the parties have not yet exchanged proposed constructions and the Court has not
22 yet construed the claims, there is uncertainty regarding the scope of the Asserted Claims. The
23 prior art in Exhibits 1-27 may contain alternative interpretations of the prior art to account for the
24 uncertainty as to the scope of the Asserted Claims, which have not been construed by the Court.
25 Nothing stated herein shall be treated as an admission or suggestion that RayVio agrees with
26 Nitride regarding either the scope of the Asserted Claims or the construction of a claim term.
27 Nothing stated herein shall be construed as an admission or a waiver of any particular
28 construction of any claim term. RayVio expressly reserves the right to contest any claim

1 construction asserted by Nitride.

2 The background and state of the art at the time of the purported invention of the '270
3 patent is exemplified by at least the references found at RV00000143 - RV00005917. Each of
4 these references show the state of the art regarding gallium nitride based semiconductors and light
5 emitting elements at the time the '270 patent was filed. These references discuss the making,
6 structure, and use of gallium nitride based semiconductors and light emitting devices. RayVio
7 reserves the right to rely on additional references produced in discovery to provide a background
8 of the technology, to provide context to the invention and the prior art, to show the knowledge of
9 one of ordinary skill in the art, and for other background purposes.

10 **A. Priority Date of the '270 Patent**

11 In Nitride's Infringement Contentions pursuant to Patent L.R. 3-1, Nitride identifies the
12 filing date of the '270 patent, March 6, 2002, as the asserted priority date. No other priority date
13 is stated in Nitride's Infringement Contentions. Other than March 6, 2002, Nitride does not assert
14 any specific conception or reduction to practice dates in its Infringement Contentions pursuant to
15 Patent L.R. 3-1. Nitride has also not identified any documents relating to conception, reduction to
16 practice, design, and development of the claimed inventions of the '270 patent as required by
17 Patent Local Rule 3-2. Therefore, RayVio's Invalidity Contentions are based on Nitride's current
18 asserted priority date of March 6, 2002. If Nitride amends its infringement contentions to assert
19 an earlier priority date, RayVio reserves its right to amend its invalidity contentions to address
20 Nitride's amendments.

21 **B. Anticipation**

22 Claims 1, 2, 5, 8, 9, and 12 of the '270 patent are each anticipated by the prior art
23 references shown in the table below. The table identifies the claims anticipated by each reference
24 and the Exhibit containing the claim chart that identifies where each limitation of the Asserted
25 Claims is found in that reference.¹

26 _____
27 ¹ The claim charts provide illustrative citations to where each element may be found in the prior
28 art references. The cited references may contain other disclosures of each claim element as well,
and RayVio reserves the right to argue any claim elements of the '270 patent are disclosed in non-
cited portions of these references.

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| Prior Art Reference | Claims Anticipated | Claim Chart Exhibit |
|---|--------------------|---------------------|
| Japanese Patent Pub. No. JP 10-79501A ("JP10079501") | 1, 2, 5, 8, 9, 12 | 1 |
| Japanese Patent Pub. No. 11-354843 ("JP11354843") | 1, 2, 5, 8, 9, 12 | 2 |
| U.S. Patent No. 5,795,798 ("798 Patent") | 1, 2, 5, 8, 9, 12 | 3 |
| U.S. Patent No. 6,194,241 ("241 Patent") | 1, 2, 5, 8, 9, 12 | 4 |
| U.S. Patent No. 6,573,535 ("535 Patent") | 1, 2, 5, 8, 9, 12 | 5 |
| U.S. Patent No. 6,657,232 ("232 Patent") | 1, 2, 5, 8, 9, 12 | 6 |
| U.S. Patent No. 6,110,757 ("757 Patent") | 1, 2, 5, 8, 9, 12 | 7 |
| Japanese Patent Pub. No. 2000-174337 ("JP2000174337") | 1, 2, 5, 8, 9, 12 | 8 |
| Japanese Patent Pub. No. 2000-349333 ("JPA_2000349333") | 1, 2, 5, 8, 9, 12 | 9 |
| "GaN quantum-dot formation by self-assembling droplet epitaxy and application to single-electron transistors" ("Kawasaki Reference") | 1, 2, 5, 8, 9, 12 | 10 |
| "Reduction of defect density in GaN epilayer having buried Ga metal by MOCVD" ("Sumiya Reference") | 1, 2, 5, 8, 9, 12 | 11 |
| "Self-assembling GaN quantum dots on Al _x Ga _{1-x} N surfaces using a surfactant" ("Tanaka Reference 1") | 1, 2, 5, 8, 9, 12 | 12 |
| "Stimulated emission from optically pumped GaN quantum dots" ("Tanaka Reference 2") | 1, 2, 5, 8, 9, 12 | 13 |
| Japanese Patent Pub. No. 2000-223790 ("JP2000223790") | 1, 2, 5, 8, 9, 12 | 14 |
| "Buried Tungsten Metal Structure Fabricated by Epitaxial Lateral Overgrown GaN via Low Pressure Metalorganic Vapor Phase Epitaxy" ("Haino Reference") | 1, 2, 5, 8, 9, 12 | 15 |
| U.S. Patent No. 6,852,161 ("161 Patent") | 1, 2, 5, 8, 9, 12 | 16 |

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