

## **EPISTAR WINS APPEAL AGAINST PHILIPS LUMILEDS IN ITC PROCEEDING AND IS RELEASED FROM IMPORTATION BAN**

Hsinchu, Taiwan – May 26, 2009 – Epistar Corporation today announced that the U.S. Court of Appeals for the Federal Circuit (CAFC) has found in favor of Epistar in its appeal from the U.S. International Trade Commission (“ITC”) proceeding brought by Philips Lumileds Lighting Co. (“Lumileds”). The CAFC vacated the Limited Exclusion Order (“LEO”) and remanded the case to the ITC for reconsideration.

In particular, the CAFC found that the ITC erred in not allowing Epistar to contest the validity of U.S. Patent No. 5,008,718 (the “’718 patent”). As part of the appeal, the CAFC also affirmed the ITC’s claim interpretation of the ’718 patent. Epistar has long argued that the ’718 patent, if construed in the manner proposed by Lumileds, would be invalid over a number of prior art patents and publications that were in the public domain long before the ’718 patent filing date. The CAFC decision now opens the way for Epistar to invalidate the ’718 patent. The ’718 patent is set to expire later this year on December 18, 2009.

In its decision, the CAFC also ruled that the scope of the prior Settlement Agreement between United Epitaxy Company (“UEC”) and Lumileds, reached in 2001 in a separate District Court proceeding, cannot be expanded to include Epistar because of its merger with UEC in 2005. The CAFC held that at most, Epistar would not be allowed to challenge the validity of the ’718 patent only for the original UEC products. Therefore, when Lumileds alleged in the ITC proceeding that Epistar’s OMA products infringed the ’718 patent, Epistar should have been allowed to challenge the validity of the ’718 patent. Accordingly, the CAFC found that the ITC erred as a matter of law in preventing Epistar from arguing the invalidity of the ’718 patent as to its products.

In part because of its reversal of the ITC’s decision, the CAFC vacated the Limited Exclusion Order. In addition, the CAFC followed its ruling in *Kyocera Wireless* and further held that the ITC erred in extending the LEO to Epistar’s customers when none were named as Respondents in the case. Epistar has notified the U.S. Customs and Border Protection of the CAFC’s decision and order vacating the LEO.

Because it found in favor of Epistar with regard to Epistar's right to challenge the validity of the '718 patent, the decision provides further assurance for Epistar to proceed with its action against Lumileds in the U.S. District Court for the Northern District of California for breaching the terms of the 2004 Settlement Agreement between Epistar and Lumileds. In view of the CAFC's recent decision and the ITC's prior ruling of non-infringement of those bonding patents asserted by Lumileds, a ruling that Lumileds failed to appeal, Epistar remains confident it will prevail in the remaining matters being litigated by the parties.

### **About Epistar Corporation**

Epistar Corporation, headquartered in the Hsinchu Science-based Industrial Park, Taiwan since September 1996, focuses on developing, manufacturing and marketing high brightness Light Emitting Diode (LED) products. Applying its own proprietary Metal Organic Vapor Phase Epitaxy (MOVPE) technology, Epistar has successfully commercialized the full spectrum range of high brightness LEDs with the characteristics of compact size, low power consumption and long operation life. For further information, please visit: <http://www.epistar.com.tw/news-e.htm>

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