

STATEMENT OF CONSIDERATIONS

Request by General Electric Company for an Advance Waiver of Domestic and Foreign Invention Rights under DOE Contract No. DE-FC26-05NT42343 W(A)-05-044, CH-1325

The Petitioner, General Electric Company (GE) was awarded a cooperative agreement for the performance of work entitled, "High Efficiency, Illumination Quality OLEDs for Lighting." The purpose of the cooperative agreement is to produce a 45 lumen per watt organic light emitting device (OLED) that has an output emission spectrum suitable for general illumination applications. The device will be constructed in a manner that is suitable for production via high speed processing. This waiver is only for inventions of GE made under the cooperative agreement.

The total estimated cost of the contract is \$4,086,976 with the DOE share being \$2,860,883 or 70%. The remaining cost-share of \$1,226,093 or 30% will be provided by GE. The period of performance is from January 1, 2005 through December 31, 2007.

In its response to questions 5 and 6 of the attached waiver petition, GE has described its technical competence in the field of polymer based OLED illumination sources. GE demonstrated the first illumination quality white-light OLED source which had a black body temperature of ~ 4100K, was located on the black body locus, and had high cooler rendering index (CRI) of 93. This color quality is superior to that in commercially available fluorescent lamps and high enough to enable replacement of incandescent lamps in many applications. Further work at GE yielded nearly exponential increases in luminous efficacy and total lumen output. Since 2001 GE has improved OLED performance from small inefficient sources to a high quality incandescent source. This work has been documented in several peer reviewed publications, and is the subject of several U.S. patents. GE's response demonstrates its technical competency in the field of OLED illumination sources.

In its response to question 10 of the attached waiver petition, GE states that the end products produced from the developed technology would be cast by many GE vendors who typically compete for this work. Therefore grant of the waiver will have a positive effect on competition and market concentration.

The subject contract will be modified to add the Patent Rights--Waiver clause in conformance with 10 CFR 784.12, wherein GE has agreed to the provisions of 35 U.S.C §§ 202, 203, and 204. This waiver clause will also include a paragraph entitled U.S. Competitiveness, in which GE agrees to substantial U.S. manufacture of subject inventions (attached hereto). Additionally, GE agrees not to transfer subject inventions to any other entity unless that other entity agrees to these same requirements.

Considering the foregoing, it is believed that granting the waiver will provide the Petitioner with the necessary incentive to invest resources in the commercialization of the results of the agreement in a fashion which will make the agreement's benefits available to the public in the shortest practicable time. In addition, it would appear that grant of the above requested waiver would not result in an adverse effect on competition nor result in excessive market concentration. Therefore, in view of the objectives and considerations set forth in 10 CFR 784, all of which have been considered, it is recommended that the requested waiver, as set forth above, be granted.

[REDACTED]

Mark P. Dvorscak
Assistant Chief Counsel
Office of Intellectual Property Law

Date Dec. 5, 2005

Based on the foregoing Statement of Considerations and the representations in the attached waiver petition, it is determined that the United States and the general public will best be served by a waiver of rights of the scope described above, and therefore the waiver is granted. This waiver shall not apply to any modification or extension of this agreement, where through such modification or extension, the purpose, scope, or cost of the agreement is substantially altered.

CONCURRENCE:

[REDACTED]

David E. Rodgers
Program Manager
Building Technologies Program (EE 2J)
Energy Efficiency and Renewable Energy

Date 1-9-06

APPROVAL:

[REDACTED]

Paul A. Gottlieb
Assistant General Counsel
for Technology Transfer and
Intellectual Property, GC-62

Date 1-27-06

(t) U. S. COMPETITIVENESS The Contractor agrees that any products embodying any waived invention or produced through the use of any waived invention will be manufactured substantially in the United States unless the Contractor can show to the satisfaction of the DOE that it is not commercially feasible to do so. In the event the DOE agrees to foreign manufacture, there will be a requirement that the Government's support of the technology be recognized in some appropriate manner, e.g., recoupment of the Government's investment, etc. The Contractor agrees that it will not license, assign or otherwise transfer any waived invention to any entity unless that entity agrees to these same requirements. Should the Contractor or other such entity receiving rights in the invention undergo a change in ownership amounting to a controlling interest, then the waiver, assignment, license, or other transfer of rights in the waived invention is suspended until approved in writing by the DOE.

WAIVER ACTION - ABSTRACT

W(A)-05-044 (CH-1325)

REQUESTOR

General Electric Company
under DOE contract
No. DE-FC26-05NT42343

CONTRACT SCOPE OF WORK

High Efficiency, Illumination Quality
OLEDs for Lighting

RATIONALE FOR DECISION

30% cost sharing

DISPOSITION