

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NORTH CAROLINA

POST OFFICE BOX 2143

WILMINGTON, NORTH CAROLINA 28402

JAMES C. FOX  
SENIOR JUDGE

March 15, 2002

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Mr. Peter W. Kellen  
Assistant United States Attorney  
Terry Sanford Federal Building, Suite 300  
310 New Bern Avenue  
Raleigh, North Carolina 27601-1461

Re: Shuji Nakamura

Dear Mr. Kellen:

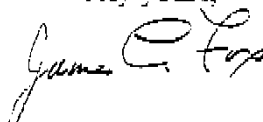
I am enclosing a copy of the deposition taken of Shuji Nakamura on November 1 and 2, 2001. This deposition was taken in connection with the patent litigation, *NC State University and Cree, Inc. v. Nichia Corporation and Nichia America Corporation*, No. 5:00-CV-703-F(2) (NCED).

This litigation involves, among other things, the validity of U. S. Patent Nos. 5,306,662 (Deposition Exhibit 24); 5,578,839 (Deposition Exhibit 26); 5,747,832 (Deposition Exhibit 27); and 5,767,581 (Deposition Exhibit 28). In the course of his deposition, Dr. Nakamura, beginning at page 177, indicates that he intentionally submitted false data in conjunction with the applications for the aforesaid patents. It would appear, then, that Dr. Nakamura either has committed perjury in this court, or alternatively, has committed perjury in filing applications for the patents listed and has given false statements to the United States in violation of Title 18 U.S.C. § 1001.

The commercial significance of these patents is enormous, and the litigation pertaining thereto will be lengthy and complex. If found to be appropriate by the Department of Justice, I recommend prosecution of the deponent.

Inasmuch as the deposition was filed under seal in the civil litigation, I request that only so much thereof as might be necessary for criminal proceedings be open to the public.

Sincerely yours,



James C. Fox  
Senior United States District Judge

JCF/ssr  
Enclosure