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*Attorneys for Plaintiff and Putative Class*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

_____	:	
IMRAN CHAUDHRI, individually,	:	
and on behalf of all others similarly	:	Civil Action No. 11-5504(SDW)(MCA)
situated,	:	
	:	<b>FIRST AMENDED COMPLAINT</b>
Plaintiff,	:	
v.	:	<b>CLASS ACTION</b>
	:	
OSRAM SYLVANIA, INC., and OSRAM	:	<b>JURY TRIAL DEMANDED</b>
SYLVANIA PRODUCTS, INC.,	:	
	:	
Defendants.	:	
_____	:	

Plaintiff, Imran Chaudhri, individually, and on behalf of all others similarly situated, by his undersigned attorneys, brings this class action for monetary and other relief against Defendants OSRAM SYLVANIA, Inc. and OSRAM SYLVANIA PRODUCTS, INC. (collectively, “Sylvania” or the “Company”) and makes the following allegations based upon information and belief, except as to allegations specifically pertaining to Plaintiff which are based on personal knowledge.

### **NATURE OF THE ACTION**

1. This is a consumer fraud class action pursuant to Rule 23 of the Federal Rules of Civil Procedure against Sylvania for deceiving customers into purchasing Halogen headlights by using false and misleading packaging and advertising. Sylvania's conduct is especially egregious in light of the fact that automotive lighting -- particularly headlights -- is a critical safety device responsible for protecting the lives of millions of people. Sylvania wrongly plays upon consumers' concerns for automotive safety and makes false statements to get those consumers to buy its' products. Specifically, Sylvania touts its SilverStar® headlights as being brighter, providing a wider beam, and enabling the user to see further down the road than standard halogen headlights. But Sylvania rigged the process. While making those claims, Sylvania omits to disclose to consumers that it was not basing the comparisons under similar testing conditions.

2. In so doing, Sylvania has committed, and continues to commit, consumer fraud and has unjustly enriched itself.

3. Plaintiff therefore brings this action on behalf of a proposed Class of similarly situated purchasers of SilverStar® headlights.

### **JURISDICTION AND VENUE**

4. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act, codified in part at 28 U.S.C. §1332(d), because there are 100 or more class members and the aggregate amount in controversy exceeds \$5,000,000, exclusive of interest and costs. Additionally, at least one Class member is a citizen of a state different than Sylvania.

5. Venue in the United States District Court for the District of New Jersey is proper because events giving rise to the claims, including, *inter alia*, Sylvania's false and misleading

packaging, advertising and marketing, occurred and arose in this District. Further, Sylvania is authorized and does, in fact, transact business within this District.

### **PARTIES**

6. Plaintiff Imran Chaudhri is, and at all times relevant hereto was, an individual residing in Piscataway, New Jersey. Plaintiff purchased a 9004 SilverStar® head lamp manufactured by the Defendant from a retail establishment located in the State of New Jersey based on the deceptive packaging, labels and national marketing/advertising media as described below which were designed to encourage consumers to purchase Defendants' SilverStar® head lamps. Plaintiff is a member of the Class he seeks to represent herein.

7. Defendant Sylvania is the North American business of OSRAM GmbH of Germany, one of the world's largest manufacturers and part of the Siemens family of companies. Sylvania is a corporation organized under the laws of the State of Delaware. The Company manufactures and markets a wide range of products and precision materials and components for business and industry, consumers, for the automotive industry, and for the computer, aerospace and other major industries worldwide. Sylvania has seven principal organizational units: (i) General Lighting; (ii) Precision Materials & Components; (iii) Automotive Lighting; (iv) Electronic Control Systems; (v) OSRAM SYLVANIA LTD./LTEE; (vi) OSRAM Mexico; and (vii) Display/Optic. Sylvania is headquartered in Danvers, Massachusetts, but does business throughout the United States, including the State of New Jersey.

8. Whenever in this Complaint reference is made to any act or omission of Sylvania, such allegations shall be deemed to mean that the directors, officers, agents, employees, distributors, partners, contractors, third-party sales agencies or representatives of Sylvania did, authorized or commanded such act or omission while actively engaged in the management,

operation, control or representation of the affairs of the Company and while acting within the course and scope of their agency, distributorship, contract, employment, representation and capacity.

### **FACTUAL BACKGROUND**

9. Sylvania manufactures and sells, among other things, automotive lighting products. Among the product lines of Halogen head lamps Sylvania manufactures and sells to consumers throughout the United States is what the Company refers to as “SilverStar® Products.” This product line includes various SilverStar® headlights, including the 9004 SilverStar® head lamp which was purchased by the Plaintiff.

10. Headlights are among the most important safety devices on automobiles. Better headlights allow drivers to see more at night and during inclement weather, and react quicker. Headlights protect drivers, passengers and pedestrians. Indeed, Sylvania’s advertisements play heavily on the value of improved safety devices.

11. The revenues derived from the sales of lamps are so important to Sylvania, that it routinely sues companies to enforce whatever patent and trademark rights it believes it has. However, in an effort to generate more revenues and profits at the expense and risk of life and property to consumers, Sylvania misled, and continues to mislead, the Class by grossly exaggerating the qualities of its headlights in its comparisons with other headlights.

### **Sylvania’s Misleading Packaging**

12. Sylvania sells its headlamps through retail stores. Sylvania products that are placed in retail stores for sale are packaged so that consumers can see and read the packaging before making a purchase.

13. Indeed, Sylvania's packaging of its headlamps is specifically geared toward consumers looking to purchase a headlamp and making comparisons between manufacturers. Sylvania's intent is that consumers rely on its headlamp packaging when evaluating which headlights to purchase.

14. On the front of the packaging for its 9004 SilverStar® head lamp, the Company claims their Silver Star bulbs are up to 35% brighter, you can see up to 30% further down road, and up to 35% wider, than standard halogen headlights. These three metrics are set off to one side of the packaging and are each described with diagrams in a manner to highlight those misleading claims to consumers. *See Exhibit A, packaging of the 9004 SilverStar product Plaintiff purchased.* Nowhere in the front of the packaging does Sylvania explain how it derived the comparisons. Sylvania simply states as a fact that the 9004 SilverStar® head lamp is between up to 30-35% better as described above.

15. The back of the SilverStar packaging contains additional graphics which further mislead consumers instead of clarifying anything on the front of the package. *See Exhibit A at 2.* For example, on the back of the SilverStar package, at the top is a chart comparing various Sylvania head lamps to a standard halogen head lamps. The column labeled "STANDARD" represents a standard halogen headlight. The column labeled "SILVERSTAR" represents the SilverStar headlights Plaintiff purchased. On the first line, the "Brightness" of each bulb is compared by the use of graphics consisting of solid bars. The Standard Halogen is represented by one bar while the SilverStar is represented by four bars. Because there is no description whatsoever on the SilverStar packaging defining what a bar quantifies, the reasonable interpretation by the average consumer and Plaintiff, is that the SilverStar bulb is 4 times brighter than the Standard Halogen. Likewise, on the next line in the chart, representing down road

visibility, the Standard Halogen is represented by one bar while the SilverStar is represented by three bars. The reasonable interpretation by the average consumer and Plaintiff of those graphics is that the SilverStar bulb has three times the down road visibility as the Standard Halogen bulb. And finally, the third line in that chart represents side road visibility -- the SilverStar bulb has four bars while the Standard Halogen has one bar. The reasonable interpretation by the average consumer and Plaintiff of those graphics is that the SilverStar bulb has four times the down road visibility as the Standard Halogen bulb.

16. The overall impression of Defendants' message is that SilverStar headlights are significantly brighter, provide significantly wider, side road visibility, and provide significantly farther, down road visibility when compared to standard halogen headlights.

17. But buried in very small print on the back of the packaging, Sylvania has a disclaimer that they are comparing the Silver Star headlights at 100% brightness and halogen headlights at only 80% brightness. Specifically, Sylvania places the following text in small print on the back of the packaging: "Claims based on measured comparisons between SilverStar product family at 100% light output and standard halogen bulbs at 80% light output." Because Defendants' disclaimer that it is comparing its SilverStar product at 100% light output and standard halogen head lamps at 80% light output is located on the back of the package, printed in type small enough to require reading glasses, and buried in other small type where only the most meticulous reader would read and understand it, the disclaimer is not prominent enough to avoid the overall misleading impression described above.

18. The Defendants' representations above are without scientific support and are otherwise misleading. This packaging and the misleading nature of the representations contained

therein are consistent with Sylvania's packaging of its entire SilverStar® head lamp line which, in all cases, is equally misleading.

19. Furthermore, the published technical specifications that Sylvania makes available on its web site for both Sylvania standard halogen head lamps and Sylvania SilverStar head lamps shows that 9004 Sylvania standard halogen head lamps and 9004 Sylvania SilverStar head lamps have the exact same light output -- exactly 700 lumens for low beam and 1200 lumens for high beam with a +/- 15% margin of error. *See Exhibits B & C.* Lumens is a measure of the total amount of visible light emitted by a source.

20. The SilverStar product family of head lamps are halogen head lamps. Sylvania does not disclose anywhere on the SilverStar product packaging that its SilverStar product family of head lamps are halogen head lamps.

21. On the back of the SilverStar packaging, Sylvania claims that "head lamps dim over time by 20% or more," and then uses that representation as the basis for comparing its "SilverStar product family at 100% light output and standard halogen bulbs at 80% light output." Contrary to Sylvania's claim, standard halogen head lamps maintain their light output over their lifespan.

22. The SilverStar product family of head lamps have a significantly shorter life span when compared to regular halogen head lamps. The amethyst colored coating on the SilverStar head lamp glass, traps heat inside the capsule, causing the filament to burn out more quickly, thus decreasing the life.

23. When used in a daytime running lamp configuration, which is common in new vehicles, SilverStar head lamps will generally not last longer than 6 months. When not used in a

daytime running lamp configuration, SilverStar head lamps will generally not last longer than 1 year. Regular halogen head lamps will generally last for several years.

24. The Silverstar packaging fails to disclose to the purchaser that SilverStar head lamps have a significantly reduced lifespan when compared to regular halogen head lamps. The only reference to product lifespan on the SilverStar packaging is on the back of the package, in small 6 point-type, at the bottom of a paragraph that is also in small 6-point type, where only the most meticulous consumer would observe it. That disclaimer reads, “Bulbs with greater brightness may require replacement at more frequent intervals.” *See Exhibit A, packaging of the 9004 SilverStar product Plaintiff purchased.* That disclaimer is misleading because it fails to disclose to the consumer that the SilverStar product family will **always** have a significantly reduced product life span when compared to regular halogen head lamps.

25. Even though Sylvania fails to disclose on the SilverStar packaging that SilverStar head lamps will have significantly reduced life when compared to regular halogen head lamps, Sylvania admits that SilverStar head lamps have significantly reduced life on the product package for its XtraVision head lamps. *See Exhibit D, packaging of Sylvania XtraVision head lamps.* On the back of the XtraVision head lamp package is a chart comparing the various performance characteristics of regular halogen head lamps to Sylvania products, including XtraVision head lamps and Sylvania SilverStar head lamps. The column labeled “STANDARD” represents a standard halogen headlight. The column labeled “SILVERSTAR” represents the SilverStar headlights that Plaintiff purchased. On the forth line, the “LIFE” of each bulb is compared by using graphics consisting of solid bars. The standard halogen is represented by four bars while the SilverStar is represented by only one bar. Because there is no description whatsoever on the packaging defining what a bar quantifies, the reasonable interpretation is that



the average standard halogen head lamp has 4 times the life of the average SilverStar head lamp because it is represented by 4 bars whereas the SilverStar head lamp is represented by 1 bar.

**Sylvania’s Deceptive Video Advertisements**

26. During the Class Period, Sylvania produced a video advertisement concerning its SilverStar® ULTRA head lamps for showing to potential customers on television and on the Internet. The advertisement was, and continues to be, misleading to consumers. Sylvania places the phrases: “50% brighter,” “40% farther,” and “50% wider” in the video. However, the audio portion of the video expands slightly on the misleading figures. In the video, the announcer claims the head lamps are “up to 50% brighter,” allow one to “see up to 40% farther,” and “up to 50% wider.” The video ends with the announcer stating: “See farther, see wider, see better.”

27. During the video advertisement, Sylvania, in small print, refers consumers to a website ([www.sylvania.com/auto](http://www.sylvania.com/auto)) “for comparison information.”

Compare SYLVANIA halogen lighting products to find the one that is right for your needs.						
Downroad Visibility	Product Families	Replacing worn standard bulbs provides			Product Benefits	Color Temperature
		UP TO	UP TO	UP TO		
	<b>SILVERSTAR®</b> ULTRA FOR ULTRA NIGHT VISION	50% Increase in BRIGHTNESS	40% Further DOWN ROAD	50% Wider SIDE ROAD	Brightest and Whitest Light	-4100K
	<b>SILVERSTAR®</b> HIGH PERFORMANCE LIGHTING	35% Increase in BRIGHTNESS	30% Further DOWN ROAD	35% Wider SIDE ROAD	Brighter and Whiter Light for safety & style	-4000K
	<b>ecoBright®</b> For A Cleaner Environment	25% Increase in BRIGHTNESS	Your environmental choice. Save energy - Save money. Reduce carbon dioxide (CO <sub>2</sub> ) emissions.		Energy Saving Brighter Light	-3200K
	<b>XTRAVISION®</b>	30% Increase in BRIGHTNESS	25% Further DOWN ROAD	---	Brighter Light more light on the road	-3200K
	Standard Halogen	---	---	---	Basic Performance	-3100K

Headlights dim over time. Always replace in pairs. Evaluate once a year for optimum performance. SEE THE WORLD IN A NEW LIGHT SYLVANIA

28. Sylvania's video advertising of SilverStar® head lamps is misleading and, like the packaging, is specifically directed to consumers to cause them to purchase the products.

**Plaintiff Succumbs to Sylvania's Deceptive Marketing**

29. On March 11, 2009, Plaintiff purchased one package of two Sylvania 9004 SilverStar® head lamps from Walmart in Piscataway, New Jersey for his personal use. Plaintiff paid \$37.63, exclusive of taxes, for the product. Plaintiff based his purchase of the 9004 SilverStar® head lamps on the representations on the front of the product packaging and the chart on the back of the product packaging as described above.

30. After Plaintiff installed two SilverStar head lamps into his vehicle, he did not perceive any significant difference between the SilverStar head lamps and his former head lamps. The SilverStar head lamps were not noticeably brighter. The SilverStar head lamps did not project noticeably further down road. The SilverStar head lamps did not project noticeably further from side to side.

31. Less than four months after Plaintiff installed the SilverStar headlights into his vehicle, one of the SilverStar headlights burned out. Plaintiff then purchased a pair of Sylvania standard halogen head lamps from the same Walmart for approximately \$17.

32. Plaintiff then installed in his vehicle, one of the Sylvania standard halogen head lamps in place of the SilverStar head lamp that burned out. Plaintiff did not perceive any significant difference between the SilverStar head lamp that was still operating in his vehicle and the new Sylvania standard halogen head lamp that he installed. The SilverStar head lamp was not noticeably brighter, did not project noticeably further down road, and did not project noticeably further from side to side when compared to the Sylvania standard halogen head lamp.

33. Less than a month later, the sole remaining SilverStar head lamp installed in Plaintiff's vehicle, burned out. Plaintiff replaced that SilverStar head lamp with a standard Sylvania halogen head lamp. As of this day, both Sylvania standard halogen head lamps described above, are still installed in the same vehicle and operational.

34. Plaintiff was unaware that the SilverStar head lamps he purchased had a reduced life expectancy when compared to regular halogen head lamps, until the SilverStar head lamps burned out as described above.

35. If Plaintiff had known that the SilverStar head lamps had a significantly shorter life span compared to regular halogen head lamps, he would not have purchased them.

36. If Plaintiff had known that the SilverStar head lamps were not noticeably brighter and he could not see noticeably further than standard halogen head lamps, he would not have purchased them.

### **CLASS ACTION ALLEGATIONS**

37. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiff brings this action on behalf of himself and the proposed plaintiff Class consisting of:

All persons who purchased SilverStar® family of head lamps. Excluded from the Class are defendant's officers, directors and employees.

38. Plaintiff reserves the right to modify the Class description and the Class Period based on the results of discovery or otherwise prior to the certification of the Class.

39. Class members are so numerous and geographically diverse that their individual joinder is impracticable. Although the exact number of Class members is presently unknown to Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff believes and therefore avers that there are thousands of Class members – too many to practically join in a single suit.

40. Common questions of law and fact exist as to all Class members and predominate over questions affecting only individual Class members. Indeed, Plaintiff and Class members' claims derive from a common core of salient facts, and share many of the same legal claims.

These common questions include but are not limited to the following:

- a. Whether Sylvania's conduct is an unlawful business act or practice within the meaning of New Jersey's Consumer Fraud Act, N.J.S.A. 56:8-1, *et seq.*;
- b. Whether Sylvania's advertising is untrue or misleading within the meaning of New Jersey's Consumer Fraud Act, N.J.S.A. 56:8-1, *et seq.*;
- c. Whether Sylvania possess competent and reliable scientific evidence to support their package/label and advertising claims made regarding the products at issue herein;
- d. Whether Sylvania made false and misleading representations in their advertising and labeling of the products at issue herein;
- e. Whether Sylvania knew or should have known that the representations and omissions were false as alleged herein;
- f. Whether Sylvania was unjustly enriched at the expense of Plaintiff and the Class members;
- g. Whether Plaintiff and the Class members suffered any ascertainable loss of money as a result of the misrepresentation, concealment, suppression or omission of material fact; and
- h. Whether Plaintiff and the Class members are entitled to recover damages, including refunds, treble damages, attorneys' fees, filing fees and reasonable costs of suit for Sylvania's injury to them in violation of the New Jersey's Consumer Fraud Act, N.J.S.A. 56:8-1, *et seq.*

41. Plaintiff's claims are typical of the claims of the Class members because he, like Class members, purchased SilverStar® head lamps manufactured by the Defendant relying on Sylvania's packaging, labeling and advertising and the products did not perform as advertised.

42. Plaintiff is an adequate representative because his interests coincide with, and not antagonistic to, those of the Class members they seek to represent. Plaintiff is represented by

experienced and able counsel who have litigated numerous class actions, and Plaintiff's counsel intend to prosecute this action vigorously for the benefit of the Plaintiff and all Class members. Plaintiff and his counsel can fairly and adequately protect the interests of the Class members.

43. The class action is the best available method for the efficient adjudication of this litigation because individual litigation of the Class members' claims would be impracticable and unduly burdensome to the courts. Further, individual litigation has the potential to result in inconsistent or contradictory judgments. A class action in this case presents fewer management problems and provides the benefits of single adjudication, economies of scale, and comprehensive supervision by a single court.

44. Class certification is also appropriate because there is an identifiable class on whose behalf this class action would be prosecuted. Class members are readily ascertainable. Because the Class members are so readily identifiable, this action is also readily manageable as a class action. Plaintiff envisions no unusual difficulty in the management of this action as a class action.

45. A notice of pendency and/or resolution of this class action can be provided to Class members by direct mail, public notice, or other means.

### **FIRST CAUSE OF ACTION**

#### **Violation of State Consumer Protection Statutes New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1, *et seq.***

46. Plaintiff incorporates the above and below allegations by reference as if fully set forth herein.

47. Plaintiff and Class members are consumers who purchased SilverStar® head lamps manufactured by Sylvania.

48. Sylvania, in connection with the sale of SilverStar® head lamps, engaged in deceptive, unconscionable, unfair, fraudulent and misleading commercial practices.

49. Sylvania concealed, suppressed, or omitted material facts with the intent that Plaintiff and Class members rely upon such concealment, suppression or omissions. Sylvania's conduct was objectively deceptive and had the capacity to deceive reasonable consumers under the circumstances.

50. Sylvania's general course of conduct had an impact on the public interest because the acts were part of a generalized course of conduct affecting numerous consumers.

51. Sylvania's conduct, which included deception, fraud, false pretense, false promises, misrepresentations, and the knowing concealment, suppression or omission of material facts related to head lamp brightness, head lamp beam width, the ability to see further, and head lamp life, caused and resulted in injury in fact and an ascertainable loss of money to Plaintiff and Class members. The resulting injury to Plaintiff and Class members was foreseeable by Sylvania.

52. Defendants' conduct caused Plaintiff and the Class to pay a premium for SilverStar® head lamps compared to regular halogen head lamps. SilverStar® head lamps generally sell for approximately twice as much as regular halogen head lamps.

53. Plaintiff, on behalf of himself and Class members, seek to recover the damages they suffered, including actual and punitive damages, restitution of all monies wrongfully acquired by Sylvania as a result of its misconduct, injunctive and declaratory relief, attorneys' fees and costs of suit, and other non-monetary relief as appropriate.

## **SECOND CAUSE OF ACTION**

### **Unjust Enrichment**

54. Plaintiff incorporates the above and below allegations by reference as if fully set forth herein.

55. Plaintiff and Class members purchased SilverStar® head lamps manufactured by Sylvania during the Class Period in justifiable reliance of Sylvania's packaging, labeling and advertising of the products at issue herein.

56. Sylvania knew but failed to disclose to Plaintiff and the Class members when they purchased the SilverStar® head lamps that the head lamps did not perform as described and advertised.

57. Plaintiff and the Class members purchased SilverStar® head lamps without Sylvania disclosing to them the true quality of the products.

58. By purchasing the SilverStar® head lamps, Plaintiff and the Class members conferred a benefit upon Sylvania, without knowledge of the true qualities of the products.

59. Sylvania knowingly received and retained this non-gratuitous benefit conferred on it by Plaintiff and the Class members despite its knowledge that the SilverStar® head lamps were not of the quality as stated on the packaging, labeling and advertisements.

60. Sylvania has been unjustly enriched in retaining payments paid by Plaintiff and the Class members in connection with the purchase of SilverStar® head lamps by Class members.

61. Sylvania's retention of the non-gratuitous benefit conferred by Plaintiff and the Class members under these circumstances is unjust and inequitable.

62. No other remedy at law can adequately compensate Plaintiff and the Class members for the economic damages resulting to them from Sylvania's wrongful actions as alleged herein.

63. Because Sylvania's retention of the non-gratuitous benefit conferred on it by Plaintiff and the Class members is unjust and inequitable, Sylvania must pay restitution to Plaintiff and the Class members for its unjust enrichment.

### **THIRD CAUSE OF ACTION**

#### **Common Law Fraud**

64. Plaintiff incorporates the above and below allegations by reference as if fully set forth herein.

65. Sylvania represented to Plaintiff and each Class member by means of its packaging, advertising, marketing and other promotional materials that its SilverStar® head lamps were of a particular quality, when those head lamps were not of that quality and where Sylvania had no substantiating scientific evidence of its claims.

66. Sylvania's representations were untrue as set forth above.

67. Sylvania made the representations herein alleged with the intention of inducing Plaintiff and the Class members to purchase SilverStar® head lamps.

68. Plaintiff and the Class members relied upon Sylvania's representations and, in reliance on them, purchased such head lamps.

69. Said reliance was reasonable. Plaintiff and the Class members were without the ability to determine the truth of these statements on their own and could only rely on Sylvania's statements in its packaging, advertising, marketing and other promotional materials.



70. At the time Sylvania made the representations herein alleged, the Company knew the representations were false. Even so, Sylvania continued to make the unsubstantiated, false claims.

71. Sylvania made these misrepresentations with the intention of depriving Plaintiff and the Class members of property or otherwise causing injury.

#### **FOURTH CAUSE OF ACTION**

##### **Negligent Misrepresentation**

72. Plaintiff incorporates the above and below allegations by reference as if fully set forth herein.

73. Sylvania represented to Plaintiff and each Class member by means of its packaging, advertising, marketing and other promotional materials that Sylvania's SilverStar® head lamps were of a particular quality, when those head lamps were not of that quality and where Sylvania had no substantiating scientific evidence of the claims.

74. Sylvania's representations were untrue as set forth above.

75. Sylvania made the representations herein alleged with the intention of inducing Plaintiff and the Class members to purchase such head lamps.

76. Plaintiff and the Class members relied upon Sylvania's representations and, in reliance on them, purchased such head lamps.

77. Said reliance was reasonable. Plaintiff and the Class members were without the ability to determine the truth of these statements on their own and could only rely on Sylvania's statements on its packaging, advertising, marketing and other promotional materials.

78. At the time Sylvania made the misrepresentations herein alleged, it had no reasonable grounds for believing the representations to be true, as it possessed no competent and reliable scientific evidence to substantiate the representations set forth in detail above.

79. As a proximate result of the foregoing negligent misrepresentations by Sylvania, Plaintiff and the Class members were induced to improperly spend an amount to be determined at trial on SilverStar® head lamps. Had Plaintiff and the Class members known the true facts about the quality of SilverStar® head lamps, they would not have purchased the products.

### **FIFTH CAUSE OF ACTION**

#### **Breach of Express Warranty**

80. Plaintiff incorporates the above and below allegations by reference as if fully set forth herein.

81. As set forth above, through the improper practices described above, Sylvania intentionally misrepresented the quality of its SilverStar® head lamps sold to Plaintiff and the Class members.

82. Sylvania, by affirmation of fact and/or promises set forth in its packaging, advertisements and marketing created an express warranty that its SilverStar® head lamps would perform as represented.

83. The affirmation of fact and/or promises related to the so-called ability for consumers to see brighter, farther, and wider using its SilverStar® head lamps. These affirmations and/or promises are express warranties, became part of the basis of the bargain, and are part of a standardized contract between Plaintiff, members of the Class, and Sylvania.

84. Plaintiff and the Class members performed all conditions precedent under the contract between the parties.

85. Sylvania breached the terms of the contract between the parties including the express warranties related to the quality of the SilverStar® head lamps with Plaintiff and the Class by not providing the SilverStar® head lamps in a manner that conforms to the affirmations and/or promises.

86. Sylvania's breach of this contract has directly and proximately caused the Plaintiff and the Class to suffer damages in the amount of the purchase price of the SilverStar® head lamps purchased by the Plaintiff and the members of the Class.

### **SIXTH CAUSE OF ACTION**

#### **For Injunctive and Declaratory Relief**

87. Plaintiff incorporates the above and below allegations by reference as if fully set forth herein.

88. As set forth above, through the improper practices described above, Sylvania has intentionally misrepresented the quality of its SilverStar® head lamps where Sylvania had no substantiating scientific evidence of the claims.

89. Sylvania continues its deceptive practices of marketing its SilverStar® head lamps.

90. Sylvania's practices described herein are unlawful and against public policy and, therefore, the Company should be prohibited and enjoined from engaging in these practices in the future.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, on behalf of himself and all Class members he seeks to represent, demand judgment against Sylvania as follows:

- A. For an order certifying the proposed Class under Rule 23 of the Federal Rules of Civil Procedure and naming Plaintiff as Class Representative and his attorneys as Class Counsel to represent the Class members;
- B. For an order declaring that Sylvania's conduct violates the New Jersey State Consumer Protection Statute alleged herein;
- C. For an order entering judgment in favor of Plaintiff and the Class members against Sylvania;
- D. For an order awarding damages, including punitive damages, against Sylvania in favor of Plaintiff and the Class members in an amount to be determined by the Court as fair and just for Sylvania's wrongful conduct;
- E. For an order awarding Plaintiff and the Class members pre-judgment interest on any damages awarded by the Court;
- F. For an order of restitution and all other forms of equitable monetary relief;
- G. For injunctive relief as pleaded or as the Court may deem proper;
- H. For an order awarding Plaintiff and the Class member their reasonable attorneys' fees and expenses, and costs of suit; and
- I. Granting such other and further relief as the Court deems just.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury.

Dated: January 09, 2012

**EICHEN CRUTCHLOW ZASLOW & McELROY, LLP**

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**CERTIFICATION**

Pursuant to L. Civ. R. 11.2, I hereby certify that the matter in controversy is not the subject of any other action pending, arbitration, or administrative proceeding to Plaintiff's knowledge.

Dated: January 09, 2012

**EICHEN CRUTCHLOW ZASLOW & McELROY, LLP**

By: /s/ Thomas Paciorek

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*Attorneys for Plaintiff  
Imran Chaudhri and the Putative Class*

# EXHIBIT

# A



9004 ST/2

# SILVERSTAR®

HIGH PERFORMANCE LIGHTING

## 9004

THE BRIGHTER AND  
WHITER LIGHT  
LUZ MUCHO MÁS  
BLANCA Y BRILLANTE  
UNE LUMIÈRE PLUS  
ÉCLATANTE ET  
PLUS BLANCHE

2 LAMPS • LAMPES • BOMBILLAS  
12.8V 65/45W

UP TO 35%\*

UP TO 30%\*

UP TO 35%\*

\*Replacing worn standard bulbs provides:  
\*Remplacer des lampes courantes usées permet:  
\*El reemplazo de focos estándar usados ofrece:

# SYLVANIA



**SYLVANIA**

SILVERSTAR®

9004

	STANDARD ~3100K	XTRAVISION® ~3200K	COOL BLUE® ~3500K	SILVERSTAR® ~4000K	SILVERSTAR® ULTRA ~4100K
BRIGHTNESS				+*	
DOWN ROAD				*	
SIDE ROAD				*	

†Brightness comparison based on coil luminance measurements. / La luminosité est fondée suivant la luminance du filament. / Brillantez basada en la luminancia del filamento.

\*Headlamps dim over time by 20% or more and timely replacement results in increased lighting performance. Claims based on measured comparisons between SilverStar product family at 100% light output and standard halogen bulbs at 80% light output. Actual performance may vary by product type, vehicle model and usage.

Les phares perdent 20 p. cent ou plus de leur intensité avec le temps et les remplacer à temps accroît le rendement de l'éclairage. Les données sont fondées suivant des comparaisons mesurées entre la famille de produits SilverStar à un flux lumineux de 100 p. cent et des lampes à halogène courantes à un flux lumineux de 80 p. cent. Le rendement réel peut varier suivant le type de produits, le modèle de véhicules et l'usage.

Los focos para faros se van atenuando a través del tiempo en un 20% o más y su reemplazo oportuno mejora notablemente la iluminación. Los datos presentados se basan en mediciones comparativas entre productos de la familia SilverStar a un 100% del flujo luminoso y focos halógenos estándar al 80% de su flujo luminoso. El funcionamiento actual puede variar por tipo de producto, vehículo, modelo y uso.

Bulbs with greater brightness may require replacement at more frequent intervals.

Il peut être nécessaire de remplacer les lampes affichant une luminosité supérieure à des intervalles plus fréquents.

Las lámparas con mayor luminosidad probablemente requieran ser reemplazadas con mayor frecuencia.



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# EXHIBIT

# B

## SilverStar® Products

Silver Star Product Line	Lumens	Watts (hrs)	ColorTemp
 <p><b>H1 SilverStar Headlight</b> High Performance Halogen Headlight - Single filament for use as either high beam or low beam - part number: H1ST <a href="#">for more info</a> ▶</p>	1410 +/- 210 lm	65	~4000K
 <p><b>H6024 SilverStar Sealed Beam Headlight</b> High Performance Halogen Sealed Beam Headlight - Dual filament for both high beam and low beam - part number: H6024ST <a href="#">for more info</a> ▶</p>	N/A	Low 45; High 55	~4000K
 <p><b>H7 SilverStar Headlight</b> High Performance Halogen Headlight - Single filament for use as either high beam or low beam - part number: H7ST <a href="#">for more info</a> ▶</p>	1350 +/- 12%	55	~4000K
 <p><b>9006 SilverStar Headlight</b> High Performance Halogen Headlight - Single filament for low beam - part number: 9006ST <a href="#">for more info</a> ▶</p>	1000 +/- 15%	55	~4000K
 <p><b>H4 SilverStar Headlight</b> High Performance Halogen Headlight - Dual filament for both high beam and low beam - For Motorcycle Use - part number: H4ST <a href="#">for more info</a> ▶</p>	Low 910 +/- 10%; High 1500 +/- 10%	Low 55; High 60	~4000K
 <p><b>9005 SilverStar Headlight</b> High Performance Halogen Headlight - Single filament for high beam - part number: 9005ST <a href="#">for more info</a> ▶</p>	1700 +/- 15%	65	~4000K
 <p><b>H6054 SilverStar Sealed Beam Headlight</b> High Performance Halogen Sealed Beam Headlight - Dual filament for both high beam and low beam - part number: H6054ST <a href="#">for more info</a> ▶</p>	N/A	Low 55; High 65	~4000K
 <p><b>9003 SilverStar Headlight</b> High Performance Halogen Headlight - Dual filament for both high beam and low beam - part number: 9003ST <a href="#">for more info</a> ▶</p>	Low 910 +/- 10%; High 1500 +/- 10%	Low 55; High 60	~4000K
 <p><b>H3 SilverStar Fog light</b> High Performance Halogen Fog light - part number: H3ST <a href="#">for more info</a> ▶</p>	1310 +/- 195 lm	65	~4000K
 <p><b>893 SilverStar Fog light</b> High Performance Halogen Fog light - part number: 893ST <a href="#">for more info</a> ▶</p>	990	37.5	~4000K
 <p><b>880 SilverStar Fog light</b> High Performance Halogen Fog light - part number: 880ST <a href="#">for more info</a> ▶</p>	565	27	~4000K












				
	<b>H4656 SilverStar Sealed Beam Headlight</b> High Performance Halogen Sealed Beam Headlight - Dual filament for both high beam and low beam - part number: H4656ST <a href="#">for more info</a> ▶	N/A	Low 40; High 55	~4000K
	<b>H4666 SilverStar Sealed Beam Headlight</b> High Performance Halogen Sealed Beam Headlight - Dual filament for both high beam and low beam - part number: H4666ST <a href="#">for more info</a> ▶	N/A	Low 45; High 65	~4000K
	<b>H4651 SilverStar Sealed Beam Headlight</b> High Performance Halogen Sealed Beam Headlight - Single filament for low beam - part number: H4651ST <a href="#">for more info</a> ▶	N/A	50	~4000K
	<b>9006XS SilverStar Headlight</b> High Performance Halogen Headlight - Single filament for low beam - XS = Straight Base, same performance as the 9006ST - part number: 9006XS ST <a href="#">for more info</a> ▶	1000 +/- 15%	55	~4000K
	<b>9004 SilverStar Headlight</b> High Performance Halogen Headlight - Dual filament for both high beam and low beam - part number: 9004ST <a href="#">for more info</a> ▶	Low 700 +/- 15%; High 1200 +/- 15%	Low 45; High 65	~4000K
	<b>9007 SilverStar Headlight</b> High Performance Halogen Headlight - Dual filament for both high beam and low beam - part number: 9007ST <a href="#">for more info</a> ▶	Low 1000 +/- 15%; High 1350 +/- 15%	Low 55; High 65	~4000K

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# EXHIBIT C

## Standard Halogen Products

Product Information	Lumens	Watts (hrs)	Life
 <p><b>9004</b> Halogen headlights - Part numbers include: 9004 and 9004LL - Dual filament for high beam and low beam <a href="#">for more info</a></p>	low 700 +/- 15%; high 1200 +/- 15%	low 45; high 65	low 320 or 850(LL); high 150 or 250(LL)
 <p><b>9005XS and 9005XS LL</b> Halogen headlights - Part numbers include: 9005XS and 9005XS LL - single filament for high beam applications - XS = Straight base <a href="#">for more info</a></p>	1700 +/- 15%	65	320 or 700 (LL)
 <p><b>Rectangular 50mm X 135mm</b> Halogen and incandescent sealed beam headlights - rectangular, 50mm X 135mm - Part numbers include - H4351 (LK) and H4352 (UK) <a href="#">for more info</a></p>	N/A		320 and 100
 <p><b>Par 46</b> Halogen and incand. sealed beam headlights - Round, par 46 - Single and double filament - Part numbers include - 4000, 4040, 4412, 4412A, 4413, 4419, 4435, 5001, H5001, H5006, 4421, 4537, 4551 <a href="#">for more info</a></p>	N/A		100 - 320
 <p><b>9006 and 9006LL</b> Halogen headlights - Part numbers include: 9006 and 9006LL - single filament for Low beam applications <a href="#">for more info</a></p>	1000 +/- 15%	55	1000 or 1500 (LL)
 <p><b>9006XS and 9006XS LL</b> Halogen headlights - Part numbers include: 9006XS and 9006XS LL - single filament for Low beam applications - XS = Straight Base <a href="#">for more info</a></p>	1000 +/- 15%	55	1000 or 1500 (LL)
 <p><b>800 Series Fog lights</b> Halogen fog lights 800 Series straight base Part numbers include - 880, 885, 890, 893 <a href="#">for more info</a></p>	N/A	27 - 50	200 - 300
 <p><b>H3</b> Halogen fog lights - H3 and H3 type Part numbers include: 64146BC, 64151, 64156, 64153 <a href="#">for more info</a></p>	1310 +/- 195 lm	35 - 100	50 - 400
 <p><b>H8</b> Halogen fog light - part #: H8 <a href="#">for more info</a></p>	730 +/- 110 lm	35	175
 <p><b>H13</b> Halogen headlights - Part numbers include: H13 and 64178 - Dual filament for high beam and low beam <a href="#">for more info</a></p>	low 1000 +/- 15%; high 1500 +/- 15%	low 55; high 65	low 1500; high 200
 <p><b>H7</b> Halogen headlights - H7 and H7LL Part numbers include: 64210 and 64210LL <a href="#">for more info</a></p>	1350 +/- 12%	55	510 and 930

	<b>H9</b> Halogen headlight - part #: H9 <a href="#">for more info</a> 	2000 +/- 240 lm	65	120
	<b>Rectangular 100mm X 165mm</b> Halogen and incand. sealed beam headlights - rect., 100mm X 165mm - Dual filament both high and low beam - Part numbers include - 4651, H4651, 4652, H4652, H4656, H4656LL, H4662, H4739, H6545 (H4666) <a href="#">for more info</a> 	N/A		Low 200 - 320; High 200 - 2000
	<b>9000 Series Fog lights</b> Halogen fog lights 9000 Series - Axial (vertical) filament - Part numbers include - 9145, 9155 <a href="#">for more info</a> 	N/A	45, 55	1000, 1200
	<b>Par 36</b> Halogen and incandescent sealed beam headlights - Round, par 36 - Part numbers include - 4546, 4405, 4406, 4411, 4414, 4415, 4415A, 4416, 4509 <a href="#">for more info</a> 	N/A		25 - 320
	<b>9000 Series Fog lights</b> Halogen fog lights 9000 Series - Transverse (horizontal) filament - Part numbers include - 9040, 9045, 9055 <a href="#">for more info</a> 	N/A	40, 45, 55	1500, 1000, 1200
	<b>Rectangular 142mm X 200mm</b> Halogen and incandescent sealed beam headlights - rectangular, 142mm X 200mm - Dual Filament for both high beam and low beam - Part numbers include - 6052, H6054, H6054LL, H6059 (H6054LL) <a href="#">for more info</a> 	N/A		Low 320 - 2000 (LL); High 150 - 900 (LL)
	<b>9003 and H4</b> Halogen headlights - 9003LL, H4 and H4 Types Part numbers include: 9003LL, 64193, 64194, 64198, 94193, 64196, 94196 - Dual filament for high beam and low beam <a href="#">for more info</a> 	low 910 +/- 10%; high 1500 +/- 10%	low 55 - 80; high 60 - 100	low 150 - 800; high 75 - 150
	<b>Par 56</b> Halogen and incandescent sealed beam headlights - Round, par 56 - Part numbers include - 6006, 6014, 6015, H6024 - Dual filament for both high beam and low beam <a href="#">for more info</a> 	N/A		Low 320 - 500; high 200 - 300
	<b>H1</b> Halogen headlights - H1 and H1 type Part numbers include: 64150, 64150L, 64152, 64155 <a href="#">for more info</a> 	1410 +/- 210 lm	55 - 100	50 - 350
	<b>H11</b> Halogen headlight - part #: H11 <a href="#">for more info</a> 	1250 +/- 150 lm	55	550
	<b>800 Series Fog lights</b> Halogen fog lights 800 Series right angle base Part numbers include - 886, 889, 896, 889 <a href="#">for more info</a> 	N/A	27 - 50	200-300
	<b>9007</b> Halogen headlights - Part numbers include: 9007 and 9007LL - Dual filament for high beam and low beam	low 1000 +/- 15%; high 1350 +/- 15%	low 55; high 65	low 500 or 1500(LL); high 250 or 250(LL)

 <p><a href="#">for more info</a> ▶</p>			
 <p><b>Rectangular 92mm X 150mm</b> Halogen and incandescent sealed beam headlights - rectangular, 92mm X 150mm - Part numbers include - H4701 (UF) and H4703 (LF)</p> <p><a href="#">for more info</a> ▶</p>	N/A		150 and 500
 <p><b>9005 and 9005LL</b> Halogen headlights - Part numbers include: 9005 and 9005LL - single filament for high beam applications</p> <p><a href="#">for more info</a> ▶</p>	1700 +/- 15%	65	320 or 700 (LL)

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# SYLVANIA

# XTRAVISION® 9005

	STANDARD ~3100K	XTRAVISION® ~3200K	COOL BLUE® ~3500K	SILVERSTAR® ~4000K	SILVERSTAR® ULTRA ~4100K
BRIGHTNESS		†*			
DOWN ROAD		*			
SIDE ROAD		*			
LIFE					

† Brightness based on beam intensity. / La luminosité est fondée suivant l'intensité du faisceau. / Brillantez basada en la intensidad del haz de luz.

\* Headlamps dim over time by 20% or more and timely replacement results in increased lighting performance. Claims based on measured comparisons between XtraVision product family at 100% light output and standard halogen bulbs at 80% light output. Actual performance may vary by product type, vehicle model and usage.

Les phares perdent 20 p. cent ou plus de leur intensité avec le temps et les remplacer à temps accroît le rendement de l'éclairage. Les données sont fondées suivant des comparaisons mesurées entre la famille de produits XtraVision à un flux lumineux de 100 p. cent et des lampes à halogène courantes à un flux lumineux de 80 p. cent. Le rendement réel peut varier suivant le type de produits, le modèle de véhicules et l'usage.

Los focos para faros se van atenuando a través del tiempo en un 20% o más y su reemplazo oportuno mejora notablemente la iluminación. Los datos presentados se basan en mediciones comparativas entre productos de la familia XtraVision a un 100% del flujo luminoso y focos halógenos estándar al 80% de su flujo luminoso. El funcionamiento actual puede variar por tipo de producto, vehículo, modelo y uso.



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