

Patents – Despatch v TP Solar – US Patent 7,514,650 – Motion for Summary Judgment of Non-Infringement Granted by US District Court, Central District of California, Judge Manuel L. Real – TPSI Wins Patent Challenge

LA Federal District Court Rules That UP is not DOWN

TP Solar, Inc, the leader in the manufacture of innovative equipment for heat-treating Silicon wafers for solar cells, has defeated a claim by Despatch Industries Limited Partnership (Lakewood, MN, USA), that Despatch's US Patent 7,514,650 has been infringed by TPSI's line of integrated driers and furnaces, Model MD-225. TPSI successfully brought a motion before the Federal Court in LA that TPSI's MD-225 furnaces do not infringe the Despatch '650 patent.

In a ruling by the US District Court for the Central District of California, Western Division, Judge Manuel L. Real ruled that there was no infringement by TPSI since all the TPSI furnaces employ only Top-Lift, UP Access features, whereas the Despatch '650 patent was limited by its plain meaning only to Bottom-Drop, DOWN Access functionality. In short, with respect to furnace access systems, in a patent sense, UP is not DOWN. The Court entered the Judgment for TPSI on Sept 15, 2011.

The Court did not reach several other issues raised in defense by TPSI, ruling that its finding of non-infringement on the "UP is not DOWN" issue is completely dispositive of the entire case. The patent infringement suit was originally filed by Despatch in Minnesota in mid-October, 2010, but a successful motion by TPSI resulted in the case being transferred to Los Angeles. The relatively short (10-months) pendency of the litigation with a minimal amount of discovery proceedings is not typical for patent cases, and now frees TPSI to once again focus on development of its innovative products, including diffusion and metallization furnaces, driers and dopers, as well as ancillary equipment.

TPSI furnaces are rapidly becoming preferred in the Asian market. The win today for TPSI means its Asian customers will not be threatened with any disruption of deliveries from TPSI. The potential for TPSI's Paramount, CA factory to be shut down, with resulting loss of jobs for the LA area, is also avoided.

TPSI was represented by Jacques M. Dulin, Esq., the senior litigator of Innovation Law Group, Ltd., located in Sequim, WA. Mr. Dulin, a former Patent Examiner and Law Clerk for the Federal Patent Court (Federal Circuit), commented that "This case is kind of neat, in that the Court had to decide if UP is Down. Of course, we did not think so, and the Court agreed".

Alex Rey, President of TPSI said "TPSI has felt all along that Despatch was misusing its patent as a tool to unfairly try to shut us down. We don't think they expected such a tough fight, but our faith that we were correct steeled our resolve. We look forward to continuing to compete fairly in the marketplace against Despatch, but we don't think that it can match the TPSI product cost/benefit analysis on a feature by feature basis." Despatch was recently acquired by Illinois Tool Works.

For more information, the public record of case 1:11-cv-2357-R can be accessed. Contact Mr. Dulin at dulin@innovationlaw.com or 360-681-7305. The Court's Ruling will be posted on www.Innovationlaw.com. Contact Alex Rey of TPSI at 562-808-2171, arey@tps-solar.com.