

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

DESPATCH INDUSTRIES
LIMITED PARTNERSHIP,

Case No.: _____

Plaintiff,

COMPLAINT

v.

(JURY DEMAND)

TP SOLAR, INC.

Defendant.

Plaintiff Despatch Industries Limited Partnership, for its complaint against defendant TP Solar, states as follows:

JURISDICTION AND VENUE

1. This is an action for, among other things, patent infringement under Title 35 of the United States Code. Jurisdiction in this Court is based on 28 U.S.C. §§ 1331 and 1338. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), (c) and 1400(b).

PARTIES

2. Plaintiff Despatch Industries Limited Partnership (“Despatch”) is a Minnesota company founded in 1902. Despatch is headquartered in Lakeville, Minnesota. Among other things, Despatch designs and manufactures infrared firing and diffusion furnaces for use by the

world's leading solar cell manufacturers so that they can produce the highest efficiency solar cells.

3. On information and belief, TP Solar, Inc. ("TP Solar") is a California corporation headquartered in Paramount, California. TP Solar was formerly known as Thermal Processing Solutions, Inc. TP Solar manufactures and sells, among other things, in-line furnaces for the photovoltaic industry. TP Solar markets and offers its products for sale on TP Solar's Web sites, including thermalprocessingsolutions.com and tps-solar.com.

FACTUAL BACKGROUND

4. Despatch has pioneered technology associated with continuous infrared furnaces. Continuous infrared furnaces are useful for treating (or, "curing") solar cells and other material that can benefit from controlled infrared radiation.

5. Specifically, Despatch has developed a furnace capable of continuous infrared treating of material with consistent radiation being applied to the material, control of radiant cooling of the material to be treated, with ease of access to the furnace for maintenance, cleaning, and repair, and ease of maintenance of a volatile component condenser.

6. On April 7, 2009, United States Patent No. 7,514,650 B2 entitled "Continuous Infrared Furnace" (the "650 Patent") was duly and

legally issued to Despatch, as the assignee of the inventors Hans L. Melgaard and Matt Weierke. A Copy of the '650 Patent is attached hereto as Exhibit A.

7. TP Solar has manufactured, used, offered to sell, and/or sold furnaces that embody the invention claimed in the '650 Patent, including TP Solar's Model MD-225 Firing Furnace with Integrated Dryer, (collectively the "Accused Products") in the United States and elsewhere. The manufacture, use, offer for sale, and/or sale of the Accused Products in the United States infringes one or more claims of the '650 Patent, including claim 1 of the '650 Patent.

COUNT I: INFRINGEMENT OF U.S. PATENT NO. 7,514,650 B2

8. Despatch hereby restates and realleges the allegations set forth in paragraphs 1 through 7 and incorporates them by reference.

9. Despatch is the owner of the '650 Patent and any and all causes of action for infringement, including this cause of action, by way of assignment from the inventors, Hans L. Melgaard and Matt Weierke.

10. TP Solar has infringed, contributed to the infringement, and/or has induced the infringement of the '650 Patent, including at least claim 1 thereof, by making, using, offering for sale or selling the Accused Products. TP Solar is acting without the consent of or license

from Despatch, and will continue to violate Despatch's rights unless enjoined by this Court.

11. TP Solar's infringement has injured and will injure Despatch and Despatch is entitled to recover damages adequate to compensate it for TP Solar's infringement, which in no event can be less than a reasonable royalty.

12. On information and belief, TP Solar's infringement has been deliberate, willful, intentional, and with full knowledge of the existence of the '650 Patent.

13. Despatch is entitled to injunctive and compensatory relief, including attorneys' fees and costs, as well as enhanced damages under 35 U.S.C. §§ 271, 281, and 283-85.

DEMAND FOR RELIEF

WHEREFORE, Despatch asks this Court to:

- a. Enter judgment for Despatch on its complaint;
- b. Enter a preliminary and permanent injunction to enjoin TP Solar and those in privity with or acting in concert with TP Solar from further infringement of the '650 Patent during the remainder of the term for which the patent has been granted;
- c. Award Despatch damages against TP Solar adequate to compensate Despatch for such acts of infringement, and to increase the

damages to three times the amount found or assessed in accordance with 35 U.S.C. § 284;

d. Award Despatch its reasonable attorneys' fees in accordance with 35 U.S.C. § 285;

e. Award Despatch its interest and costs; and

f. Award Despatch such other and further relief as is just and proper.

JURY DEMAND

Despatch hereby demands a trial by jury of all issues so triable.

Dated: October 14, 2010

s/Kurt J. Niederluecke
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