



Department of Energy

Golden Field Office
1617 Cole Boulevard
Golden, Colorado 80401-3305

October 7, 2011

Michael El-Hillow
President and Chief Executive Officer
Evergreen Solar Inc.
138 Bartlett St.
Marlboro, MA 01752

Subject: Ownership of Subject Inventions under Evergreen NREL subcontract #ZDO-2-30628

Dear Mr. El-Hillow,

The Department of Energy ("DOE") hereby demands that Evergreen Solar Inc. assign title to DOE for the following invention: method and apparatus for growing multiple crystalline ribbons from a single crucible ("the Gemini Method"), including U.S. Patent Nos. 6,814,802; 7,022,180; and 7,507,291 and all other pending U.S. or foreign patent applications and patents that relate or claim priority to any of the foregoing U.S. patents.

We believe the Gemini Method is a "subject invention" as defined by the Bayh-Dole Act and NREL subcontract ZDO-2-30628 ("the NREL subcontract") to which Evergreen Solar Inc. was a party. Under the NREL subcontract, Evergreen Solar Inc. was required to disclose and elect to retain title to any subject invention. Evergreen Solar Inc. did not timely disclose to DOE, or elect to retain title to the Gemini Method. Therefore, in accordance with the Bayh-Dole Act and the terms and conditions of the NREL subcontract (*e.g.*, Appendix C-2, Clause 7, Paragraph D), DOE is invoking its right to demand title to the Gemini Method.

We understand that Evergreen Solar Inc. filed a bankruptcy petition. In light of the pending bankruptcy proceedings, this notice will be filed with the bankruptcy court and served upon you as an exhibit to a motion for an order clarifying that delivery of this notice is not barred by the automatic stay, or, in the alternative, for relief from the stay, to ensure that this notice will be deemed effective. Further, we understand that Evergreen moved to sell its assets in the bankruptcy case pursuant to 11 U.S.C. § 363. Because DOE has the right to title of the Gemini Method, including all related patent applications and patents, the subject patents cannot be part of any sale by or on behalf of Evergreen Solar Inc. or its creditors absent DOE's consent.

Please send a written confirmation that Evergreen Solar acknowledges DOE's right to the aforementioned inventions and patents and that those assets will not be offered to potential purchasers of Evergreen Solar or to potential purchasers of Evergreen Solar IP assets absent DOE consent.



Please contact Margaret Newell, U.S. Department of Justice, Civil Division, Commercial Litigation Branch at (202) 305-7590 or margaret.newell@usdoj.gov to discuss this matter further.

Sincerely,



Jean Siekerka
Contracting Officer

cc: John T. Lucas, Esq.
Derek Passarelli, Esq.
Steven L. Scott
Dr. Ramesh Ramamoorthy