

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

E.I. DU PONT DE NEMOURS AND  
COMPANY,

Plaintiff,

v.

HERAEUS HOLDING GMBH, and HERAEUS  
MATERIALS TECHNOLOGY, LLC,

Defendants.

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)  
) C.A. No. \_\_\_\_\_  
)

**JURY TRIAL DEMANDED**

**COMPLAINT**

Plaintiff E.I. du Pont de Nemours and Company (“DuPont”) brings this Complaint for patent infringement against Defendants Heraeus Holding GmbH and Heraeus Materials Technology, LLC (collectively “Heraeus”) and alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for patent infringement arising under the patent laws of the United States, including 35 U.S.C. § 271 and §§ 281-285.
2. This lawsuit pertains to Heraeus’s infringement of U.S. Patent Number 7,767,254 (the “254 Patent”), entitled “Paste for Solar Cell Electrode and Solar Cell.”

**PARTIES**

3. Plaintiff DuPont is a corporation organized and existing under the laws of the state of Delaware, with a principal place of business located at 1007 Market Street, Wilmington, Delaware 19898. DuPont is a world leader in science innovation in markets including agriculture and food, building and construction, electronics and communications, general industry, and transportation. DuPont is also a leading supplier of front-side silver photovoltaic pastes.

4. Defendant Heraeus Materials Technology, LLC is a corporation organized and existing under the laws of the state of Delaware, with a principal place of business at 24 Union Hill Road, West Conshohocken, Pennsylvania 19428. Upon information and belief, Heraeus is a business involved in, among other things, the processing of precious and platinum group metals as well as a comprehensive range of special metals. Heraeus Materials Technology, LLC is a wholly owned subsidiary of Heraeus Holding GmbH.

5. Defendant Heraeus Holding GmbH is a company organized and existing under the laws of Germany, with a principal place of business at Heraeusstraße 12-14, D-63450 Hanau, Germany.

#### **JURISDICTION AND VENUE**

6. This action arises under the Patent Laws of the United States, 35 U.S.C. § 101 *et seq.*, including 35 U.S.C. § 271. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1338(a).

7. This Court has personal jurisdiction over Heraeus. Heraeus Materials Technology, LLC is incorporated in Delaware and maintains substantial, continuous, and systematic contacts in Delaware. Heraeus has thus purposefully availed itself of the benefits and protections of Delaware's laws such that it should reasonably anticipate being haled into court here. Heraeus Holding GmbH is subject to personal jurisdiction in Delaware because, (a) on information and belief, Heraeus Holding GmbH controls and dominates Heraeus Materials Technology, LLC, and therefore the activities of Heraeus Materials Technology, LLC in this jurisdiction are attributed to Heraeus Holding GmbH and (b) defendant Heraeus Holding GmbH develops, markets, and distributes front-side silver pastes throughout the United States and in this judicial district through the actions of its agent Heraeus Materials Technology, LLC.

8. Venue is proper in the District of Delaware pursuant to 28 U.S.C. §§ 1391, §1400(b).

### **FACTUAL BACKGROUND**

9. Plaintiff DuPont is the owner, by assignment, of all rights, title and interest in the '254 Patent. Inventors Takuya Konno, Takashi Kitagaki, and Hiroki Kojo filed their application for the '254 Patent on August 26, 2009. The '254 Patent issued on August 3, 2010. A true and correct copy of that patent is attached as Exhibit A.

10. The '254 Patent claims a method of producing a light-receiving surface electrode of a solar cell using a conductive paste. The conductive paste is comprised of silver particles with a specific surface size, as well as glass frit and resin binder.

### **COUNT I - INFRINGEMENT OF UNITED STATES PATENT NO. 7,767,254**

11. DuPont restates and realleges each of the assertions set forth in Paragraphs 1 through 10 above.

12. Upon information and belief, Heraeus's manufacture and use of solar cells made using pastes in the H94XX and H92XX series at its West Conshohocken, Pennsylvania research facility infringes one or more claims of the '254 Patent under 35 U.S.C. § 271.

13. DuPont is entitled to recover from Heraeus the damages sustained by DuPont as a result of Heraeus's wrongful acts in an amount subject to proof at trial, including lost profits and an amount not less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

14. The infringement by Heraeus of the '254 Patent will continue to cause DuPont irreparable injury and damage for which there is no adequate remedy at law unless and until Heraeus is enjoined from infringing said patent.

**COUNT II – INDIRECT INFRINGEMENT  
OF UNITED STATES PATENT NO. 7,767,254**

15. DuPont restates and realleges each of the assertions set forth in Paragraphs 1 through 14 above.

16. Upon information and belief, Heraeus has willfully, deliberately, and actively induced and/or contributed to and is continuing to willfully, deliberately, and actively induce and/or contribute to the infringement by others of the '254 Patent by selling H94XX pastes and H92XX pastes to customers who infringe the '254 Patent by practicing the method disclosed therein to produce a light-receiving surface electrode of a solar cell using a conductive paste, and/or by importing or offering to sell in the United States solar cells made by the claimed process.

17. Upon further information and belief, Heraeus has been on notice of the '254 Patent at least from the date of filing of this Complaint, and has specifically intended that others will use the unauthorized products in a manner that infringes the '254 Patent.

18. Upon information and belief, Heraeus will continue to induce others to infringe and/or contribute to the infringement of the '254 Patent unless and until enjoined by this Court.

**PRAYER FOR RELIEF**

WHEREFORE, DuPont respectfully requests that the Court enter judgment in its favor against Heraeus, granting the following relief:

- a. An adjudication that Heraeus has infringed one or more claims of the '254 Patent literally and/or under the doctrine of equivalents;
- b. An adjudication that Heraeus has willfully, deliberately, and actively induced others to infringe the '254 Patent;

- c. A grant of a permanent injunction pursuant to 35 U.S.C. § 283, enjoining Heraeus and its agents, servants, officers, directors, employees, affiliated entities, and all persons in active concert or participation with them from continued infringement of the '254 Patent;
- d. An award to DuPont of damages adequate to compensate DuPont for Heraeus's acts of infringement of the '254 Patent;
- e. An award to DuPont equal to any profits that Heraeus gained from its infringement of the '254 Patent;
- f. An award of prejudgment and post-judgment interest on all sums awarded;
- g. A post-verdict and post-judgment accounting for any infringement the '254 Patent not otherwise covered by a damages award and the requested injunctive relief; and
- h. Any such other and further relief as the Court may deem just and proper under the circumstances.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, DuPont respectfully requests a trial by jury of any and all issues on which a trial by jury is available under applicable law.

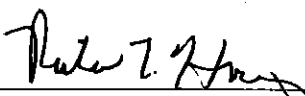
Respectfully submitted,

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