

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

PARABOLIC SOLAR TECHNOLOGIES,
LLC,

Plaintiff,

v.

SUNPOWER CORPORATION,

Defendant.

Civil Action No. 1:16-cv-1020

JURY TRIAL DEMANDED

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Parabolic Solar Technologies, LLC (“Parabolic” or “Plaintiff”), for its Complaint against Defendant SunPower Corporation (“SunPower” or “Defendant”) alleges the following:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

THE PARTIES

2. Plaintiff is a limited liability company organized under the laws of the State of Texas with its principal offices at 700 Lavaca Street, Suite 1401, Austin, Texas 78701.

3. Upon information and belief, SunPower is a corporation organized and existing under the laws of Delaware, with a place of business at 77 Rio Robles, San Jose, California 95134, and can be served through its registered agent, The Corporation Trust Company at 1209 Orange Street, Wilmington, Delaware 19801. Upon information and belief, SunPower sells and offers to sell products and services throughout the United States, including in this judicial district, and introduces products and services that into the stream of commerce and that

incorporate infringing technology knowing that they would be sold in this judicial district and elsewhere in the United States. On August 17th, 2011, SunPower Corporation dedicated a 10 MW solar photovoltaic (PV) plant in the city of Dover, Delaware. *See e.g.* <http://www.solarserver.com/solar-magazine/solar-news/archive-2011/kw33/sunpower-dedicatess-10-mw-pv-plant-in-delaware.html>.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), (c), (d) and/or 1400(b). On information and belief, Defendant conducts business in this District, the claims alleged in this Complaint arise in this District, and the acts of infringement have taken place and are continuing to take place in this District. As noted above, SunPower Corporation built and maintains a 10 MW solar photovoltaic (PV) plant in the city of Dover, Delaware. <http://www.solarserver.com/solar-magazine/solar-news/archive-2011/kw33/sunpower-dedicatess-10-mw-pv-plant-in-delaware.html>.

7. On information and belief, Defendant is subject to this Court's general and specific personal jurisdiction because Defendant has sufficient minimum contacts within the State of Delaware and this District, pursuant to due process and/or the Delaware Long Arm Statute because Defendant purposefully availed itself of the privileges of conducting business in the State of Delaware and in this District, because Defendant regularly conducts and solicits business within the State of Delaware and within this District, and because Plaintiff's causes of action arise directly from Defendant's business contacts and other activities in the State of Delaware and this District. Further, this Court has personal jurisdiction over Defendant because

it is incorporated in Delaware and has purposely availed itself of the privileges and benefits of the laws of the State of Delaware.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 8,215,298

8. The allegations set forth in the foregoing paragraphs 1 through 7 are incorporated into this First Claim for Relief.

9. On July 10, 2012, U.S. Patent No. 8,215,298 (“the ‘298 patent”), entitled “Solar Module System Of The Parabolic Concentrator Type” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ‘298 patent is attached as Exhibit 1.

10. Plaintiff is the assignee and owner of the right, title and interest in and to the ‘298 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

11. Upon information and belief, Defendant has and continues to directly infringe at least claims 1-11, 13-16, 18, 20, and 25-26 of the ‘298 patent by making, using, selling, importing and/or providing and causing to be used a photovoltaic system including a series of adjacent, self-supporting hollow chamber profiles. These hollow chamber profiles consist of a series of solar concentrating parabolic mirrors and a corresponding line of solar cells that interact with each other to efficiently produce energy (the “Accused Instrumentalities”). The Accused Instrumentalities include but are not limited to the SunPower C7 Tracker.

12. In particular, claim 1 of the ‘298 patent generally recites a self-supporting photovoltaic system consisting a plurality of individual self-supporting hollow-chamber profiles, which are arranged alongside one another and are physically separated from one another. These hollow-chamber profiles include a parabolic concentrator reflector, such as a curved mirror, that interacts with a solar module functional area, e.g., solar cells. The shape of the hollow-chamber

profiles extends substantially in a longitudinal direction along an entire length of the parabolic solar concentrator reflector.

13. The Accused Instrumentalities infringe claim 1 of the '298 patent. Specifically, the Accused Instrumentalities include a parabolic-shaped solar module system of a concentrator type. Additionally, the Accused Instrumentalities include a self-supporting support structure where the support structure of the SunPower C7 tracker rotates without external means of support. *See e.g.*, <http://www.slideshare.net/HitReach/sun-power-presentation>; <https://www.youtube.com/watch?v=hwcwBq73qO0>; <https://www.youtube.com/watch?v=6v1N21xB1BU>. The Accused Instrumentalities' hollow chamber profile comprises parabolic concentrator reflector on a front face and a solar module functional averted from the front face. *See e.g.*, <https://www.youtube.com/watch?v=6v1N21xB1BU>. Finally, the Accused Instrumentalities' hollow-chamber profile extends along the entire length of parabolic reflector functional area in a longitudinal direction. *See e.g.*, <https://www.youtube.com/watch?v=6v1N21xB1BU>.

14. Claim 2 of the '298 patent generally recites the solar module system as claimed in claim 1, wherein the self-supporting hollow-chamber profiles are in the form of extruded, strand-drawn or roll-formed profiles.

15. The Accused Instrumentalities infringe claim 2 of the '298 patent. Specifically, the Accused Instrumentalities include the solar module as claimed in claim 1, wherein the self-supporting hollow-chamber profiles are in the form of extruded roll-formed profiles. *See e.g.*, <https://www.youtube.com/watch?v=6v1N21xB1BU>.

16. Claim 3 of the '298 patent generally recites the solar module system as claimed in claim 2, wherein the self-supporting hollow-chamber profiles are formed from aluminum, magnesium, stainless steel, a galvanized steel material, or a thermally conductive plastic material.

17. The Accused Instrumentalities infringe claim 3 of the '298 patent. Specifically, the Accused Instrumentalities include the solar module system as claimed in claim 2, wherein the self-supporting hollow-chamber profiles are formed from aluminum, stainless steel, a galvanized steel material, or a thermally conductive plastic material. *See e.g.*, <http://us.sunpower.com/sites/sunpower/files/media-library/data-sheets/ds-sunpower-c7-tracker-datasheet.pdf>.

18. Claim 4 of the '298 patent generally recites the solar module system as claimed in claim 2, wherein each self-supporting hollow-chamber profile has a heat dissipation structure thermally conductively connected to at least one of its solar module functional area (e.g., solar cell panels), and its reflector functional area (e.g., parabolic reflecting mirror).

19. The Accused Instrumentalities infringe claim 4 of the '298 patent. Specifically, the Accused Instrumentalities include the solar module system of claim 2, wherein the self-supporting chamber profile includes an "advanced airflow management" system that enables low operating temperature. *See e.g.*, <http://www.slideshare.net/HitReach/sun-power-presentation>, at slide 9. The advanced airflow management system is thermally conductively connected to the solar cell panel and the parabolic reflective mirrors to prevent overheating and increase energy efficiency. *See e.g., id.* at 9.

20. Claim 5 of the '298 patent generally recites the solar module system as claimed in claim 1, wherein the self-supporting hollow-chamber profiles are formed from aluminum, magnesium, stainless steel, a galvanized steel material, or a thermally conductive plastic material.

21. The Accused Instrumentalities infringe claim 5 of the '298 patent. Specifically, the Accused Instrumentalities include the solar module system of claim 1, wherein the self-supporting hollow-chamber profiles are formed from aluminum stainless steel, a galvanized steel material, or a thermally conductive plastic material. *See e.g.*, <http://us.sunpower.com/sites/sunpower/files/media-library/data-sheets/ds-sunpower-c7-tracker-datasheet.pdf>.

22. Claim 6 of the '298 patent generally recites the solar module system as claimed in claim 5, wherein each self-supporting hollow-chamber profile has a heat dissipation structure thermally conductively connected to at least one of its solar module functional area (e.g., solar cell panels), and its reflector functional area (e.g., parabolic reflecting mirror).

23. The Accused Instrumentalities infringe claim 6 of the '298 patent. Specifically, the Accused Instrumentalities include the solar module system of claim 5, wherein the self-supporting chamber profile includes an "advanced airflow management" system that enables low operating temperature. *See e.g.*, <http://www.slideshare.net/HitReach/sun-power-presentation>, at slide 9. The advanced airflow management system is thermally conductively connected to the solar cell panel and the parabolic reflective mirrors to prevent overheating and increase energy efficiency. *See e.g., id.* at 9.

24. Claim 7 of the '298 patent generally recites the solar module system as claimed in claim 6, wherein the self-supporting hollow-chamber profiles have one or more heating or cooling medium ducts and/or power supply ducts.

25. The Accused Instrumentalities infringe claim 7 of the '298 patent. Specifically, the Accused Instrumentalities include the solar module system as claimed in claim 6, wherein the advanced airflow management system connected to the line of solar cells and the parabolic solar

concentrator mirrors includes cooling medium ducts that enables low operating temperature. *See e.g.*, <http://www.slideshare.net/HitReach/sun-power-presentation>, at slide 9.

26. Claim 8 of the '298 patent generally recites the solar module system as claimed in claim 1, wherein each self-supporting hollow-chamber profile has a heat dissipation structure thermally conductively connected to at least one of its solar module functional area (e.g., solar cell panels), and its reflector functional area (e.g., parabolic reflecting mirror).

27. The Accused Instrumentalities infringe claim 8 of the '298 patent. Specifically, the Accused Instrumentalities include the solar module system as claimed in claim 1, wherein each self-supporting hollow-chamber profile has a heat dissipation structure thermally conductively connected to at least one of its solar module functional area (solar cell panels), and its reflector functional area (parabolic reflecting mirror). *See e.g.*, <http://www.slideshare.net/HitReach/sun-power-presentation>, at slide 9.

28. Claim 9 of the '298 patent generally recites the solar module system as claimed in claim 8, wherein the self-supporting hollow-chamber profiles have one or more heating or cooling medium ducts and/or power supply ducts.

29. The Accused Instrumentalities infringe claim 9 of the '298 patent. Specifically, the Accused Instrumentalities include the solar module system of claim 8, wherein the advanced airflow management system connected to the line of solar cells and the parabolic solar concentrator mirrors includes cooling medium ducts that enables low operating temperature. *See e.g.*, <http://www.slideshare.net/HitReach/sun-power-presentation>, at slide 9.

30. Claim 10 of the '298 patent generally recites the solar module system as claimed in claim 8, wherein each self-supporting hollow-chamber profile is formed from a plurality of profiled parts which are plugged together on a longitudinal side.

31. The Accused Instrumentalities infringe claim 10 of the '298 patent. Specifically, the Accused Instrumentalities include the solar module system as claimed in claim 8, wherein each self-supporting hollow-chamber profile is formed from a plurality of profiled parts, such as a specially formed "advanced airflow management" system, the "snap-in" mirrors and receivers, and the SunPower solar cells. *See e.g.*, <https://www.youtube.com/watch?v=hwcwBq73qO0>; <http://www.slideshare.net/HitReach/sun-power-presentation>, at slide 9. These components are plugged together via longitudinally running latching/plug-in connection to form a unitary structure.

32. Claim 11 of the '298 patent generally recites the solar module system as claimed in claim 8, wherein each self-supporting hollow-chamber profile has a line-focus parabolic reflector surface continuous in the longitudinal direction.

33. The Accused Instrumentalities infringe claim 11 of the '298 patent. Specifically, the Accused Instrumentalities include the solar module system as claimed in claim 8, wherein each self-supporting hollow-chamber profile has a line-focus curved, parabolic glass mirror continuously extending in the longitudinal direction. *See e.g.*, <https://www.youtube.com/watch?v=hwcwBq73qO0>.

34. Claim 13 of the '298 patent generally recites the solar module system as claimed in claim 1, wherein the self-supporting hollow-chamber profiles have one or more heating or cooling medium ducts and/or power supply ducts.

35. The Accused Instrumentalities infringe claim 13 of the '298 patent. Specifically, the Accused Instrumentalities include the solar module system as claimed in claim 1, wherein the advanced airflow management system connected to the line of solar cells and the parabolic solar

concentrator mirrors includes cooling medium ducts that enables low operating temperature. *See e.g.*, <http://www.slideshare.net/HitReach/sun-power-presentation>, at slide 9.

36. Claim 14 of the '298 patent generally recites the solar module system as claimed in claim 13, wherein each self-supporting hollow-chamber profile is formed from a plurality of profiled parts which are plugged together on a longitudinal side.

37. The Accused Instrumentalities infringe claim 14 of the '298 patent. Specifically, the Accused Instrumentalities include the solar module system as claimed in claim 13, wherein each self-supporting hollow-chamber profile is formed from a plurality of profiled parts, such as a specially formed "advanced airflow management" system, the "snap-in" mirrors and receivers, and the SunPower solar cells. These components are plugged together via longitudinally running latching/plug-in connection to form a unitary structure. *See e.g.*, <http://www.slideshare.net/HitReach/sun-power-presentation>, at slide 9.

38. Claim 15 of the '298 patent generally recites the solar module system as claimed in claim 1, wherein each self-supporting hollow-chamber profile is formed from a plurality of profiled parts which are plugged together on a longitudinal side.

39. The Accused Instrumentalities infringe claim 15 of the '298 patent. Specifically, the Accused Instrumentalities include the solar module system as claimed in claim 1, wherein each self-supporting hollow-chamber profile is formed from a plurality of profiled parts, such as a specially formed "advanced airflow management" system, the "snap-in" mirrors and receivers, and the SunPower solar cells. These components are plugged together via longitudinally running latching/plug-in connection to form a unitary structure. *See e.g.*, <http://www.slideshare.net/HitReach/sun-power-presentation>, at slide 9; <https://www.youtube.com/watch?v=hwcwBq73qO0>.

40. Claim 16 of the '298 patent generally recites the solar module system as claimed in claim 15, wherein each self-supporting hollow-chamber profile has a line-focus parabolic reflector surface continuous in the longitudinal direction.

41. The Accused Instrumentalities infringe claim 16 of the '298 patent. Specifically, the Accused Instrumentalities include the solar module system as claimed in claim 15, wherein each self-supporting hollow-chamber profile has a curved, parabolic glass mirror continuously extending in the longitudinal direction. *See e.g.*, <https://www.youtube.com/watch?v=hwcwBq73qO0>.

42. Claim 18 of the '298 patent generally recites the solar module system as claimed in claim 1, wherein each self-supporting hollow-chamber profile has a line-focus parabolic reflector surface continuous in the longitudinal direction.

43. The Accused Instrumentalities infringe claim 18 of the '298 patent. Specifically, the Accused Instrumentalities includes the solar modular system of claim 1, wherein each self-supporting hollow-chamber profile has a curved, parabolic glass mirror continuously extending in the longitudinal direction. *See e.g.*, <https://www.youtube.com/watch?v=hwcwBq73qO0>.

44. Claim 20 of the '298 patent generally recites the solar module system as claimed in claim 1, wherein a length of each self-supporting hollow-chamber profile in the longitudinal direction is between approximately 2 m and approximately 10 m.

45. The Accused Instrumentalities infringe claim 20 of the '298 patent. Specifically, the Accused Instrumentalities include the solar module system as claimed in claim 1, wherein each self-supporting chamber profile extends between 2m and 10m in the longitudinal direction. *See e.g.*, <https://www.youtube.com/watch?v=hwcwBq73qO0>.

46. Claim 25 of the '298 patent generally recites the solar module system as claimed in claim 1, wherein a space is provided between each of the adjacent and physically separated self-supporting hollow-chamber profiles.

47. The Accused Instrumentalities infringe claim 25 of the '298 patent. Specifically, the Accused Instrumentalities include the solar module system as claimed in claim 1, wherein the adjacent self-supporting hollow-chamber profiles are physically separated from each other by a space. *See e.g.*, <https://www.youtube.com/watch?v=hwcwBq73qO0>.

48. Claim 26 of the '298 patent generally recites the solar module system as claimed in claim 1, wherein the self-supporting hollow-chamber profiles are not supported by a sub-structure longitudinal support that extends along the longitudinal direction of the self-supporting hollow-chamber profiles.

49. The Accused Instrumentalities infringe claim 26 of the '298 patent. Specifically, the Accused Instrumentalities include the solar module system as claimed in claim 1, wherein the self-supporting hollow-chamber profiles are not supported by a sub-structure longitudinal support that extends along the longitudinal direction of the self-supporting hollow-chamber profiles. *See e.g.*, <https://www.youtube.com/watch?v=hwcwBq73qO0>.

50. On information and belief, these Accused Instrumentalities are used marketed, provided to, and/or used by or for Defendant's partners, clients, customers and end users across the country and in this District.

51. Defendant was made aware of the '298 patent and its infringement thereof at least as of the filing and/or service of this Complaint.

52. Upon information and belief, since at least the time Defendant received notice, Defendant has induced and continues to induce others to infringe at least one claim of the '298

patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to Defendant's partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '298 patent.

53. In particular, Defendant's actions that aid and abet others such as its partners, customers, clients, and end users to infringe include advertising and distributing the Accused Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities. On information and belief, Defendant has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because Defendant has had actual knowledge of the '298 patent and knowledge that its acts were inducing infringement of the '298 patent since at least the date Defendant received notice that such activities infringed the '298 patent.

54. Upon information and belief, Defendant is liable as a contributory infringer of the '298 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States photovoltaic systems to be especially made or adapted for use in an infringement of the '298 patent. The Accused Instrumentalities are a material component for use in practicing the '298 patent and are specifically made and are not a staple article of commerce suitable for substantial non-infringing use.

55. Plaintiff has been harmed by Defendant's infringing activities.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues triable as such.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment for itself and against Defendant as follows:

- A. An adjudication that Defendant has infringed the '298 patent;
- B. An award of damages to be paid by Defendant adequate to compensate Plaintiff for Defendant's past infringement of the '298 patent, and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiff's reasonable attorneys' fees; and
- D. An award to Plaintiff of such further relief at law or in equity as the Court deems just and proper.

Dated: November 3, 2016

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