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Wencon Development, Inc. d/b/a Quick Mount PV
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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

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11 WENCON DEVELOPMENT, INC. d/b/a
12 QUICK MOUNT PV, a California
13 corporation,

14 **PLAINTIFF,**

15 v.

16 PEGASUS SOLAR, INC, a Delaware
17 corporation,

18 **DEFENDANT.**
19

CASE NO.

COMPLAINT FOR PATENT
INFRINGEMENT

DEMAND FOR JURY TRIAL

20
21 Plaintiff Wencon Development, Inc. d/b/a Quick Mount PV (“Plaintiff” or
22 “Quick Mount”), by way of this Complaint against Defendant Pegasus Solar, Inc.
23 (“Defendant” or “Pegasus”), alleges as follows:

24 **THE PARTIES**

25 I. Quick Mount is a California corporation with its principal place of business at
26 2700 Mitchell Drive, Walnut Creek, Contra Costa County, California 94598.

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1 2. Quick Mount designs, manufactures, markets, and sells, *inter alia*,
2 photovoltaic mounting products.

3 3. According to current California business records, maintained by and available
4 from the California Secretary of State, Pegasus is a Delaware corporation with its
5 principal place of business at 100 West Ohio Avenue, Richmond, Contra Costa
6 County, California 96004-4564. Pegasus's registered agent for service of process is
7 Erich Kai Stephan, 100 West Ohio Avenue, Richmond, Contra Costa County,
8 California 96004-4564.

9 4. According to current California business records, maintained by and available
10 from the California Secretary of State, Pegasus's business is manufacturing solar
11 energy equipment. Through at least one online website <http://pegasussolar.com>
12 Pegasus uses, offers to sell, and sells at least Pegasus' Rail-Free Tile Replace
13 ("RFTR") for residential flat, S and W tile roofs and Tile Replace For Railed (TRFR)
14 Residential for flat, S and W tile roofs.

15 **JURISDICTION AND VENUE**

16 5. This action arises under the patent laws of the United States, 35 U.S.C. § 1 *et*
17 *seq.*, and seeks damages and injunctive relief pursuant to 35 U.S.C. §§ 271, 281, and
18 283 – 285.

19 6. The Court has subject matter jurisdiction over the action pursuant to 28 §§
20 U.S.C. 1331 and 1338(a) because this action arises under the Acts of Congress
21 relating to patents.

22 7. This Court has general personal jurisdiction over Pegasus because Pegasus
23 resides in and has its principal place of business within California and this Judicial
24 District.

25 8. This Court also has specific personal jurisdiction over Pegasus because, upon
26 information and belief, Pegasus operates its principal place of business and a
27 distribution center at 100 West Ohio Avenue, Richmond, Contra Costa County,
28

1 California 96004-4564, which distribution center is used to ship infringing products
2 to customers, including customers in California and this Judicial District.

3 9. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1400(b)
4 because Pegasus resides in this Judicial District, and, separately, because Pegasus has
5 committed acts of infringement and has a regular and established place of
6 business in this Judicial District.

7 10. Venue is also proper in this Judicial District pursuant to 28 U.S.C. § 1391
8 because Pegasus is subject to this Court's personal jurisdiction with respect to this
9 civil action.

10 **COUNT I**

11 **DIRECT INFRINGEMENT OF U.S. PATENT NO. 7,861,485**

12 11. Paragraphs 1-10 are incorporated into this count by reference.

13 12. United States Patent No. 7,861,485 (the "485 Patent"), entitled "Method for
14 Installing a Stanchion on a Tile Roof and a System Therefor," was duly and legally
15 issued on January 4, 2011. The '485 Patent is licensed exclusively to Quick Mount,
16 and Quick Mount currently has the full right to sue and recover damages and other
17 relief for infringement of the '485 Patent. A copy of the '485 Patent is attached to
18 this complaint as Exhibit A and incorporated herein by reference for all purposes.

19 13. The '485 Patent is valid and enforceable.

20 14. Pegasus has infringed, and is still infringing, directly, literally or under the
21 doctrine of equivalents, the '485 Patent at least by using, manufacturing, offering for
22 sale, and/or selling infringing products, methods, and/or systems, including at least
23 the Pegasus' Rail-Free Tile Replace ("RFTR") for residential flat, S and W tile roofs
24 and Tile Replace For Railed (TRFR) Residential for flat, S and W tile roofs. Claims 1,
25 2 and 4 of the '485 Patent read on the Pegasus RFTR and TRFR as shown in the
26 representative claims charting attached hereto as Exhibit B and incorporated herein
27 by reference for all purposes.

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1 15. Pegasus’s web site includes descriptions and photographs of the Pegasus’
2 Rail-Free Tile Replace (“RFTR”) for residential flat, S and W tile roofs and Tile
3 Replace For Railed (TRFR) Residential for flat, S and W tile roofs (See Exhibit. C
4 attached to this complaint and incorporated herein by reference for all purposes).

5 16. Pegasus’ systems for Rail-Free Tile Replace (“RFTR”) for residential flat, S
6 and W tile roofs and Tile Replace For Railed (TRFR) Residential for flat, S and W
7 tile roofs directly infringe Claims 1, 2 and 4 of the ’485 Patent. As more specifically
8 detailed in the claim charts attached to this complaint as Exhibit B, the Rail-Free Tile
9 Replace (“RFTR”) for residential flat, S and W tile roofs and Tile Replace For Railed
10 (TRFR) Residential for flat, S and W tile roofs include products, methods, and/or
11 systems claimed in claims 1, 2 and 4 of the ’485 Patent. As shown in Exhibits B and
12 C, Pegasus has put its RFTR and TRFR products, methods, and/or systems into
13 service, *i.e.*, it wholly controls the RFTR and TRFR products, methods, and/or
14 systems and obtains benefit from them. In this instance, Pegasus at least uses, sells,
15 and/or offers to sell each element of claims 1, 2, and 4 of Quick Mount’s ’485
16 Patent.

17 17. Pegasus’s use, sales, manufacture, and offers for sale of products, methods,
18 and/or systems disclosed and claimed in the ’485 Patent has been and is without the
19 permission, consent, authorization, or license of Quick Mount. Pegasus is thus liable
20 for infringement of the ’485 Patent pursuant to 35 U.S.C. § 271.

21 18. Pegasus’s infringement of the ’485 Patent has injured Quick Mount, and
22 Quick Mount is entitled to recover damages adequate to compensate for Pegasus’s
23 infringement.

24 **COUNT II**

25 **WILLFUL INFRINGEMENT OF U.S. PATENT NO. 7,861,485**

26 19. Paragraphs 1-18 are incorporated into this count by reference.

27 20. Pegasus’s infringement of the ’485 Patent has been and continues to be
28 egregious and willful.

1 21. Since at least September 2017, Pegasus has had actual knowledge that at least
2 its Rail-Free Tile Replace (“RFTR”) infringed Quick Mount’s ‘485 Patent. Despite
3 this knowledge, Pegasus has continued using products, methods, and or systems,
4 and manufacturing, selling, or offering for sale flashing components, reading on
5 Quick Mount’s system for a stanchion on a tile roof as claimed in claims 1, 2 and 4
6 of the ‘485 Patent without Quick Mounts’ written consent.

7 22. Pegasus’s bad faith infringement of the ‘485 Patent is part of an open,
8 ongoing, notorious, willful and knowing pattern of disregard for Quick Mount’s
9 patent rights.

10 **COUNT III**

11 **INDUCED INFRINGEMENT OF U.S. PATENT NO. 7,861,485**

12 23. Paragraphs 1 – 22 are incorporated by reference.

13 24. Pegasus has actual notice of the ‘485 Patent and actual notice that at least its
14 RFTR products, methods, and/or systems infringe the ‘485 Patent.

15 25. Despite having notice of its infringement of the ‘485 Patent, Pegasus
16 continues to use, manufacture, offer to sell, and sell its infringing RFTR and TRFR
17 products, methods and/or systems to others for resale and/or use, see e.g. Exhibit
18 C. This unwarranted conduct infringes the ‘485 Patent pursuant to 35 U.S.C. § 271.
19 Pegasus’ conduct against Quick Mount’s rights in and to the ‘485 Patent is therefore
20 willful, intentional, unlawful and, upon information and belief, will continue unless
21 enjoined by this Court.

22 26. Quick Mount has no adequate remedy at law for the harm caused by
23 Pegasus’ acts.

24 27. Quick Mount has suffered monetary damages in an amount to be proven at
25 trial.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiff Quick Mount respectfully requests that judgment be
28 entered in its favor and against Defendant Pegasus and further prays that the Court

1 grant the following relief to Plaintiff:

2 A. A judgment that Pegasus has infringed claims 1, 2 and 4 of the '485 Patent;

3 B. Entry of a preliminary and a permanent injunction pursuant to 35 U.S.C. §
4 283 enjoining Pegasus, as well as its officers, directors, servants, consultants,
5 managers, employees, agents, attorneys, successors, assigns, affiliates, subsidiaries,
6 and all persons in active concert or participation with any of them, from infringing
7 any claims of the '485 Patent, including but not limited to the making, using, offering
8 to sell, selling, or importing of any products, methods, and/or systems that infringe
9 any claim of the '485 Patent;

10 C. An award of all damages adequate to compensate Quick Mount for Pegasus's
11 infringement, such damages to be determined by a jury and, if necessary, an
12 accounting of all damages;

13 D. An award of prejudgment and post-judgment interest to Quick Mount
14 pursuant to 35 U.S.C. § 284;

15 E. A judgment that Pegasus's infringement of the '485 Patent has been willful
16 and egregious;

17 F. A three-fold increase in awarded damages pursuant to 35 U.S.C. § 284 due
18 to Pegasus's willful and egregious infringement of the '485 Patent;

19 G. A declaration that this case is exceptional under 35 U.S.C. § 285 and an
20 award of the reasonable attorneys' fees, costs, and expenses incurred by Quick
21 Mount in this action; and

22 H. Such other and further relief as the Court may deem just and proper.

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24 **DEMAND FOR JURY TRIAL**

25 Plaintiff Quick Mount hereby demands a trial by jury in this action on all
26 claims so triable.

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