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18 PERMACITY CORP. and
19 PERMACITY SOLAR INC.

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PERMACITY CORP. and
PERMACITY SOLAR INC.,

Plaintiff,

v.

ORION SOLAR RACKING INC.,
BOB (aka BABAK) SINAI and AHMET
AKMAN,

Defendants.

Case No. 2:19-cv-01391-CBM-RAO

**FIRST AMENDED COMPLAINT
FOR INFRINGEMENT OF
PATENTS AND BREACH OF
CONTRACT**

JURY TRIAL DEMANDED

Plaintiffs PermaCity Corp. and PermaCity Solar Inc. for their Complaint against Defendants Orion Solar Racking Inc. (“Orion”), Bob (aka Babak) Sinai (“Sinai”) and Ahmet Akman (“Akman”), allege as follows:

NATURE OF THE ACTION

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2 1. This is a civil action for infringement of U.S. Patent No. 9,742,347 (the
3 '347 patent), attached as Exhibit A, and U.S. Patent No. 9,985,574 (the '574 patent),
4 attached as Exhibit B, and for breach of contract.

PARTIES

5
6 2. PermaCity Corp. is a California corporation having a principal place of
7 business at 525 S. Hewitt Street, Los Angeles, CA 90013.

8 3. PermaCity Solar Inc. is a California corporation having a principal place
9 of business at 525 S. Hewitt Street, Los Angeles, CA 90013.

10 4. Orion is a California corporation with a principal place of business at 2917
11 Vail Avenue, Commerce, CA 90040.

12 5. Sinai is a co-founder and Chief Executive Officer of Orion. Sinai resides
13 at 528 Palisades Drive, #933, Pacific Palisades, CA 90272.

14 6. Akman is the Vice President and Chief Operating Officer of Orion.
15 Akman resides at 3347 Bennett Drive, Los Angeles, CA 90068.

JURISDICTION AND VENUE

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17 7. This Court has subject matter jurisdiction over the patent infringement
18 claims under 28 U.S.C. §§ 1331 and 1338.

19 8. This Court has supplemental jurisdiction over the other claims in this
20 action under 28 U.S.C. § 1367 because they are so related to the patent infringement
21 claims that they form part of the same case or controversy under Article III of the United
22 States Constitution. Like the patent infringement claims, the contract claim involves
23 the Defendants' unauthorized use of the Plaintiffs' technology for building and
24 installing solar energy systems.

25 9. Orion is a California corporation that is authorized to do business in
26 California and regularly transacts business in California. Orion maintains its principal
27 place of business in California, in this district. Orion, therefore, is subject to personal
28 jurisdiction in this Court.

11. Sinai is subject to personal jurisdiction in this Court because he is a California resident. This Court also has personal jurisdiction over Sinai because Sinai has regularly transacted business in California and has committed acts of patent infringement in the course of that business in California and in this district.

13. For the reasons stated above, venue is proper in this district under 28 U.S.C. §§ 1391(b)(1), 1391(b)(2) and 1400(b).

FACTS

A. Background

15. With the investment of substantial time and money, PermaCity Corp. has developed a novel, award-winning technology that allows installers to deploy solar energy systems more quickly and easily, and less expensively, than was possible previously.

17. PermaCity Corp. has the exclusive rights to make, use, sell and/or offer to sell any invention embodying the '347 patent claims and/or the '574 patent claims

1 throughout the United States, as well as the exclusive right to import any invention
2 embodying these patent claims into the United States.

3 **B. The '347 Patent**

4 18. PermaCity Corp. is the assignee and owner of all right, title and interest in
5 and to the '347 patent, which the United States Patent and Trademark Office issued on
6 August 22, 2017.

7 19. The '347 patent claims an apparatus for mounting solar collector panels.
8 PermaCity Corp.'s invention provides a critical advancement in mounting technology
9 for solar power systems. This invention allows for rapid and easy installation of solar
10 power systems that uses minimal tools and minimizes roof penetrations.

11 20. PermaCity Corp.'s patented apparatus has been commercially successful
12 and has become the leading product of its kind in the market.

13 **C. The '574 Patent**

14 21. PermaCity Corp. is the assignee and owner of all right, title and interest in
15 and to the '574 patent, which the United States Patent and Trademark Office issued on
16 May 29, 2018.

17 22. The '574 patent addresses a method of mounting solar collector panels.

18 23. The '574 patent is related to the '347 patent; they both trace back to the
19 same original Patent Cooperation Treaty (PCT) patent application that PermaCity Corp.
20 filed on February 11, 2013. Whereas the '347 patent claims address a solar panel
21 mounting apparatus, the '574 patent claims address a solar panel mounting method.

22 **D. PermaCity Corp.'s Patented Product**

23 24. PermaCity Corp. manufactures, sells and markets, in this district, an
24 embodiment of the invention claimed in the '347 and '574 patents. PermaCity Corp.
25 calls this product the SolarStrap®.

26 25. SolarStrap® has won several design awards and is the leading product of
27 its kind in the market.

II. The Parties' Mutual Nondisclosure Agreement

26. PermaCity Solar Inc. is a partially-owned subsidiary of PermaCity Corp.

27. On July 3, 2013, Orion and PermaCity Solar Inc. entered into a Mutual Nondisclosure Agreement ("NDA"), attached as Exhibit C.

28. Under the NDA, which Sinai executed for Orion, Orion agreed not to use PermaCity Solar Inc.'s Confidential Information "for any purpose except to evaluate and engage in discussions concerning a potential business relationship between the parties." Orion further agreed not to disclose PermaCity Solar Inc.'s Confidential Information to third parties.

29. The NDA defined "Confidential Information" to include "information disclosed to a disclosing party by third parties." Accordingly, the NDA included in its definition of "Confidential Information" information—such as the SolarStrap® design—that PermaCity Corp. had provided to PermaCity Solar, Inc.

30. PermaCity Solar Inc. intended the NDA to protect confidential information relating, among other things, to the SolarStrap® technology.

31. Much of the confidential information relating to the SolarStrap® technology belonged to PermaCity Corp.

32. PermaCity Solar Inc. intended the NDA to protect that PermaCity Corp. information and, therefore, to confer a benefit upon PermaCity Corp., even though PermaCity Corp. was not a direct party to the NDA.

33. PermaCity Solar Inc. disclosed PermaCity Corp.'s design for the SolarStrap® to Orion under the NDA with the understanding that Orion would keep the SolarStrap® design confidential. PermaCity Solar Inc. also provided a copy of a confidential engineering study that it had conducted on various lift and drag forces placed upon solar power systems.

34. In or around February 2015, PermaCity Corp. learned that Orion manufactured and sold a solar power mounting system that appeared to be a nearly exact copy of its SolarStrap® product.

1 35. On February 3, 2015, counsel for PermaCity Corp. sent Orion a letter,
2 attached as Exhibit D, verifying that Orion was infringing various intellectual property
3 rights that PermaCity Corp. possessed on the SolarStrap® product, including pending
4 patent applications on technology embodied in that product.

5 36. PermaCity Corp. also learned that Orion inappropriately used other
6 confidential information, which included, without limitation, a confidential engineering
7 study that PermaCity Solar Inc. had conducted. Upon information and belief, Orion
8 copied PermaCity Solar Inc.'s confidential engineering study, removed PermaCity's
9 name from the study and substituted Orion's own name, and then distributed the
10 falsified copies to third parties.

11 **COUNT I—ORION'S INFRINGEMENT OF THE '347 PATENT**

12 37. PermaCity Corp. incorporates the allegations contained in paragraphs 1
13 through 36 of this Complaint as though fully set forth in this paragraph.

14 38. Upon information and belief, Orion has been, and currently is, directly
15 infringing at least claim 1 of the '347 patent by making, using, selling, offering to sell
16 and/or importing certain commercial roof mount systems, including Orion's Ballasted
17 and Non-Ballasted Roof Mount Systems (see '347 claim chart, attached as Exhibit E).

18 39. Upon information and belief, Orion also infringes the '347 patent by
19 actively inducing infringement under 35 U.S.C. § 271(b).

20 40. Orion actively encourages its distributors to directly infringe the '347
21 patent by selling and offering to sell the infringing Orion commercial roof mount
22 systems.

23 41. Orion's customers also infringe the '347 patent directly by making and
24 using the infringing Orion commercial roof mount systems. Orion encourages this
25 infringing activity by selling the customers the Orion commercial roof mount systems
26 and instructing them how to install and use those systems.

1 42. Orion encourages these activities even though it actually knew, reasonably
2 should have known, or willfully blinded itself to the fact that PermaCity Corp. had a
3 patent on the relevant technology.

4 43. Orion's intent to induce infringement may be inferred by its receipt of
5 PermaCity Corp.'s February 3, 2015 letter (Ex. D), which advised Orion that the Orion
6 commercial roof mount systems practiced the invention claimed in PermaCity Corp.'s
7 then-pending patent application.

8 44. Upon information and belief, Orion also infringes the '347 patent by
9 actively contributing to its customers' direct infringement under 35 U.S.C. § 271(c).

10 45. Orion contributes to its customers' direct infringement by selling the
11 customers the components for the infringing Orion commercial roof mount systems,
12 which the customers then use to infringe the '347 patent.

13 46. The components for the Orion commercial roof mount systems are
14 material to practicing the '347 invention, and Orion knows that these components are
15 made especially for practicing the invention claimed in the '347 patent and that they
16 have no non-infringing use.

17 47. Orion's intent to contribute to its customers' infringement may be inferred
18 by its receipt of PermaCity Corp.'s February 3, 2015 letter (Ex. D), which advised Orion
19 that the Orion commercial roof mount systems practiced the invention claimed in
20 PermaCity Corp.'s then-pending patent application.

21 48. Orion, therefore, actually knew, reasonably should have known, or
22 willfully blinded itself to the fact that PermaCity Corp. had a patent on the relevant
23 technology.

24 49. Orion's acts constitute active inducement of patent infringement in
25 violation of 35 U.S.C. § 271(b) and contributory infringement in violation of 35 U.S.C.
26 § 271(c).

1 50. Unless Orion is enjoined, it will continue to infringe the ‘347 patent
2 directly, to induce its distributors and customers to infringe the ‘347 patent, and to
3 contribute to its customers’ infringement of the ‘347 patent.

4 51. PermaCity Corp. has been irreparably harmed by Orion’s infringement.
5 Unless it is enjoined, Orion will continue to harm PermaCity Corp. irreparably.
6 Monetary damages alone cannot compensate for this harm.

7 52. Orion’s infringement has been willful and deliberate. When it received
8 PermaCity Corp.’s February 3, 2015 letter (Ex. D), Orion became aware that PermaCity
9 Corp. had a pending patent application on its SolarStrap® product. Despite this
10 knowledge, Orion deliberately copied the SolarStrap® product and sold it to customers.

11 53. Orion’s deliberate infringement without any reasonable justification,
12 makes this an exceptional case, entitling PermaCity Corp. to an award of treble damages
13 under 35 U.S.C. § 284 and an award of attorney fees under 35 U.S.C. § 285.

14 **COUNT II—ORION’S INFRINGEMENT OF THE ‘574 PATENT**

15 54. PermaCity Corp. incorporates the allegations contained in paragraphs 1
16 through 53 of this Complaint as though fully set forth in this paragraph.

17 55. The ‘574 patent claims a method of installing the claimed solar panel
18 system.

19 56. Upon information and belief, Orion has been, and currently is, directly
20 infringing at least claim 1 of the ‘574 patent by installing certain commercial roof mount
21 systems, including Orion’s Ballasted and Non-Ballasted Roof Mount Systems (see ‘574
22 claim chart, attached as Exhibit F).

23 57. Upon information and belief, Orion has been, and currently is, indirectly
24 infringing at least claim 1 of the ‘574 patent by actively encouraging its customers to
25 install the infringing Orion commercial roof mount systems. Orion encourages this
26 infringing activity by selling the customers the Orion commercial roof mount systems
27 and instructing them how to install them.

1 58. Orion encourages this activity even though it actually knew, reasonably
2 should have known, or willfully blinded itself to the fact that PermaCity Corp. had a
3 patent on the relevant technology.

4 59. Orion's intent to induce infringement may be inferred by its receipt of
5 PermaCity Corp.'s February 3, 2015 letter (Ex. D), which advised Orion that the Orion
6 commercial roof mount systems practiced the invention claimed in PermaCity Corp.'s
7 then-pending patent application.

8 60. Upon information and belief, Orion also infringes the '574 patent by
9 actively contributing to its customers' direct infringement.

10 61. Orion contributes to its customers' direct infringement by selling the
11 customers the components for the infringing Orion commercial roof mount systems,
12 which the customers then use to infringe the '574 patent.

13 62. The components for the Orion commercial roof mount systems are
14 material to practicing the '574 invention, and Orion knows that these components are
15 made especially for practicing the invention claimed in the '574 patent and that they
16 have no non-infringing use.

17 63. Orion's intent to contribute to its customers' infringement may be inferred
18 by its receipt of PermaCity Corp.'s February 3, 2015 letter (Ex. D), which advised Orion
19 that the Orion commercial roof mount systems practiced the invention claimed in
20 PermaCity Corp.'s then-pending patent application.

21 64. Orion, therefore, actually knew, reasonably should have known, or
22 willfully blinded itself to the fact that PermaCity Corp. had a patent on the relevant
23 technology.

24 65. Orion's acts constitute active inducement of patent infringement in
25 violation of 35 U.S.C. § 271(b) and contributory infringement in violation of 35 U.S.C.
26 § 271(c).

1 66. Unless Orion is enjoined, it will continue to infringe the ‘574 patent
2 directly, to induce its customers to infringe the ‘347 patent, and to contribute to its
3 customers’ infringement of the ‘347 patent..

4 67. PermaCity Corp. has been irreparably harmed by Orion’s infringement.
5 Unless it is enjoined, Orion will continue to harm PermaCity Corp. irreparably.
6 Monetary damages alone cannot compensate for this harm.

7 68. Orion’s infringement has been willful and deliberate. When it received
8 PermaCity Corp.’s February 3, 2015 letter (Ex. D), Orion became aware that PermaCity
9 Corp. had a pending patent application on its SolarStrap® product. Despite this
10 knowledge, Orion deliberately copied the SolarStrap® product and sold it to customers.

11 69. Orion’s deliberate infringement without any reasonable justification,
12 makes this an exceptional case, entitling PermaCity Corp. to an award of treble damages
13 under 35 U.S.C. § 284 and an award of attorney fees under 35 U.S.C. § 285.

14 **COUNT III— SINAI’S INFRINGEMENT OF THE ‘347 PATENT**

15 70. PermaCity Corp. incorporates the allegations contained in paragraphs 1
16 through 69 of this Complaint as though fully set forth in this paragraph.

17 71. Upon information and belief, Sinai—as co-founder and Chief Executive
18 Officer of Orion—directs Orion’s day-to-day executive decisions, including the
19 decision to design, install and sell Orion roof mount system products that practice the
20 ‘347 patent, including Orion’s Ballasted and Non-Ballasted Roof Mount Systems.

21 72. Sinai actively directs and encourages Orion to directly infringe claim 1 of
22 the ‘347 patent by making, using, selling, offering to sell and/or importing the infringing
23 Orion commercial roof mount systems.

24 73. Upon information and belief, Sinai also communicates with Orion’s
25 distributors, and actively encourages those distributors to infringe the ‘347 patent by
26 selling and offering to sell the infringing Orion commercial roof mount systems.

1 74. Upon information and belief, Sinai also communicates with Orion's
2 customers, and actively encourages those customers to infringe the '347 patent by
3 making and using the infringing Orion commercial roof mount systems.

4 75. Sinai encourages these infringing activities (by Orion, Orion's distributors
5 and Orion's customers) even though he actually knew, reasonably should have known,
6 or willfully blinded himself to the fact that PermaCity Corp. had a patent on the relevant
7 technology.

8 76. Sinai's knowledge was triggered no later than February 2015, when he
9 received a letter from PermaCity Corp.'s attorneys (Ex. D) that PermaCity Corp. had a
10 pending patent application on its SolarStrap® product.

11 77. Despite this knowledge, Sinai actively encourages: (1) Orion to copy the
12 SolarStrap® product and sell it to customers; (2) Orion's distributors to sell the
13 infringing Orion commercial roof mount systems; and (3) Orion's customers to use and
14 install the infringing Orion commercial roof mount systems.

15 78. These acts by Sinai constitute active inducement of patent infringement in
16 violation of 35 U.S.C. § 271(b).

17 79. Unless Sinai is enjoined, he will continue to infringe the '347 patent.

18 80. PermaCity Corp. has been irreparably harmed by the infringement-
19 inducing activities of Sinai. Unless he is enjoined, Sinai will continue to impose this
20 irreparable harm upon PermaCity Corp. Monetary damages alone cannot compensate
21 for this harm.

22 81. Given his receipt of the February 2015 letter, and his corresponding
23 knowledge of PermaCity Corp.'s efforts to patent the SolarStrap® product, Sinai
24 performed his infringing activities in a willful and deliberate manner.

25 82. Sinai's willful activity makes this case exceptional and entitles PermaCity
26 Corp. to an award of treble damages under 35 U.S.C. § 284 and an award of attorney
27 fees under 35 U.S.C. § 285.

COUNT IV— SINAI’S INFRINGEMENT OF THE ‘574 PATENT

83. PermaCity Corp. incorporates the allegations contained in paragraphs 1 through 82 of this Complaint as though fully set forth in this paragraph.

84. Sinai actively directs and encourages Orion to directly infringe the ‘574 patent by installing certain commercial roof mount systems, including Orion’s Ballasted and Non-Ballasted Roof Mount Systems.

85. Upon information and belief, Sinai also communicates with Orion’s customers, and actively encourages those customers to infringe the ‘574 patent by installing the infringing Orion commercial roof mount systems.

86. Sinai encourages these infringing activities (by Orion and Orion’s customers) even though he actually knew, reasonably should have known, or willfully blinded himself to the fact that PermaCity Corp. had a patent on the relevant technology.

87. Sinai’s knowledge was triggered no later than February 2015, when he received a letter from PermaCity Corp.’s attorneys (Ex. D) that PermaCity Corp. had a pending patent application on its SolarStrap® product.

88. Despite this knowledge, Sinai actively encourages Orion and its customers to install the infringing Orion commercial roof mount systems.

89. These acts by Sinai constitute active inducement of patent infringement in violation of 35 U.S.C. § 271(b).

90. Unless Sinai is enjoined, he will continue to infringe the ‘574 patent.

91. PermaCity Corp. has been irreparably harmed by the infringement-inducing activities of Sinai. Unless he is enjoined, Sinai will continue to impose this irreparable harm upon PermaCity Corp. Monetary damages alone cannot compensate for this harm.

92. Given his receipt of the February 2015 letter, and his corresponding knowledge of PermaCity Corp.’s efforts to patent the SolarStrap® product, Sinai performed his infringing activities in a willful and deliberate manner.

1 93. Sinai's willful activity makes this case exceptional and entitles PermaCity
2 Corp. to an award of treble damages under 35 U.S.C. § 284 and an award of attorney
3 fees under 35 U.S.C. § 285.

4 **COUNT V—AKMAN'S INFRINGEMENT OF THE '347 PATENT**

5 94. PermaCity Corp. incorporates the allegations contained in paragraphs 1
6 through 93 of this Complaint as though fully set forth in this paragraph.

7 95. Upon information and belief, Akman—as Vice President and Chief
8 Operating Officer of Orion—directs Orion's day-to-day executive decisions, including
9 the decision to design, install and sell Orion roof mount system products that practice
10 the '347 patent, including Orion's Ballasted and Non-Ballasted Roof Mount Systems.

11 96. In his role as the company's Chief Operating Officer, Akman actively
12 directs and encourages Orion to directly infringe claim 1 of the '347 patent by making,
13 using, selling, offering to sell and/or importing the infringing Orion commercial roof
14 mount systems.

15 97. Upon information and belief, Akman also communicates with Orion's
16 distributors, and actively encourages those distributors to infringe the '347 patent by
17 selling and offering to sell the infringing Orion commercial roof mount systems.

18 98. Upon information and belief, Akman also communicates with Orion's
19 customers, and actively encourages those customers to infringe the '347 patent by
20 making and using the infringing Orion commercial roof mount systems.

21 99. Akman encourages these infringing activities (by Orion, Orion's
22 distributors and Orion's customers) even though he actually knew, reasonably should
23 have known, or willfully blinded himself to the fact that PermaCity Corp. had a patent
24 on the relevant technology.

25 100. Akman's knowledge was triggered no later than February 2015, when he
26 learned of the letter from PermaCity Corp.'s attorneys (Ex. D) that PermaCity Corp.
27 had a pending patent application on its SolarStrap® product.

1 101. Despite this knowledge, Akman actively encourages (1) Orion to copy the
2 SolarStrap® product and sell it to customers; (2) Orion's distributors to sell the
3 infringing Orion commercial roof mount systems; and (3) Orion's customers to use and
4 install the infringing Orion commercial roof mount systems.

5 102. These acts by Akman constitute active inducement of patent infringement
6 in violation of 35 U.S.C. § 271(b).

7 103. Unless Akman is enjoined, he will continue to infringe the '347 patent.

8 104. PermaCity Corp. has been irreparably harmed by the infringement-
9 inducing activities of Akman. Unless he is enjoined, Akman will continue to impose
10 this irreparable harm upon PermaCity Corp. Monetary damages alone cannot
11 compensate for this harm.

12 105. Akman performed his infringing activities in a willful and deliberate
13 manner because by February 2015, he knew that PermaCity Corp. considered its
14 SolarStrap® product design and installation method to be proprietary and subject to a
15 pending patent application.

16 106. Akman's willful activity makes this case exceptional and entitles
17 PermaCity Corp. to an award of treble damages under 35 U.S.C. § 284 and an award of
18 attorney fees under 35 U.S.C. § 285.

19 **COUNT VI—AKMAN'S INFRINGEMENT OF THE '574 PATENT**

20 107. PermaCity Corp. incorporates the allegations contained in paragraphs 1
21 through 106 of this Complaint as though fully set forth in this paragraph.

22 108. Akman actively directs and encourages Orion to directly infringe the '574
23 patent by installing certain commercial roof mount systems, including Orion's Ballasted
24 and Non-Ballasted Roof Mount Systems.

25 109. Upon information and belief, Akman also communicates with Orion's
26 customers, and actively encourages those customers to infringe the '574 patent by
27 installing the infringing Orion commercial roof mount systems.
28

1 110. Akman encourages these infringing activities (by Orion and Orion's
2 customers) even though he actually knew, reasonably should have known, or willfully
3 blinded himself to the fact that PermaCity Corp. had a patent on the relevant technology.

4 111. Akman's knowledge was triggered no later than February 2015, when he
5 learned of the letter from PermaCity Corp.'s attorneys (Ex. D) that PermaCity Corp.
6 had a pending patent application on its SolarStrap® product.

7 112. Despite this knowledge, Akman actively encourages Orion and its
8 customers to install the infringing Orion commercial roof mount systems.

9 113. These acts by Akman constitute active inducement of patent infringement
10 in violation of 35 U.S.C. § 271(b).

11 114. Unless Akman is enjoined, he will continue to infringe the '574 patent.

12 115. PermaCity Corp. has been irreparably harmed by the infringement-
13 inducing activities of Akman. Unless he is enjoined, Akman will continue to impose
14 this irreparable harm upon PermaCity Corp. Monetary damages alone cannot
15 compensate for this harm.

16 116. Akman performed his infringing activities in a willful and deliberate
17 manner because by February 2015, he knew that PermaCity Corp. considered its
18 SolarStrap® product design and installation method to be proprietary and subject to a
19 pending patent application.

20 117. Akman's willful activity makes this case exceptional and entitles
21 PermaCity Corp. to an award of treble damages under 35 U.S.C. § 284 and an award of
22 attorney fees under 35 U.S.C. § 285.

23 **COUNT VII—BREACH OF CONTRACT**

24 118. PermaCity Solar Inc. incorporates the allegations contained in paragraphs
25 1 through 117 of this Complaint as though fully set forth in this paragraph.

26 119. The NDA is a valid and enforceable contract between PermaCity Solar Inc.
27 and Orion.
28

1 120. In the NDA, Orion agreed “not to use any Confidential Information of the
2 other party for any purpose except to evaluate and engage in discussions concerning a
3 potential business relationship between the parties.”

4 121. The NDA defined “Confidential Information” to include “information
5 disclosed to a disclosing party by third parties.”

6 122. PermaCity Solar Inc. intended the NDA to protect confidential information
7 relating, among other things, to the SolarStrap® technology.

8 123. Under the NDA, PermaCity Solar Inc. provided Orion confidential
9 technical and engineering information and specifications relating to PermaCity Corp.’s
10 SolarStrap® product.

11 124. PermaCity Solar Inc. intended the NDA to protect that PermaCity Corp.
12 information and, therefore, to confer a benefit upon PermaCity Corp., even though
13 PermaCity Corp. was not a direct party to the NDA.

14 125. Orion used that confidential technical and engineering information
15 regarding PermaCity Corp.’s SolarStrap® product to design, manufacture, and market
16 its own roof mount system.

17 126. In short, Orion took confidential technical information that it received
18 under the NDA and used it for its own benefit to design, manufacture and sell a knock-
19 off product to compete with the SolarStrap® product.

20 127. In addition, Orion falsified a confidential PermaCity Solar Inc. engineering
21 document by replacing PermaCity’s name with Orion’s, and distributed the falsified
22 document to third parties.

23 128. As a result of these actions, Orion breached the NDA.

24 129. PermaCity Corp. and PermaCity Solar Inc. suffered injury as a result of
25 Orion’s breach.

PRAYER FOR RELIEF

WHEREFORE, PermaCity Corp. and PermaCity Solar Inc. ask this Court to:

- a. Find that the '347 and '574 patents are valid and enforceable;
- b. Find that all Defendants have infringed the '347 and '574 patents;
- c. Find that Orion breached the NDA with PermaCity Solar Inc.;
- d. Permanently enjoin Defendants from infringing the '347 and '574 patents;
- e. Award PermaCity Corp. and PermaCity Solar Inc. damages sufficient to compensate them for Defendants' past infringement of the '347 and '574 patents and NDA breach, together with costs and prejudgment interest;
- f. Award PermaCity Corp. treble damages under 35 U.S.C. § 284;
- g. Award PermaCity Corp. its reasonable attorney fees under 35 U.S.C. § 285;
- h. Award all available common law and statutory damages and restitution; and
- i. Award PermaCity Corp. and PermaCity Solar Inc. such other and further relief as may be just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiffs request a trial by jury under Rule 38 of the Federal Rules of Civil Procedure of all issues that may be determined by a jury.

1 Dated: May 2, 2019

**JEFFER MANGELS BUTLER & MITCHELL
LLP
MILLER, CANFIELD, PADDOCK AND
STONE P.L.C.**

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4 By: /s/ Rachel M. Capoccia

5
6 Rachel M. Capoccia
7 JEFFER MANGELS BUTLER &
MITCHELL LLP

8 Edward H. Rice
9 Marina N. Saito
10 MILLER, CANFIELD, PADDOCK AND
STONE, P.L.C.

11 Attorneys for Plaintiffs
12 PERMACITY CORP. and
13 PERMACITY SOLAR INC.
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