UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION

PSLC LLC,	§	
	§	
Plaintiff,	§	CIVIL ACTION NO. _____
	§	
v.	§	**JURY TRIAL DEMANDED**
	§	
GENERAC POWER SYSTEMS, INC.,	§	
	§	
Defendant.	§	

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff PSLC LLC, files this Original Complaint for Patent Infringement against Defendant GENERAC POWER SYSTEMS, INC. alleging as follows:

I. THE PARTIES

1. PSLC LLC, ("Plaintiff" or "PSLC") is a Limited Liability Company with a principal place of business at 30 N Gould St. Ste R Sheridan, Wyoming 82801.

2. Defendant GENERAC POWER SYSTEMS, INC. ("Defendant") is a company organized and existing under the laws of the United States. It has a principal place of business located at S45 W29290 State Road 59 Waukesha, WI 53189-9071. Defendant engages in business in the State of Wisconsin. Pursuant to § 801.11 of the Wisconsin Rules of Civil Procedure, Defendant has designated Bill Callan as its Wisconsin Registered Agent and may be served at its principal place of business, S45 W29290 State Road 59 Waukesha, WI 53189-9071.

II. JURISDICTION AND VENUE

3. This is an action for infringement of United States patents under 35 U.S.C. §§ 271, *et seq.* Federal question jurisdiction is conferred to this Court over patent infringement actions action under 28 U.S.C. §§ 1331 and 1338(a).

4. Defendant is a corporation maintaining their principal place of business at S45 W29290 WI-59 Waukesha, WI 53189, within this District, and is subject to this Court's personal jurisdiction. Defendant uses and sells its products from this location as well as online. Further, Defendant has multiple manufacturing facilities within this District, specifically located in Green Lake, Waukesha, and Walworth counties. The making, using, and selling of Defendant's products form the basis for the claim of patent infringement made herein.

5. Defendant has sufficient minimum contacts with the Eastern District of Wisconsin such that this venue is fair and reasonable. Defendant has committed such purposeful acts and/or transactions in this District that it reasonably should know and expect that it could be hailed into this Court as a consequence of such activity. Defendant has transacted and, at the time of the filing of this Complaint, continues to transact business within the Eastern District of Wisconsin.

6. On information and belief, Defendant directly and/or through intermediaries, has advertised (including through websites), made, offered to sell, sold, used, imported and/or distributed products covered by patents, in this District. Further, Defendant directly and/or through intermediaries has purposefully and voluntarily placed such products in the stream of commerce knowing and expecting them to be purchased and used by consumers in Wisconsin and in this District. By way of example, Defendant offers an online website for its products. See e.g. https://www.generac.com/

7. For the reasons set forth herein, personal jurisdiction exists and venue is proper against Defendant in this District pursuant to 28 U.S.C. § 1391(c)(3) and/or 28 U.S.C. § 1400(b).

III. BACKGROUND FACTS

8. PSLC, LLC is the owner of United States Patent Nos. 10,879,727 ("the '727 Patent"), 10,892,618 ("the '618 Patent"), and 11,967,857 ("the '857 Patent") (collectively, "the

Asserted Patents" or "the Patents-in-Suit"). By way of assignment, Plaintiff is the owner of all right, title, and interest, in and to the Patents-in-Suit, with all rights to enforce the patents against infringers and to collect damages for all relevant times, including the right to prosecute this action.

9. The sole inventor named on all three Asserted Patents is Mr. Carl Cooper ("Mr. Cooper.") Mr. Cooper is a man with a lifelong passion for electronics and an electrical engineer with over five decades of experience. Mr. Cooper is a proven serial inventor with a track record of successful patent licensing on a global scale resulting in licenses to more than 70 companies and about 100 licenses. He has over 100 U.S. patents relating to various technologies including but not limited to broadcast and consumer audio and video, image processing, noise reduction, resolution enhancement, backup power generation, and load management. His patented inventions can be found in hundreds of television production and broadcasting facilities worldwide and in a multitude of flat panel televisions manufactured around the world. Mr. Cooper is also a Registered United States Patent Agent (Registration No. 34568) who has prosecuted patents for decades and prosecuted the applications for the Asserted Patents himself. Mr. Cooper is now in the twilight of his career and desires to enforce his robust and influential patent portfolio. In order to do so, Mr. Cooper has partnered with an experienced patent licensing executive to set up and manage PSLC LLC, the Plaintiff in this case. PSLC's sole asset is the Cooper patent portfolio which includes the Asserted Patents which were assigned by Mr. Cooper to PSLC.

10. On multiple occasions, beginning at least as early as 02/14/2012, Mr. Cooper attempted to make contact with Defendant to both make them aware of his inventions and attempt to enter into an agreement that could be mutually beneficial to both parties. Despite Mr. Cooper's efforts, his communications were never met with a response, even after confirmation from the postal service that they had been received by Defendant.

11. In the first of these communications, dated 02/14/2012, Mr. Cooper detailed some solutions he created to problems that Defendant and Defendant's industry were facing at the time. Mr. Cooper also detailed both the ways in which Defendant's current solution to those problems was less than ideal and his technology was superior. Namely, Mr. Cooper identified the problem of creating a generator that was both affordable and efficient for customers yet still large enough to have a maximum capability that would not be overloaded. In order to combat that problem, Mr. Cooper invented an improved Load Control System which among other features and capabilities allows for the sensing of conditions which affect the maximum available output power of a generator and the using of those conditions along with the characterization of the generator to determine what the maximum available short-term and long-term available output power is at a given time. The Load Control System utilizes intelligent timing for connecting and disconnecting loads to the one or more power sources of a power system so the total load on any power source is kept below its maximum output capability, stopping potential overloads. After waiting an entire month with no response, Mr. Cooper followed up with Defendant a month later on 03/15/2012. To Mr. Cooper's surprise, Defendant never even acknowledged his letters.

12. In the next set of these communications, dated 01/24/2021, Mr. Cooper once again contacted Defendant to make them aware of his inventions and offered to enter into an agreement that could be mutually beneficial to both parties. In this attempt, Mr. Cooper specifically references the several years of hard work he has put into "working on backup power systems, and in particular those using load controls to prevent overloading." Mr. Cooper also referenced two of the Asserted Patents, the '727 and '618 patent, and noted that Defendant "appears to be moving toward backup power systems which rely heavily on load control to prevent power source overloading," or in other words, Defendant appeared to be moving towards using his patented technology to improve

their products by using the methods he described in his initial communication from 02/14/2012. Once again, Defendant did not respond to the communication.

13. Plaintiff is entitled to past damages on any indirect infringement claims starting at least as early as 01/24/2021 because Defendant's knowledge of Mr. Cooper's work is unquestionable and satisfies the definition of notice provided by 35 U.S.C. § 287. Defendant had actual knowledge of Mr. Cooper's patents and received written notification regarding the patents. The previously described written attempts by Mr. Cooper to communicate with the Defendant regarding an amicable business relationship put Defendant on notice of his inventions and extensive work in this space. If there is any doubt about Defendant's actual knowledge of Mr. Cooper's patents, Mr. Cooper's '727 Patent was both cited by the Examiner and the grounds for a Final Rejection under 35 U.S.C. (§) 102(a)(2) in the prosecution of one of Defendant's patents, Patent No. 11,831,197, filed on 07/29/2021.

IV. THE ASSERTED PATENTS

14. On May 26, 2011, Mr. Cooper's Provisional Patent Application No. 61/490,253 was filed with the Patent Office, and ultimately a series of patent applications would be filed resulting in the issuance of the Asserted Patents. As previously stated, there are three Asserted Patents, the '727 Patent, the '618 Patent, and the '857 Patent. The Asserted Patents are entitled to a priority date of 05/26/2011 based on the initial provisional patent application and issued on 12/29/2020 ('727 Patent), 01/12/2021 ('618 Patent), and 04/23/2024 ('857 Patent) respectively.

15. As set forth in the Background of the Invention, the Asserted Patents relate generally to the field of backup power sources and load management devices, more particularly, to a method of controlling the load presented to a power source such as a backup power generator by selectively connecting, disconnecting, limiting, and controlling various loads in order to avoid

overloads. Overloads are generally undesirable and can cause deviation from power output specifications, loss of power, damage, or combinations thereof.

16. Mr. Cooper's invention provided significant improvements over the Prior Art because his technology allows for power sources of a smaller size than previously feasible to be used without being overloaded. Before Mr. Cooper's invention, there was a serious problem around creating backup power sources that were economically feasible for buyers but at the same time large enough that they would not easily overload. Mr. Cooper's invention has allowed for the production and use of backup power sources which are economically attractive to consumers, more resistant against overloads, and much more reliable overall. In one embodiment, Mr. Cooper achieved this feat by transforming load control into a proactive process wherein loads that would potentially overload a power source are detected before they are allowed to draw power from the power source and cause an overload. This is a far superior method of protecting power sources in comparison to the reactive measures being deployed in the Prior Art wherein loads would not be detected until an overload had already occurred.

17. The Asserted Claims are directed towards patent eligible concepts and are not directed towards an abstract idea. The Asserted Claims originate from a technical field (e.g., backup power sources and load control systems) and focus on problems specifically arising in such field as described in the Background of the invention and discussed above. The Asserted Clams focus on improvements to power system functionality and elements including hardware and associated components in a specific, concrete way, and those specific improvements are found directly in the Asserted Claims. The Asserted Claims of the Asserted Patents capture concepts not well-understood, routine, or conventional in the art. The non-conventional and non-generic use and arrangement of components disclosed by the patents achieves a technological solution to a

technological problem specific to power systems and backup power sources, and results in a new and novel way for protecting against overloads, increasing affordability of generators for homes and small businesses, and improving the reliability of power sources.

18. The Asserted Patents offer novel solutions to existing drawbacks in the field. The state of the Prior Art can be seen through Figures 1-3 of the Asserted Patents. Figure 3 shows a simplified circuit diagram of a prior art power backup system like that of the Generac Nexus LTS Load Shed System which contains Generac DLM Load Control contactors. These are not Accused Products but are two types of products representative of the Prior Art at the time, used by Defendant before their use of Mr. Cooper's technology, and mentioned in Mr. Cooper's initial communications to Defendant as well as the Asserted Patents. These prior art systems functioned to sense the uncontrolled frequency of the AC power produced by the internal combustion generator to sense when the generator was already overloaded and subsequently shed nonessential circuits in an attempt to afford protection to the generator. This previous solution to the problem of overloads had substantial shortcomings because the solutions were only effective after the generator was already overloaded which can often led to overheating, instability, and damage to the generator.

19. One simplified embodiment of the Asserted Patents' novel solution can be found in Figure 4 of the Asserted Patents. Figure 4 details a simplified diagram to enable one of ordinary skill in the art to understand and practice the invention in small backup power systems. Figure 4 illustrates a load switch which is responsive to load control via a communications link and operable to connect and disconnect representative loads from power coming from the transfer switch. ('727 22:7-13). This is specifically accomplished via the Load Control's ability to open and close the load switches controlling when power is able to flow through the contactors to power the loads

and importantly, is accomplished before the load is able to draw power from the power source. It is this critical shift in timing of the load control component that stops the system from having to experience an overload to begin with.

V. THE ACCUSED PRODUCTS

20. Defendant makes, sells, offers for sale, and/or imports into the United States backup power sources and load management devices including the Accused Products. Defendant's online website may be accessed at https://www.generac.com/.

21. The Accused Products made by Defendant include but are not limited to its PWRManager, PWRcell Battery, PWRcell Inverter, PV Link Substring Optimizer, PWRcell Automatic Transfer Switch (PWRcell ATS), PWRGenerator, Smart Management Modules (SMMs), and PWRView App. Oftentimes, when used together, as Generac suggests, the Accused Products make up Generac PWRcell Systems.

22. Defendant's systems are commonly used for homes or small businesses that receive single or multiple phase Alternating Current ("A.C.") electric power, oftentimes from a power grid. Specifically, Defendant's products are particularly useful in situations where the power grid is either non-functional or not producing power at the amount required to power the loads demanding power from the system. At the heart of the system is the PWRcell Inverter. In situations where power from the A.C. grid is insufficient or not being produced, the Inverter is able to convert Direct Current ("D.C.") power provided by the Photovoltaic ("PV") Array and/or PWRcell Battery to A.C. power to power loads. This functionality is made possible by the PWRcell ATS which disconnects the power grid in the case of grid failure and directs power from the backup power source(s) which include but are not limited to one or more of the PV Array, PWRcell Battery, PWRgenerator, and PWRcell Inverter, to the Main Distribution Panel which allows the loads to

continue to be powered. Alternatively, in situations where there is excess power, power can flow through the Inverter to charge the PWRcell Battery for future use. In situations where there is excess power available from the PV array or power grid, the system can also allow power to flow from the PV Array back into the grid in order to receive a credit from the utility company. Depending on the system, Defendant uses the PWRmanager or SMMs to protect the Inverter by preventing overloads. As previously mentioned, protecting the Inverter from overloads through load control is one of Mr. Cooper's key improvements to the technology present in many distinct embodiments.

23. In order to protect the PWRcell Inverter from overloads, Defendant uses load control through the use of their PWRmanager and SMMs. Defendant describes how their SMMs allow PWRcell to make the most of its leading backup power capabilities by preventing overloads and allowing for power usage management. Further, Defendant touts their advanced load management device, the PWRmanager which prevents the PWRcell system from being overloaded. *See* e.g. https://www.generac.com/globalassets/residential/solar-power-storage/pwrcell--overview/brochure_pwrcellconsumerguide_2024_v2-5_.pdf

COUNT 1: PATENT INFRINGEMENT OF U.S. PATENT NO. 10,879,727

24. Plaintiff repeats and re-alleges all preceding paragraphs of this Complaint, including those describing the features and operation of the Accused Products, as though fully set forth herein.

25. On December 29, 2020, United States Patent No. 10,879,727 ("the '727 Patent") was duly and legally issued for a "POWER SOURCE LOAD CONTROL." As of the filing of this Complaint, the '727 patent remains in force and is presumed valid. A true and correct copy of the '727 Patent is attached hereto as Exhibit "A" and made a part hereof.

26. PSLC is the owner of all right and title in the '727 Patent, including all rights to enforce and prosecute actions for infringement of the '727 Patent and to collect damages for all relevant times against infringers of the '727 Patent. Accordingly, PSLC possesses the exclusive right and standing to prosecute the present action for infringement of the '727 Patent by Defendant.

27. In typical embodiments, the power grid will be connected via a service connection to the transfer switch and distribution panels and the transfer switch shall transfer power from the generator to the loads in place of the failed grid power. As supported by the specification of the '727 Patent, "Generator" is also intended to encompass other power source devices including wind turbines, solar panels, fuel cells, flywheels, batteries, water, wind, or steam turbines, and may incorporate a DC to AC Inverter circuit, generator or alternator to provide electricity when electricity is the desired output. (Column 13 Lines 43-49 of the '727 Patent). This type of typical embodiment is just like what can be seen in Defendant's systems.

28. Claim 37 of the '727 Patent reads as follows:

> An apparatus for controlling power provided from a plurality of power sources to a group of loads, the apparatus including:
>
> (a) a small backup power system transfer switch which is controllable to select a power grid service circuit or a DC to AC Inverter to power a group of loads, the DC to AC Inverter being powered by a battery with the battery being charged by a battery charger, the power grid service circuit and the DC to AC Inverter each having a maximum output current capability;
>
> (b) a processor circuit being programmed to control the transfer switch and the DC to AC Inverter to power one or more loads of the group of loads including the battery charger from the power grid when the power grid operates at an acceptable voltage and to cause

the one or more loads of the group of loads but not the battery charger to be powered by the DC to AC Inverter when the power grid does not operate at the acceptable voltage;

(c) the processor circuit being programmed to timely monitor the current provided to the loads by said DC to AC Inverter and to prevent exceeding the maximum current capacity of the DC to AC Inverter.

29. Figure 8-1, a diagram found in Defendant's PWRmanager Installation Manual, is an example of one of Defendant's infringing systems and is being shown to aid in explanation of how the Accused Products infringe Claim 37 of the '727 Patent:

New PWRcell Installation Including Load Management

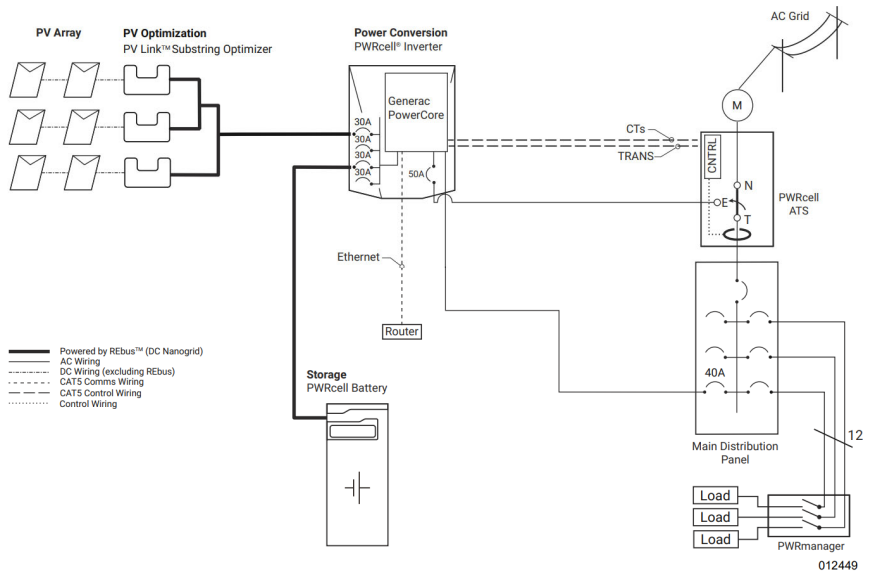


Figure 8-1. New PWRcell Installation Including Load Management

30. Displayed in Figure 8-1 above is an apparatus for controlling power provided from a plurality of power sources which include the AC grid, PV Array, PWRcell Inverter, and PWRcell Battery, to the group of loads seen in the bottom right-hand corner of the diagram. Also displayed is a backup power system transfer switch in the form of the PWRcell ATS which can select either the AC power grid service circuit or the PWRcell Inverter to power the group of loads, where the Inverter is powered by the PWRcell Battery which is charged via the Rebus nanogrid which allows

for DC power flow between the Inverter and PWR cell Battery. Further, the PWRcell Inverter has a maximum output capability specified in Defendant's specifications. *See,* e.g.

https://ressupply.com/documents/generac/XVT076A03_Installation_Manual.pdf

The system above also contains a processor circuit programmed to control the ATS with processors located both on the Inverter and in the PWRmanager. When the AC grid pictured in the top right corner of the Figure is operating at an acceptable voltage, the battery may be charged with DC power via the Inverter to store power for use at a later time. When the AC grid does not operate at an acceptable voltage, DC power from the backup battery can be sent through the Inverter and converted to AC power used to power the group of loads. The described processor circuit is used to timely monitor the current provided to the loads by the Inverter and prevent the Inverter's maximum output power capacity from being exceeded. Thus, in summary, Defendant is using an apparatus for controlling the powering of loads from a plurality of power sources including the PWRcell Inverter and AC Grid via its use of the PWRcell ATS and its corresponding processor circuit which is used to monitor the Inverter's capacity and prevent overloads.

31. Defendant, without authority, consent, right, or license, and in direct infringement of the '727 Patent, makes, has made, uses, imports sells, and distributes the Accused Products, which comprise the components and functionality described above, and which infringe at least claim 37 of the '727 Patent, among others. Defendant's actions constitute direct infringement, either literally or under the doctrine of equivalents, of at least claim 37 of the '727 Patent.

32. Defendant actively induces infringement of one or more of the claims of the '727 Patent by its customers and end users of at least the Accused Products and is therefore liable for

indirect infringement under 35 U.S.C. § 271(b). A customer's use of the Accused Products in the manners described above infringes at least claim 37 of the '727 Patent.

Defendant knows that the Accused Products are especially designed for and marketed toward infringing use by its customers. Defendant has induced, caused, urged, encouraged, aided and abetted its direct and indirect customers to make, use, sell, offer for sale and/or import one or more of the Accused Products. Plaintiff is entitled to damages for indirect infringement under 35 U.S.C. § 271(b) as of the date that Defendant had notice of the '727 Patent which is at least as early as 01/24/2021 based on Mr. Cooper's written communication.

33. Additionally, Defendant provides step-by-step instructions for installation, setup, and use of Accused Products to operate in a manner that directly infringes, either literally or under the doctrine of equivalents, at least claim 37 of the '727 Patent. See, e.g. https://ressupply.com/documents/generac/XVT076A03_Installation_Manual.pdf These instructions are provided by Defendant as user manuals and online content made available by Defendant for its customers and distributors. Such conduct by Defendant was intended to and actually did result in direct infringement by Defendant's direct and indirect customers, including the making, using, selling, offering for sale, and/or importation of the Accused Products in the United States. On information and belief, Defendant provides and will continue to provide encouragement and/or instructions, such as its website literature and instructions on its software application, that encourage and/or instruct its customers to use, and use in the future, the Accused Products in an infringing manner, specifically intending such customers will operate the Accused Products in such a manner, and knowing of such actions, which constitutes infringement of one or more claims as set forth herein. Defendant engages in such inducement knowingly based on the actual and written notice of the '727 Patent as discussed above.

34. Defendant contributes to the infringement of at least claim 37 of the '727 Patent by its customers and end users of at least the Accused Products and is therefore liable for indirect infringement under 35 U.S.C. § 271(c). The Accused Products are especially designed to provide backup power sources and load management devices in the manners described above which infringe at least claim 37 of the '727 Patent. Upon information and belief, the Accused Products have no substantial non-infringing use, as they are specifically designed and marketed for use in the installation and operation of backup power sources and load management devices. Setup and use of the Accused Products by Defendant's customers constitutes direct infringement, either literally or under the doctrine of equivalents, of at least claim 37 of the '727 Patent. Plaintiff is entitled to damages for indirect infringement under 35 U.S.C. § 271(c) as of the date that Defendant had notice of the '727 Patent which is at least as early as 01/24/2021 as discussed above.

35. Plaintiff has been damaged as a result of Defendant's infringing conduct. Defendant is, thus, liable to Plaintiff in an amount that adequately compensates for its infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

36. Based on Defendant's knowledge of the '727 Patent described earlier and of Plaintiff's allegations of patent infringement presented herein since the filing of this Complaint, if not earlier, as well as Defendant's objective recklessness in continuing to offer for sale and selling the Accused Products since that time, Defendant's infringement has been willful and entitles Plaintiff to enhanced damages under 35 U.S.C. § 284.

COUNT 2: PATENT INFRINGEMENT OF U.S. PATENT NO. 10,892,618

37. On January 12, 2021, United States Patent No. 10,892,618 ("the '618 Patent") was duly and legally issued for a "POWER SOURCE LOAD CONTROL." As of the filing of this

Complaint, the ‘618 patent remains in force and is presumed valid. A true and correct copy of the ‘618 Patent is attached hereto as “Exhibit B” and made a part hereof.

38. PSLC is the owner of all right and title in the ‘618 Patent, including all rights to enforce and prosecute action for infringement of the ‘618 Patent and to collect damages for all relevant times against infringers of the ‘618 Patent. Accordingly, PSLC possesses the exclusive right and standing to prosecute the present action for infringement of the ‘618 Patent by Defendant.

39. In typical embodiments, the power grid will be connected via a service connection to the transfer switch and distribution panels and the transfer switch shall transfer power from the generator to the loads in place of the failed grid power. As supported by the specification of the ‘618 Patent, “Generator” is also intended to encompass other power source devices including wind turbines, solar panels, fuel cells, flywheels, batteries, water, wind, or steam turbines, and may incorporate a DC to AC Inverter circuit, generator or alternator to provide electricity when electricity is the desired output. (Column 13 Lines 45-52 of the ‘618 Patent). This type of typical embodiment is just like what can be seen in Defendant’s systems.

40. Claim 17 of the ‘618 Patent reads as follows:

> In a home or business which receives standard single or multiple phase voltage and frequency A.C. electric power for a group of loads from a primary first power source connected at a service connection in the home or business, a small backup power system comprising: a second power source providing A.C. electrical power at the same standard voltage and frequency as a first power source connected at a service connection to a home or business and providing power to a group of loads, the second power source not being capable of simultaneously powering all of the loads of the group of loads; a transfer switch having an output, a first input coupled to a first power source and a second input coupled

to the second power source with the transfer switch operating to select the first or the second power source to provide power via the transfer switch output for at least some loads of the group of loads; a first load coupler comprising:

a) a contactor having one or more each of line and load terminals for wiring the contactor in series in the electric circuit from the transfer switch output to the power input of a corresponding first load, the line terminal receiving power from the transfer switch output and the load terminal providing that power to the first load when the contactor is closed,

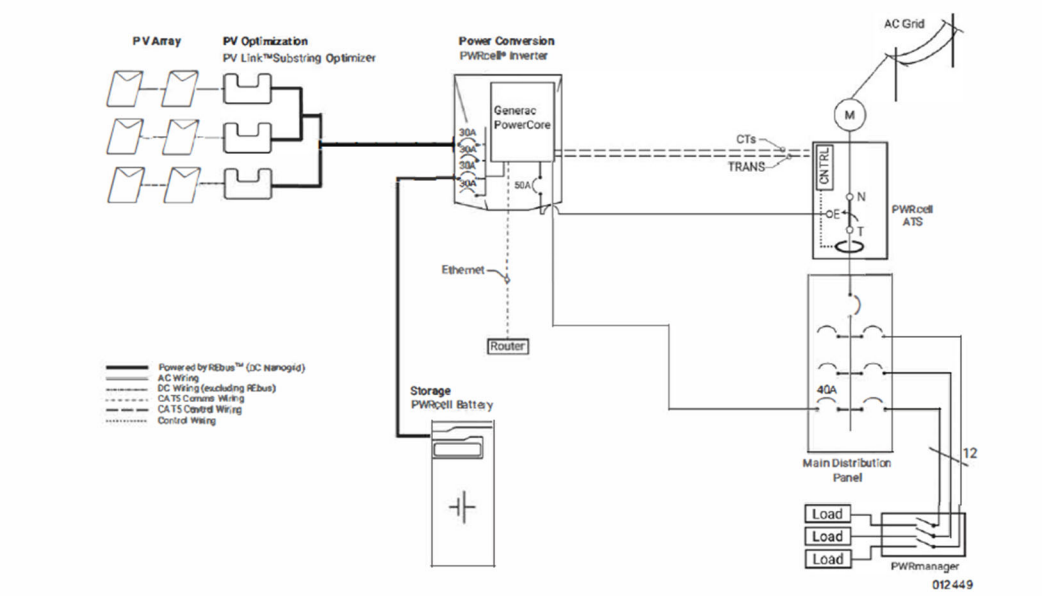
b) a power supply having an input responsive to the power at the contactor line terminal and an output for providing power to a processor circuit,

c) the processor circuit executing steps of a program and being coupled to and controlling the contactor to open and close to thereby control coupling of power from the transfer switch output to the first load, the processor circuit normally causing the contactor to be closed to provide power to the first load,

d) a user input circuit coupled to the processor circuit and enabling a user who is an installer to configure the first load coupler to operate with the first load,

e) the processor circuit being programmed to cause a load shed in response to at least one of an actual or potential overload of the second power source and further operating to close the contactor to resupply power to the first load after at least a known time period after the load shed with the known time period being responsive to the first load coupler configuration by the installer.

41. For ease of reference, Figure 8-1 is being shown once again to aid in the explanation of how the Accused Products infringe Claim 17 of the ‘618 Patent:



42. Displayed in Figure 8-1 above is a small backup power system for use in a home or business which receives A.C. electric power for a group of loads from a primary first power source, the AC grid, a second power source, the PWRcell Inverter, which provides A.C. electrical power at the same standard voltage and frequency as the A.C. grid but is not capable of simultaneously powering all the loads as reflected by the presence of the PWRmanager electrically located between the PWRcell Inverter output and the corresponding loads. Also included is the PWRcell ATS which has an output, T, with a first input, N, which is coupled to the grid, and a second input, E, which is coupled to the Inverter, where the ATS operates to select the A.C. Grid or Inverter to provide power for at least some of the group of loads. Also included in the system is a first load coupler which comprises a contactor in the form of a PWRmanager or SMMs depending on the system which have line terminals connected to relays and/or contactors and load terminals connected to loads. When the contactor is closed, power is coupled to the load via the power supply and when the contactor is open, no power will flow to the load. Further, the processor circuit is coupled to the contactor and controls the opening and closing of the contractor to control coupling of power from the transfer switch output T to the first load connected to the load connection of the

contactor. The contactor is thus caused to be closed to power the first load. The system further contains a user input circuit which is coupled to the processor wherein a WiFi Access Point allows an installer to configure the first load coupler to operate with the first load via a mobile device. This allows an installer to provide inputs to the processor circuit. These inputs provide for configuration of the load coupler by the installer when it is installed to operate with the loads. The processor circuit is further programmed to cause load shed stopping the load from powered via the PWRmanager for both an actual or potential overload of the Inverter to avoid the overload and is also programmed to resupply power to the loads a set period of time after load shed occurred. Thus, in summary, Defendant is using a small backup power system comprising a second power source, the Inverter, to provide power to a group of loads in conjunction with a transfer switch, the PWRcell ATS, programmed to select either the AC grid or Inverter to provide power along with a load coupler, the PWRmanager, responsive to the processor circuit, that powers or sheds loads dependent upon the capacity of the power source.

43. Defendant, without authority, consent, right, or license, and in direct infringement of the ‘618 Patent, makes, has made, uses, imports, sells, and distributes the Accused Products, which comprise the components and functionality described above, and which infringe at least claim 17 of the ‘618 Patent, among others. Defendant’s actions constitute direct infringement, either literally or under the doctrine of equivalents, of at least claim 17 of the ‘618 Patent.

44. Defendant actively induces infringement of one or more of the claims of the ‘618 Patent by its customers and end users of at least the Accused Products and is therefore liable for indirect infringement under 35 U.S.C. § 271(b). A customer’s use of the Accused Products in the manners described above infringes at least claim 17 of the ‘618 Patent. Defendant knows that the Accused Products are especially designed for and marketed toward infringing use by its customers.

Defendant has induced, caused, urged, encouraged, aided and abetted its direct and indirect customers to make, use, sell, offer for sale and/or import one or more of the Accused Products. Plaintiff is entitled to damages for indirect infringement under 35 U.S.C. § 271(b) as of the date that Defendant had notice of the '618 Patent which is at least as early as 01/24/2021 based on Mr. Cooper's written communication.

45. Additionally, Defendant provides step-by-step instructions for installation, setup, and use of Accused Products to operate in a manner that directly infringes, either literally or under the doctrine of equivalents, at least claim 17 of the '618 Patent. See, e.g. https://ressupply.com/documents/generac/XVT076A03_Installation_Manual.pdf These instructions are provided by Defendant as user manuals and online content made available by Defendant for its customers and distributors. Such conduct by Defendant was intended to and actually did result in direct infringement by Defendant's direct and indirect customers, including the making, using, selling, offering for sale, and/or importation of the Accused Products in the United States. On information and belief, Defendant provides and will continue to provide encouragement and/or instructions, such as its website literature and instructions on its software application, that encourage and/or instruct its customers to use, and use in the future, the Accused Products in an infringing manner, specifically intending such customers will operate the Accused Products in such a manner, and knowing of such actions, which constitutes infringement of one or more claims as set forth herein. Defendant engages in such inducement knowingly based on the actual and written notice of the '618 Patent as discussed above.

46. Defendant contributes to the infringement of at least claim 17 of the '618 Patent by its customers and end users of at least the Accused Products and is therefore liable for indirect infringement under 35 U.S.C. § 271(c). The Accused Products are especially designed to provide

backup power sources and load management devices in the manners described above infringes at least claim 17 of the '618 Patent. Upon information and belief, the Accused Products have no substantial non-infringing use, as they are specifically designed and marketed for use in the installation and operation of backup power sources and load management devices. Setup and use of the Accused Products by Defendant's customers constitutes direct infringement, either literally or under the doctrine of equivalents, of at least claim 17 of the '618 Patent. Plaintiff is entitled to damages for indirect infringement under 35 U.S.C. § 271(c) as of the date that Defendant had notice of the '618 Patent which is at least as early as 01/24/2021 as described above.

47. Plaintiff has been damaged as a result of Defendant's infringing conduct. Defendant is, thus, liable to Plaintiff in an amount that adequately compensates for its infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

48. Based on Defendant's knowledge of the '618 Patent described earlier and of Plaintiff's allegations of patent infringement presented herein since the filing of this Complaint, if not earlier, as well as Defendant's objective recklessness in continuing to offer for sale and selling the Accused Products since that time, Defendant's infringement has been willful and entitles Plaintiff to enhanced damages under 35 U.S.C. § 284.

COUNT 3: PATENT INFRINGEMENT OF U.S. PATENT NO. 11,967,857

49. On April 23, 2024, United States Patent No. 11,967,857 ("the '857 Patent") was duly and legally issued for a "POWER SOURCE LOAD CONTROL." As of the filing of this Complaint, the '857 patent remains in force and is presumed valid. A true and correct copy of the '857 patent is attached hereto as Exhibit "C" and made a part hereof.

50. PSLC is the owner of all right and title in the '857 Patent, including all rights to enforce and prosecute action for infringement of the '857 Patent and to collect damages for all relevant times against infringers of the '857 Patent. Accordingly, PSLC possesses the exclusive right and standing to prosecute the present action for infringement of the '857 Patent by Defendant.

51. In typical embodiments, the power grid will be connected via a service connection to the transfer switch and distribution panels and the transfer switch shall transfer power from the generator to the loads in place of the failed grid power. As supported by the specification of the '857 Patent, "Generator" is also intended to encompass other power source devices including wind turbines, solar panels, fuel cells, flywheels, batteries, water, wind, or steam turbines, and may incorporate a DC to AC Inverter circuit, generator or alternator to provide electricity when electricity is the desired output. (Column 13 Lines 45-51 of the '857 Patent). This type of typical embodiment is just like what can be seen in Defendant's systems.

52. Claim 1 of the '857 patent reads as follows:

> A power system which provides A.C. power with a controlled A.C. frequency to assist in managing the loading thereof, the power system comprising:
>
> (a) a non-utility type power source comprising an Inverter which provides single or multiple phase output A.C. power to one or more of a plurality of loads, the power source having at least one maximum output power parameter which if exceeded causes an overload of the power source, the output A.C. power having an A.C. frequency, which frequency is controlled in response to the timely amount of the output A.C. power;
>
> (b) a power sensing circuit which may be part of the power source or otherwise and is responsive to the timely amount of the output A.C. power, the power source operating in response to the power sensing circuit to control the frequency of the output A.C. power to

have a first frequency when the power source is not over-loaded and a second frequency when the power source is overloaded or is near to being overloaded;

(c) a processor circuit comprising one or more processors responsive to the output A.C. power, the processor circuit operating in response to the occurrence of the second frequency to control the output A.C. power consumed by at least one load of the one or more loads thereby helping to prevent or alleviate an overload of the power source.

53. For ease of reference, Figure 8-1 is being shown once again to aid in the explanation of how the Accused Products infringe Claim 1 of the '857 Patent:

New PWRcell Installation Including Load Management

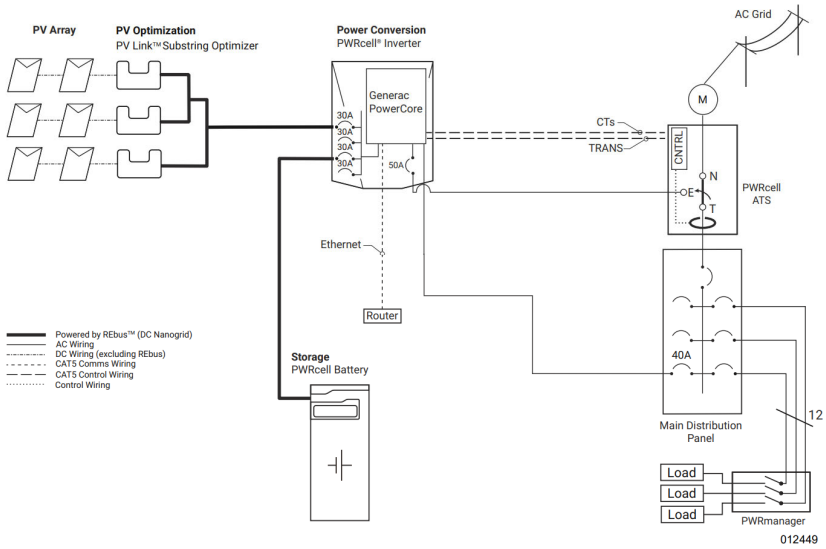


Figure 8-1. New PWRcell Installation Including Load Management

54. Displayed in Figure 8-1 above is a power system which provides A.C. power with a controlled A.C. frequency to assist in managing loads. Shown above are two non-utility type power sources, namely the PV Array and the PWRcell Battery which also comprise the PWRcell Inverter which provides output A.C. output power to one or more of a plurality of loads where the PWRcell Inverter has a maximum output power parameter detailed in Defendant's specifications which if exceeded would cause an overload of the power source. Further, the output A.C. power

has an A.C. frequency controlled in response to the timely amount of the A.C. power. Also located in Figure 8-1 is a power sensing circuit wherein the Current Transformers (CTs in the diagram) on the output circuit from the T of the PWRcell ATS provide timely power output parameters to the PWRmanager via the CTs connection to the CNTRL. The CTs on the ATS also measure the timely amount of power from the Inverter's 50A output circuit breaker. The PWRcell Inverter then responds to this current information provided to it by the CTs and controls the frequency of its power in response to the level of the loads. The processor circuit comprises multiple processors located in the Inverter and the PWRmanager. The first processor in the Inverter monitors the output AC power via CTs or an internal sensor in the Inverter and controls the output frequency to be 60 Hz when the Inverter is not overloaded and below 58 Hz for at least three seconds if the Inverter is overloaded. If the Inverter changes the frequency to 58 Hz, the PWRmanager's or SMM's processor depending on the system, can disconnect one or more loads to alleviate an overload. Thus, in summary, Defendant is using a power system with a non-utility type power source to power one or more of a plurality of loads, a power sensing circuit that the power source is responsive to which controls the frequency of the output of the A.C. power to have different frequencies based on the level of loading of the power source, and a processor circuit with one or more processors operating in response to the occurrence of the frequency associated with overload to control the power consumed by a load to avoid overload.

55. Defendant, without authority, consent, right, or license, and in direct infringement of the '857 Patent, makes, has made, uses, imports, sells, and distributes the Accused Products, which comprise the components and functionality described above, and which infringe at least claim 1 of the '857 Patent, among others. Defendant's actions constitute direct infringement, either literally or under the doctrine of equivalents, of at least claim 1 of the '857 Patent.

56. Defendant actively induces infringement of one or more of the claims of the ‘857 Patent by its customers and end users of at least the Accused Products and is therefore liable for indirect infringement under 35 U.S.C. § 271(b). A customer’s use of the Accused Products in the manners described above infringes at least claim 1 of the ‘857 Patent. Defendant knows that the Accused Products are especially designed for and marketed toward infringing use by its customers. Defendant has induced, caused, urged, encouraged, aided and abetted its direct and indirect customers to make, use, sell, offer for sale and/or import one or more of the Accused Products.

57. Additionally, Defendant provides step-by-step instructions for installation, setup, and use of Accused Products to operate in a manner that directly infringes, either literally or under the doctrine of equivalents, at least claim 1 of the ‘857 Patent. See, e.g. https://ressupply.com/documents/generac/XVT076A03_Installation_Manual.pdf These instructions are provided by Defendant as user manuals and online content made available by Defendant for its customers and distributors. Such conduct by Defendant was intended to and actually did result in direct infringement by Defendant’s direct and indirect customers, including the making, using, selling, offering for sale, and/or importation of the Accused Products in the United States. On information and belief, Defendant provides and will continue to provide encouragement and/or instructions, such as its website literature and instructions on its software application, that encourage and/or instruct its customers to use, and use in the future, the Accused Products in an infringing manner, specifically intending such customers will operate the Accused Products in such a manner, and knowing of such actions, which constitutes infringement of one or more claims as set forth herein. Defendant engages in such inducement knowingly and, at least from the time of receipt of the Complaint, has done so with knowledge that such activity encourages and/or instructs customers of its Accused Products to directly infringe the Patents.

58. Defendant contributes to the infringement of at least claim 1 of the ‘857 Patent by its customers and end users of at least the Accused Products and is therefore liable for indirect infringement under 35 U.S.C. § 271(c). The Accused Products are especially designed to provide backup power sources and load management devices in the manners described above which infringe at least claim 1 of the ‘857 Patent. Upon information and belief, the Accused Products have no substantial non-infringing use, as they are specifically designed and marketed for use in the installation and operation of backup power sources and load management devices. Setup and use of the Accused Products by Defendant’s customers constitutes direct infringement, either literally or under the doctrine of equivalents, of at least claim 1 of the ‘857 Patent.

59. Plaintiff has been damaged as a result of Defendant’s infringing conduct. Defendant is, thus, liable to Plaintiff in an amount that adequately compensates for its infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

60. Based on Defendant’s knowledge of the ‘857 Patent and of Plaintiff’s allegations of patent infringement presented herein since the filing of this Complaint, if not earlier, as well as Defendant’s objective recklessness in continuing to offer for sale and selling the Accused Products since that time, Defendant’s infringement has been willful and entitles Plaintiff to enhanced damages under 35 U.S.C. § 284.

VI. JURY DEMAND

61. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court find in its favor and against Defendant, and that the Court grant Plaintiff the following relief:

a. Judgment that one or more claims of the Asserted Patents have been directly infringed, either literally or under the doctrine of equivalents, by Defendant;

b. Judgment that one or more of the claims of the Asserted Patents have been directly infringed by others and indirectly infringed by Defendant, to the extent Defendant contributed to or induced such direct infringement by others;

c. Judgment that Defendant account for and pay to Plaintiff all damages to and costs incurred by Plaintiff because of Defendant's infringing activities and other conduct complained of herein, including enhanced damages as permitted by 35 U.S.C. § 284;

d. Judgment that Defendant's infringement be found to be willful from the time Defendant became aware of its infringement, and that the Court award treble damages for the period of such willful infringement pursuant to 35 U.S.C. § 284;

e. That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities;

f. That the Court declare this an exceptional case and award Plaintiff its reasonable attorney's fees and costs in accordance with 35 U.S.C. § 285;

g. That Defendant, its officers, agents, servants and employees, and those persons in active concert and participation with any of them, be permanently enjoined from infringement of one or more claims of the Asserted Patents or, in the alternative, if

the Court finds that an injunction is not warranted, Plaintiff requests an award of post judgment royalty to compensate for future infringement; and

h. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

Date: 10/07/2024

Respectfully submitted,

/s/ Jonathan T. Suder

Jonathan T. Suder
Texas State Bar No. 19463350
Dave R. Gunter
Texas State Bar No. 24074334
FRIEDMAN, SUDER & COOKE
604 East 4th Street, Suite 200
Fort Worth, TX 76102
817-334-0400
Fax: 817-334-0401
jts@fsclaw.com
gunter@fsclaw.com

ATTORNEYS FOR PLAINTIFF PSLC LLC