

**Brenna K. Legaard, OSB No. 00165**

E-mail: brenna@chernofflaw.com

**Susan D. Pitchford, OSB No. 98091**

E-mail: sdp@chernofflaw.com

**CHERNOFF, VILHAUER, McCLUNG & STENZEL, LLP**

601 SW Second Avenue, Suite 1600

Portland, Oregon 97204

Telephone: (503) 227-5631

Fax: (503) 228-4373

Attorneys for Plaintiffs, SUNPOWER CORPORATION, SYSTEMS

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

**SUNPOWER CORPORATION, SYSTEMS,**  
a Delaware corporation,

Plaintiff,

v.

**SUNLINK CORPORATION,** a Delaware  
corporation; **ADVANCED ENERGY**  
**SYSTEMS LLC,** an Oregon limited liability  
company,

DefendantS.

Case No. \_\_\_\_\_

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**JURY TRIAL REQUESTED**

**PATENT CASE**

Plaintiff SunPower Corporation hereby alleges as follows:

## **THE PARTIES**

1. SunPower Corporation, Systems (“SunPower”) is incorporated under the laws of the state of Delaware, and has a regular and established place of business at 1414 Harbor Way South, Richmond, California 94804.

2. Upon information and belief, defendant SunLink Corporation is incorporated under the laws of the state of Delaware, with its headquarters located at 100 Larkspur Landing Circle, Larkspur, California 94939.

3. Upon information and belief, defendant Advanced Energy Systems LLC is organized under the laws of the state of Oregon, with its headquarters located at 2990 Forest Boulevard, Eugene, Oregon 97405. (SunLink Corporation and Advanced Energy Systems LLC hereinafter collectively, “SunLink et al.”)

## **JURISDICTION AND VENUE**

4. This action arises under the patent laws of the United States, Title 35 U.S.C. § 1 et seq. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. Upon information and belief, this Court has personal jurisdiction over defendant Advanced Energy Systems LLC because it is organized, doing business, and advertising in this judicial District.

6. Upon information and belief, this Court has personal jurisdiction over defendant SunLink Corp. because defendant makes, uses, offers for sale, and/or sells products in this

judicial District that infringe the claims of one or more valid, duly issued U.S. Patents owned by plaintiff SunPower.

7. Upon information and belief, venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (c) and 1400 because the defendants are subject to personal jurisdiction in this judicial District.

### **GENERAL ALLEGATIONS**

8. SunLink Corp.'s products include its SunLink (TM) PV Module Mounting System that is used for the installation of photovoltaic energy systems on building roofs.

9. Upon information and belief, defendant SunLink Corp. manufactures the SunLink (TM) PV Module Mounting System, and directly and through its affiliates, uses, imports, sells, installs and offers to sell and install the same throughout the United States, including Oregon.

10. Upon information and belief, defendant Advanced Energy Systems LLC sells, installs, uses, imports, and offers to sell and install the SunLink (TM) PV Module Mounting System in Oregon.

### **FIRST CAUSE OF ACTION**

#### **INFRINGEMENT OF U.S. PATENT NO. 5,505,788**

11. The allegations of paragraphs 1-10 are incorporated as though fully set forth herein.

12. SunPower is now the assignee and sole owner of all right, title, and interest in United States Patent No. 5,505,788, entitled “Thermally regulated photovoltaic roofing assembly” (“the ’788 patent”), which was duly and legally issued on April 9, 1996. A true and correct copy of the ’788 patent is attached hereto as Exhibit A.

13. Upon information and belief, defendants SunLink et al. have been and are now infringing, inducing infringement, and contributing to the infringement of the ’788 patent by making, using, importing, selling and/or offering to sell devices, including the SunLink (TM) PV Module Mounting System, and/or inducing or contributing to the importation, use, offer for sale, and sale by others of such devices covered by one or more claims of the ’788 patent, all to the injury of SunPower.

14. Upon information and belief, Defendant SunLink Corp. was made aware of the ’788 patent by a February 7, 2006 letter from SunPower's predecessor, PowerLight, to SunLink Corp.'s parent company, Eastwood Energy. The letter was addressed to John Eastwood of Eastwood Energy who, on information and belief, is presently the Chairman and CFO of SunLink Corp.

15. Defendants' acts of infringement have injured and damaged SunPower.

16. Defendants' infringement has caused irreparable injury to SunPower and will continue to cause irreparable injury until defendants are enjoined from further infringement by this Court.

**SECOND CAUSE OF ACTION**

**INFRINGEMENT OF U.S. PATENT NO. RE38,988**

17. The allegations of paragraphs 1-10 are incorporated as though fully set forth herein.

18. SunPower is now the assignee and sole owner of all right, title, and interest in United States Patent No. RE38,988, entitled "Lightweight, self-ballasting photovoltaic roofing assembly" ("the '988 patent"), which was duly and legally issued on February 28, 2006. A true and correct copy of the '988 patent is attached hereto as Exhibit B.

19. Upon information and belief, defendants SunLink et al. have been and are now infringing, inducing infringement, and contributing to the infringement of the '988 patent by making, using, importing, selling and/or offering to sell devices, including the SunLink (TM) PV Module Mounting System, and/or inducing or contributing to the importation, use, offer for sale, and sale by others of such devices covered by one or more claims of the '988 patent, all to the injury of SunPower.

20. Upon information and belief, defendant SunLink Corp. was made aware of the then-pending application, 10/414,347 from which the '988 patent issued, by a February 7, 2006 letter from SunPower's predecessor, PowerLight, to SunLink Corp.'s parent company, Eastwood Energy. The letter was addressed to John Eastwood of Eastwood Energy who, on information and belief, is presently the Chairman and CFO of SunLink Corp.

21. Defendants' acts of infringement have injured and damaged SunPower.

22. Defendants' infringement has caused irreparable injury to SunPower and will continue to cause irreparable injury until defendants are enjoined from further infringement by this Court.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests the following relief:

- (a) judgment against defendants as to infringement of the '788 patent;
- (b) judgment against defendants as to infringement of the '988 patent;
- (c) a permanent injunction preventing defendants and their officers, directors, agents, servants, employees, attorneys, licensees, successors, assigns, and customers, and those in active concert or participation with any of them, from making, using, importing, offering to sell or selling any device that infringes any claim of the '788 or '988 patents;
- (d) judgment against defendants for money damages sustained as a result of defendants' infringement of the '788 and '988 patents;
- (e) costs and reasonable attorneys' fees incurred in connection with this action pursuant to 35 U.S.C. § 285;
- (f) an accounting for any additional damages accrued before entry of judgment; and
- (g) such other and further relief as this Court finds just and proper.

**JURY DEMAND**

Plaintiff requests trial by jury.

DATED: February 5, 2008

CHERNOFF, VILHAUER, McCLUNG &  
STENZEL, LLP



Brenna K. Legaard, OSB No. 00165

Susan D. Fitchford, OSB No. 98091

Telephone: (503) 227-5631

Of Attorneys for Plaintiff