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**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

**PORTLAND DIVISION**

E. I. DU PONT DE NEMOURS AND  
COMPANY, a Delaware corporation,

Plaintiff,

v.

HERAEUS MATERIALS TECHNOLOGY,  
LLC, a Delaware corporation, and  
SOLARWORLD INDUSTRIES AMERICA,  
INC., an Oregon corporation,

Defendants.

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Case No. 3:12-CV-1104

COMPLAINT FOR PATENT  
INFRINGEMENT

JURY TRIAL DEMANDED

## **COMPLAINT**

Plaintiff E. I. du Pont de Nemours and Company (“DuPont”) brings this Complaint for patent infringement against Defendants Heraeus Materials Technology, LLC (“Heraeus”) and SolarWorld Industries America, Inc. (“SolarWorld”), and alleges as follows:

### **NATURE OF THE ACTION**

1. This is an action for patent infringement arising under the patent laws of the United States, including 35 U.S.C. § 271 and §§ 281-285.
2. This lawsuit pertains to the Defendants’ infringement of U.S. Patent Number 8,158,504 (the “’504 Patent”), entitled “CONDUCTIVE COMPOSITIONS AND PROCESSES FOR USE IN THE MANUFACTURE OF SEMICONDUCTOR DEVICES – ORGANIC MEDIUM COMPONENTS.”

### **PARTIES**

3. Plaintiff DuPont is a corporation organized and existing under the laws of the state of Delaware, with a principal place of business located at 1007 Market Street, Wilmington, Delaware 19898. DuPont is a world leader in science innovation in markets including agriculture and food, building and construction, electronics and communications, general industry, and transportation. DuPont is also a leading supplier of front-side silver photovoltaic pastes.
4. Defendant Heraeus Materials Technology, LLC is a corporation organized and existing under the laws of the state of Delaware, with a principal place of business at 24 Union Hill Road, West Conshohocken, Pennsylvania 19428. Upon information and belief, Heraeus is a business involved in, among other things, the processing of precious and platinum group metals as well as a comprehensive range of special metals.

5. Defendant SolarWorld Industries America, Inc., is a corporation organized and existing under the laws of the state of Oregon, with a principal place of business at 25300 NW Evergreen Rd., Hillsboro, Oregon 97124. Upon information and belief, SolarWorld is a business involved in solar power technology, including production of photovoltaic cells.

### **JURISDICTION AND VENUE**

6. This action arises under the Patent Laws of the United States, 35 U.S.C. § 101 *et seq.*, including 35 U.S.C. § 271. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, and 1338(a).

7. This Court has personal jurisdiction over Heraeus because, on information and belief, Heraeus has committed acts of infringement in this judicial district, including regular sales of the patented invention within the District of Oregon, including but not limited to sales of its H92XX and/or H94XX front side silver photovoltaic pastes to defendant SolarWorld. Heraeus, by conducting business within Oregon, has purposefully availed itself of the benefits and protections of Oregon's laws such that it should reasonably anticipate being haled into court here.

8. This Court has personal jurisdiction over SolarWorld because it is a corporation organized and existing under the laws of the State of Oregon.

9. Venue is proper in the Portland Division of the District of Oregon pursuant to 28 U.S.C. §§ 1391 and §1400(b). Defendant SolarWorld resides in this state and has a principal place of business in this district. Defendant Heraeus has committed acts of infringement in this judicial district.

## **FACTUAL BACKGROUND**

10. Plaintiff DuPont is the owner, by assignment, of all rights, title and interest in the '504 Patent. Inventors Hideki Akimoto, Takuya Konno, Giovanna Laudisio, Patricia J. Ollivier, Michael Rose, Jerome David Smith, and Richard John Sheffield Young, filed their application for the '504 Patent on May 28, 2009. The '504 Patent was fully examined by the United States Patent Office and was duly and legally issued on April 17, 2012. A Certificate of Correction to the '504 Patent was issued on June 12, 2012. A true and correct copy of the '504 Patent and Certificate of Correction is attached as Exhibit A.

11. The '504 Patent claims, *inter alia*, a thick film conductive composition suitable for the manufacture of photovoltaic cells and comprising specific organic and inorganic components.

## **COUNT I – INFRINGEMENT**

### **OF UNITED STATES PATENT NO. 8,158,504 AGAINST DEFENDANT HERAEUS**

12. DuPont restates and realleges each of the assertions set forth in Paragraphs 1 through 11 above.

13. Upon information and belief, Heraeus's manufacture, use, and sale of front side silver photovoltaic paste compositions in at least the H92XX and H94XX series infringes at least claims 1, 3, 11 and 12 of the '504 Patent under 35 U.S.C. § 271.

14. DuPont is entitled to recover from Heraeus the damages sustained by DuPont as a result of Heraeus's wrongful acts in an amount subject to proof at trial, including lost profits and an amount not less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

15. The infringement by Heraeus of the '504 Patent will continue to cause DuPont irreparable injury and damage for which there is no adequate remedy at law unless and until Heraeus is enjoined from infringing said patent.

## **COUNT II – INFRINGEMENT**

### **OF UNITED STATES PATENT NO. 8,158,504** **AGAINST DEFENDANT SOLARWORLD**

16. DuPont restates and realleges each of the assertions set forth in Paragraphs 1 through 15 above.

17. Upon information and belief, defendant SolarWorld manufactures solar cells using H92XX and/or H94XX front side silver photovoltaic paste compositions supplied by defendant Heraeus, which it then sells to its customers. SolarWorld's use of these pastes infringes at least claims 1, 3, 11 and 12 of the '504 Patent under 35 U.S.C. § 271.

18. DuPont is entitled to recover from SolarWorld the damages sustained by DuPont as a result of SolarWorld's wrongful acts in an amount subject to proof at trial, including lost profits and an amount not less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

19. The infringement by SolarWorld of the '504 Patent will continue to cause DuPont irreparable injury and damage for which there is no adequate remedy at law unless and until SolarWorld is enjoined from infringing said patent.

### **PRAYER FOR RELIEF**

WHEREFORE, DuPont respectfully requests that the Court enter judgment in its favor against Defendants, granting the following relief:

a. An adjudication that Defendants have infringed one or more claims of the '504 Patent literally and/or under the doctrine of equivalents;

b. A grant of a permanent injunction pursuant to 35 U.S.C. § 283, enjoining Defendants and their agents, servants, officers, directors, employees, affiliated entities, and all persons in active concert or participation with them from continued infringement of the '504 Patent;

c. An award to DuPont of damages adequate to compensate DuPont for Defendants' acts of infringement of the '504 Patent;

d. An award to DuPont equal to any profits that DuPont lost due to Defendants' infringement of the '504 Patent;

e. An award of prejudgment and post-judgment interest on all sums awarded;

f. A post-verdict and post-judgment accounting for any infringement the '504 Patent not otherwise covered by a damages award and the requested injunctive relief; and

g. Any such other and further relief as the Court may deem just and proper under the circumstances.

### **DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, DuPont respectfully

requests a trial by jury of any and all issues on which a trial by jury is available under applicable law.

Dated this 20th day of June, 2012.

Respectfully submitted,

SCHWABE, WILLIAMSON & WYATT, P.C.

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