

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

UNIRAC, INC.,

Plaintiff,

v.

Case No.

SOLAR SOLUTIONS INTERNATIONAL,  
INC. dba LEVEL ONE SOLAR,

Hon.

Defendant.

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**COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff Unirac, Inc. (“UNIRAC”), for its complaint against Defendant Solar Solutions International, Inc. dba Level One Solar (“SSI”), alleges and states as follows:

## **JURISDICTION & VENUE**

1. This action arises under the patent laws of the United States, as set forth in Title 35 of the United States Code.
2. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).
3. This Court has personal jurisdiction over SSI by virtue of the fact that, on information and belief, SSI, among other things, has its principal place of business and conducts substantial business in the State of Michigan, within this judicial district, and has committed acts of infringement in this district, through agents and representatives and/or otherwise having substantial contacts with the State of Michigan and this judicial district.
4. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(a) and 1400(b).

## **THE PARTIES**

5. UNIRAC is a corporation organized and existing under the laws of the State of New Mexico, with a principal place of business at 1411 Broadway Boulevard NE, Albuquerque, New Mexico 87102.
6. On information and belief, SSI is a corporation organized and existing under the laws of the State of Michigan, with a principal place of business at 25315 Dequindre Road, Madison Heights, MI 48071.
7. On information and belief, SSI continuously and systematically conducts business in the United States, including in this judicial district.

## **THE PATENT-IN-SUIT**

8. On March 6, 2012, the United States Patent and Trademark Office (“USPTO”) duly and legally issued U.S. Patent No. 8,128,044 (“the ’044 patent”) for an invention titled “System For Mounting A Photovoltaic Module To A Surface,” naming John E. Liebendorfer as the inventor. A true and correct copy of the ’044 patent is attached as Exhibit A.
9. UNIRAC is the owner by assignment of all legal rights, title and interest in and to the ’044 patent.

## **THE JAC-RACK LITIGATION**

10. UNIRAC incorporates the allegations contained in Paragraphs 1-9 above as though fully set forth herein.

11. On information and belief, Donald Munoz is the President and CEO of SSI.

12. Before forming or joining SSI, Mr. Munoz was Executive Vice President at JAC-Rack, Inc. (“JAC-Rack”).

13. While Mr. Munoz was employed at JAC-Rack, UNIRAC filed a complaint on January 5, 2011, in the United States District Court for the District of New Mexico, alleging that JAC-Rack was infringing United States Patent Nos. 7,260,918 and 7,434,362 (“the JAC-Rack Litigation”).

14. Mr. Munoz was aware of the JAC-Rack Litigation and the asserted patents, and was even sent by JAC-Rack to visit UNIRAC’s offices to discuss a potential resolution of the matter.

15. The ’044 patent is related to the asserted patents in the JAC-Rack Litigation by virtue of issuing from a patent application that is a descendant of United States Patent Nos. 7,260,918 and 7,434,362, the patents that were asserted in the JAC-Rack Litigation.

16. The patent application from which the ’044 patent issued was published on November 25, 2010, and was assigned U.S. Publication No. 2010/0293874 (“the ’874 Publication”).

17. The ’874 Publication was pending and publicly available during the entire time that the JAC-Rack Litigation was ongoing and JAC-Rack monitored the ’874 Publication.

18. On information and belief, Mr. Munoz was aware of the pendency of the ’874 Publication and, in particular, the fact that it was part of the family of patents asserted in the JAC-Rack Litigation.

19. The JAC-Rack Litigation ended with UNIRAC and JAC-Rack entering into a consent judgment, ordered on December 14, 2011, pursuant to which JAC-Rack agreed, in part,

to cease making, using, importing, selling and offering for sale photovoltaic mounting systems (“the JAC-Rack Consent Judgment”).

20. On information and belief, Mr. Munoz was still employed at JAC-Rack when the JAC-Rack Consent Judgment was signed and is aware of its terms, including JAC-Rack’s agreement to cease making, using, importing, selling and offering for sale photovoltaic mounting systems.

**FIRST CAUSE OF ACTION**  
**(PATENT INFRINGEMENT)**  
**(35 U.S.C. § 271(a))**

21. UNIRAC incorporates the allegations contained in Paragraphs 1-20 above as though fully set forth herein.

22. On information and belief, Defendant SSI, doing business as Level One Solar, has been and now is infringing the ’044 patent in violation of 35 U.S.C. § 271(a), by among other things, making, using, offering to sell, selling, marketing, and/or distributing in the United States, and/or importing into the United States, rails and rail mounting systems, including but not limited to its L10, L20, L30 and L50 Rails, L-Feet, clamps, and similar products covered by the ’044 patent.

23. On information and belief, Defendant SSI is aware of or should have been aware of the ’044 patent, which issued from the ’874 Publication.

24. On information and belief, Defendant SSI has continued to manufacture and sell, without authorization, photovoltaic mounting systems, protected by at least one claim of the ’044 patent.

25. UNIRAC has suffered monetary damages by reason of SSI’S infringement of the ’044 patent.

26. UNIRAC has been and will continue to be irreparably harmed by Defendants’ infringement of the ’044 patent.

27. On information and belief, such infringement was and will continue to be willful, making this an exceptional case and entitling UNIRAC to increased damages and attorneys' fees under 35 U.S.C. §§ 284 and 285.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff UNIRAC prays for judgment against Defendant SSI as follows:

- A. A judgment that SSI has infringed the '044 patent;
- B. A judgment that SSI's infringement of the '044 patent was and is willful;
- C. A judgment and order requiring SSI to pay damages under 35 U.S.C. § 284, including treble damages for willful infringement and prejudgment interest;
- D. A permanent injunction enjoining and restraining SSI or anyone acting on its behalf from making, using, offering to sell, or selling in the United States any product or using, offering to sell, or selling any service in the United States that falls within any claims of the '044 patent;
- E. A finding that this is an exceptional case, and an order awarding UNIRAC its costs and reasonable attorneys' fees under 35 U.S.C. § 285;
- F. An award of all costs of this action, including attorneys' fees and interest; and
- G. Any and all such other and further relief as this Court may deem appropriate.

**JURY DEMAND**

UNIRAC demands a jury trial pursuant to Federal Rule of Civil Procedure 38(b) of all triable issues.

DATED: July 24, 2012

Respectfully submitted,

/s/ Michael P. Cooney

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**ATTORNEYS FOR PLAINTIFF  
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