

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

EVONIK OPERATIONS GMBH and
EVONIK CORPORATION,

Plaintiffs,

v.

AIR PRODUCTS AND CHEMICALS, INC.
and GREENLANE BIOGAS US CORP,

Defendants.

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C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs Evonik Operations GmbH and Evonik Corporation (“Plaintiffs” or “Evonik”), by and through its attorneys, Tarter Krinsky & Drogin LLP, by way of its Complaint against Defendants Air Products and Chemicals, Inc. (“Air Products”) and Greenlane Biogas US Corp. (“Greenlane,” and together with Air Products, “Defendants”), alleges and states as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement of U.S. Patent Nos. 8,999,038 and 10,471,380 (collectively, “the Asserted Patents”) arising under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*

THE PARTIES

2. Plaintiff Evonik Operations GmbH is a corporation organized and existing under the laws of Germany, with a place of business at Rellinghauser Strasse 1-11 Essen, 45128 Germany.

3. Plaintiff Evonik Corporation is a corporation organized and existing under the laws of Alabama, with a place of business at 299 Jefferson Road, Parsippany, New Jersey 07054.

4. On information and belief, Defendant Air Products and Chemicals, Inc. is a corporation organized and existing under the laws of the State of Delaware with a principal place of business located at 1940 Air Products Boulevard, Allentown, Pennsylvania 18106.

5. On information and belief, Defendant Greenlane is a corporation organized and existing under the laws of Delaware, with a place of business at 10-3605 Gilmore Way, Burnaby BC V5G 4X5, Canada.

JURISDICTION AND VENUE

6. This Court has jurisdiction over the subject matter of these claims pursuant to 28 U.S.C. §§ 1331 and 1338; and upon 35 U.S.C. § 271.

7. This Court has personal jurisdiction over Defendants because Defendants are corporations organized and existing under the laws of Delaware and conduct substantial business within this District and throughout the United States. This Court further has personal jurisdiction over Air Products because, among other reasons, Air Products has appointed a registered agent in Delaware (The Corporation Trust Company, 1209 Orange Street, Wilmington, DE, 19801) and Greenlane because, among other reasons, Greenlane has appointed a registered agent in Delaware (Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808) to accept service of process.

8. Venue properly lies in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b) because Air Products and Greenlane are corporations organized and existing under the laws of the State of Delaware and are subject to personal jurisdiction in the judicial district.

ASSERTED PATENTS

9. U.S. Patent No. 8,999,038 (“the Ungerank Patent”), entitled “*Process for separation of gases*,” was duly and lawfully issued by the United States Patent and Trademark

Office (“USPTO”) on April 7, 2015, to Evonik Fibres GmbH as assignee of the inventors. The Ungerank Patent was subsequently assigned to Evonik Operations GmbH on September 20, 2022. A true and correct copy of the Ungerank Patent is attached hereto as **Exhibit 1**.

10. On March 29, 2022, after an ex parte reexamination proceeding, the USPTO duly and legally issued a reexamination certificate confirming the validity and patentability of the Ungerank Patent. A true and correct copy of the reexamination certificate of the Ungerank Patent is attached hereto as **Exhibit 2**.

11. U.S. Patent No. 10,471,380 (“the Priske Patent”), entitled “*Process for separation of gases with reduced maintenance costs*,” was duly and lawfully issued by the USPTO on November 12, 2019 to Evonik Fibres GmbH as assignee of the inventors. The Priske Patent was subsequently assigned to Evonik Operations GmbH on September 20, 2022. A true and correct copy of the Priske Patent is attached hereto as **Exhibit 3**.

12. Evonik Operations GmbH is the owner by assignment of all right, title, and interest in and to the Ungerank and Priske Patents.

13. As both the Ungerank and Priske Patents were determined by the USPTO to be valid, enforceable, and patent-eligible, the Ungerank and Priske Patents are granted a presumption of validity pursuant to 35 U.S.C. § 282.

FACTUAL BACKGROUND

Evonik’s Innovations

14. For over ten years, Evonik has been a global innovation leader in membrane-based gas separation technology.

15. Headquartered in Germany, Evonik has research, manufacturing, sales, and distribution locations worldwide, including Evonik Corporation, in the United States.

16. Evonik has invested significantly in researching and developing its innovative solutions for improving the yields and efficiency of gas separation, including its highly selective membrane technology.

17. Evonik develops, designs, manufactures, sells, and distributes systems that use its innovative membrane technology to separate different gases for a wide range of applications. Evonik Corporation is a licensee and the exclusive distributor of these membranes and membrane systems in the United States.

18. Evonik recognized the need for a more efficient and cost-effective gas separation process to increase yields and lower equipment and energy requirements. In response, Evonik conceived of, developed, and implemented an innovative three-stage separation process using its innovative, highly selective membranes as claimed in the Asserted Patents.

19. The Ungerank Patent is directed to an apparatus (independent claim 1) and processes (independent claims 12 and 34) for separating a gas mixture stream through a chain of gas separation membrane modules.

20. Specifically, the claims of the Ungerank Patent are directed to an innovative apparatus and process configured to use a gas separation membrane module having a gas selectivity of at least 30 and, being configured such that there is an increase of concentration of a first gas in the feed stream compared to its concentration in the crude gas stream and, providing a recycled gas volume of less than 60% by volume of the crude gas stream.

21. For example, independent claim 1 of the Ungerank Patent recites:

1. An apparatus for separating gases, comprising:
membrane separation stages; and,

a compressor, a vacuum pump, or both,

wherein the membrane separation stages comprise a feed stream separation

stage, a retentate separation stage, and a permeate separation stage:

the feed stream separation stage is configured to separate a feed stream

comprising at least two components into a first permeate stream and a first retentate stream,

the retentate separation stage is configured to divide the first retentate stream into a second permeate stream and a second retentate stream,

wherein

the second permeate stream is supplied to the feed stream, and the second retentate stream is withdrawn as a product, and

the permeate separation stage is configured to divide the first permeate stream into a third retentate stream and a third permeate stream,

wherein

the third retentate stream is supplied to the feed stream, and the third permeate stream is withdrawn as a product,

the apparatus is configured not to subject the first permeate stream to any recompression,

the feed stream separation stage comprises a gas separation membrane module having a mixed gas selectivity of at least 30,

the apparatus is configured such that a gas volume recycled in the second permeate stream and in the third retentate stream totals less than 60% by volume of a crude gas stream,

the apparatus is configured to increase a concentration of at least one permeate gas of the feed stream separation stage, after recycling of the second permeate stream and of the third retentate stream, in the feed stream, compared to a concentration in the crude gas stream.

22. Independent claim 12 of the Ungerank Patent recites:

12. A process for separating a gas mixture stream comprising:

separating the gas mixture with an apparatus comprising:

membrane separation stages; and

a compressor, a vacuum pump, or both,

wherein the membrane separation stages comprise a feed stream separation stage, a retentate separation stage, and a permeate separation stage:

the feed stream separation stage is configured to separate the gas mixture stream into a first permeate stream and a first retentate stream,

the retentate separation stage is configured to divide the first retentate stream into a second permeate stream and a second retentate stream,

wherein the second permeate stream is supplied to the gas mixture stream,

and the second retentate stream is withdrawn as a product, and the

permeate separation stage is configured to divide the first permeate stream into a third retentate stream and a third permeate stream,

wherein the third retentate stream is supplied to the gas mixture stream,

and

the third permeate stream is withdrawn as a product,

the apparatus is configured not to subject the first permeate stream to any recompression,

the feed stream separation stage comprises a gas separation membrane module having a mixed gas selectivity of at least 30,

the apparatus is configured such that a gas volume recycled in the second permeate stream and in the third retentate stream totals less than 60% by volume of a crude gas stream,

the apparatus is configured to increase a concentration of at least one permeate gas of the feed stream separation stage, after recycling of the second permeate stream and of the third retentate stream, in the feed stream, compared to a concentration in the crude gas stream, and

wherein the third permeate stream comprises more than 95 vol % of a retentate gas of the feed stream separation stage in the gas mixture stream, and the second retentate stream comprises more than 95 vol % of a permeate gas of the feed stream separation stage in the gas mixture stream.

23. Independent claim 34 of the Ungerank Patent recites:

34. A process for separating a gas mixture stream comprising methane and carbon dioxide, comprising:

separating the gas mixture with an apparatus comprising:

membrane separation stages; and,

a compressor, a vacuum pump, or both,

wherein the membrane separation stages comprise a feed stream separation stage, a retentate separation stage, and a permeate separation stage:

the feed stream separation stage is configured to separate a feed stream comprising at least two components into a first permeate stream and a first retentate stream,

the retentate separation stage is configured to divide the first retentate stream into a second permeate stream and a second retentate stream,

wherein the second permeate stream is supplied to the feed stream, and

the second retentate stream is withdrawn as a product, and

the permeate separation stage is configured to divide the first permeate stream into a third retentate stream and a third permeate stream,

wherein the third retentate stream is supplied to the feed stream, and the

third permeate stream is withdrawn as a product,

the apparatus is configured not to subject the first permeate stream to any recompression,

the feed stream separation stage comprises a gas separation membrane module having a mixed gas selectivity of at least 30,

the apparatus is configured such that a gas volume recycled in the second permeate stream and in the third retentate stream totals less than 60% by volume of a crude gas stream,

the apparatus is configured to increase a concentration of at least one permeate gas of the feed stream separation stage, after recycling of the second permeate stream and of the third retentate stream, in the feed stream, compared to a concentration in the crude gas stream.

24. Similar to the Ungerank Patent, the Priske Patent is directed to a method (independent claim 1) for separating gases from a crude gas stream.

25. Specifically, the claims of the Priske Patent are directed to an innovative method of separating gases with a three-stage membrane configuration where the total capacity of the membranes used in a retentate separation stage is higher than the total capacity of the membranes used in a feed stream separation stage and the gas volume recycled totals 60 to 100% by volume of an initial crude gas stream, while the quotient of the pressure ratio over the permeate separation stage to the pressure ratio over the feed stream separation stage is in a range of from 0.5 to 8.

26. For example, independent claim 1 of the Priske Patent recites:

1. A method for separating gases from a crude gas stream comprising at least two components, wherein in an apparatus comprising a feed stream separation stage, a retentate separation stage and a permeate separation stage, each stage being a membrane separation stage with gas separation membranes,
 - a) a feed stream is separated in the feed stream separation stage into a first permeate stream and a first retentate stream,
 - b) the first retentate stream is separated in the retentate separation stage into a second permeate stream and a second retentate stream,
 - c) the first permeate stream is separated in the permeate separation stage into a third retentate stream and a third permeate stream,
 - d) the second retentate stream is removed as a first product,
 - e) the third permeate stream is removed as a second product, and

- f) the second permeate stream and the third retentate stream are combined with the crude gas stream to give the feed stream, and wherein
 - i) the combined gas volume of the second permeate stream and the third retentate stream is from 60 to 100% of the volume of the crude gas stream,
 - ii) the total capacity of the gas separation membranes in the retentate separation stage is higher than the total capacity of the gas separation membranes in the feed stream separation stage, the total capacity being measured for nitrogen Grade 4.8 under standard conditions as defined in the description, and
 - iii) the quotient of the pressure ratio over the permeate separation stage to the pressure ratio over the feed stream separation stage is in a range of from 0.5 to 8.

Defendants' Infringing Actions

27. Defendant Air Products is a global supplier of essential industrial gases and manufacturer of related equipment, including, but not limited to, membrane equipment for producing gas streams.

28. Defendant Greenlane is a global provider of biogas upgrading systems.

29. On information and belief, Defendant Air Products manufactures, sells, offers for sale, and/or supplies certain components that infringe various claims of the Asserted Patents, including but not limited to membrane products that are especially made or adapted for use in the three-stage gas separation process embodied by the Asserted Patents (“the Accused Products”).

30. The Accused Products are components with no substantial non-infringing use and are not staple articles or commodities of commerce.

31. On information and belief, as a global manufacturer of membranes, Air Products supplies Accused Products to purchasers outside the United States, including the country of Slovakia, knowing that the Accused Products are so made or adapted, and intending that the Accused Products, will be combined outside of the United States, in a manner that would infringe the Asserted Patents if such combination occurred in the United States.

32. On information and belief, Defendant Air Products manufactures and supplies the Accused Products to customers in the United States for use in processes that infringe the claims of the Asserted Patents.

33. On information and belief, Defendant Air Products also supplies Defendant Greenlane with the Accused Products it manufactures.

34. On information and belief, Defendant Greenlane makes, uses, offers to sell, or sells a three-stage gas-separation system that infringes the Asserted Patents (“the Accused System”) in the United States.

35. On information and belief, Defendant Greenlane uses the Accused Products in the Accused Systems.

36. Neither Defendant has a license or permission to use the Asserted Patents.

37. On information and belief, Defendants had or should have had knowledge of the Ungerank and Priske Patents since at least April 25, 2013 and December 28, 2017, respectively, when the applications which matured into the Asserted Patents were first published. Alternatively, Defendant Air Products had or should have had knowledge of the Ungerank Patent since at least November 21, 2017, when they filed an Opposition in the

European Patent Office against the European counterpart of the Ungerank Patent. Alternatively, Defendants had or should have had knowledge of the Asserted Patents when served with the present Complaint.

38. The Defendants' acts of infringement have been willful and in disregard for the Asserted Patents without any reasonable basis for believing that it had a right to engage in the infringing conduct.

Infringement of the Ungerank Patent

39. On information and belief, Defendant Greenlane's Accused Systems are biogas upgrading systems designed to separate gases (e.g., methane and carbon dioxide) to achieve a desired degree of purification. *See, e.g.*, <https://greenlanerenewables.com/biogas/technology/> (attached hereto as **Exhibit 4**) ("Biogas upgrading systems cleanse the impurities in biogas and separate the carbon dioxide from the biomethane to create a clean, high-purity low-carbon fuel: biomethane / renewable natural gas (RNG)."); *id.* ("Membrane separation technology uses three stage high efficiency tubular porous membranes to separate the carbon dioxide from the methane in a process called permeation.").

40. On information and belief, Defendant Greenlane's Accused Systems comprise membrane separation stages for improved separation of gases and elevated purity. *See, e.g.*, Exhibit 4 ("Membrane separation technology uses three stage high tubular efficiency porous membranes to separate the carbon dioxide from the methane. . .").

41. On information and belief, Defendant Air Product's Accused Products are membranes for use in apparatuses and systems comprising membrane separation stages for separating gases. *See, e.g.*, <https://www.airproducts.com/-/media/airproducts/files/en/523/523->

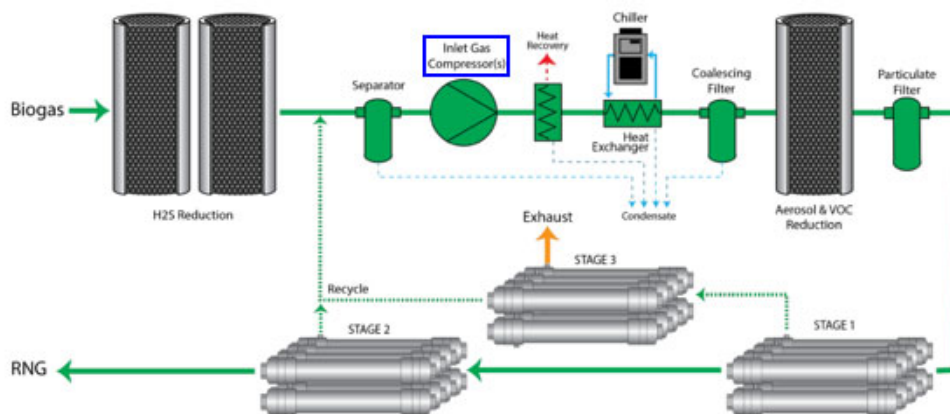
[12-004-glb-biogas-upgrading-](#)

[brochure.pdf?la=en&hash=5E3C79EC73FC748E72825728FEA211AA](#) (attached hereto as

Exhibit 5) (“Air Products’ PRISM separators use proprietary hollow fiber membranes to selectively remove unwanted elements from biogas streams...”); *id.* (“When biogas is fed into the membrane separator under pressure, the unwanted gas molecules are selectively removed.”).

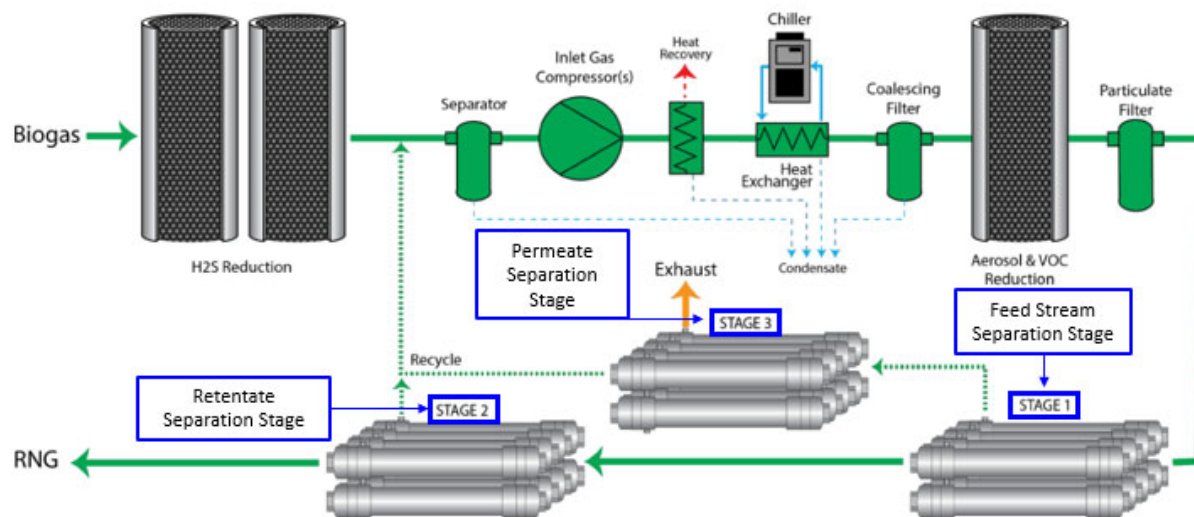
42. On information and belief, the Accused Products (*i.e.*, membranes) provided by Defendant Air Products are used by Defendant Greenlane in each of the membrane separation stages of the Accused Systems. See <https://www.appa.es/wp-content/uploads/2020/07/APPA-RENOVABLES-UK-SPAIN-GREENLANE-BIOGAS.pdf> (attached hereto as **Exhibit 6**) (“Greenlane Biogas uses PRISM® membranes from Air Products”); *id.* (“PB6050-P3 for ‘roughing’ [in] stages 1 and 3; PB6050-N1 for ‘polishing’ in stage 2 (higher permeation to CO₂)”); *see also, e.g.*, <https://www.airproducts.com/supply-modes/prism-membranes/prismmembraneseparators#/> (attached hereto as **Exhibit 7**) (“PRISM Membrane Separators consist of thousands of hollow fibers that act as a molecular filter to separate compressed gases into individual elements, including nitrogen or hydrogen.”).

43. On information and belief, the Accused Systems further comprise a compressor.



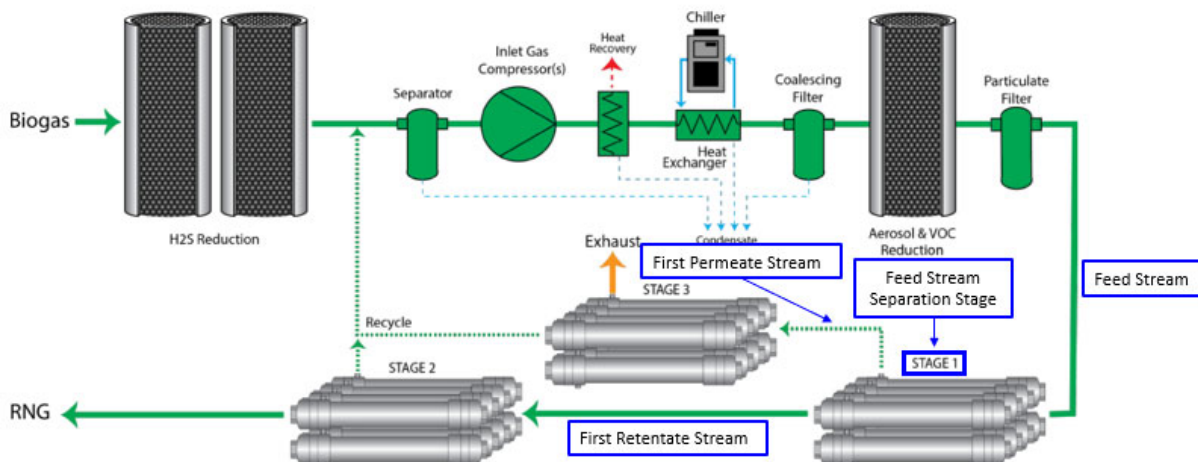
See, e.g., Exhibit 6.

44. On information and belief, the membrane separation stages of the Accused System comprise three stages (*i.e.*, a feed stream separation stage, a retentate separation stage, and a permeate separation stage).



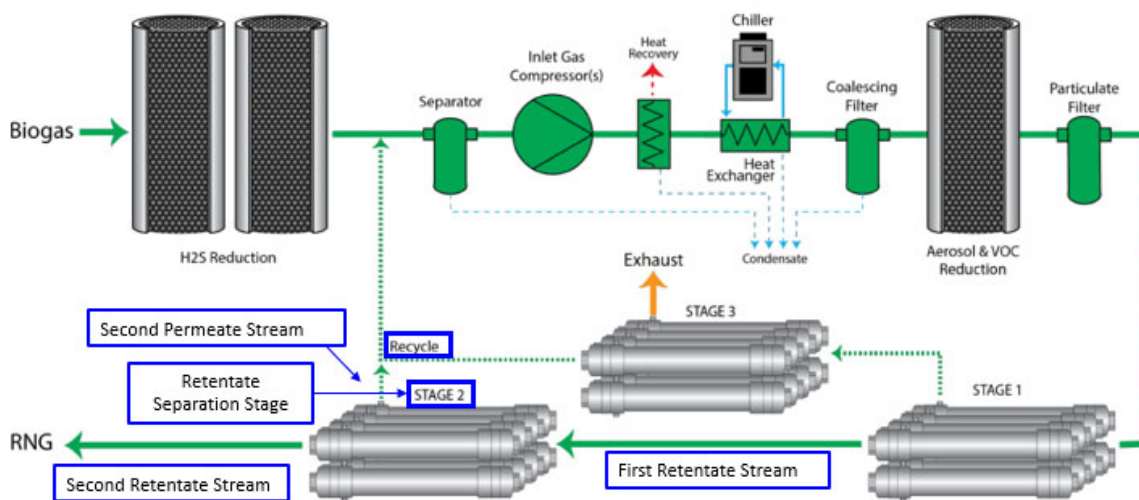
See, e.g., Exhibit 6.

45. On information and belief, one of the three membrane separations stages of the Accused Systems (*i.e.*, the feed stream separation stage) is configured to separate a biogas stream comprising at least two components into two gas flows (*i.e.*, a first permeate stream and a first retentate stream). See, e.g., Exhibit 4 (“Membrane separation technology uses three stage high efficiency tubular porous membranes to separate the carbon dioxide from the methane in a process called permeation. As the biogas passes through the tubes, the smaller carbon dioxide molecules pass through the walls of the highly selective permeable membranes while the larger biomethane molecules do not.”).



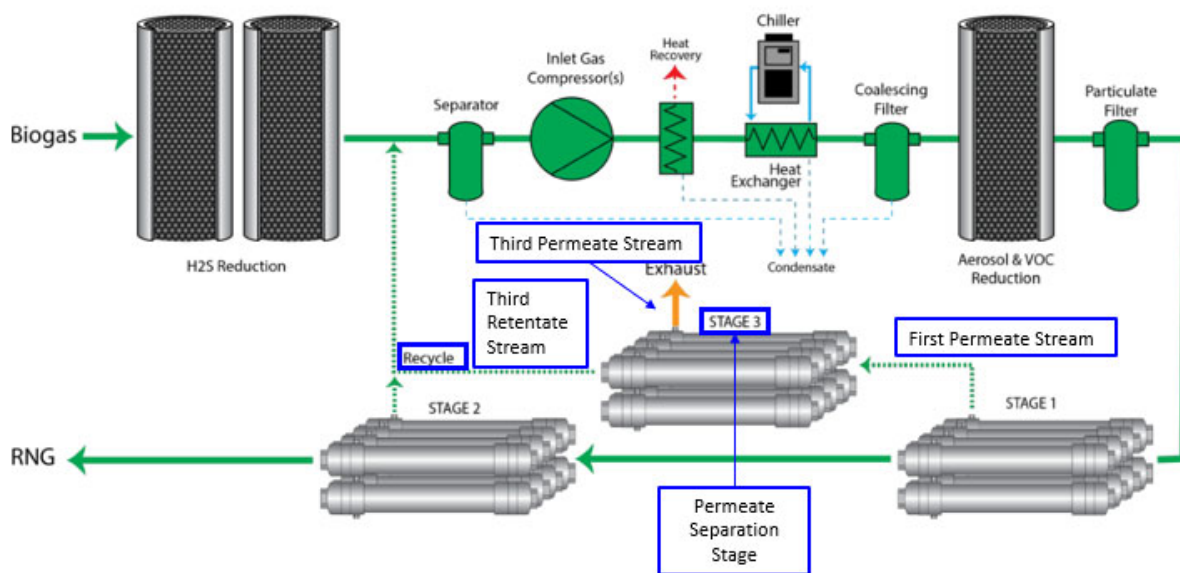
See, e.g., Exhibit 6.

46. On information and belief, a second of three membrane separation stages of the Accused Systems (*i.e.*, the retentate separation stage) is configured to further separate the first retentate stream into two gas flows (*i.e.*, a second permeate stream and a second retentate stream). On information and belief, the second permeate stream is recycled and supplied to the feed stream, and the second retentate stream is withdrawn as product.



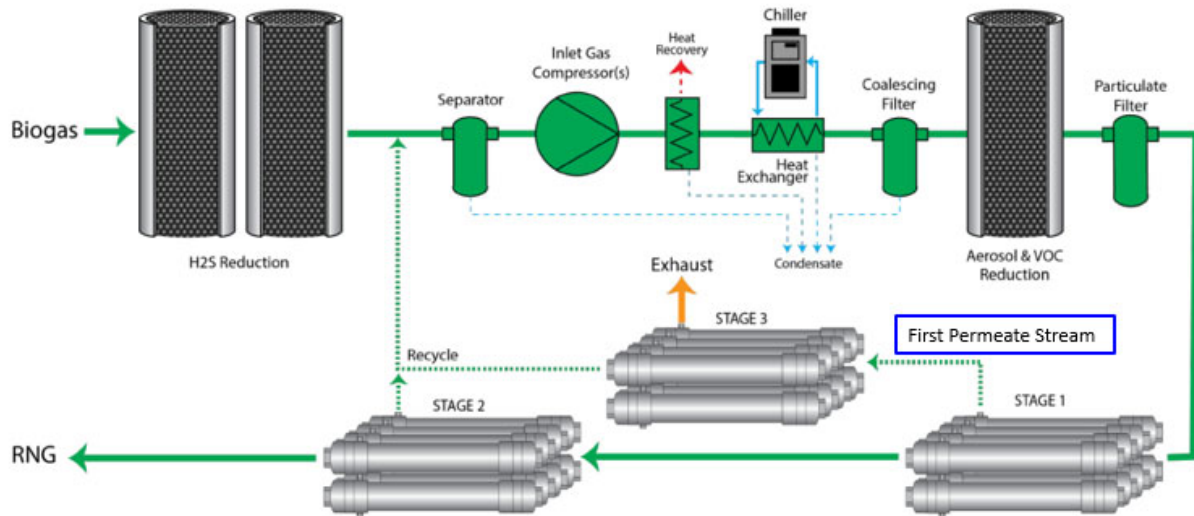
See, e.g., Exhibit 6.

47. On information and belief, a third membrane separation stage of the Accused Systems (*i.e.*, the permeate separation stage) is configured to further separate the first permeate stream into two gas flows (*i.e.*, a third retentate stream and a third permeate stream). On information and belief, the third retentate stream is recycled and supplied to the feed stream, and the third permeate stream is withdrawn as product.



See, *e.g.*, Exhibit 6.

48. On information and belief, the Accused Systems do not subject the first permeate stream to any recompression.



See, e.g., Exhibit 6.

49. On information and belief, the Accused Products provided by Defendant Air Products are available in a variety of selectivities, such that the Accused Products utilized in the first of three stages (*i.e.*, the feed stream separation stage) of the Accused Systems can have a mixed gas selectivity of at least 30. See, e.g., Exhibit 5 (“PRISM PB membrane separators are available in a variety of sizes and selectivities. This allows for fine-tune engineering of each stage to design a more efficient biogas upgrading system.”); Exhibit 6 (utilizing two membrane qualities including “PB6050-P3 for ‘roughing’ [in] stages 1 and 3; PB6050-N1 for ‘polishing’ in stage 2 (higher permeation to CO₂)”).

50. On information and belief, the Accused Systems are configured such that a gas volume recycled in the second permeate stream and in the third retentate stream totals less than 60% by volume of a crude gas stream.

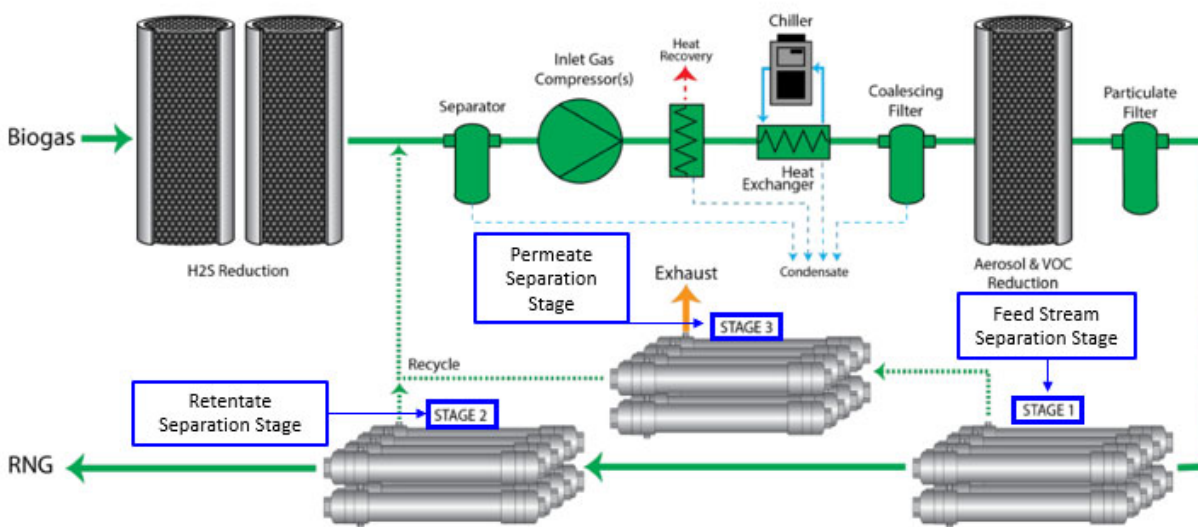
51. On information and belief, the Accused Systems are configured to increase a concentration of at least one permeate gas of the feed stream separation stage, after recycling of

the second permeate stream and of the third retentate stream, in the feed stream, compared to a concentration in the crude gas stream.

Infringement of the Priske Patent

52. On information and belief, Defendant Greenlane provides a method utilizing the Accused Systems to separate gases from a crude gas stream comprising at least two components (*e.g.*, methane and carbon dioxide). *See, e.g.*, Exhibit 4 (“Biogas upgrading systems cleanse the impurities in biogas and separate the carbon dioxide from the biomethane to create a clean, high-purity low-carbon fuel: biomethane / renewable natural gas (RNG).”); *id.* (“Membrane separation technology uses three stage high efficiency tubular porous membranes to separate the carbon dioxide from the methane in a process called permeation.”).

53. On information and belief, the Accused Systems comprise three membrane separation stages (*i.e.*, a feed stream separation stage, a retentate separation stage, and a permeate separation stage) for improved separation of gases and elevated purity. *See, e.g.*, Exhibit 4 (“Membrane separation technology uses three stage high tubular efficiency porous membranes to separate the carbon dioxide from the methane. . .”).

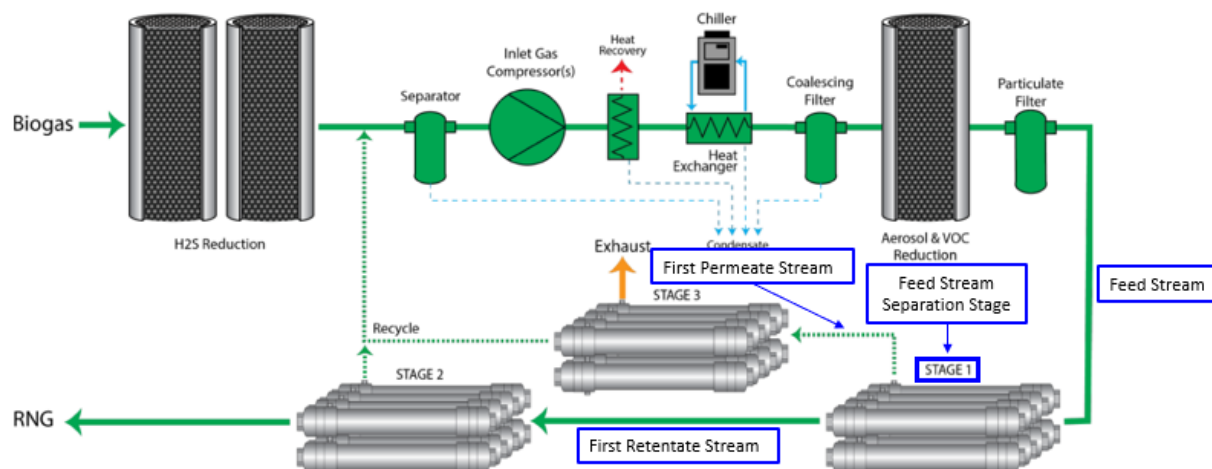


See, e.g., Exhibit 6.

54. On information and belief, Defendant Air Product's Accused Products are membranes for use in apparatuses comprising membrane separation stages for separating gases. *See, e.g.*, Exhibit 5 ("Air Products' PRISM separators use proprietary hollow fiber membranes to selectively remove unwanted elements from biogas streams..."); *id.* ("When biogas is fed into the membrane separator under pressure, the unwanted gas molecules are selectively removed.").

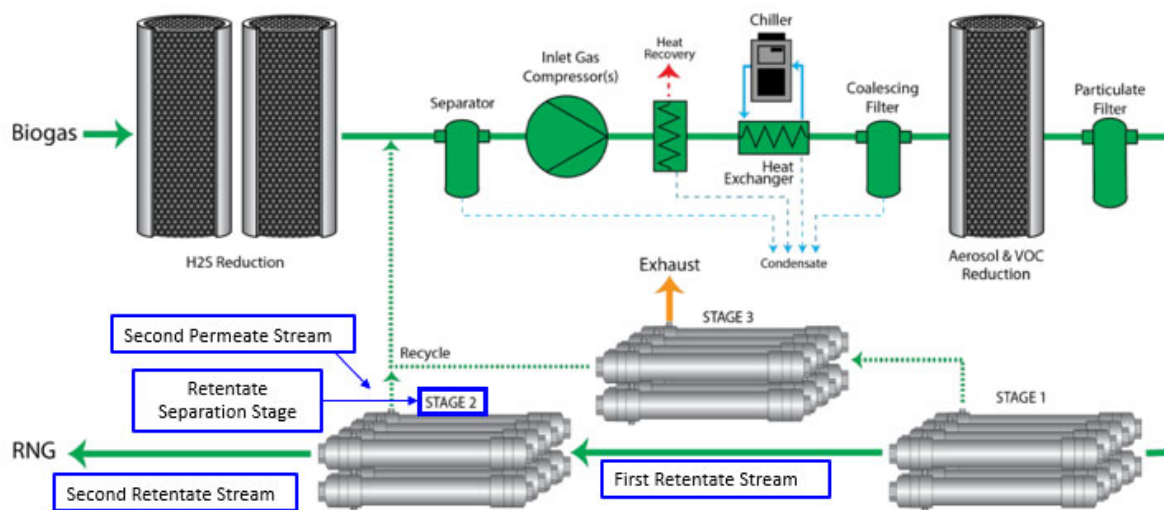
55. On information and belief, the Accused Products (*i.e.*, membranes) provided by Defendant Air Products are used by Defendant Greenlane in each of the membrane separation stages of the Accused Systems. *See* Exhibit 6 ("Greenlane Biogas uses PRISM® membranes from Air Products"); *id.* ("PB6050-P3 for 'roughing' [in] stages 1 and 3; PB6050-N1 for 'polishing' in stage 2 (higher permeation to CO₂)"); *see also, e.g.*, Exhibit 7 ("PRISM Membrane Separators consist of thousands of hollow fibers that act as a molecular filter to separate compressed gases into individual elements, including nitrogen or hydrogen.").

56. On information and belief, in a first of three membrane separation stages of the Accused Systems (*i.e.*, the feed stream separation stage), a feed stream is separated into two gas flows (*i.e.*, a first permeate stream and a first retentate stream). *See, e.g.*, Exhibit 4 ("Membrane separation technology uses three stage high efficiency tubular porous membranes to separate the carbon dioxide from the methane in a process called permeation. As the biogas passes through the tubes, the smaller carbon dioxide molecules pass through the walls of the highly selective permeable membranes while the larger biomethane molecules do not.").



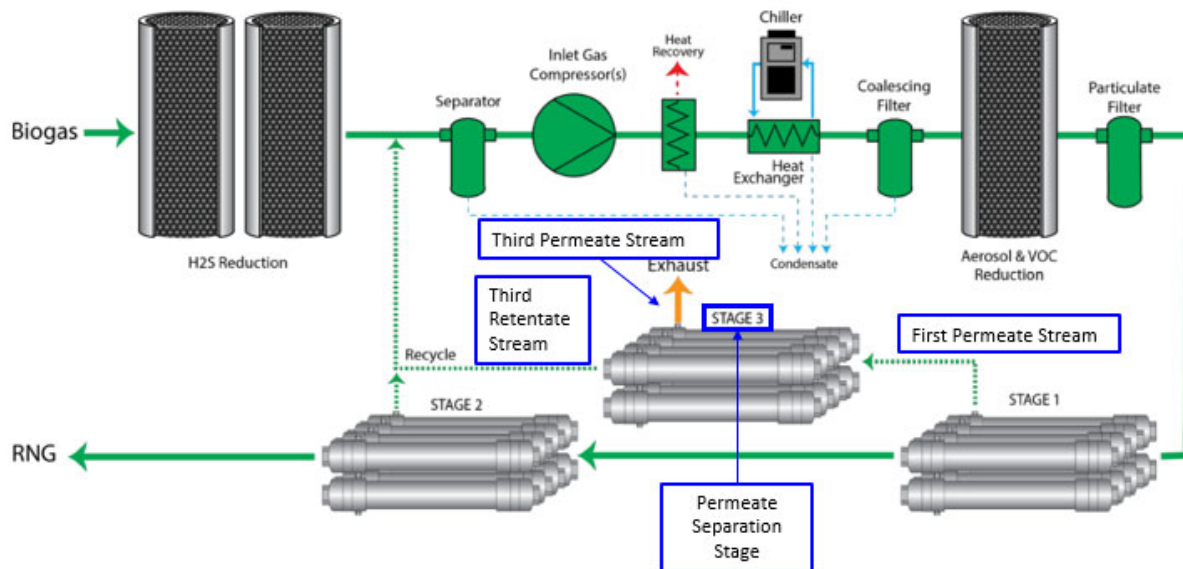
See, e.g., Exhibit 6.

57. On information and belief, in a second of three membrane separation stages of the Accused Systems (*i.e.*, the retentate separation stage), the first retentate stream is further separated into two gas flows (*i.e.*, a second permeate stream and a second retentate stream).



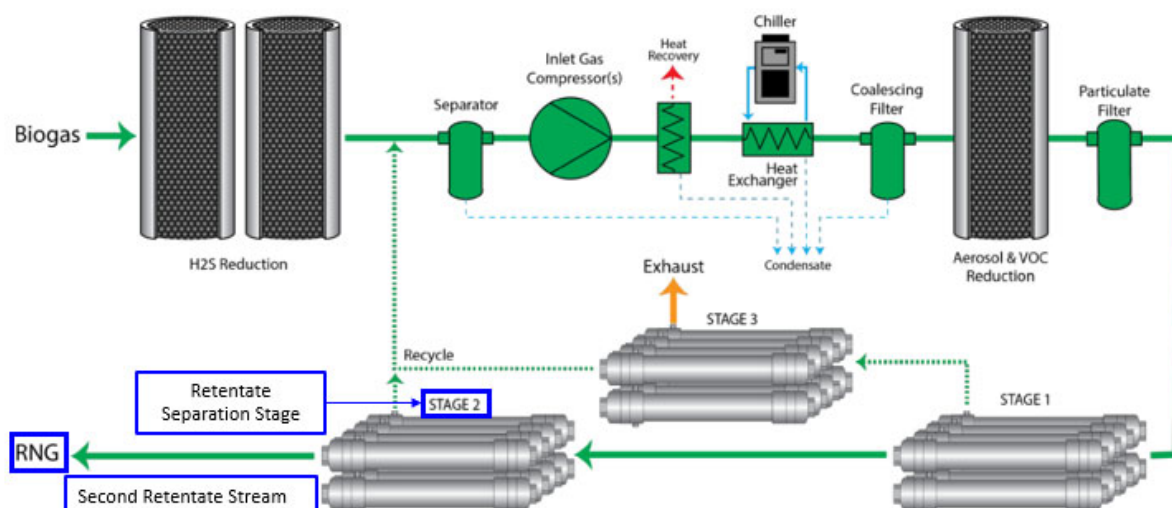
See, e.g., Exhibit 6.

58. On information and belief, in a third of three membrane separation stages of the Accused Systems (*i.e.*, the permeate separation stage), the first permeate stream is further separated into two gas flows (*i.e.*, a third retentate stream and a third permeate stream).



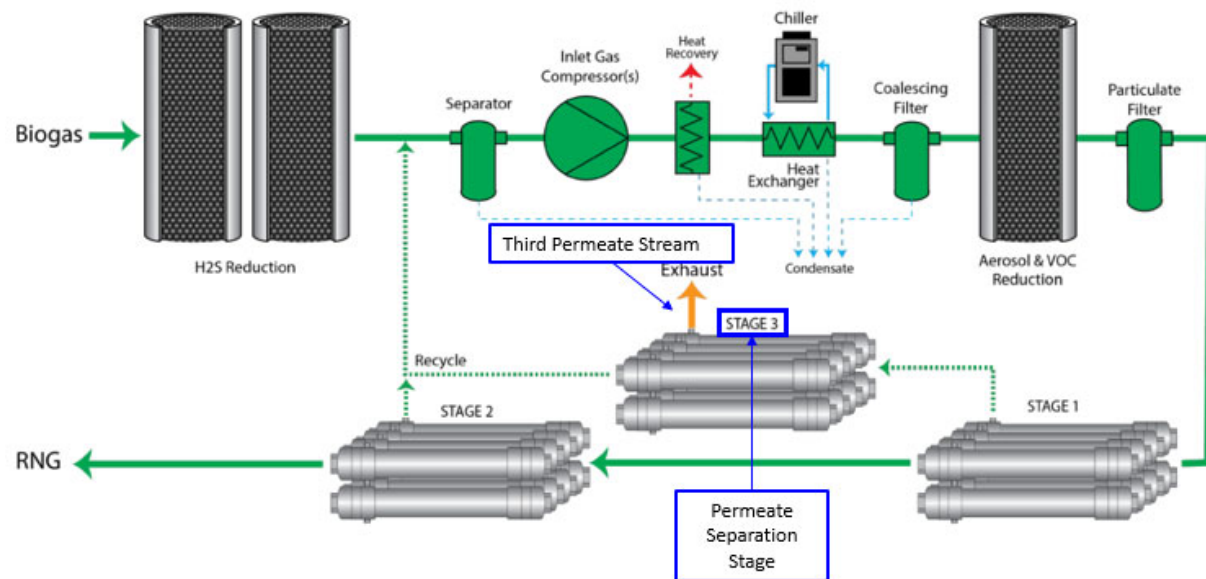
See, e.g., Exhibit 6.

59. On information and belief, the second retentate stream produced in the retentate separation stage of the Accused Systems is removed as product.



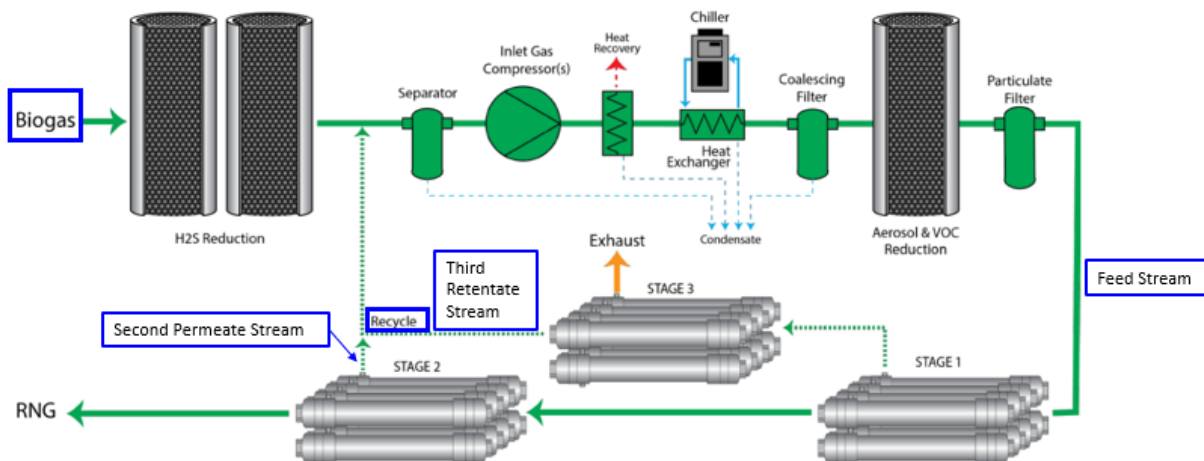
See, e.g., Exhibit 6.

60. On information and belief, the third permeate stream produced in the permeate separation stage of the Accused Systems is removed as product.



See, e.g., Exhibit 6.

61. On information and belief, the third retentate stream and the second permeate stream, produced in the permeate separation stage and the retentate separation stage, respectively, of the Accused Systems, are recycled and combined with the crude gas stream to give the feed steam.



See, e.g., Exhibit 6.

62. On information and belief, the Accused Systems are further configured such that the combined gas volume of the second permeate stream and the third retentate stream is from 60 to 100% of the volume of the crude gas stream.

63. On information and belief, the Accused Systems are further configured such that the total capacity of the gas separation membranes in the retentate separation stage is higher than the total capacity of the gas separation membranes in the feed stream separation stage, the total capacity being measured for nitrogen Grade 4.8 under standard conditions as defined in the Priske patent.

64. On information and belief, the Accused Systems are further configured such that the quotient of the pressure ratio over the permeate separation stage to the pressure ratio over the feed stream separation stage is in a range of from 0.5 to 8.

65. The full extent of Defendants' infringement is not presently known to Evonik. Evonik expressly reserves the right to augment, supplement, and revise its identification and description of infringement as discovery progresses in this case.

COUNT I
(Infringement of the Ungerank Patent)

66. Evonik repeats and incorporates by reference the allegations set forth in Paragraphs 1–65, inclusive, as if fully set forth herein.

67. On information and belief, Defendant Greenlane has, literally or under the doctrine of equivalents, infringed and is infringing one or more claims of the Ungerank Patent pursuant to 35 U.S.C. § 271(a) by, without authorization from Evonik, making, using, selling, and/or offering to sell in the United States, and/or importing into the United States, the Accused Systems, which infringe at least one of the claims of the Ungerank Patent.

68. On information and belief, Defendant Air Products has been and is inducing infringement of the Ungerank Patent by actively and knowingly inducing others to make, use, sell, offer for sale, or import the Accused Systems or products that embody or use the invention claimed in the Ungerank Patent in violation of 35 U.S.C. § 271(b).

69. On information and belief, Defendant Air Products has, literally or under the doctrine of equivalents, contributorily infringed, and is contributorily infringing one or more claims of the Ungerank Patent under at least 35 U.S.C. § 271(c) by selling and/or offering to sell to customers, including but not limited to Defendant Greenlane, the Accused Products, which is at least one component of at least one of the claims of the Ungerank Patent, for use in a manner that infringes one or more claims of the Ungerank Patent, knowing that such component is a material part of the claimed invention, especially made or especially adapted for use in an infringement of the apparatus and/or system claimed in the Ungerank Patent, and is not a staple article or commodity of commerce suitable for substantial non-infringing use.

70. On information and belief, Defendant Air Products has, literally or under the doctrine of equivalents, infringed and is infringing, one or more claims of the Ungerank Patent

under at least 35 U.S.C. § 271(f)(2) by supplying or causing to be supplied, one or more of the Accused Products from the United States into a foreign country which is at least one component of at least one of the claims of the Ungerank Patent, where such component is specifically made or especially adapted for use in at least one of the claims of the Ungerank Patent, the component has no substantial non-infringing use, and is not a staple article of commerce suitable for non-infringing use; where such component is uncombined in whole or in part, knowing that such component is made for and intending that such component be combined in a manner that would infringe on the apparatus and/or system claimed in the Ungerank Patent if such combination occurred in the United States.

71. Defendants do not have any license or permissions under the Ungerank Patent.

72. Defendants' conduct as alleged herein was willful and with full knowledge of Evonik's Ungerank Patent, and has enabled Defendants to illegally profit from such conduct.

73. Defendants' acts constitute willful infringement of the Ungerank Patent because, among other reasons, Defendants had actual notice that the Accused Products and/or Accused Systems infringe the Ungerank Patent at least when served with this Complaint. Defendants' infringing acts therefore have been and are willful and Evonik is therefore entitled to enhanced damages under 35 U.S.C. § 284 and attorneys' fees and costs under 35 U.S.C. § 285.

74. Upon information and belief, Defendants have derived and received, and will continue to derive and receive, gains, profits, and advantages from the aforesaid acts of infringement in an amount not presently known to Evonik.

75. As a result of Defendants' infringement of the Ungerank Patent, Evonik has suffered and will continue to suffer damages, in an amount not yet determined, of at least a reasonable royalty, together with interest and costs as fixed by the Court.

76. Defendants will continue to infringe the Ungerank Patent unless permanently enjoined by this Court. As a result of Defendants' infringing conduct, Evonik has suffered, and will continue to suffer, irreparable harm for which there is no adequate remedy at law. Evonik is therefore entitled to permanent injunctive relief against such infringement pursuant to 35 U.S.C. § 283.

COUNT II
(Infringement of the Priske Patent)

77. Evonik repeats and incorporates by reference the allegations set forth in Paragraphs 1–76, inclusive, as if fully set forth herein.

78. On information and belief, Defendant Greenlane has, literally or under the doctrine of equivalents, infringed and is infringing one or more claims of the Priske Patent pursuant to 35 U.S.C. § 271(a) by, without authorization from Evonik, making, using, selling, and/or offering to sell in the United States, and/or importing into the United States, the Accused Systems, which infringe at least one of the claims of the Ungerank Patent.

79. On information and belief, Defendant Air Products has been and is inducing infringement of the Priske Patent by actively and knowingly inducing others to make, use, sell, offer for sale, or import the Accused Systems or products that embody or use the invention claimed in the Priske Patent in violation of 35 U.S.C. § 271(b).

80. On information and belief, Defendant Air Products has, literally or under the doctrine of equivalents, infringed and is infringing one or more claims of the Priske Patent under at least 35 U.S.C. § 271(c) by selling and/or offering to sell to customers, including but

not limited to Defendant Greenlane, the Accused Products, which is at least one component of at least one of the claims of the Priske Patent, for use in a manner that infringes one or more claims of the Priske Patent, knowing that such component is a material part of the claimed invention, especially made or especially adapted for use in an infringement of the apparatus and/or system claimed in the Priske Patent and is not a staple article or commodity of commerce suitable for substantial non-infringing use.

81. On information and belief, Defendant Air Products has, literally or under the doctrine of equivalents, infringed and is infringing, one or more claims of the Priske Patent under at least 35 U.S.C. § 271(f)(2) by supplying or causing to be supplied, one or more of the Accused Products from the United States into a foreign country, which is at least one component of at least one of the claims of the Priske Patent, where such component is specifically made or especially adapted for use in at least one of the claims of the Priske Patent, the component has no substantial non-infringing use, and is not a staple article of commerce suitable for non-infringing use; where such component is uncombined in whole or in part, knowing that such component is made for and intending that such component be combined in a manner that would infringe on the apparatus and/or system claimed in the Priske Patent if such combination occurred in the United States.

82. Defendants do not have any license or permissions under the Priske Patent.

83. Defendants' conduct as alleged herein was willful and with full knowledge of Evonik's Priske Patent, and has enabled Defendants to illegally profit from such conduct.

84. Defendants' acts constitute willful infringement of the Priske Patent because, among other reasons, Defendants had actual notice that the Accused Products and/or Accused Systems infringe the Priske Patent at least when served with this Complaint. Defendants'

infringing acts therefore have been and are willful and Evonik is therefore entitled to enhanced damages under 35 U.S.C. § 284 and attorneys' fees and costs under 35 U.S.C. § 285.

85. Upon information and belief, Defendants have derived and received, and will continue to derive and receive, gains, profits, and advantages from the aforesaid acts of infringement in an amount not presently known to Evonik.

86. As a result of Defendants' infringement of the Priske Patent, Evonik has suffered and will continue to suffer damages, in an amount not yet determined, of at least a reasonable royalty, together with interest and costs as fixed by the Court.

87. Defendants will continue to infringe the Priske Patent unless permanently enjoined by this Court. As a result of Defendants' infringing conduct, Evonik has suffered, and will continue to suffer, irreparable harm for which there is no adequate remedy at law. Evonik is therefore entitled to permanent injunctive relief against such infringement pursuant to 35 U.S.C. § 283.

PRAYER FOR RELIEF

WHEREFORE, Evonik prays for this Court to grant the following relief:

A. Entry of a judgment against Defendant Greenlane, finding that Defendant Greenlane has infringed one or more claims of the Asserted Patents under 35 U.S.C. § 271(a);

B. Entry of a judgment against Defendant Air Products, finding that Defendant Air Products has infringed one or more claims of the Asserted Patents under 35 U.S.C. § 271(b);

C. Entry of a judgment against Defendant Air Products, finding that Defendant Air Products have infringed one or more claims of the Asserted Patents under 35 U.S.C. §§ 271(c) and/or (f)(2);

D. An accounting of all gains, profits, and advantages derived by Defendants' infringement of the Asserted Patents and an award of damages adequate to compensate Evonik for that infringement;

E. Injunctive relief pursuant to 35 U.S.C. § 283 restraining Defendants, their employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries, and assigns, and all of those in active concert and participation with any of the foregoing persons and entities who receive actual notice of the Court's order by personal service or otherwise, from continued acts of infringement of the Asserted Patents, and from aiding, assisting, or abetting any other individual or entity in doing any such act;

F. An order trebling damages pursuant to 35 U.S.C. § 284 due to Defendants' willful infringement;

G. An order adjudging that this case is exceptional under 35 U.S.C. § 285 and awarding Evonik reasonable attorneys' fees and costs incurred in connection with this action;

H. An award of pre-judgment and post-judgment interest on the foregoing sums; and

I. Such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

In accordance with Rule 38 of the Federal Rules of Civil Procedure, Evonik respectfully demands a jury trial of all issues triable to a jury in this action.

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Dated: November 29, 2022

/s/ Alan R. Silverstein

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