

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

FIRST SOLAR, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 25-223-JLH
	)	
JINKOSOLAR HOLDING CO., LTD., JINKO	)	
SOLAR CO., LTD., JINKO SOLAR	)	JURY TRIAL DEMANDED
(VIETNAM) INDUSTRIES CO. LTD.,	)	
JINKO SOLAR TECHNOLOGY SDN. BHD.,	)	
ZHEJIANG JINKO SOLAR CO., LTD.,	)	
JINKOSOLAR (U.S.) HOLDING INC.,	)	
JINKOSOLAR (U.S.) INC., JINKO SOLAR	)	
(U.S.) MANUFACTURING INC., and	)	
JINKO SOLAR (U.S.) INDUSTRIES INC.,	)	
	)	
Defendants.	)	
	)	

**DEFENDANTS' ANSWER, AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS
TO PLAINTIFF'S COMPLAINT FOR PATENT INFRINGEMENT**

Defendants and Counterclaim-Plaintiffs JinkoSolar Holding Co., Ltd., Jinko Solar Co., Ltd., Jinko Solar (Vietnam) Industries Co. Ltd., Jinko Solar Technology Sdn. Bhd., Zhejiang Jinko Solar Co., Ltd., JinkoSolar (U.S.) Holding Inc., JinkoSolar (U.S.) Inc., Jinko Solar (U.S.) Manufacturing Inc., and Jinko Solar (U.S.) Industries Inc. (together, "Defendants"), by and through their undersigned counsel, as and for their Answer, Affirmative Defenses, and Counterclaims to the Complaint for Patent Infringement filed on February 25, 2025 ("Complaint") (D.I. 1) by Plaintiff and Counterclaim-Defendant First Solar, Inc. ("First Solar"), admit, deny, and allege as follows. Except as hereinafter specifically admitted, qualified, or affirmatively alleged, Defendants deny each and every allegation, matter, or thing contained in the Complaint and state in response to each of the numbered paragraphs of the Complaint as follows:

NATURE OF THE ACTION

1. Defendants admit that the Complaint purports to be an action for patent infringement arising under 35 U.S.C § 1 *et seq.* but deny First Solar’s allegations of infringement and deny that First Solar is entitled to any relief.

2. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2 of the Complaint, and therefore deny all such allegations.

3. Defendants admit that solar panels made of solar cells and modules are a sustainable alternative to traditional energy sources such as coal or gas. As to the remaining allegations of Paragraph 3 of the Complaint, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 3 of the Complaint, and therefore deny all such allegations.

4. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 4 of the Complaint, and therefore deny all such allegations.

5. Defendants admit that “TOPCon” stands for “tunnel oxide passivated contact.” The remaining allegations of Paragraph 5 of the Complaint are too vague and ambiguous to admit or deny; to the extent a response is necessary, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore deny all such allegations.

6. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 6 of the Complaint, and therefore deny all such allegations.

7. Defendants admit that at least one Defendant was incorporated in 2006 in China. Defendants admit that at least some Jinko-branded products have been manufactured in China. Defendants deny the remaining allegations in Paragraph 7 of the Complaint.

8. Defendants admit that at least one Defendant makes Jinko-branded solar cells outside the United States for assembly into Jinko-branded solar modules such as the Eagle®, Tiger Neo, and Neo Green product lines, but deny that all such products use TOPCon technology. Defendants admit that certain Jinko-branded solar cells and solar modules that use TOPCon technology are imported into, used in, offered for sale in, and/or sold in the United States, but deny that any Jinko-branded Tiger Neo and Neo Green product lines are imported into, used in, offered for sale in, or sold in the United States. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint.

9. Defendants admit that at least one Defendant is currently aware of the existence of the '074 patent and that at least one Defendant received a letter from D. Kappos and K. Hummel dated September 26, 2024 asserting, among other things, that certain Jinko-branded products are covered by certain claims of the '074 patent. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of the second sentence of Paragraph 9 of the Complaint, and therefore deny all such allegations. The allegation of Paragraph 9 of the Complaint that "JinkoSolar is undoubtedly aware of that announcement, which was widely reported in the solar industry trade press," is too vague and ambiguous to admit or deny; to the extent a response is necessary, Defendants deny the allegation. Defendants deny the remaining allegations of Paragraph 9 of the Complaint.

10. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. Defendants deny that any Defendant has used technological advances owned by First Solar. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 10 of the Complaint, and therefore deny all such allegations.

THE PARTIES

11. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 11 of the Complaint, and therefore deny all such allegations.

12. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 12 of the Complaint, and therefore deny all such allegations.

13. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 13 of the Complaint, and therefore deny all such allegations.

14. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 14 of the Complaint, and therefore deny all such allegations.

15. Admitted.

16. The webpage cited by First Solar in Paragraph 16 of the Complaint speaks for itself and requires no response (as a whole and/or as quoted by the Complaint). Defendants admit that JinkoSolar Holding Co., Ltd. has stated that it had 14 production facilities globally and 26 overseas subsidiaries in Japan, South Korea, Vietnam, India, Turkey, Germany, Italy, Switzerland, the United States, Mexico, Brazil, Chile, Australia, Canada, Malaysia, the United Arab Emirates, Denmark, Indonesia, Nigeria and Saudi Arabia as of December 31, 2023. Defendants admit that

JinkoSolar Holding Co., Ltd. has stated that it had a global sales network with sales teams in 15 countries, including the United States, as of December 31, 2023.

17. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The allegations set forth in Paragraph 17 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

18. Admitted.

19. The webpage cited by First Solar in Paragraph 19 of the Complaint speaks for itself and requires no response (as a whole and/or as quoted by the Complaint). Defendants admit that JinkoSolar has the Global Sales & Marketing Center and manufacturing bases identified in Paragraph 19 of the Complaint. The allegation of Paragraph 19 of the Complaint that the four identified manufacturing bases are JinkoSolar's "main" manufacturing bases is too vague and ambiguous to admit or deny; to the extent a response is necessary, Defendants deny the allegation.

20. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The allegations set forth in Paragraph 20 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

21. Defendants admit that Jinko Solar (Vietnam) Industries Co. Ltd. is an indirect subsidiary of JinkoSolar Holding Co., Ltd. The allegations of Paragraph 21 of the Complaint that Jinko Solar (Vietnam) Industries Co. Ltd. "shares a geographical zone with one of JinkoSolar's main manufacturing bases" and "operates under the direction of JinkoSolar Holding and/or Jinko

Solar Co.” are too vague and ambiguous to admit or deny, and/or contain conclusions of law to which no response is necessary; to the extent a response is necessary, Defendants deny the allegations. Defendants admit the remaining allegations of Paragraph 21 of the Complaint.

22. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The allegations set forth in Paragraph 22 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

23. Defendants admit that Jinko Solar Technology Sdn. Bhd. is an indirect subsidiary of JinkoSolar Holding Co., Ltd. The allegations of Paragraph 23 of the Complaint that Jinko Solar Technology Sdn. Bhd. has a principal place of business “within close proximity to one of JinkoSolar’s main manufacturing bases” and “operates under the direction of JinkoSolar Holding and/or Jinko Solar Co.” are too vague and ambiguous to admit or deny, and/or contain conclusions of law to which no response is necessary; to the extent a response is necessary, Defendants deny the allegations. Defendants deny that Jinko Solar Technology Sdn. Bhd. has a principal place of business located at 2481 Tingkat Perusahaan 4A, Kawasan Perusahaan Bebas Perai, 13600 Perai, Penang, Malaysia. Jinko Solar Technology Sdn. Bhd. has a principal place of business located at 2522, Lorong Perusahaan 4, 31721 Kawasan Perusahaan Bebas Perai, 13600 Perai, Pulau Pinang, Malaysia. Defendants admit the remaining allegations of Paragraph 23 of the Complaint.

24. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the

Complaint. The allegations set forth in Paragraph 24 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

25. Defendants admit that Zhejiang Jinko Solar Co., Ltd. is a corporation organized and existing under the laws of China but deny that JinkoSolar Zhejiang was acquired by JinkoSolar Holding on June 30, 2009. Defendants admit that Zhejiang Jinko Solar Co., Ltd. is an indirect subsidiary of JinkoSolar Holding Co., Ltd. The allegations of Paragraph 25 of the Complaint that Zhejiang Jinko Solar Co., Ltd. has a principal place of business “within close proximity of one of JinkoSolar’s main manufacturing bases” and “operates under the direction of JinkoSolar Holding and/or Jinko Solar Co.” are too vague and ambiguous to admit or deny, and/or contain conclusions of law to which no response is necessary; to the extent a response is necessary, Defendants deny the allegations. Defendants admit the remaining allegations of Paragraph 25 of the Complaint.

26. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The allegations set forth in Paragraph 26 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

27. Defendants admit that Jinko Solar (U.S.) Holding Inc. is an indirect subsidiary of JinkoSolar Holding Co., Ltd. The allegation of Paragraph 27 of the Complaint that JinkoSolar (U.S.) Holding Inc. “operates under the direction of JinkoSolar Holding and/or Jinko Solar Co.” is too vague and ambiguous to admit or deny, and/or contains conclusions of law to which no response is necessary; to the extent a response is necessary, Defendants deny the allegation. Defendants admit the remaining allegations of Paragraph 27 of the Complaint.

28. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The allegations set forth in Paragraph 28 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

29. Defendants admit that Jinko Solar (U.S.) Inc. is an indirect subsidiary of JinkoSolar Holding Co., Ltd. The allegation of Paragraph 29 of the Complaint that JinkoSolar (U.S.) Inc. “operates under the direction of JinkoSolar Holding and/or Jinko Solar Co.” is too vague and ambiguous to admit or deny, and/or contains conclusions of law to which no response is necessary; to the extent a response is necessary, Defendants deny the allegation. Defendants admit the remaining allegations of Paragraph 29 of the Complaint.

30. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The allegations set forth in Paragraph 30 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations. The webpage cited by First Solar in Paragraph 30 of the Complaint speaks for itself and requires no response (as a whole and/or as quoted by the Complaint).

31. Defendants admit that Jinko Solar (U.S.) Manufacturing Inc. is an indirect subsidiary of JinkoSolar Holding Co., Ltd. The allegation of Paragraph 31 of the Complaint that JinkoSolar (U.S.) Manufacturing Inc. “operates under the direction of JinkoSolar Holding and/or Jinko Solar Co.” is too vague and ambiguous to admit or deny, and/or contains conclusions of law

to which no response is necessary; to the extent a response is necessary, Defendants deny the allegation. Defendants admit the remaining allegations of Paragraph 31 of the Complaint.

32. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The allegations set forth in Paragraph 32 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

33. Defendants admit that Jinko Solar (U.S.) Industries Inc. is an indirect subsidiary of JinkoSolar Holding Co., Ltd. The allegation of Paragraph 33 of the Complaint that JinkoSolar (U.S.) Industries Inc. “operates under the direction of JinkoSolar Holding and/or Jinko Solar Co.” is too vague and ambiguous to admit or deny, and/or contains conclusions of law to which no response is necessary; to the extent a response is necessary, Defendants deny the allegation. Defendants admit the remaining allegations of Paragraph 33 of the Complaint.

34. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The allegations set forth in Paragraph 34 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

35. Defendants admit that certain Jinko-branded solar cells and/or modules are manufactured in Quang Ninh, Vietnam, that certain Jinko-branded solar cells and/or modules are manufactured in Penang, Malaysia, that certain Jinko-branded solar cells are manufactured in Haining, China, and that certain Jinko-branded solar modules are assembled in Jacksonville, Florida. The webpage cited by First Solar in Paragraph 35 of the Complaint speaks for itself and

requires no response (as a whole and/or as quoted by the Complaint). Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The allegation of Paragraph 35 of the Complaint that “at least JinkoSolar Vietnam, JinkoSolar Malaysia, and JinkoSolar Zhejiang ... work together with and/or at the direction of JinkoSolar’s Chinese and U.S. entities to import into, and/or use, offer to sell and/or sell, these TOPCon solar cells and products that contain such TOPCon solar cells in the United States” is too vague and ambiguous to admit or deny, and/or contains conclusions of law to which no response is necessary; to the extent a response is necessary, Defendants deny the allegation.

36. The allegation of Paragraph 36 of the Complaint that “JinkoSolar has overlapping executives who control and operate JinkoSolar’s various companies and subsidiaries in a coordinated fashion” is too vague and ambiguous to admit or deny, and/or contains conclusions of law to which no response is necessary; to the extent a response is necessary, Defendants deny the allegation but admit that that certain Defendants share common directors and officers. Defendants admit the remaining allegations of Paragraph 36 of the Complaint. The webpages and public records cited by First Solar in Paragraph 36 of the Complaint speak for themselves and require no response (as a whole and/or as quoted by the Complaint).

37. The allegations of Paragraph 37 of the Complaint that “JinkoSolar’s various subsidiaries and companies are, as described above, interconnected and work in concert with one another” and that “[f]urther evidence of such coordination literally appears on JinkoSolar’s product” are too vague and ambiguous to admit or deny, and/or contain conclusions of law to which no response is necessary; to the extent a response is necessary, Defendants deny the

allegations. The image shown in Paragraph 37 of the Complaint, which is purportedly a label from a JKM425N-54HL4-B module, speaks for itself and requires no response. Defendants admit that Jinko-branded solar modules bearing number “JKM425N-54HL4-B” are sold in the United States.

38. Admitted. The webpage cited by First Solar in Paragraph 38 of the Complaint speaks for itself and requires no response (as a whole and/or as quoted by the Complaint).

39. The webpage cited by First Solar in Paragraph 39 of the Complaint speaks for itself and requires no response (as a whole and/or as quoted by the Complaint).

40. The webpage cited by First Solar in the first sentence of Paragraph 40 of the Complaint speaks for itself and requires no response (as a whole and/or as quoted by the Complaint). Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation in the second sentence of Paragraph 40 of the Complaint, and therefore deny such allegation. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation in the third sentence of Paragraph 40 of the Complaint, and therefore deny such allegation. The webpages cited by First Solar in the second and third sentences of Paragraph 40 of the Complaint speak for themselves and require no response (as a whole and/or as quoted by the Complaint).

41. Defendants admit that at least some Jinko-branded products are delivered in the United States, including Delaware. The webpage cited by First Solar in Paragraph 41 of the Complaint speaks for itself and requires no response (as a whole and/or as quoted by the Complaint). Defendants deny the remaining allegations of Paragraph 41 of the Complaint.

JURISDICTION AND VENUE

42. Defendants admit that First Solar's claims purport to arise under 35 U.S.C § 1 *et seq.* but deny that the claims are meritorious. Defendants deny First Solar's allegations of infringement and deny that First Solar is entitled to any relief.

43. Defendants do not contest, solely for the purpose of the present litigation, whether personal jurisdiction over JinkoSolar Holding Co., Ltd. properly lies in this District. The allegation of Paragraph 43 of the Complaint that "JinkoSolar Holding derives substantial revenue from sales of TOPCon solar products, in Delaware, that incorporate TOPCon solar cells that are manufactured overseas using methods claimed by the '074 Patent" is too vague and ambiguous to admit or deny, and/or contains conclusions of law to which no response is necessary; to the extent a response is necessary, Defendants deny the allegation. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The remaining allegations set forth in Paragraph 43 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

44. Defendants do not contest, solely for the purpose of the present litigation, whether personal jurisdiction over Jinko Solar Co., Ltd. properly lies in this District. The allegation of Paragraph 44 of the Complaint that Jinko Solar Co., Ltd. derives substantial revenue from sales of TOPCon solar products, in Delaware, that incorporate TOPCon solar cells that are manufactured overseas using methods claimed by the '074 Patent" is too vague and ambiguous to admit or deny, and/or contains conclusions of law to which no response is necessary; to the extent a response is necessary, Defendants deny the allegation. Defendants deny that any Defendant has committed

any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The remaining allegations set forth in Paragraph 44 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

45. Defendants do not contest, solely for the purpose of the present litigation, whether personal jurisdiction over Jinko Solar (Vietnam) Industries Co. Ltd. properly lies in this District. The allegation of Paragraph 45 of the Complaint that Jinko Solar (Vietnam) Industries Co. Ltd. derives substantial revenue from sales of TOPCon solar products, in Delaware, that incorporate TOPCon solar cells that are manufactured overseas using methods claimed by the '074 Patent" is too vague and ambiguous to admit or deny, and/or contains conclusions of law to which no response is necessary; to the extent a response is necessary, Defendants deny the allegation. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The remaining allegations set forth in Paragraph 45 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

46. Defendants do not contest, solely for the purpose of the present litigation, whether personal jurisdiction over Jinko Solar Technology Sdn. Bhd. properly lies in this District. The allegation of Paragraph 46 of the Complaint that Jinko Solar Technology Sdn. Bhd. derives substantial revenue from sales of TOPCon solar products, in Delaware, that incorporate TOPCon solar cells that are manufactured overseas using methods claimed by the '074 Patent" is too vague and ambiguous to admit or deny, and/or contains conclusions of law to which no response is

necessary; to the extent a response is necessary, Defendants deny the allegation. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The remaining allegations set forth in Paragraph 46 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

47. Defendants do not contest, solely for the purpose of the present litigation, whether personal jurisdiction over Zhejiang Jinko Solar Co., Ltd. properly lies in this District. The allegation of Paragraph 47 of the Complaint that Zhejiang Jinko Solar Co., Ltd. derives substantial revenue from sales of TOPCon solar products, in Delaware, that incorporate TOPCon solar cells that are manufactured overseas using methods claimed by the '074 Patent" is too vague and ambiguous to admit or deny, and/or contains conclusions of law to which no response is necessary; to the extent a response is necessary, Defendants deny the allegation. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The remaining allegations set forth in Paragraph 47 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

48. Defendants do not contest, solely for the purpose of the present litigation, whether personal jurisdiction over JinkoSolar Holding Co., Ltd., Jinko Solar Co., Ltd., Jinko Solar (Vietnam) Industries Co. Ltd., Jinko Solar Technology Sdn. Bhd., or Zhejiang Jinko Solar Co., Ltd. properly lies in this District. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant

has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The remaining allegations set forth in Paragraph 48 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

49. Defendants do not contest, solely for the purpose of the present litigation, whether personal jurisdiction over JinkoSolar (U.S.) Holding Inc., JinkoSolar (U.S.) Inc., Jinko Solar (U.S.) Manufacturing Inc., and Jinko Solar (U.S.) Industries Inc. properly lies in this District. Defendants admit that those four companies are incorporated in Delaware. The remaining allegations set forth in Paragraph 49 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

50. The allegation of Paragraph 50 of the Complaint that “[t]he subsidiaries and companies of JinkoSolar, acting in concert and as principal and agents, have done, and continue to do, substantial, continuous and systematic business in this judicial district, including marketing, selling and distributing products that contain TOPCon solar cells that are manufactured overseas using methods claimed by the ’074 Patent” is too vague and ambiguous to admit or deny, and contains conclusions of law to which no response is necessary; to the extent a response is necessary, Defendants deny the allegation. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint.

51. The allegation of Paragraph 51 of the Complaint that “JinkoSolar has derived substantial revenue from sales in Delaware of products that include TOPCon solar cells that are manufactured overseas using methods claimed by the ’074 Patent” is too vague and ambiguous to

admit or deny, and/or contains conclusions of law to which no response is necessary; to the extent a response is necessary, Defendants deny the allegation. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint.

52. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The remaining allegations set forth in Paragraph 52 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

53. Defendants do not contest, solely for the purpose of the present litigation, whether venue over them properly lies in this District, but Defendants deny that venue in this District is convenient.

BACKGROUND ON SOLAR TECHNOLOGY

54. Admitted.

55. Admitted.

56. Admitted.

57. Admitted.

58. Admitted.

59. Admitted.

60. Admitted.

61. Admitted.

62. Admitted.

63. Admitted.

64. Admitted.

THE PATENTED TECHNOLOGY

65. Defendants admit that, on its face, the '074 patent is titled "High-Efficiency Solar Cell Structures and Methods of Manufacture"; identifies Oliver Schultz-Wittmann and Denis DeCeuster as inventors; lists an issuance date of September 8, 2015; references a "§371 (c)(1), (2), (4) Date" of November 15, 2011; and references a provisional patent application number 61/171,194 filed on April 21, 2009. Defendants admit that what purports to be a copy of the '074 patent is attached as Exhibit A to the Complaint.

66. Defendants state that the '074 patent speaks for itself, and no response is required. To the extent that a response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 66 of the Complaint, and therefore deny all such allegations.

67. Defendants state that the '074 patent speaks for itself, and no response is required. To the extent that a response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 67 of the Complaint, and therefore deny all such allegations.

68. Defendants state that the '074 patent speaks for itself, and no response is required. To the extent that a response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 68 of the Complaint, and therefore deny all such allegations.

69. Defendants state that the '074 patent speaks for itself, and no response is required. To the extent that a response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 69 of the Complaint, and therefore deny all such allegations.

70. Defendants state that the '074 patent speaks for itself, and no response is required. To the extent that a response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 70 of the Complaint, and therefore deny all such allegations.

71. Defendants state that the '074 patent speaks for itself, and no response is required. To the extent that a response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 71 of the Complaint, and therefore deny all such allegations.

72. Defendants state that the '074 patent speaks for itself, and no response is required. To the extent that a response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 72 of the Complaint, and therefore deny all such allegations.

73. Defendants state that the '074 patent speaks for itself, and no response is required. To the extent that a response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 73 of the Complaint, and therefore deny all such allegations.

74. Defendants state that the '074 patent speaks for itself, and no response is required. To the extent that a response is required, Defendants lack knowledge or information sufficient to

form a belief as to the truth of the allegations of Paragraph 74 of the Complaint, and therefore deny all such allegations.

75. Defendants state that the '074 patent speaks for itself, and no response is required. To the extent that a response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 75 of the Complaint, and therefore deny all such allegations.

THE INFRINGING PRODUCTS

76. Defendants admit that certain Defendants manufacture solar cells that certain Defendants incorporate into solar modules that certain Defendants sell. Defendants admit that Jinko-branded solar modules include “Eagle”, “Tiger Neo,” and “Neo Green” product lines. Defendants admit that some of but not all such products use TOPCon technology. The allegations of Paragraph 76 of the Complaint that “[t]hese products use and incorporate the same, or substantially the similar, infringing TOPCon solar cells” and that, “[a]ccordingly, the products analyzed below are representative of JinkSolar’s full offering of infringing TOPCon products,” are too vague and ambiguous to admit or deny, and/or contain conclusions of law to which no response is necessary; to the extent a response is necessary, Defendants deny the allegations. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint.

77. Admitted. The webpages cited by First Solar in Paragraph 77 of the Complaint speak for themselves and require no response (as a whole and/or as quoted by the Complaint).

78. Defendants admit that certain Jinko-branded “Eagle” solar modules use TOPCon technology. The webpage cited by First Solar in Paragraph 78 of the Complaint speaks for itself and requires no response (as a whole and/or as quoted by the Complaint).

79. Defendants admit that the product models specifically referenced in Paragraph 79 of the Complaint are Jinko-branded “Eagle” solar modules that use TOPCon technology. The allegation of Paragraph 79 of the Complaint that the webpages cited by First Solar show “[r]epresentative examples of data sheets” is too vague and ambiguous to admit or deny, and/or contains conclusions of law to which no response is necessary; to the extent a response is necessary, Defendants deny the allegation. The webpages cited by First Solar in Paragraph 79 of the Complaint speak for themselves and require no response (as a whole and/or as quoted by the Complaint).

80. Defendants admit that at least one Defendant has provided product specification information for certain Jinko-branded “Eagle” solar modules. The allegation of Paragraph 80 of the Complaint that the webpage cited by First Solar shows “[a] representative example of this information” is too vague and ambiguous to admit or deny, and/or contains conclusions of law to which no response is necessary; to the extent a response is necessary, Defendants deny the allegation. The webpage cited by First Solar in Paragraph 80 of the Complaint speaks for itself and requires no response (as a whole and/or as quoted by the Complaint).

81. Defendants admit that certain Jinko-branded “Tiger Neo” solar modules use TOPCon technology. The webpage cited by First Solar in Paragraph 81 of the Complaint speaks for itself and requires no response (as a whole and/or as quoted by the Complaint).

82. Defendants admit that the product models referenced in Paragraph 82 of the Complaint are Jinko-branded “Tiger Neo” solar modules that use TOPCon technology.

The webpages cited by First Solar in Paragraph 82 of the Complaint speak for themselves and require no response (as a whole and/or as quoted by the Complaint).

83. Defendants admit that the product model referenced in Paragraph 83 of the Complaint is a Jinko-branded “Tiger Neo” solar module that uses TOPCon technology. The allegation of Paragraph 83 of the Complaint that the referenced product model is “[a] representative example” is too vague and ambiguous to admit or deny, and/or contains conclusions of law to which no response is necessary; to the extent a response is necessary, Defendants deny the allegation. The webpage cited by First Solar in Paragraph 83 of the Complaint speaks for itself and requires no response (as a whole and/or as quoted by the Complaint).

84. Defendants admit that at least one Defendant has provided product specification information for certain Jinko-branded “Tiger Neo” solar modules that use TOPCon technology. The allegation of Paragraph 84 of the Complaint that the webpage cited by First Solar shows “[a] representative example of this information” is too vague and ambiguous to admit or deny, and/or contains conclusions of law to which no response is necessary; to the extent a response is necessary, Defendants deny the allegation. The webpage cited by First Solar in Paragraph 84 of the Complaint speaks for itself and requires no response (as a whole and/or as quoted by the Complaint).

85. Defendants admit that certain Jinko-branded “Neo Green” solar modules use TOPCon technology. The webpages cited by First Solar in Paragraph 85 of the Complaint speak for themselves and require no response (as a whole and/or as quoted by the Complaint).

86. The webpages cited by First Solar in Paragraph 86 of the Complaint speak for themselves and require no response (as a whole and/or as quoted by the Complaint).

87. The webpage cited by First Solar in Paragraph 87 of the Complaint speaks for itself and requires no response (as a whole and/or as quoted by the Complaint).

88. Denied.

INFRINGEMENT OF U.S. PATENT NO. 9,130,074¹

89. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation at Paragraph 86 of the Complaint that “First Solar is the assignee of the 074 Patent”, and, therefore, deny such allegation. The remaining allegations set forth in Paragraph 86 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

90. The allegations set forth in Paragraph 87 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

91. Admitted as to the allegation in Paragraph 88.

92. Admitted as to the allegation in Paragraph 89.

93. Admitted as to the allegation in Paragraph 90.

94. Admitted as to the allegation in Paragraph 91.

95. Defendants admit that the schematic shown in Paragraph 92 of the Complaint appears (without First Solar’s annotations) in a JinkoSolar product whitepaper titled “Tiger Neo N-Type TOPCon Module,” but deny that any Jinko-branded product infringes the ’074 patent. The remaining allegations set forth in Paragraph 92 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

¹ The first paragraph of this section of the Complaint is numbered “86” even though the preceding paragraph is numbered “88.” Defendants refer herein to the Complaint’s paragraph numbers.

96. Defendants admit that Paragraph 93 of the Complaint purports to illustrate Defendants' alleged infringement of claim 1 of the '074 patent but deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The remaining allegations set forth in Paragraph 93 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

97. Defendants admit that Paragraph 94 of the Complaint purports to illustrate Defendants' alleged infringement of claim 1 of the '074 patent but deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The remaining allegations set forth in Paragraph 94 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

98. Defendants admit that Paragraph 95 of the Complaint purports to illustrate Defendants' alleged infringement of claim 1 of the '074 patent but deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The remaining allegations set forth in Paragraph 95 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

99. Defendants admit that Paragraph 96 of the Complaint purports to illustrate Defendants' alleged infringement of claim 1 of the '074 patent but deny that any Defendant has

committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The remaining allegations set forth in Paragraph 96 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

100. Defendants admit that Paragraph 97 of the Complaint purports to illustrate Defendants' alleged infringement of claim 1 of the '074 patent but deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The remaining allegations set forth in Paragraph 97 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

101. Defendants admit that Paragraph 98 of the Complaint purports to illustrate Defendants' alleged infringement of claim 1 of the '074 patent but deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The remaining allegations set forth in Paragraph 98 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

102. Defendants admit that Paragraph 99 of the Complaint purports to illustrate Defendants' alleged infringement of claim 1 of the '074 patent but deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any

cause of action under the Complaint. The remaining allegations set forth in Paragraph 99 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

103. Defendants admit that Paragraph 100 of the Complaint purports to illustrate Defendants' alleged infringement of claim 1 of the '074 patent but deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The remaining allegations set forth in Paragraph 100 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

104. Defendants admit that Paragraph 101 of the Complaint purports to illustrate Defendants' alleged infringement of claim 2 of the '074 patent but deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The remaining allegations set forth in Paragraph 101 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

105. Defendants admit that Paragraph 102 of the Complaint purports to illustrate Defendants' alleged infringement of claim 4 of the '074 patent but deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The remaining allegations set forth in Paragraph 102 of the

Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

106. Defendants admit that Paragraph 103 of the Complaint purports to illustrate Defendants' alleged infringement of claim 8 of the '074 patent but deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The remaining allegations set forth in Paragraph 103 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

107. Denied as to the allegations in Paragraph 104.

108. Denied as to the allegations in Paragraph 105.

109. Denied as to the allegations in Paragraph 106.

110. Defendants admit that at least one Defendant received a letter from D. Kappos and K. Hummel dated September 26, 2024 asserting, among other things, that certain Jinko-branded products are covered by certain claims of the '074 patent. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The allegation of Paragraph 107 of the Complaint that "First Solar issued a press release announcing its ownership of patents related to the manufacturing of TOPCon solar cells and its investigation into several leading solar manufacturers for potential infringement of these patents" is too vague and ambiguous to admit or deny; to the extent a response is necessary, Defendants deny the allegation. To the extent that the allegation of paragraph 107 of the Complaint that "JinkoSolar also likely had knowledge of the '074 patent on

or about July 19, 2024” states a legal conclusion, no response is required. In addition, that allegation is too vague and ambiguous to admit or deny. To the extent a response is necessary, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation, and therefore deny such allegation.

111. Denied as to the allegations in Paragraph 108.

112. Denied as to the allegations in Paragraph 109.

113. Defendants deny that any Defendant has committed any act of infringement, directly or indirectly, in the District of Delaware or elsewhere, or that any Defendant has committed any act, directly or indirectly, that would give rise to any cause of action under the Complaint. The remaining allegations set forth in paragraph 110 of the Complaint state legal conclusions to which no response is required; if such a response is required, Defendants deny those allegations.

FIRST SOLAR’S JURY DEMAND

114. Defendants are not required to provide a response to First Solar’s jury demand.

FIRST SOLAR’S PRAYER FOR RELIEF

Defendants deny the underlying allegations of First Solar’s Prayer for Relief against Defendants, deny that First Solar is entitled to any relief whatsoever, and request that the Court deny all relief to First Solar, enter judgment in favor of Defendants, and award Defendants their attorneys’ fees as the prevailing party in the action.

To the extent that any allegations of the Complaint have not been previously specifically admitted or denied, Defendants deny them.

AFFIRMATIVE DEFENSES

Defendants' Affirmative Defenses are listed below. Defendants reserve the right to amend this Answer to assert additional defenses, including allegations of inequitable conduct and/or any other defenses currently unknown to Defendants, in the event that Defendants' investigation or discovery in this action indicates that additional affirmative defenses are appropriate. Assertion of a defense is not a concession that Defendants have the burden of proving the matter asserted.

FIRST AFFIRMATIVE DEFENSE **(Non-Infringement)**

Defendants do not and have not infringed, under any theory of infringement (including directly (whether individually or jointly), literally or under the doctrine of equivalents, or indirectly (whether contributorily or by inducement), any valid, enforceable claim of the '074 patent.

SECOND AFFIRMATIVE DEFENSE **(Invalidity)**

Each asserted claim of the '074 patent is invalid for failure to comply with one or more of the requirements of United States Code, Title 35, including without limitation, 35 U.S.C. §§ 101, 102, 103, and 112, and the rules, regulations, and laws pertaining thereto.

THIRD AFFIRMATIVE DEFENSE **(Limitation on Damages)**

First Solar's claims for damages are statutorily limited or barred by 35 U.S.C. § 286.

FOURTH AFFIRMATIVE DEFENSE **(Prosecution History Estoppel and/or Disclaimer)**

First Solar's claims are barred in whole or in part by the doctrines of prosecution history estoppel and/or prosecution history disclaimer based on statements, representations, and admissions made during prosecution of the patent application(s) resulting in the '074 patent.

FIFTH AFFIRMATIVE DEFENSE
(Ensnarement)

First Solar's claims, to the extent they rely on the doctrine of equivalents, are barred, in whole or in part, by the doctrine of ensnarement.

SIXTH AFFIRMATIVE DEFENSE
(Equitable Defenses)

First Solar's claims are barred in whole or in part by one or more of the following doctrines: laches, prosecution laches, equitable estoppel, waiver, acquiescence, and unclean hands.

SEVENTH AFFIRMATIVE DEFENSE
(No Injunctive Relief)

First Solar's claim for injunctive relief is barred because there exists an adequate remedy at law, and First Solar's claims otherwise fail to meet the requirements for such relief.

EIGHTH AFFIRMATIVE DEFENSE
(Failure to Mark)

To the extent that First Solar, any predecessors-in-interest, or any First Solar licensee to the '074 patent failed to properly mark any of their relevant products as required by 35 U.S.C. § 287 or otherwise give proper notice that Defendants' actions allegedly infringed the '074 patent, Defendants are not liable to First Solar for the acts alleged to have been performed before they received actual notice that they were allegedly infringing the '074 patent.

NINTH AFFIRMATIVE DEFENSE
(Failure to State a Claim)

First Solar's Complaint fails to state a claim upon which relief can be granted.

COUNTERCLAIMS

Defendants, for their counterclaims against First Solar, state as follows:

NATURE OF THE ACTION

1. This is an action by Defendants pursuant to Rule 13 of the Federal Rules of Civil Procedure for declarations of non-infringement and invalidity of U.S. Patent No. 9,130,074 (“the ’074 patent”).

PARTIES

2. JinkoSolar Holding Co., Ltd. is a corporation organized and existing under the laws of the Cayman Islands with a principal place of business located at No. 1 Yingbin Road, Shangrao Economic Development Zone, Jiangxi Province, 334100, People’s Republic of China.

3. Jinko Solar Co., Ltd is a corporation organized and existing under the laws of the People’s Republic of China, with a principal place of business located at No. 1, Yingbin Road, Shangrao Economic Development Zone, Jiangxi Province, 334100, People’s Republic of China.

4. JinkoSolar (Vietnam) Industries Co. Ltd. is a corporation organized and existing under the laws of the Socialist Republic of Vietnam, with a principal place of business located at CN - XL - 06, 11, Song Khoai Industrial Zone, Song Khoai Ward, Quang Yen Town, Quang Ninh Province, Vietnam.

5. Jinko Solar Technology Sdn. Bhd. is a corporation organized and existing under the laws of the Federation of Malaysia, with a principal place of business located at 2522, Lorong Perusahaan 4, 31721 Kawasan Perusahaan Bebas Perai, 13600 Perai, Pulau Pinang, Malaysia.

6. Zhejiang Jinko Solar Co., Ltd. is a corporation organized and existing under the laws of the People’s Republic of China, with a principal place of business located at 58 Yuan Xi Road, Yuan Hua Town, Haining, Zhejiang Province, China.

7. JinkoSolar (U.S.) Holding Inc. is a corporation organized and existing under the laws of Delaware, with a principal place of business located at 1901 S. Bascom Avenue, Suite 350, Campbell, CA 95008.

8. JinkoSolar (U.S.) Inc. is a corporation organized and existing under the laws of Delaware, with a principal place of business located at 1901 S. Bascom Avenue, Suite 350, Campbell, CA 95008.

9. Jinko Solar (U.S.) Manufacturing Inc. is a corporation organized and existing under the laws of Delaware, with a registered office at 8 The Green, Suite A, Dover, DE 19901.

10. Jinko Solar (U.S.) Industries Inc. is a corporation organized and existing under the laws of Delaware, with a principal place of business at 4660 POW MIA Memorial Parkway, Suite 200, Jacksonville, FL 32221.

11. On information and belief based solely on Paragraph 11 of the Complaint as pled by First Solar, First Solar is a company organized and existing under the laws of Delaware, with a principal place of business at 350 West Washington Street, Suite 600, Tempe, AZ 85288.

JURISDICTION AND VENUE

12. These Counterclaims arise under the United States patent laws, 35 U.S.C. §§ 1, *et seq.*, and seek relief for which this Court has jurisdiction pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. This Court has subject matter jurisdiction over these Counterclaims pursuant to 28 U.S.C. §§ 1331 and 1338(a).

13. First Solar has consented to personal jurisdiction by commencing the action for patent infringement in this judicial district, as set forth in First Solar's Complaint.

14. By virtue of filing the action, First Solar has consented that venue for these Counterclaims is proper in this District under at least 28 U.S.C. § 1400(b).

15. An actual, substantial, and continuing justiciable controversy exists between Defendants and First Solar based at least on First Solar having filed a complaint against Defendants alleging infringement of the '074 patent, with respect to which Defendants require a declaration of their rights by this Court. Specifically, the controversy concerns non-infringement and invalidity of the '074 patent and the right of First Solar to maintain suit for alleged infringement of the '074 patent.

FIRST COUNTERCLAIM
(Declaratory Judgment of Non-Infringement of the '074 Patent)

16. Defendants re-allege and incorporate by reference the allegations set forth in Paragraphs 1–15 of these Counterclaims.

17. A judicial declaration that Defendants do not infringe the '074 patent is necessary and appropriate at this time so that Defendants can ascertain their rights and duties with respect to the '074 patent. Defendants have no adequate remedy at law.

18. Defendants have not infringed and do not infringe, either directly or indirectly, by inducement or contributorily, willfully or otherwise, any valid and enforceable claim of the '074 patent, either literally or under the doctrine of equivalents.

19. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, and Title 35 of the United States Code, Defendants therefore request a judicial declaration that they have not directly infringed, and do not directly infringe, contribute to the infringement of, or actively induce others to infringe any valid and enforceable claim of the '074 patent, either directly or indirectly, individually or jointly, literally or under the doctrine of equivalents.

SECOND COUNTERCLAIM
(Declaratory Judgment of Invalidity of the '074 Patent)

20. Defendants re-allege and incorporate by reference the allegations set forth in the

Paragraphs 1–19 of these Counterclaims.

21. A judicial declaration that the '074 patent is invalid because it fails to satisfy the conditions for patentability specified in Title 35 of the United States Code is necessary and appropriate at this time so that Defendants and Counterclaim-Plaintiffs can ascertain their rights and duties with respect to the '074 patent. Defendants and Counterclaim-Plaintiffs have no adequate remedy at law.

22. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, and Title 35 of the United States Code, Defendants and Counterclaim-Plaintiffs therefore request a judicial declaration that one or more claims of the '074 patent are invalid and/or unenforceable at least because they fail to satisfy one or more conditions for patentability specified in 35 U.S.C. §§ 101, 102, 103, and/or 112, the non-statutory doctrine of double patenting, and the rules, regulations, and laws pertaining thereto. For example, the claims of the '074 patent are invalid under 35 U.S.C. §§ 102 and/or 103, at least in view of Japanese Patent Application Publication No. JP1992245683, alone or in combination with other prior art, and/or U.S. Patent Application No. US 2010/0240172, alone or in combination with other prior art.

PRAYER FOR RELIEF

WHEREFORE, Defendants and Counterclaim-Plaintiffs respectfully pray that this Court enter judgment in Defendants' favor against First Solar and enter a judgment granting the following relief:

- a. A complete denial of any and all relief requested by First Solar;
- b. Dismissal with prejudice of all claims in First Solar's Complaint against Defendants;

- c. A permanent injunction restraining First Solar and its respective officers, partners, employees, agents, parents, subsidiaries, and affiliates, and any other persons acting on its behalf or in concert with it, from charging, suing, or threatening, orally or in writing, that the '074 patent has been infringed by any of the Defendants under any subsection of 35 U.S.C. §§ 271 or 281;
- d. A finding that the '074 patent's claims are invalid and unenforceable;
- e. A finding that Defendants have not infringed, contributed to the infringement of, or induced others to infringe, literally or under the doctrine of equivalents, any valid claim of the '074 patent;
- f. A finding that this is an exceptional case under 35 U.S.C. § 285 and an award to Defendants of their reasonable costs and expenses of litigation, including but not limited to attorneys' fees and expert witness fees;
- g. An award to Defendants of their costs and disbursements in defending in this action; and
- h. An award to Defendants of any and all further relief that this Court deems just and proper.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b) and D. Del. LR 38.1, Defendants demand a trial by jury for all issues so triable.

Dated: June 27, 2025

YOUNG CONAWAY STARGATT &
TAYLOR, LLP

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 27, 2025, a copy of the foregoing document was served on the counsel listed below in the manner indicated:

BY EMAIL

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Dated: June 27, 2025