

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

UNIRAC, INC., a New Mexico corporation,)	
)	
Plaintiff,)	
)	C.A. No.
v.)	
)	
CHIKO USA LLC, a Delaware limited liability)	
company; and SHANGHAI CHIKO SOLAR)	JURY TRIAL DEMANDED
TECHNOLOGY CO., LTD., a Chinese limited)	
liability company,)	
)	
Defendants.)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff UNIRAC, INC. (“Unirac” or “Plaintiff”) brings this action for patent infringement against Defendants, CHIKO USA LLC (“CHIKO USA”) and SHANGHAI CHIKO SOLAR TECHNOLOGY CO., LTD. (“CHIKO SOLAR”) (collectively “Defendants”), on information and belief, and alleges as follows:

I. NATURE OF THE CASE

1. This is an action for patent infringement. Plaintiff Unirac manufactures and markets solar panel mounting systems. Unirac has a long history of cutting-edge advancements in developing, manufacturing, and marketing systems for securely, safely, adjustably, and quickly installing solar panels. Unirac has been, and continues to be, a pioneer in developing solar panel mounting systems. The Unirac patent involved in this case is directed to Unirac’s solar panel mounting systems.

2. Defendants make, use, sell, and offer to sell solar panel mounting systems that infringe Unirac’s patent without Unirac’s permission and without compensating Unirac for the use of Unirac’s patented inventions. Defendants are closely related companies that compete with Unirac in the solar panel mounting industry. The infringing products are manufactured, marketed,

and provided under the Chiko USA brand at the direction of Chiko Solar. On information and belief, Chiko Solar directs and controls Chiko USA, which makes, offers to sell, sells and/or imports the infringing products.

3. Unirac brings this lawsuit to end Defendants' unauthorized, willful, and infringing manufacture, use, sale, offers to sell, and/or importation into the United States products and/or components that incorporate Unirac's patented inventions without Unirac's permission and without compensating Unirac; and to recover damages adequate to compensate Unirac for Defendants' unlawful and infringing actions.

II. THE PARTIES

4. Unirac is a corporation organized and existing under the laws of the State of New Mexico, with a principal place of business at 1411 Broadway Boulevard NE, Albuquerque, NM 87102.

5. On information and belief, Chiko USA is a Delaware limited liability company organized under the laws of the state of Delaware, with its principal place of business at lists 4901 E. Dahlia Drive, Scottsdale AZ 85254.

6. Chiko USA is a subsidiary and official US affiliate of Chiko Solar. *See* <https://www.chikousa.com/terms-conditions/>.¹

7. On information and belief, Chiko Solar is a Chinese limited liability company, operating in the United States through its US affiliate and agent, Chiko USA, with a principal place of business at No. 680 Xingwen Rd. Jiading District, Shanghai 201808 China.

¹ All links referenced in this Complaint were last visited on August 22, 2023.

III. JURISDICTION AND VENUE

8. This civil action for patent infringement arises under the patent laws of the United States, 35 U.S.C. § 100 et seq., including pursuant to 35 U.S.C. § 271. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over Chiko USA. On information and belief, Chiko USA has systematic and continuous contact with this forum at least because it is a Delaware limited liability company, conducts business in this judicial district, and resides in Delaware.

10. This Court has personal jurisdiction over Chiko Solar. On information and belief, Chiko Solar has systematic and continuous contact with this forum at least because it conducts business in Delaware and in this judicial district.

11. Venue is proper in the District of Delaware under 28 U.S.C. § 1400(b). Venue is proper in this Court as to Chiko USA because it is a Delaware limited liability company and, therefore, resides in this district.

12. Venue is also proper in the District of Delaware as to Chiko Solar because Chiko Solar is a foreign entity. The Supreme Court's "decision in *TC Heartland* does not alter th[e] conclusion" that venue is proper as to a foreign defendant in any district. *In re HTC Corp.*, 889 F.3d 1349, 1357 (Fed. Cir. May 9, 2018) (citing *TC Heartland LLC v. Kraft Foods Grp. Brands LLC*, 137 S. Ct. 1514, 1520 n.2, 197 L. Ed. 2d 816 (2017) and *Brunette Machine Works, Ltd. v. Kockum Industries, Inc.*, 406 U.S. 706, 706, 92 S. Ct. 1936, 32 L. Ed. 2d 428 (1972)).

IV. BACKGROUND AND FACTS

Unirac and its Patents

13. Unirac is a leading manufacturer of solar panel mounting systems, roof attachments, roof flashings, and accessories. During its 20 years of service, Unirac has been

awarded numerous patents by the United States Patent and Trademark Office for innovative designs in these fields.

14. Unirac is the owner of the patent at issue in this action: U.S. Patent No. 7,434,362 (the “’362 Patent” or the “Asserted Patent”).

15. On October 14, 2008, the United States Patent and Trademark Office (USPTO) duly and legally issued the ’362 Patent, entitled “System for Removably and Adjustably Mounting Device on a Surface.” A copy of the ’362 Patent is attached as Exhibit 1.

16. In an *inter partes* reexamination filed August 9, 2011 (Control No. 95/001,706) , the U.S. Patent and Trademark Office confirmed the patentability of claims 3-7, 9, 10, 13, and 15-23 of the ’362 Patent and canceled claims 1, 2, 8, 11, 12, and 14. *See* Ex. 1, 14-15.

17. In a later *inter partes* review filed August 27, 2021, the Patent Trial and Appeal Board of the USPTO denied institution of the challenger’s petition challenging the ’362 Patent claims. *Ecofasten Solar, LLC et al. v. Unirac, Inc.*, IPR2021-01379, Paper 11 (PTAB Feb. 8, 2022).

18. Unirac owns all substantial right, title, and interest in the ’362 Patent, and holds the right to sue and recover damages for infringement thereof, including past infringement.

19. While the ’362 Patent term expired on March 5, 2023, it remains enforceable for infringement that occurred before, and up to, expiration.

20. Claims 3-7, 9, 10, 13, and 15-23 of the ’362 Patent are valid and enforceable.

Defendants and Their Unlawful Conduct

21. Defendants compete with Unirac in the solar panel mounting industry.

22. Defendants are closely-related companies operating together and controlled by Chiko Solar.

23. Chiko USA has marketed, offered to sell, and/or sold, among other things, the following product families and/or groups of components or products for mounting solar panels to surfaces, such as rooftops, collectively referred to as the “Accused Products” which include:

- **#518 Rail and Associated Mounts and Clamps (collectively, the “518 System”):** The 518 System includes at least the #518 Rail and associated mounts (e.g., CK-FTH-01, CK-FTH-01B, CK-FTH-05, CK-FTH-07, CK-FTH-07B, CK-FTH-05B, CK-FTH-09, CK-FTH-09B, CK-FTH-61, CK-FTH-78, CK-FTH-79, CK-FTH-81, CK-FTS-BL200/340/500, CK-FTS-385, CK-FTS-360, CK-FTS-370/371, CK-FTS-384, CK-FTS-388, CK-FTS-162R43-1, CK-FTS-162R43-7, CK-FTS-162T2-5, CK-FTS-162T2-3) and clamps (e.g., “Mid clamp 30/33/25/38/40/45/50mm”; “Adjustable Mid Clamp 33-45mm”):
- **#519 Rail and Associated Mounts and Clamps (collectively, the “519 System”):** The 519 System includes at least the #519 and associated mounts (e.g., CK-FTH-01, CK-FTH-01B, CK-FTH-05, CK-FTH-07, CK-FTH-07B, CK-FTH-05B, CK-FTH-09, CK-FTH-09B, CK-FTH-61, CK-FTH-78, CK-FTH-79, CK-FTH-81, CK-FTS-BL200/340/500, CK-FTS-385, CK-FTS-360, CK-FTS-370/371, CK-FTS-384, CK-FTS-388, CK-FTS-162R43-1, CK-FTS-162R43-7, CK-FTS-162T2-5, CK-FTS-162T2-3) and clamps (e.g., “Mid clamp 30/33/25/38/40/45/50mm”; “Adjustable Mid Clamp 33-45mm”):
- **Series 537R Rail (also called “#7 Rail” or “#7 Classic”) and Associated Mounts and Clamps (collectively, the “537R System”):** The 537R System includes at least the #7 Rail and associated mounts CK-FTH-01, CK-FTH-01B, CK-FTH-05, CK-FTH-07, CK-FTH-07B, CK-FTH-05B, CK-FTH-09, CK-FTH-09B, CK-FTH-09V, CK-FTH-61, CK-FTH-073, CK-FTH-78, CK-FTH-79, CK-FTH-81, CK-FTS-BL200/340/500, CK-FTS-385, CK-FTS-360, CK-FTS-370/371, CK-FTS-384, CK-FTS-388, CK-FTS-162R43-1, CK-FTS-162R43-7, CK-FTS-162T2-5, CK-FTS-162T2-3) and clamps (e.g., “Mid clamp 30/33/25/38/40/45/50mm”; “Black mid clamp 30/33/35/38/40/45/50mm”).





See, e.g., <https://www.chikousa.com/wp-content/uploads/2022/07/CHIKO-USA-E-CATALOGUE-2021-1.pdf>; [5](https://www.chikousa.com/wp-content/uploads/2022/10/CHIKO-</p>
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USA-537-RAIL-DATA-SHEET-3.pdf;

<https://www.chikousa.com/wp-content/uploads/2022/10/Common-Rails-SpansII-537-RAIL.pdf>.

24. The Accused Products include solar panel racking systems in which support rails attach to a roof or other surface via various mounts and solar panels attach to the support rails via various clamps:

518 and 519 Rails and Associated Mounts and Clamps:

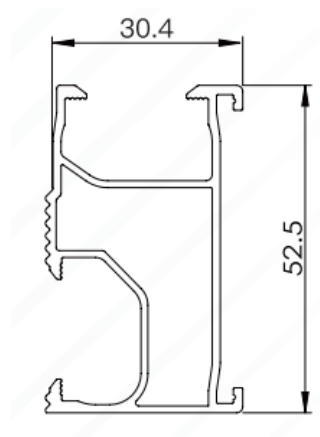
 <p>#518 Rail 4200mm,3200mm,2100mm</p>	 <p>#518 Rail Splice Kit Spec:150mm</p>
 <p>#519 Rail 4200mm,3200mm,2100mm</p>	 <p>#519 Rail Splice Kit Spec:150mm</p>

Mid Clamp & End Clamp

 <p>Mid clamp 30/33/35/38/40/45/50mm</p>	 <p>End Clamp 30/33/35/38/40/45/50mm</p>
 <p>Adjustable Mid Clamp 33-45mm</p>	 <p>Adjustable End Clamp 30-45mm</p>
 <p>Thin Film Mid Clamp 5.6-7.3mm</p>	 <p>Thin Film End Clamp 5.6-7.3mm</p>

Type No.	Image	Technical	Type No.	Image	Technical
CK-FTH-01			CK-FTH-05		
CK-FTH-78			CK-FTH-81		
CK-FTH-09			CK-FTH-05B		
CK-FTH-79			CK-FTH-07		
CK-FTH-01B			CK-FTH-07B		
CK-FTH-09B			CK-FTH-61		
CK-FTH-73					
CK-FTH-09V					

537R Rail and Associated Mounts and Clamps:





Type No.	Image	Technical	Type No.	Image	Technical
CK-FTH-01			CK-FTH-05		
CK-FTH-78			CK-FTH-81		
CK-FTH-09			CK-FTH-05B		
CK-FTH-79			CK-FTH-07		
CK-FTH-01B			CK-FTH-07B		
CK-FTH-09B			CK-FTH-61		
CK-FTH-73					
CK-FTH-09V					

25. On information and belief, Defendants instruct customers and users to use the Accused Product at least through product brochures, data sheets, installation training, installation guides, website content and/or other product information about the Accused Products. *See, e.g.*, <https://www.chikolar.com/support/document/Installation-Manual/>; <http://www.solarwholesale.co.za/Mounting%20Systems.pdf>; <https://www.chikousa.com/wp-content/uploads/2022/07/CHIKO-USA-E-CATALOGUE-2021-1.pdf>; <https://www.chikousa.com/wp-content/uploads/2022/10/Common-Rails-SpansII-537-RAIL.pdf>; <https://www.chikousa.com/wp-content/uploads/2022/10/CHIKO-USA-537-RAIL-DATA-SHEET-3.pdf>; <https://www.chikousa.com/wp-content/uploads/2022/07/CHIKO-USA-E-CATALOGUE-2021-1.pdf>; <https://www.chikousa.com/>; <https://www.chikousa.com/faq/>.

26. On information and belief, third parties including solar panel installers and other customers of Defendants have used the Accused Products as directed by Defendants in the directions and guides for installation of the Accused Products.

27. On information and belief, the Accused Products have no other substantial use than that described and shown in the directions and guides for installation of the Accused Products.

28. Chiko Solar and Chiko USA represent to the public that the Accused Products originate from Defendants, that Defendants support the Accused Products, and that Chiko USA is Chiko Solar's US affiliate.

29. For example, warranty information for the Accused Products sold on the Chiko USA website show that Defendants' warranty covers the Accused Products. *See, e.g.*, <https://www.chikousa.com/warranty/>; <https://www.chikousa.com/wp-content/uploads/2022/10/CHIKO-USA-25-YEAR-WARRANTY.pdf>.

30. Both Chiko Solar and Chiko USA represent to the public that Chiko USA “is the official US affiliate of CHIKO [Solar]” (<https://www.chikousa.com/terms-conditions/>) and “Chiko USA is the US-based affiliate of Chiko Solar which is headquartered in Shanghai, China (<https://www.chikousa.com/about-us/>).

31. Upon information and belief, Chiko Solar has provided the technology, development, design, manufacturing, and testing of the Accused Products. *See, e.g.*, <https://www.chikousa.com/global-supplier/>.

32. Consistent with this, Chiko Solar represents that it provides design, manufacture, sales, and service support from its headquarters in Shanghai. *See, e.g.*, <https://ca.linkedin.com/company/chikolar>.

33. Social media links on Chiko USA’s website link to Chiko Solar webpages. *See, e.g.*, <https://www.facebook.com/ChikoSolarSolution/>; <https://ca.linkedin.com/company/chikolar>.

34. Upon information and belief, Chiko Solar provides the Accused Products to Chiko USA. *See, e.g.*, <https://www.chikousa.com/global-supplier/>.

35. In this regard, Chiko Solar also represents to the public that it offers the Accused Products at issue in this litigation, either directly or through its controlled agent and subsidiary Chiko USA.

36. On information and belief, Chiko Solar has imported, marketed, offered to sell, and/or sold the Accused Products in the United States, including to its agent/subsidiary Chiko USA under the Chiko USA brand.

37. On information and belief, Chiko Solar and Chiko USA have a principal/agent relationship, with Chiko Solar having acted as principal to direct and control infringing activities involving the Accused Products in the United States through its subsidiary/agent Chiko USA.

38. On information and belief, Chiko USA has operated as a subsidiary, affiliate, and/or agent of Chiko Solar, directed and controlled by Chiko Solar with respect to infringing activities involving the Accused Products.

39. On information and belief, Chiko USA has imported, marketed, offered to sell, and/or sold the Accused Products to its customers in the United States.

40. Unirac provides public notice of its patents (including the '362 Patent) and associated patented products through its website and by marking its products with the relevant patent numbers. *See, e.g.*, <https://unirac.com/patents/>. Therefore, Defendants had at least constructive notice of Unirac's '362 Patent.

V. COUNT I

Defendants' Infringement of U.S. Patent No. 7,434,362

41. Unirac incorporates by reference and realleges the foregoing paragraphs 1–40 as if fully set forth herein.

42. On information and belief, Defendants have infringed each and every element of at least claim 3 of the '362 Patent under 35 U.S.C. § 271(a), either literally or under the doctrine of equivalents, by making, using, offering to sell, selling, and/or importing into the United States without authority the Accused Products. Claim charts detailing examples of Defendants' infringement through the 518 System, the 519 System, and the 537R System are attached as Exhibits 2-4, respectively.

43. On information and belief, the Accused Products have no other substantial use.

44. Defendants received notice of Unirac's patent rights and Defendants' infringement of the '362 Patent at least through the marking of patented products with the '362 Patent number. Therefore, Defendants had at least constructive notice of Unirac's '362 Patent.

45. Unirac has suffered damages as a result of Defendants' infringement of the '362 Patent. The extent of damage suffered by Unirac and caused by Defendants is not yet known, but the damage is substantial and will be determined at trial.

VI. JURY DEMAND

46. In accordance with Federal Rule of Civil Procedure 38(b), Unirac demands a trial by jury on all issues so triable.

VII. PRAYER FOR RELIEF

Unirac respectfully prays for relief as follows:

- A. a judgment that Defendants have infringed one or more claims of the Asserted Patent;
- B. a judgment awarding Plaintiff all damages adequate to compensate Unirac for Defendants' infringement, and in no event less than a reasonable royalty for Defendants' infringement, including all pre-judgment and post-judgment interest at the maximum rate allowed by law; and
- C. judgment(s) for such additional and further relief in law and equity, as the Court may deem just and proper.

OF COUNSEL:

James Stein
Ryan P. Gentes
LEE & HAYES, P.C.
75 14th Street, Suite 2500
Atlanta, GA 30309
(404) 815-1900
james.stein@leehayes.com
ryan.gentes@leehayes.com

Caleb Hatch
LEE & HAYES, P.C.
601 West Riverside Ave., Suite 1400
Spokane, GA 99201
(509) 324-9256
caleb.hatch@leehayes.com

/s/ Kelly E. Farnan

Kelly E. Farnan (#4395)
Griffin A. Schoenbaum (#6915)
Richards, Layton & Finger, P.A.
One Rodney Square
920 N. King Street
Wilmington, DE 19801
(302) 651-7700
farnan@rlf.com
schoenbaum@rlf.com

Attorneys for Plaintiff Unirac, Inc.

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