

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**SHELL GLOBAL SOLUTIONS (US) INC., §
and SHELL OIL COMPANY, §
Plaintiffs §**

vs. §

**RMS ENGINEERING, INC., §
TESORO CORPORATION, AND §
TESORO REFINING AND MARKETING §
COMPANY, §
Defendants §**

CIVIL ACTION NO.: _____

JURY DEMANDED

COMPLAINT

Plaintiffs Shell Global Solutions (US) Inc. and Shell Oil Company (sometimes collectively referred to as “Shell”) file this Complaint against defendants RMS Engineering, Inc., Tesoro Corporation, and Tesoro Refining and Marketing Company, which is a wholly owned subsidiary of Tesoro Corporation (Tesoro Corporation and Tesoro Refining and Marketing Company are collectively referred to herein as “Tesoro”), and allege as follows:

NATURE OF THE ACTION

1. In this action, Plaintiffs seek injunctive relief, damages and attorney fees for acts of patent infringement by the Defendants in violation of the laws of the United States.

JURISDICTION AND VENUE

2. This action arises under the patent laws of the United States of America, Title 35 of the United States Code. Jurisdiction of the Court is founded on Title 35 United States Code and on Title 28 United States Code, particularly 28 U.S.C. §§ 1331 and 1338(a).

3. Venue is proper in this District under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b).

THE PARTIES

4. Plaintiff Shell Global Solutions (US) Inc., is a corporation incorporated under the laws of Delaware with its principal place of business in Houston, Texas.

5. Plaintiff Shell Oil Company, is a corporation incorporated under the laws of Delaware with its principal place of business in Houston, Texas.

6. Upon information and belief, Defendant RMS Engineering, Inc. (“RMS”), is a corporation incorporated under the laws of Texas with its principal place of business in Houston, Texas. RMS may be served with process through its registered agent: Reza Sadeghbeigi, 15306 Coastal Oak Court, Houston, TX 77059.

7. Upon information and belief, Defendant Tesoro Corporation, is a corporation incorporated under the laws of Delaware with its principal executive offices in San Antonio, Texas. Tesoro Corporation may be served with process through its registered agent: Lawyers Incorporating Service Company, 701 Brazos Street, Suite 1050, Austin, TX 78701.

8. Upon information and belief, Defendant Tesoro Refining and Marketing Company, is a corporation incorporated under the laws of Delaware with its principal executive offices in San Antonio, Texas. Tesoro Refining and Marketing Company is believed to be a wholly owned subsidiary of Tesoro Corporation. Tesoro Refining and Marketing Company may be served with process through its registered agent: Lawyers Incorporating Service Company, 701 Brazos Street, Suite 1050, Austin, TX 78701.

PATENT INFRINGEMENT OF U.S. PATENT NO. 6,221,318 B1

9. On April 24, 2001, United States Patent No. 6,221,318 (“the ‘318 Patent”) was duly and legally issued to Frank Hsian Hok Khouw, Geert van der Honing, and Willem Machiel van Poelje for an invention drawn to a Process and Apparatus for Distributing Fluids in a

Container. All rights, title and interest in the '318 Patent, along with the right to sue for patent infringement, have been assigned to Shell Oil Company, which presently owns the patent. A copy of the '318 Patent is attached as Exhibit A and incorporated herein.

10. Shell Global Solutions (US) Inc. is a licensee of Shell Oil Company under the '318 Patent and, as such licensee, has certain rights of exploitation thereunder.

11. Upon information and belief, during the Spring of 2007, Tesoro conducted a turnaround project ("Spring 2007 Turnaround") of its fluid catalytic cracking unit that is located in its Salt Lake City, Utah refinery ("FCCU"). As a part of the Spring 2007 Turnaround, Tesoro made numerous modifications to the regenerator section of the FCCU. One of these modifications to the FCCU regenerator included the installation of a new spent catalyst riser and five-arm distributor.

12. At the 2008 Annual Meeting of the National Petrochemical & Refiners Association held at San Diego, California in March 2008, representatives of Tesoro, jointly with a representative of RMS Engineering, Inc., made a presentation and distributed a paper describing the modifications made to the regenerator of the FCCU during Tesoro's Spring 2007 Turnaround ("Presentation Materials"). A copy of the paper presented at the 2008 Annual Meeting is attached as Exhibit B.

13. The Presentation Materials included: drawings that depict the scope of the work performed on the internals of the FCCU regenerator and the design of the new spent catalyst riser and five-arm distributor that were installed in the FCCU regenerator; a color photograph of the fabricated new five-arm spent catalyst distributor being lowered into the FCCU regenerator vessel for installation; and a written description of the new spent catalyst distributor that was installed in the FCCU.

14. The Presentation Materials indicate that the FCCU with its newly installed spent catalyst riser and five-arm distributor began operation in April 2007 - immediately after the Spring 2007 Turnaround.

15. The Presentation Materials further present a comparative analysis of the operating performance of the FCCU prior to the Spring 2007 Turnaround and the operating performance of the FCCU during the time period extending to almost eight months after the modifications that were made to the FCCU during the Spring 2007, thereby describing Tesoro's use of the newly installed spent catalyst riser and five-arm distributor.

16. Upon information and belief, Tesoro is currently using the spent catalyst riser and five-arm distributor that was installed in the FCCU regenerator during the Spring 2007 Turnaround and has continuously been using the spent catalyst riser and five-arm distributor since the startup of the FCCU after the end of the Spring 2007 Turnaround.

17. The Spring 2007 installation of the spent catalyst riser and five-arm distributor into the FCCU regenerator and the use thereof by Tesoro infringe one or more claims of the '318 Patent. Tesoro's use of the FCCU regenerator modifications made during the Spring 2007 Turnaround continues and is expected to continue unless it is enjoined by this court.

18. Upon information and belief, RMS was hired by Tesoro in 2004 to evaluate certain mechanical options for improving the spent catalyst distribution within the regenerator of the FCCU. Pursuant to this arrangement, RMS delivered to Tesoro various engineering designs, drawings and specifications for modifications to be made to the FCCU regenerator. These engineering designs, drawings and specifications included those for the spent catalyst riser and five-arm distributor that were installed into the FCCU regenerator during the Spring 2007 Turnaround.

19. Upon information and belief, RMS further provided assistance and advice to Tesoro in its contracting, hiring and supervision of vendors for the fabrication and installation of the spent catalyst riser and five-arm distributor and other equipment items that were to be installed in the FCCU regenerator during the Spring 2007 Turnaround.

20. Upon information and belief, during a period of time occurring after Tesoro's installation of the spent catalyst riser and five-arm distributor and the completion of the Spring 2007 Turnaround, RMS provided Tesoro with instructions and advice concerning the operation of the FCCU that included the modifications recommended to Tesoro by RMS.

21. RMS' delivery to Tesoro of the engineering designs, drawings and specifications for the modifications that were to be made to the FCCU regenerator during the Spring 2007 Turnaround constitutes an act of infringement of one or more of the claims of the '318 Patent.

22. RMS has induced Tesoro to infringe one or more of the claims of the '318 Patent by delivering to Tesoro the engineering designs, drawings and specifications for the modifications that were to be made to the FCCU regenerator during the Spring 2007 Turnaround; or by providing assistance and advice to Tesoro in its contracting, hiring and supervision of vendors for the fabrication and installation of the spent catalyst riser and five-arm distributor and other equipment items that were installed in the FCCU regenerator during the Spring 2007 Turnaround; or by providing Tesoro with instructions and advice on the post-Spring 2007 Turnaround operation of the FCCU that included the modifications recommended to Tesoro by RMS Engineering Inc.

23. Upon information and belief, Tesoro, with actual knowledge of the '318 Patent, has willfully and deliberately directly infringed the '318 Patent through Tesoro's Spring of 2007 installation of the spent catalyst riser and five-arm distributor into the FCCU regenerator, and

through Tesoro's use of the FCCU regenerator modifications made during the Spring 2007 Turnaround. Tesoro's infringement will continue unless enjoined by this Court.

24. Upon information and belief, RMS, with actual knowledge of the '318 Patent, has willfully and deliberately directly infringed the '318 Patent by providing Tesoro with the engineering designs, drawings and specifications for the modifications that were to be made to the FCCU regenerator during the Spring 2007 Turnaround. Upon information and belief, RMS has also induced others to infringe the '318 Patent. RMS's infringement and inducement will continue unless enjoined by this Court.

25. The acts of infringement by Tesoro are causing irreparable injury to Shell.

26. The acts of infringement by Tesoro have been willful and in deliberate disregard of the '318 Patent.

27. Shell has been damaged by Tesoro's infringement and will be irreparably injured unless such infringement is enjoined by this Court.

28. The acts of infringement and inducement by RMS are causing irreparable injury to Shell.

29. The acts of infringement by RMS have been willful and in deliberate disregard of the '318 Patent.

30. Shell has been damaged by RMS' infringement and inducement and will be irreparably injured unless such infringement is enjoined by this Court.

31. This is an exceptional case and Tesoro and RMS should also be required to pay Shell's reasonable attorney fees and costs as provided by 35 U.S.C. § 285.

PRAYER

WHEREFORE, Plaintiffs pray that:

(a) Tesoro be adjudged and decreed to have infringed the '318 Patent and that such infringement has been willful and deliberate;

(b) RMS be adjudged and decreed to have infringed and induced infringement of the '318 Patent and that such infringement has been willful and deliberate;

(c) Defendants be ordered to pay actual damages to Shell, but not less than a reasonable royalty, by reason of Defendants' infringement and inducement of infringement of the '318 Patent together with prejudgment interest, costs and increased damages pursuant to 35 U.S.C. § 284;

(d) A preliminary injunction against Defendants, their officers, agents, servants and employees, and all entities and individuals acting in concert with them be entered to restrain any further infringement of the '318 Patent during the pendency of this case;

(e) A permanent injunction against Defendants, their officers, agents, servants and employees, and all entities and individuals acting in concert with them be entered to permanently restrain any further infringement of the '318 Patent;

(f) This case be declared an "exceptional case" within the meaning of 35 U.S.C. § 285 and reasonable attorney fees and costs be awarded to Shell;

(g) An award be granted of all reasonable attorney fees allowed by statute, costs, pre-judgment interest, post-judgment interest and any other further relief as may be just and proper; and

(h) Shell be granted such other and further relief as the Court may deem proper under the circumstances.

DEMAND FOR JURY TRIAL

Shell, in accordance with Federal Rules of Civil Procedure Rule 38(b), demands a jury trial as to all issues properly triable by a jury.

Respectfully submitted,

Date: November 20, 2009

By: /s/ Michael O. Sutton

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