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6 Attorneys for Plaintiff
SUNPOWER CORPORATION
7 FEB 13 2012

8 Richard W. Wieking IN THE UNITED STATES DISTRICT COURT
Clerk, U.S. District Court
Northern District of California
9 San Jose FOR THE NORTHERN DISTRICT OF CALIFORNIA

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SUNPOWER CORPORATION, a
Delaware corporation,

Plaintiff,

v.

SOLARCITY CORPORATION, a
Delaware corporation; TOM LEYDEN, an
individual; MATT GIANNINI, an
individual; DAN LEARY, an individual;
FELIX AGUAYO, an individual; ALICE
CATHCART, an individual,

Defendants.

Case No.
CV12-00694
[PROPOSED] TEMPORARY
RESTRAINING ORDER

Date: TBD
Time: TBD
Ctrm: TBD

[PROPOSED] TRO

1 The Court, having considered Plaintiff SunPower Corporation's ("SunPower") *Ex*
2 *Parte* Application and Motion for Temporary Restraining Order hereby GRANTS the order
3 as follows:

4 1. There is a substantial likelihood that SunPower will succeed on the merits of
5 its claims against defendants for Federal Computer Fraud and Abuse and trespass to chattels;

6 2. Absent the issuance of a temporary restraining order, SunPower will suffer
7 immediate and irreparable injury, and such injuries substantially outweigh any injuries to
8 defendants that may result from granting this motion; and

9 3. This order serves, and is not contrary to, the public interest.

10 IT IS ORDERED THAT Defendants and all of their affiliates, officers, directors,
11 shareholders, and employees, whether acting directly or indirectly, in the United States or
12 abroad, and all their agents, affiliates, and distributors working in concert or active
13 participation with any of the defendants, are and shall be:

14 1. REQUIRED to identify all computers and computer media, including
15 internal and external hard drives, "flash drives," USB devices, tapes or any other electronic
16 storage media, along with any on-line computer storage ("Computer Media"), belonging to or
17 in defendant SolarCity Corporation's ("SolarCity") possession, custody, or control that have
18 been used by defendants Tom Leyden, Matt Giannini, Dan Leary, Felix Aguayo, and Alice
19 Cathcart (the "Former Employees") or to which the Former Employees have had access;

20 2. REQUIRED to identify all computers and Computer Media used by or for
21 the Former Employees or in the Former Employees' possession, custody, or control,
22 including, but not limited to, the USB storage devices recited in paragraph 9 of the
23 Declaration of Sergio Kopelev;

24 3. REQUIRED to produce, within 3 days of this Order, the identified
25 computers and Computer Media to Plaintiff or allow Plaintiff's agents, including independent
26 computer forensic experts, to forensically preserve and mirror/image said computers and
27 Computer Media (the mirrored data shall be maintained by Plaintiff' counsel as highly
28 confidential – Attorney's Eyes Only until such time as the Court dedesignates any portion

1 thereof;

2 4. REQUIRED to identify all passwords and processes necessary to obtain
3 access to any operating system, database, server, software, file, or storage location (including
4 on-line or "cloud" storage) for said computers and Computer Media;

5 5. REQUIRED to provide a written declaration, under penalty of perjury,
6 attesting that Defendants have accurately identified all said computers and Computer Media
7 and produced all said computers and Computer Media and attesting that Defendants have not
8 destroyed any of said computers or Computer Media and have not deleted any data within
9 any of said computers or Computer Media since being served with the instant action;

10 6. ORDERED to preserve all evidence in accordance with the federal rules
11 and to restrain from destroying, removing, concealing, spoliating, secreting, or altering any
12 documents or information in any medium, including documents or information stored on any
13 of said computer or Computer Media related in any way to this matter;

14 7. ENJOINED AND RESTRAINED from using or disclosing any
15 information obtained from SunPower;

16 8. REQUIRED to give notice of this Order to all of their officers, directors,
17 shareholders, employees, agents, affiliates, and distributors, whether located in the United
18 States or abroad. So notified, such persons shall be bound by the terms of this Order as
19 persons in concert or active participation with defendants;

20 9. The forensic mirroring ordered herein may be photographed and/or
21 videotaped by SunPower's counsel and/or representatives for the purpose of authenticating
22 and assisting in the obtaining of evidence and to prevent any controversy regarding the
23 activities and events occurring during said forensic mirroring;

24 10. Plaintiff shall post a bond in the amount of \$5,000 prior to service of this
25 order.

26 11. IT IS FURTHER ORDERED THAT each of the Defendants shall show
27 cause, before the Honorable Judge _____, Judge of the above-entitled
28 Court, on _____, 2012 at ____ a.m./p.m., or as soon thereafter as the parties may be

1 heard, in Courtroom ___ located at 280 South 1st Street, San Jose, CA 95113, concerning
2 why a preliminary injunction should not issue against Defendants enjoining each of them,
3 pending the final hearing and determination of this action, from such activities as is described
4 in paragraph above and as Defendants have been temporarily enjoined form;

5 12. Plaintiffs, or its authorized agents, is directed to personally serve a copy of
6 this Order and all papers upon which this Order is based upon each of the Defendants by ___
7 a.m./p.m. on ____ 2012, which shall constitute sufficient service of process thereof

8 13. Defendants shall have until _____ a.m./p.m. on _____
9 2012, to file with this Court, with a courtesy copy of the Court's chambers, and serve by
10 facsimile or hand delivery to SunPower's counsel, Boris Zelkind, Knobbe Martens Olson &
11 Bear, 12790 El Camino Real, San Diego, CA 92130, any points and authorities, affidavits or
12 declarations, or other evidence in opposition to the Order to Show Cause Re Preliminary
13 Injunction;

14 14. This Order shall expire on its own terms on the ___ of _____ 2012, at
15 the hour of _____, unless further extended by Order of this Court; and

16 15. For good cause shown and upon written application to the Court, this
17 Order may be extended for a longer period to be determined by the Court.

18 IT IS SO ORDERED.

19
20 Dated: _____

UNITED STATES DISTRICT JUDGE

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