

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior District Judge Richard P. Matsch

Civil Action No. 08-cv-01230-RPM

COLORADO INSTRUMENTS, INC., d/b/a
SOLAR WORLD, a corporation of Colorado,

Plaintiff,

v.

SOLARWORLD AG, a corporation of The Federal Republic of Germany;
SOLARWORLD CALIFORNIA, INC., a corporation of California;
SOLARWORLD INDUSTRIES AMERICA LP, a limited partnership of Delaware,

Defendants.

ORDER DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT OF LIABILITY FOR
TRADEMARK AND TRADE NAME INFRINGEMENT AND LANHAM ACT VIOLATION

On July 31, 2009, the plaintiff filed a motion for summary judgment seeking a determination that as a matter of law the defendants' use of SolarWorld for its products sold in the United States is an infringement of the plaintiff's trademark Solar World and a violation of § 43(a) of the Lanham Act. Both parties have filed briefs and supporting documents. After reviewing the papers filed, the Court finds that there are substantial questions of fact which must be determined by a jury. Of particular concern, is the strength of the plaintiff's trademark, the types of products being sold and the channels of marketing and distribution, all of which are relevant to the issue of likelihood of confusion as to the source of the plaintiff's and defendants' products. This is not a case to be resolved on summary judgment. Accordingly, it is

ORDERED that the plaintiff's motion for summary judgment is denied and the defendants' motion to file sur-reply brief is also denied.

DATED: November 23rd, 2009

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch, Senior Judge