

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

**David Netzer Consulting Engineer LLC,**

**Plaintiff,**

**v.**

**Shell Oil Company, Shell Chemical LP, and  
Shell Oil Products Company LLC,**

**Defendants.**

**Civil Action No. 4:14-CV-166  
JURY**

**COMPLAINT**

David Netzer Consulting Engineer LLC files this Complaint against Shell Oil Company, Shell Chemical LP, and Shell Oil Products Company LLC.

**PARTIES**

1. Netzer LLC is a limited liability company existing under the laws of the State of Texas with its principal place of business in Harris County, Texas.

2. Defendant Shell Oil Company is a Delaware corporation with its principal place of business in Houston, Texas.

3. Defendant Shell Chemical LP is a Delaware Limited Partnership with its principal place of business in Houston, Texas.

4. Defendant Shell Oil Products Company LLC is a Delaware Limited Liability Company with its principal place of business in Houston, Texas.

### **JURISDICTION AND VENUE**

5. This Court has jurisdiction because this is a patent-infringement case arising under the patent laws of the United States Code, Title 35. This Court has exclusive subject-matter jurisdiction over this case under 28 U.S.C. § 1338(a).

6. This Court has personal jurisdiction over Defendants. Defendants have conducted and do conduct business within the State of Texas. Defendants, directly or through subsidiaries or intermediaries, offer for sale, use, make, distribute, sell, advertise, and market accused refining and chemical processes in the State of Texas and the Southern District of Texas. Defendants have committed acts of infringement within the State of Texas and, more particularly, within the Southern District of Texas.

7. Venue is proper in the Southern District of Texas under 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

### **COUNT I** **(PATENT INFRINGEMENT)**

8. Netzer LLC incorporates the foregoing paragraphs by reference as if fully set forth herein.

9. United States Patent No. 6,677,496 (the '496 patent), entitled "Process for the Coproduction of Benzene from Refinery Sources and Ethylene by Steam Cracking," was duly and legally issued by the United States Patent and Trademark Office on January 13, 2004, after a full and fair examination. A copy of the '496 patent is attached hereto as Exhibit A. The '496 patent relates to, among other things, a process for the coproduction of ethylene and benzene.

10. Netzer LLC is the assignee of all rights, title, and interest in and to the '496 patent and possesses all rights of recovery under the '496 patent.

11. Defendants are infringing the '496 patent under 35 U.S.C. § 271 by performing, without authority, one or more of the following acts: making, using, offering to sell, and selling within the United States refining and chemical processes that infringe the '496 patent. For example, Defendants use refining and chemical processes that infringe at least claim 1 of the '496 patent.

12. Upon information and belief, Defendants' infringement is willful. David Netzer provided pre-suit notice of the '496 patent to Defendants. Among other things, following notice of the '496 patent, Defendants have acted and/or will act despite an objectively high likelihood that their action infringe a valid patent, and this objectively high likelihood of infringement was either known or so obvious that it should have been known to Defendants. The totality of the circumstances also indicate that Defendants' infringement of the '496 patent is willful. For example, there is no evidence that Defendants sought or relied on any legal advice, much less competent legal advice, with respect to their infringement of the '496 patent, and Defendants have not presented any substantial defense to their infringement. Furthermore, Defendants have no reasonable basis for believing that they have not infringed the '496 patent or that the '496 patent was invalid or unenforceable. There is no evidence that Defendants took remedial action upon learning of the '496 patent by ceasing its infringing activity or by attempting to design around the '496 patent.

#### **JURY DEMAND**

13. Netzer LLC hereby demands a trial by jury on all issues so triable.

#### **PRAYER FOR RELIEF**

14. Netzer LLC requests the following relief:

- A. A judgment that Defendants have directly infringed the '496 patent; and that such infringement is and has been willful;
- B. An injunction preventing Defendants and their officers, directors, agents, servants, employees, attorneys, licensees, successors, and assigns, and those in active concert or participation with any of them, from directly infringing, contributorily infringing, and inducing the infringement of the '496 patent;
- C. A judgment and order requiring Defendants to pay Netzer LLC's damages under 35 U.S.C. § 284, including supplemental damages for any continuing post-verdict infringement up until entry of the final judgment, with an accounting, as needed, and treble damages for willful infringement as provided by 35 U.S.C. § 284;
- D. A judgment and order requiring Defendants to pay Netzer LLC's pre-judgment and post-judgment interest on the damages awarded;
- E. A judgment and order requiring Defendants to pay Netzer LLC the costs of this action (including all disbursements) and attorney fees as provided by 35 U.S.C. § 285; and
- F. Such other and further relief as the Court deems just and equitable.

Dated: January 24, 2014

Respectfully submitted,

/s Anthony M. Garza  
ANTHONY M. GARZA, ATTORNEY-IN-CHARGE  
Texas State Bar No. 24050644  
S.D. Tex. Bar No. 923733  
agarza@ccrglaw.com  
STEVEN CALLAHAN  
Texas State Bar No. 24053122  
scallahan@ccrglaw.com  
S.D. Tex. Bar No. 624715  
**CHARHON CALLAHAN**  
**ROBSON & GARZA, PLLC**  
3333 Lee Parkway, Suite 460  
Dallas, Texas 75219  
Telephone: (214) 521-6400  
Telecopier: (214) 764-8392

EDWARD W. GOLDSTEIN  
Texas State Bar No. 08099500  
S.D. Tex. Bar No. 586  
egoldstein@gliplaw.com  
**GOLDSTEIN LAW, PLLC**  
710 N. Post Oak, Suite 350  
Houston, Texas 77024  
Telephone: (713) 877-1515

*Counsel for David Netzer Consulting  
Engineer LLC*