

**COURT OF CHANCERY  
OF THE  
STATE OF DELAWARE**

WILLIAM B. CHANDLER III  
CHANCELLOR

COURT OF CHANCERY COURTHOUSE  
34 THE CIRCLE  
GEORGETOWN, DELAWARE 19947

Submitted: January 20, 2011

Decided: January 21, 2011

John R. Weaver, Jr.  
203 West 18<sup>th</sup> Street  
P.O. Box 510  
Wilmington, DE 19899

Re: *Direct Capital Corp. v. Ultrafine Technologies, Inc., et al.*  
Civil Action No. 6139-CC

Dear Mr. Weaver:

Pending before the Court is plaintiff Direct Capital Corporation's Motion for Issuance of Temporary Restraining Order against defendants, Ultrafine Technologies, Inc. ("Ultrafine") and Berhan Tecle ("Tecle"), and their directors, officers, employees, agents, and representatives. Plaintiff seeks an emergency injunction to prevent defendants from using, selling, transferring and/or assigning certain equipment leased from plaintiff. Although the motion is characterized as seeking emergency injunctive relief in the form of a temporary restraining order, my office was advised that you were not available to be heard on the emergency motion until next week. Having reviewed the pending motion and the underlying complaint, however, I conclude that this action should be dismissed for lack of subject matter jurisdiction and transferred to the Superior Court in accordance with 10 *Del. C.* § 1902.

This is a dispute where defendants are alleged to have defaulted under a lease agreement by failing to make monthly installment payments dating back from September 14, 2010. Defendant Tecle had personally guaranteed the payment of each and every obligation of defendant Ultrafine to plaintiff. Nonetheless, Tecle defaulted under the terms of his guaranty by failing to remit payment to plaintiff when Ultrafine failed to do so. Plaintiff alleges that it will suffer irreparable harm and injury if defendants do not immediately return the equipment and cease any use of the equipment. In plaintiff's prayer for relief, it seeks money damages and a "writ of replevin."

Here, plaintiff's legal claims are rooted in a claim of right to personal property, and no allegation is made that the property is unique or irreplaceable. Thus, the relief sought is for "money damages" and a "writ of replevin"—remedies available in the law court, the Delaware Superior Court. Plaintiff makes no allegations of special or irreparable injury flowing from defendants' failure to make lease payments or continued use of the disputed equipment. This Court does not "permit a party to bring a claim in equity when a sufficient legal remedy exists,"<sup>1</sup> and "where the plaintiff has prayed for some type of traditional equitable relief as a kind of formulaic 'open sesame' to the Court of Chancery."<sup>2</sup> The claims under the lease agreement (to repeat) can be remedied by money damages available in the Superior Court. Because this action involves a purely legal question of damages for breach of the lease agreement, this Court has no jurisdiction to consider it. 10 *Del. C.* § 342.

For the reasons set forth above, I will dismiss this action within fourteen days from this date unless plaintiff files an appropriate motion to transfer this action to the Superior Court pursuant to 10 *Del. C.* § 1902.

IT IS SO ORDERED.

Very truly yours,

A handwritten signature in cursive script that reads "William B. Chandler III". The signature is written in black ink and includes a horizontal line under the name.

William B. Chandler III

WBCIII:ysb

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<sup>1</sup> *Hillsboro Energy, LLC v. Secure Energy, Inc.*, 2008 WL 4561227, at \*2 (Del. Ch. Oct. 3, 2008).

<sup>2</sup> *Int'l. Bus. Machs. Corp. v. Comdisco, Inc.*, 602 A.2d 74, 78 (Del. Ch. 1991).