IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

THE DOW CHEMICAL COMPANY, Plaintiff, v. NOVA CHEMICALS CORPORATION, and NOVA CHEMICALS INC., Defendants.	§ § § § § § § § § §	C.A. No. _____ **DEMAND FOR JURY TRIAL**

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff The Dow Chemical Company ("Dow"), by its undersigned counsel, brings this action for patent infringement against defendants NOVA Chemicals Corporation and NOVA Chemicals Inc. (collectively, "defendants") and alleges as follows:

PARTIES

1. Dow is a corporation organized under the laws of Delaware with a principal place of business at 2030 Dow Center, Midland, Michigan 48674.

2. On information and belief, NOVA Chemicals Corporation is a corporation organized under the laws of Canada with a principal place of business at 1000 Seventh Avenue S.W., Calgary, Alberta T2P 5C6, Canada.

3. Shares of NOVA Chemicals Corporation are traded on the New York Stock Exchange under the stock ticker symbol NCX.

4. NOVA Chemicals Corporation manufactures chemicals, including polyethylene and other products.

5. On information and belief, NOVA Chemicals Corporation either directly or indirectly imports into, sells, and/or offers for sale its products in Delaware and elsewhere in the United States.

6. On information and belief, NOVA Chemicals Inc. is a corporation organized under the laws of Delaware with a principal place of business at Westpointe Center, 1550 Caraopolis Heights Road, Moon Township, Pennsylvania 15108.

7. On information and belief, NOVA Chemicals Inc. is a subsidiary of Nova Chemicals Corporation.

8. On information and belief, NOVA Chemicals Inc. manufactures chemicals that are sold and offered for sale in Delaware and elsewhere in the United States.

9. Collectively, defendants have United States manufacturing sites in the following United States locations: Bayport, Texas; Monaca, Pennsylvania; Belpre, Ohio; Chesapeake, Virginia; Decatur, Alabama; Painesville, Ohio; Indian Orchard, Massachusetts; and Channelview, Texas.

10. NOVA Chemicals Inc. is authorized to do business, is doing business, and/or has a regular and established place of business in this judicial district, is incorporated in Delaware, and has committed acts of infringement in this District.

JURISDICTION AND VENUE

11. This patent infringement action arises under the patent laws of the United States of America, 35 U.S.C. § 101 *et seq*. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

12. This Court has personal jurisdiction over defendants based on the above allegations.

13. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), (c), and (d) and 1400(b) based on the above allegations.

THE PATENTS IN SUIT

14. On December 8, 1998, United States Patent No. 5,847,053 ("the '053 patent") was duly and legally issued to Dow for an invention entitled "Ethylene Polymer Film Made From Ethylene Polymer Blends"; and since that date Dow has been and still is the owner of the '053 patent. A copy of the '053 patent is attached hereto as Exhibit A.

15. On August 29, 2000, United States Patent No. 6,111,023 ("the '023 patent") was duly and legally issued to Dow for an invention entitled "Fabricated Articles Made From Ethylene Polymer Blends"; and since that date Dow has been and still is the owner of the '023 patent. A copy of the '023 patent is attached hereto as Exhibit B.

DEFENDANTS' INFRINGEMENT OF THE PATENTS IN SUIT

16. Since around the spring of 2003, defendants have been and still are infringing the '053 patent and the '023 patent directly, contributorily, and/or by inducing others to infringe by making, selling, offering for sale, using and/or importing into the United States ethylene polymer blend products, specifically defendants' SURPASS line of polyethylene products, that embody the patented inventions.

17. Defendants will continue to infringe the '053 patent and the '023 patent unless enjoined by this court.

18. On information and belief, defendants' infringement of the '053 patent and the '023 patent has been and is knowing and willful.

WHEREFORE, Dow prays that the Court enter judgment:

(a) Declaring that defendants have infringed the '053 patent and the '023 patent;

(b) Declaring that defendants' infringement of the '053 patent and the '023 patent has been willful;

(c) Enjoining defendants, preliminarily and permanently, from infringing the '053 patent and the '023 patent;

(d) Awarding Dow damages from defendants adequate to compensate for defendants' infringement, including interest and costs;

(e) Awarding Dow treble damages based on the willfulness of defendants' infringement pursuant to 35 U.S.C. § 284;

(f) Awarding Dow its reasonable attorneys' fees pursuant to 35 U.S.C. § 285;

(e) Granting Dow such other and further relief as the Court deems just and proper.

MORRIS, NICHOLS, ARSHT & TUNNELL



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