IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

THE DOW CHEMICAL COMPANY, Plaintiff, v. NOVA CHEMICALS CORPORATION (Canada), and NOVA CHEMICALS INC. (Delaware), Defendants.	)	C.A. No. 05-737 (JJF)

DOW'S CROSS-MOTION, IN THE ALTERNATIVE, TO BIFURCATE AND STAY DISCOVERY ON NOVA'S ANTITRUST COUNTERCLAIMS

Plaintiff The Dow Chemical Company ("Dow") is today filing its Answering Brief in opposition to the Motion For Leave To Amend filed by defendants Nova Chemicals Corporation and Nova Chemicals Inc. (collectively, "Nova") (D.I. 40). In the alternative, if the Court is inclined to permit Nova to add its antitrust counterclaims, Dow respectfully requests that the Court bifurcate and stay discovery on Nova's antitrust claims pending resolution of the trial on the patent issues pursuant to Fed. R. Civ. P. 42(b). The bases for Dow's cross-motion are set forth more fully in Dow's Combined Answering Brief In Opposition to Nova's Motion For Leave To Amend and Opening Brief In Support Of Its Cross-Motion, In the Alternative, To Bifurcate and Stay Nova's Antitrust Counterclaims.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Rodger D. Smith II
Rodger D. Smith II (#3778)
1201 N. Market Street
P.O. Box 1347
Wilmington, DE 19899-1347
(302) 658-9200
rsmith@mnat.com
Attorneys for Plaintiff
The Dow Chemical Company

OF COUNSEL:

Harry J. Roper
Richard P. Campbell
Aaron A. Barlow
Elaine J. Goldenberg
Darrick Hooker
JENNER & BLOCK LLP
330 N. Wabash Ave.
Chicago, IL 60611
(312) 222-9350

Bruce M. Kanuch
The Dow Chemical Company
2030 Bldg
Midland, MI 48672

January 31, 2008
1445294

RULE 7.1.1 CERTIFICATE

I hereby certify that counsel for plaintiff has raised the subject of the foregoing motion with counsel for defendants, and the parties have not been able to reach agreement on the issues raised in the motion.

/s/ Rodger D. Smith II (#3778)
Rodger D. Smith II

January 31, 2008

CERTIFICATE OF SERVICE

I, Rodger D. Smith II, hereby certify that on January 31, 2008, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to the following:

Richard L. Horwitz
Kenneth L. Dorsney
POTTER ANDERSON & CORROON LLP

I also certify that copies were caused to be served on January 31, 2008, upon the following in the manner indicated:

BY HAND AND EMAIL

Richard L. Horwitz
Kenneth L. Dorsney
POTTER ANDERSON & CORROON LLP
Hercules Plaza, 6th Floor
1313 N. Market Street
Wilmington, DE 19801

BY EMAIL

Jeffrey W. Abraham
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
901 New York Avenue, NW
Washington, DC 20001
Jeffrey.abraham@finnegan.com

/s/ Rodger D. Smith II
Rodger D. Smith II (#3778)
MORRIS, NICHOLS, ARSHT & TUNNELL LLP
Wilmington, DE 19899
(302) 658-9200
rsmith@mnat.com