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KIMMEL | VALLAS
ATTORNEYS AND COUNSELORS AT LAW

March 14, 2016

Thomas G. Rudowsky, SES
Luwam Hagos
Department of the Navy
Naval Air Systems Command
RADM William A. Moffett Building
47123 Buse Road, BLDG. 2272
Patuxent River, Maryland 20670-1547

Certified Mail, Return Receipt Requested

7015 1730 0000 9720 5243

Re: Vendor: Chemeon Surface Technology
Reference: AIR-4.3.4 – SER 15-0022

Dear Mr. Rudowsky and Ms. Hagos,

On behalf of David M. Semas and Metalast International, Inc., I write to draw your attention to the improper use of the term “formerly Metalast” to designate Chemeon Surface Technology, LLC’s products in the Department of Navy’s Qualified Product List (“QPL”).

On 18 June 2009, the Department of Navy informed Metalast International that its products called TCP-HF and TCP-HFEPA have met the qualification requirements for specification MIL-DTL-81706, and listed the products on the QPL. In 2015, Chemeon Surface Technology requested a name change on the QPL for MIL-DTL-81706. On 21 August 2015, Mr. Rudowsky sent a letter to Dean Meiling approving the request for a name change as follows:

<u>Old Product Name</u>	<u>New Product Name</u>
METALAST TCP-HF	CHEMEON TCP-HF (formerly Metalast)
METALAST TCP-HF EPA	CHEMEON TCP-HF EPA (formerly Metalast)
METALAST TCP-HF SP	CHEMEON TCP-HF SP (formerly Metalast)
METALAST TCP-HF Touch Up Pen	CHEMEON TCP-HF Touch Up Pen (formerly Metalast)

Mr. Semas and his company, Metalast International, Inc. own all trademarks, service marks, and branding using the term “Metalast.” See USPTO Trademark Registration No. No. 4,128,211. Furthermore, the ownership and use of the term “Metalast” have been litigated, and the disputes resolved. In *Chemeon Surface Technology, LLC v. Semas*, Adv. No. 14-05036 (Bankr.D.Nev.), Chemeon asserted ownership of the

“Metalast” mark. During a judicial settlement conference on January 27, 2015, the parties reached a settlement agreement on the record. That settlement was later approved in an order entered March 11, 2015. As part of that approved settlement agreement, Chemeon had the right to use the term “Metalast” for 90 days (until June 9, 2015). Chemeon agreed, and the court confirmed, that after June 10, 2015, Chemeon could not longer use the term “Metalast in any manner or fashion whatsoever.” Nevertheless, Chemeon began calling itself “formerly Metalast” and referring to its products as “formerly Metalast.”

The court approving the settlement reviewed the language used in the settlement, and addressed Chemeon’s claim that it could call its products “formerly Metalast.” On December 3, 2015, the court said,

So I read “no longer able to use the name Metalast in any fashion or manner whatsoever” following that 90-day period (March 11th to June 10th) would include not only the trademark, but any use of the name “Metalast” for any purpose at all, which I believe would include the trade name. * * * ... but I believe a fair reading of what Judge Zive said **includes limits on any use of the term “Metalast” at all.** It cannot be used by any of the Meiling entities or the Meilings or anything they own thereafter. It’s an absolute prohibition. Judge Zive was very clear. The parties acknowledged it. The parties were represented by good counsel. They’re stuck with it, and it applies to both trademarks and trade names **and any other use of the term Metalast for any purpose whatsoever.** That’s - that is the agreement that I approved in court.

After the settlement was approved, Chemeon filed yet another suit entitled *Chemeon Surface Technology, LLC v. Metalast International, Inc.*, Case No. 3:15-cv-00294 in the US District Court for the District of Nevada. Again, Chemeon seeks a decree that it may use the term “formerly Metalast” to describe its products. The case is pending, and the district court has not ruled on the use of the phrase “formerly Metalast.”

While litigation was pending, and without notice to Semas or Metalast International, Inc., Chemeon evidently requested that the Department of Navy approve a name change on the QPL to include the phrase “formerly Metalast”. Because the Navy approved this name change, I surmise that Chemeon concealed the former settlement or pending litigation from the Navy.

Therefore, on behalf of David Semas and Metalast International, Inc., I request that the Department of Navy immediately cease and desist from listing any Chemeon products as "formerly Metalast" in the QPL database or other certifications.

I will appreciate your phone call or correspondence to acknowledge receipt of my request, and to advise how the Department of Navy intends to handle this matter.

Thanks in advance for your response.

Very truly yours,

HOY CHRISSINGER KIMMEL VALLAS, PC

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c: Client (by email only)