

# **EXHIBIT 13**

TO

## **SECOND AMENDED COMPLAINT**

Letter, Michael Hoy to Suresh Patel and Julie Murray, Chemetall North  
America (09/02/2015)



HOY | CHRISSINGER  
KIMMEL | VALLAS  
ATTORNEYS AND COUNSELORS AT LAW

Wednesday, September 2, 2015

Suresh Patel  
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Registered Mail, Return Receipt Requested  
7010 3090 0000 5044 1495

Re: Metalast branding and specifications

Dear Mr. Patel and Ms. Murray,

We represent David M. Semas and Metalast International, Inc. In 1994, Mr. Semas incorporated Metalast International, Inc. Mr. Semas initially registered Metalast trademarks, and later assigned the marks to Metalast International, Inc.

In July 2014, Chemeon Surface Technology, LLC fka Metalast Surface Technology, LLC fka D&M-MI, LLC ("Chemeon") commenced litigation against Semas and Metalast International, Inc. to assert that it owned the various word marks, logos, and other trademarks associated with the Metalast brand. Following mediation in January 2015, Semas, Metalast International, Inc., Chemeon and its owners (Dean and Madylon Meiling) entered into a settlement agreement. The settlement judge recited the terms on the record as follows:

That there is a trademark regarding the name Metalast. There is a dispute regarding ownership. That dispute has been resolved as follows:

[Chemeon], through the Meilings will continue to use the mark for 90 days following entry of the order approving the settlement by Judge Beesley, if he does approve it. At the end of that 90-day period, [Chemeon], the Meilings, and any other entity in which the Meilings have an interest, **will no longer be able to use the name Metalast in any fashion or manner whatsoever.** Following that 90 days, the mark will be owned by Mr. and Mrs. Semas, or any entity in which they choose to transfer the mark.

("Settlement Agreement"). The Settlement Agreement was approved by Judge Beesley on March 11, 2015. Hence, the 90-day period in the Settlement Agreement expired on or before June 10, 2015.

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The Settlement Agreement, and the judicial approval, are public documents, available online. Furthermore, in March 25, 2015 email correspondence to Ms. Murray, Semas advised that, "as of June 9th, 2015, [Metalast International, Inc.] will have the legal and exclusive ownership to the METALAST USPTO registered trademark, name and brand in the global market place free from any time of limitation or restriction." Therefore, before June 10, 2015, Chemetall was on notice that Chemeon and its distributors had no right to use the Metalast brand without license.

After June 9, 2015, Chemeon began referring to itself as "formerly Metalast" and offered its products as "formerly Metalast." This was obviously communicated to Chemetall, which advised its sales force and Chemeon as follows:

Dear Chemetall team,

Please review the email below related to "METALAST" name change, it will be CHEMEON Surface Technology starting June 1, 2015 for Chemetall. Stay tuned for more info from Justin//Gary related to this change. Our business will continue "as usual" until the name change process is completed.

FYI -- All name change associated to our Navy license is complete and the DoD QPD is in the process of reflecting the CHEMEON name associated to our TCP-HF suite of products. The labeling and our TDS sheets and MSDS sheets always will refer to "formerly Metalast TCP-HF...etc...)

We have separately verified that, since June 9, 2015, Chemeon has marketed its products as "formerly Metalast." Chemeon has taken this step without first establishing its legal right to do so. On June 3, 2015, Chemeon initiated litigation seeking a decree that its use of the phrase "formerly Metalast" is a fair use that does infringe on the Metalast trademark, and that Chemeon has a First Amendment right to violate the plain terms of the Settlement Agreement. *Chemeon Surface Technology, LLC v. Metalast International, Inc.*, Case No. 3:15-cv-00294 (US District Court, District of Nevada, Northern Division).

Semas and Metalast International, Inc. dispute Chemeon's contentions, and have filed pleadings and briefs which, in my judgment, refute Chemeon's legal theories. As of this writing, the courts have not validated Chemeon's arguments or established any right of Chemeon to refer to itself or its products as "formerly Metalast." I also note that Chemeon's legal theories are tied to Chemeon's claimed

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legal history, and would likely not be available to third parties. In other words, even if Chemeon prevails in its suit, this would not establish any right by Chemetall to market its goods as "formerly Metalast."

On September 1, 2015, Chemeon published a news release that states, among other things:

All QPD/QPL Mil-Spec product certifications for CHEMEON's products remain intact and in force in all respects (chemical composition, formulation, manufacturing plants, quality control, etc.), and these products remain available for purchase via their corresponding National Stock Numbers (NSN).

Similarly, by June 9, 2015, CHEMEON also changed its word mark prefacing its exclusive and proprietary blend of chemistries, technical services, R&D, and training classes to "CHEMEON" from its former mark, "Metalast." CHEMEON retains its original US Government CAGE Code (71D40) and DUNs Code (079199866).

For CHEMEON's prime contractors, military partners, and others that need further documentation of the Company's product name changes in order to amend specifications to reflect the CHEMEON name and mark, you are invited to provide us with an "amendment letter" that memorializes the name changes and warrants the product's Mil-Spec, QPD/QPL approval status.

As a result, CHEMEON™ products and services should be identified as such – that is, CHEMEON products and services -- rather than referring to them as "Metalast" products or services. In the interest of preventing confusion and providing historical accuracy:

**CHEMEON will, at least for now, most prominently mark its products and services with the CHEMEON name and mark along with historical clarification that the company or mark, as applicable, was "formerly Metalast"; and**

**CHEMEON asks that its distributors, customers, and users use our new labeling and identifications of our products and services as provided by CHEMEON.**



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The press release incorrectly states that Chemeon previously "owned" the "Metalast" mark. The public record demonstrates that Chemeon was never the registered owner of the mark, and no court has ruled otherwise. Furthermore, the publication is misleading because it fails to disclose that Chemeon's legal contention is disputed and unresolved in pending litigation. Indeed, the press release does not even disclose that any relevant litigation is pending.

The press release urges Chemeon customers to amend procurement specifications to change "Metalast" to "Chemeon." Semas and Metalast International, Inc. will contend that any attempt by Chemeon or any other party urging others to remove "Metalast" from procurement specifications constitutes trademark dilution, unfair trade practices, and other torts.

Metalast International, Inc. does not authorize Chemetall to market, label, or deliver any products denoted "formerly Metalast." Marketing or delivering products designated as "formerly Metalast," or selling parts treated with a product that does not originate with Metalast International Inc., may violate procurement regulations, procure specifications, and QLP/ QPD requirements, subjecting all in the chain of distribution to liability to the customers. Publishing technical data sheets or safety data sheets denoting products as "formerly Metalast" may violate OSHA or other labeling regulations. Metalast International, Inc. does not accept any such liability, and will seek indemnity from any party who exposes it to liability for the improper marketing and labeling of chemical products that do not originate with the owner of the Metalast brand.

Therefore, Metalast International, Inc. hereby demands that Chemetall desist from publishing any marketing materials, TDS, SDS, or other publications that describe any of its products as "formerly Metalast." Chemetall is free, of course, to avail itself of any procurement regulations or specifications that allow a supplier to seek approval and substitution of an "as equal" to a specified Metalast product. But we contend that Chemetall has no right to bypass that procedure by simply referring to its products as "formerly Metalast."

Clearly, Chemetall is engaged in transactions at the heart of the pending litigation between Chemeon and Metalast International, Inc. You may expect subpoenas for documents and testimony. We intend to seek immediate discovery of documents in these categories:

1. All written communications with Chemeon and memoranda of unwritten communications with Chemeon;

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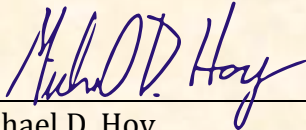
2. All business records of transactions with Chemeon;
3. All Technical Data Sheets and Safety Data Sheets published by Chemetall for any products labeled "formerly Metalast;"
4. All written communications with Chemetall customers regarding "formerly Metalast" products' compliance with procurement specifications, QPL specifications, or QPD specifications; and
5. All reports of findings or concern by Chemetall's customers' process auditors.

You are hereby notified that the destruction of any of these records, and any other records which you reasonably believe could be relevant to the ongoing disputes, could be deemed a violation of your legal obligations.

I invite your response to this letter. If you elect to engage legal counsel in this matter, please do not respond to me directly; instead, please ask your lawyers to contact me.

Very truly yours,

HOY CHRISSINGER KIMMEL VALLAS, PC



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