

**IN THE FEDERAL COURT OF AUSTRALIA (FCA)  
VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA  
GENERAL DIVISION**

**No: VID882/2007**

**NOTICE OF FILING**

This document was filed electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 27/08/2010.

**DETAILS OF FILING**

**Document Lodged:** Particulars (included Further and Better)  
**File Number:** VID882/2007  
**File Title:** Wright Rubber Products Pty Ltd -v- Bayer AG & Ors  
**District Registry:** VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



★ **Date:** 27/08/2010

**Registrar**

*Mark Soden*

**Note**

This Notice forms part of the document and contains information that might otherwise appear elsewhere in the document. The Notice must be included in the document served on each party to the proceeding.



**IN THE FEDERAL COURT OF AUSTRALIA  
VICTORIA DISTRICT REGISTRY**

**No. VID 882 of 2007**

**WRIGHT RUBBER PRODUCTS PTY LTD (ACN 075384100)**

Applicant

**BAYER AG**

First Respondent

**BAYER AUSTRALIA LTD (ACN 000138714)**

Second Respondent

**CHEMTURA CORPORATION**

Third Respondent

**CROMPTON MANUFACTURING COMPANY, INC**

Fourth Respondent

**CHEMTURA AUSTRALIA PTY LTD (ACN 005225507)**

Fifth Respondent

**APPLICANT'S FURTHER AND BETTER PARTICULARS OF THE SECOND AMENDED  
STATEMENT OF CLAIM**

To the First and Second Respondents' Request for Further and Better Particulars dated 20 August 2010 herein the Applicant says as follows:

**Definitions**

Terms defined in the Second Amended Statement of Claim filed on 2 August 2010 (**SASOC**) have the same meaning when used in these Further and Better Particulars.

**Paragraph 13**

1. As to paragraph 1:

The Applicant repeats paragraphs 4 to 12 and 14 to 38 inclusive of and the particulars and schedules to the SASOC. Further particulars may be provided following the completion of discovery but are otherwise a matter for evidence.

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**Filed on behalf of:**

The Applicant

**Filed by:**

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2. As to paragraph 2:

We repeat the response to paragraph 1 above.

**Paragraph 36**

3. As to paragraph 3:

- (a) As to subparagraph 3(a)

(i) Yes

(ii) Yes

- (b) As to subparagraph 3(b):

(i) Yes

(ii) Yes

(iii) Yes

4. As to paragraph 4::

- (a) As to paragraph 4(a) the Applicant has provided the best particulars currently available to it. The further particulars sought are not necessary to enable your clients to understand and meet the allegations pleaded against them, particularly given that the request enquires after matters within the knowledge of your clients (including their officers, servants and agents) which your clients sought to conceal. The request is otherwise an objectionable request for evidence and further particulars are not required. We refer you to our client's submissions before the docket judge and on appeal in relation to the relevant case law and provisions of Order 12 Rules 3 and 5(2)&(3). Further particulars may be provided, if required, following the completion of discovery by your clients.

- (b) As to paragraph 4(b) the Applicant repeats its response to 4(a) above.

5. As to paragraph 5:

- (a) As to paragraph 5(a), the Applicant repeats its response to 4(a) above.

- (b) As to paragraph 5(b), the Applicant repeats its response to 4(a) above.

- (c) As to paragraph 5(c), the Applicant repeats its response to 4(a) above.

- (d) As to paragraph 5(d), paragraphs 18, 19, 20, 31, 32 and 33 allege conduct by the Foreign and Australian Respondents giving rise to contraventions by the Foreign Respondents as alleged in paragraphs 22 to 24 and 34. To the extent that conduct alleged in those paragraphs is also alleged and/or relied upon in

paragraphs 26 and 27 and the particulars thereto then the Applicant does allege that Bayer Australia directly contravened section 45(2)(b) of the Act as plainly alleged in paragraphs 28 and 29.

6. As to paragraph 6:

(a) As to subparagraph 6(a);

- (i) The Applicant alleges Bayer was involved with the conduct of each other Respondent;
- (ii) The alleged contraventions that Bayer is alleged to have been involved in are those contained in paragraphs 24 (by Chemtura and Uniroyal), 29 (by the Australian Respondents) and 34 (by Chemtura and Uniroyal);
- (iii) The Applicant has provided the best particulars currently available to it. The further particulars sought are not necessary to enable your clients to understand and meet the allegations pleaded against them, particularly given that the request enquires after matters within the knowledge of your clients (including their officers, servants and agents) which your clients sought to conceal. Further particulars will be provided, if required, following the completion of discovery by your clients.

(b) As to subparagraph 6(b):

- (i) The Applicant alleges Bayer Australia was involved with the conduct of each other Respondent;
- (ii) The alleged contraventions that Bayer Australia is alleged to have been involved in are those contained in paragraphs 24 (by the Foreign Respondents), 29 (by Chemtura Australia) and 34 (by the Foreign Respondents);
- (iii) The Applicant repeats its response to 6(a)(iii) above.

Dated: 27 August 2010

*Maurice Blackburn Lawyers*

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**Maurice Blackburn Pty Limited**  
**Solicitors for the Applicant**