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PROCESSED

**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**

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

APPLICANT'S REPLY TO FIRST RESPONDENT'S DEFENCE

1. Save to the extent that the first respondent's defence contains admissions to the second amended statement of claim, the applicant joins issue on the first respondent's defence.

2. In further reply to paragraph 42 of the first respondent's defence, the applicant says:
 - (a) in circumstances where the first respondent was unjustly enriched by the Overcharge as a result of its contraventions, the "pass on" defence asserted is not available as a matter of law in answer to the applicant's claims for relief in the Amended Application, and

 - (b) the first respondent cannot in any event establish that the applicant or group members have passed on higher costs of Rubber Chemicals or Rubber Compounds to their customers as alleged.

3. In further reply to paragraph 44 of the first respondent's defence, the applicant says:

Filed on behalf of:
Filed by:
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- (a) it does not rely on section 5 of the Act which does apply to the first respondent, its contraventions all being founded on conduct in Australia, and
 - (b) if, which is denied, the first respondent and any of the other parties to the arrangements are not all in competition with or competitive with each other in a market in Australia, subsection 45 (2)(b) of the Act nevertheless applies to the conduct.
4. In further reply to paragraph 46 of the first respondent's defence, the applicant says that its claims for relief are all in respect of causes of action which accrued after 26 July 1998 and less than six years before the commencement of the action.

Dated: 8 October 2010

Maurice Blackburn Lawyers

Maurice Blackburn Pty Ltd
Solicitors for the Applicant

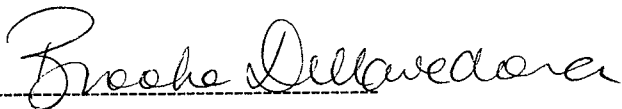
This pleading was prepared by Ian Wylie of Counsel.

FORM 15B CERTIFICATION
(pursuant to Order 11 Rule 1B of the Rules)


I, **BROOKE WENDY DELLAVEDOVA**, certify to the Court that the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non-admission in the pleading.

Date: 8 October 2010



Legal Representative for the Applicant



Maurice Blackburn Pty Ltd