

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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|---------------------------|---|---------------------------|
| ----- | : | |
| Atotech Deutschland GmbH, | : | |
| | : | Cancellation No. 92047816 |
| Petitioner, | : | |
| | : | Mark: TRIBLACK |
| v. | : | |
| | : | Reg. No. 3,106,449 |
| MacDermid Acumen, Inc. | : | |
| | : | Registered: June 20, 2006 |
| Registrant. | : | |
| ----- | : | |

78 / 634, 137

**PETITIONER'S FIRST SET OF
INTERROGATORIES TO REGISTRANT**

Petitioner, Atotech Deutschland GmbH ("Petitioner"), pursuant to Rule 2.120 of the Trademark Rules of Practice, and Rule 33 of the Federal Rules of Civil Procedure, hereby requests that Registrant, MacDermid Acumen, Inc. ("Registrant"), answer separately and fully, in writing under oath, the following Interrogatories within thirty (30) days after service of this request.

DEFINITIONS AND INSTRUCTIONS

1. As used herein the term "Registrant" means and shall refer to Registrant herein, each of its predecessors, subsidiaries, licensees, divisions, affiliates, directors, officers, employees, agents and attorneys and each person acting on its behalf or under its control.
2. As used herein, the term "Petitioner" means and shall refer to Petitioner herein, each of its predecessors, subsidiaries, licensees, divisions, affiliates, directors, officers, employees, agents and attorneys and each person acting on its behalf or under its control.



12-26-2007

3. As used herein, the term "Person" as well as pronouns referring thereto shall include any business, legal or government entity or association, as well as natural persons.

4. As used herein, the term "identify" or the phrase "give the identity of" shall mean:

a. In the case of a natural person: (1) his or her full name; (2) his or her present or last known address and telephone number; (3) his or her present or last known employer or business affiliation and business telephone number; and (4) the title(s) or position(s) held at any time by such person with respect to such employer or business affiliation;

b. In the case of a corporation, business entity, or organization: (1) its full name; (2) the address of its principal place of business; (3) the identity of any and all of its officers, directors, and managing agents; and (4) if unincorporated, the nature of the entity or organization, i.e. sole proprietorship, partnership, etc.;

c. In the case of a document: (1) the author(s) of the document; (2) any and all persons who received such document (including copies); (3) the date of such document; and (4) the general subject matter of such document;

d. In the case of a product: (1) the generic name of the product; (2) the function of the product; and (3) the inclusive dates during which the product has been sold or offered for sale in the United States; e. In the case of an instance or incident: (1) the identity of each person who participated in or who has knowledge of the instance or incident; (2) the circumstances surrounding the instance or incident; and (3) the date or the inclusive dates during which the instance or incident occurred.

5. As used herein, the term “document” includes any tangible thing from or on which information can be stored, recorded, processed, transmitted, inscribed, or memorialized in any way by any means, regardless of technology or form.

6. As used herein, the term “date” means the exact date, if known, and, if not known, the approximate date.

7. With respect to each interrogatory to which an objection is made, state the specific grounds of the objection and answer any portion of the interrogatory which does not fall within the stated objection.

8. Any word written in the singular shall be construed as plural or vice-versa when necessary to facilitate the answer to the interrogatory.

9. As used herein, the term “all” and “each” shall be construed as all and each to bring within the scope of the discovery request all responses that might be construed to be outside of its scope.

10. As used herein, the connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery requests all responses that might otherwise be construed to be outside of its scope.

11. As used herein, the term “Registrant’s Registration” means shall refer to the Registration No. 3,106,449, which is the subject of the instant Cancellation Proceeding.

12. As used herein, the term “Petitioner’s Mark” means and shall refer to CORRO TRIBLACK and pending application Serial No. 76/651,121 for the mark CORRO TRIBLACK.

INTERROGATORIES

INTERROGATORY NO. 1

State the reason(s) Registrant selected Registrant's Mark as a trademark.

INTERROGATORY NO. 2

Identify each person who was responsible for or who participated in the design conception, selection, or adoption of Registrant's Mark.

INTERROGATORY NO. 3

Identify each product that has been, is being, or will be sold or offered for sale using Registrant's Mark in the United States.

INTERROGATORY NO. 4

Identify each person who assisted, advised or otherwise participated in conducting trademark searches or any other search for the Registrant's Mark prior to Registrant's filing of its trademark application in the United States.

INTERROGATORY NO. 5

Identify each person who is presently, has been, or will be responsible for the sale and/or distribution of each product offered for sale, sold, or distributed by Registrant using Registrant's Mark in the United States, and indicate the periods of time during which each such person was responsible for the offering for sale, sale and/or distribution of said product, and the responsibilities of each such person.

INTERROGATORY NO. 6

State for each such product described in response to Interrogatory No. 3:

- a. the date the product was first sold in intrastate and interstate commerce; and
- b. whether any product was discontinued, and for each product that was discontinued, the date when sale of the product was discontinued, and the reason(s) for such discontinuance.

INTERROGATORY NO. 7

Identify the means by which goods under Registrant's Mark have been promoted or advertised in the U.S.

INTERROGATORY NO. 8

For each product identified in response to Interrogatory No. 3, describe in detail the trade channels by which each product travels or will travel from Registrant to the ultimate end user of such product in the United States.

INTERROGATORY NO. 9

Describe the types of end users for each product identified in response to Interrogatory No. 3.

INTERROGATORY NO. 10

Identify the business establishments in the U.S., which are accessible to public where each of the products identified in response to Interrogatory No. 3 were sold or are currently on sale.

INTERROGATORY NO. 11

Set forth the actual retail prices for each product identified in Interrogatory No. 3.

INTERROGATORY NO. 12

Identify all wholesale customers for each product identified in Interrogatory No. 3.

INTERROGATORY NO. 13

State the annual dollar and unit volume of sales in the United States separately for each product identified in response to Interrogatory No. 3 from Registrant's first use of Registrant's Mark to the present.

INTERROGATORY NO. 14

State the annual advertising and promotional expenditures in the United States separately for each product identified in response to Interrogatory No. 3 from Registrant's first use of Registrant's Mark to the present.

INTERROGATORY NO. 15

Identify all disputes, including, but not limited to, requests for extension of time to oppose, lawsuits, oppositions, cancellation proceedings, written objections, threatened litigation or cease and desist letters, in which Registrant is or has in any way been involved (other than the present proceeding) and indicate how such dispute was eventually resolved, including whether there were any agreements between the parties or decisions issued by any court or tribunal.

INTERROGATORY NO. 16

Describe in detail all instances or incidents of actual confusion between any of Registrant's products and the products of Opposer.

INTERROGATORY NO. 17

If any person has ever received any mail, inquiries, or other communications evidencing confusion, mistaken identity or relationship, or possible mistake between Registrant's products and the products of Petitioner or between Registrant's Mark and Petitioner's Marks:

- a. Identify the person who sent the communication or made the inquiry; and
- b. Identify the person who received the communication or to whom such inquiry was made.

INTERROGATORY NO. 18

Set forth the date and circumstances under which Registrant first became aware of Petitioner's Marks.

INTERROGATORY NO. 19

Identify each publication or item of advertising or promotional material in which Registrant has advertised or promoted or will advertise or promote each product identified in Interrogatory No. 3, including the date of each such publication or item of advertising or promotional material and the type of persons to whom the item was distributed.

INTERROGATORY NO. 20

Identify by stating the name, address and business affiliation of any and all expert witnesses Registrant has retained, employed, consulted or whose views or opinions have been sought by or on behalf of Applicant, whether or not such expert is expected to testify during Registrant's testimony period, concerning any aspect of this proceeding, and state the area of expertise of such witness.

INTERROGATORY NO. 21

Identify all witnesses upon whose testimony Registrant intends to present and rely in proof of any issue in this proceeding.

INTERROGATORY NO. 22

Identify all of Registrant's importers, distributors, manufacturers, suppliers and licensees of each product identified in response to Interrogatory No. 3.

INTERROGATORY NO. 23

Identify all of Registrant's manufacturers and suppliers of labels, brochures, flyers, catalogs, packaging, or other items which relate to or refer to Registrant's mark or the products identified in response to Interrogatory No. 3.

INTERROGATORY NO. 24

Identify any and all foreign and/or U.S. (including state) applications or registrations for Registrant's Mark by country, application/registration number and date of application and/or registration.

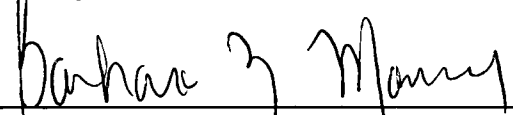
INTERROGATORY NO. 25

Identify by name, address and title all persons who participated in any way in the preparation of the answers or responses to these Interrogatories, including those persons who were consulted in the course of answering or responding to such interrogatory, and the documents relied upon in preparing such answers.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP
Attorneys for Petitioner

Dated: December 20, 2007

By:

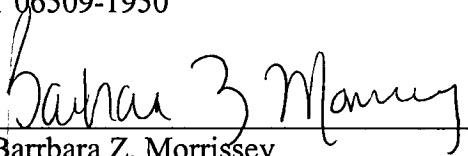


Barbara Z. Morrissey, Reg. No. 41,205
Deena Levy Weinhouse
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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Petitioner's Petitioner's First Set Of Interrogatories To Registrant directed to Registrant, MacDermid Acumen, Inc. was served via U.S. First Class Mail, postage prepaid, on this 20th day of December 2007 to the last known address of the attorney of record as follows:

Fatima Lahnin
Carmody & Torrance LLP
195 Church Street
P.O. Box 1950
New Haven, CT 06509-1950



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