

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

THE DOW CHEMICAL COMPANY, :  
 :  
 Plaintiff, :  
 :  
 v. :  
 : Civil Action No. 05-737-JJF  
 NOVA CHEMICALS CORPORATION :  
 (CANADA), and NOVA CHEMICALS :  
 INC. (Delaware), :  
 :  
 Defendants. :  
 :

O R D E R

At Wilmington, this 25 day of June 2009, for the reasons discussed in the Memorandum Opinion issued this date;

IT IS HEREBY ORDERED that:

1. Within ten (10) days of the date of this Order, each party shall submit a supplemental brief no longer than ten (10) pages in length addressing the Court's concerns, which are set forth in the Memorandum Opinion accompanying this Order, regarding the claim term **"homogeneously branched linear ethylene/ $\alpha$ -olefin interpolymer."**

2. The following terms and/or phrases in United States Patent Nos. 5,847,053 ("the '053 patent") and 6,111,023 ("the '023 patent") are assigned the following meanings:

a. The term **"slope of strain hardening coefficient of greater than or equal to 1.3"** means "the slope of strain hardening multiplied by the melt index raised to the 0.25 power

must be greater than or equal to 1.3."

b. The Court will instruct the jury as to the meaning of the claim terms "comprising (A) . . . and (B)" through a standard jury instruction such as the one provided by the AIPLA.

c. The term "**heterogeneously branched linear ethylene polymer**" means "a polymer having a distribution of branching different from and broader than the homogeneously branched ethylene/ $\alpha$ -olefin."

d. The term "**at least one ethylene interpolymer**" means "at least one polymer made from ethylene and at least one other comonomer."

e. The term "**ethylene polymer . . . comprising a linear polymer fraction**" to mean "a heterogeneously branched ethylene polymer containing a polymer fraction that is neither highly branched nor medium branched."

  
UNITED STATES DISTRICT JUDGE