

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. :
 :

ORDER

WHEREAS, Defendants NOVA Chemicals Corporation and NOVA Chemicals Inc. ("Nova") and Plaintiff The Dow Chemical Company ("Dow") filed multiple Motions in Limine;

WHEREAS, the Court addressed the Motions in Limine with the parties in chambers on May 26, 2010, and provided the parties with decisions on the Motions;

NOW THEREFORE, IT IS HEREBY ORDERED that:

(1) Nova's Sealed Motion In Limine No. 1 To Preclude Dow From Introducing Evidence Or Making Arguments Regarding Former Dow Employees' Use Of Confidential Information Acquired While At Dow (D.I. 418) is **GRANTED**;

(2) Nova's Sealed Motion In Limine No. 2 To Exclude Certain Testimony By Dr. Soares On The Ground Of Unfair Prejudice (D.I. 419) is **DENIED**;

(3) Dow's Sealed Motion In Limine No. 1 To Preclude Nova From Introducing Evidence Or Argument Relating To Dow's Pre-Suit Investigation And Testing Regarding Surpass (D.I. 420) is **GRANTED IN PART**, as it relates to the use of evidence of the attorney-client privilege to create a negative inference, and **DENIED IN PART**, as it relates to the use of testimony and evidence for the purpose of impeaching or showing internal doubt on the part of Dow that Nova's product infringed on the patents-in-suit;

(4) Dow's Sealed Motion In Limine No. 2 To Exclude Dr. McAuley's Testimony Related To The Properties Of Nova's Surpass Products And Nova's Labview Model (D.I. 421) is **DENIED**;

(5) Dow's Sealed Motion In Limine No. 3 To Exclude Dr. McAuley's Opinion Regarding Where On A Tensile Curve The Inventors Computed Slope Of Strain Hardening (D.I. 422) is **DENIED**;

(6) Dow's Sealed Motion In Limine No. 4 To Preclude Nova's Damages Expert, Mr. Tanger, From Relying On License Agreements Found Through The Royaltysource Database (D.I. 423) is **DENIED**;

(7) Dow's Sealed Motion In Limine No. 5 To Preclude Evidence And Argument Related To Project Janus And Project Victoria (D.I. 424) is **GRANTED IN PART**, as it relates to an attempt by Nova to use evidence of the projects in issue to initiate an argument that Dow copied Nova, and, **DENIED IN PART**, as it relates Nova using the information to rebut or answer arguments made by Dow;


(8) Dow's Sealed Motion In Limine No. 6 To Preclude Nova

From Presenting Deposition Testimony Of George Knight (D.I. 425) is **DENIED**;

(9) Dow's Sealed Motion In Limine No. 7 To Preclude Nova From Presenting Excerpts Of Deposition Testimony During Opening Statements (D.I. 426) is **GRANTED**; and

(10) Dow's Sealed Motion In Limine No. 8 To Preclude Nova From Presenting Certain Designated Deposition Testimony of Dr. Thomas Oswald (D.I. 471) is **GRANTED**.

May 30, 2010
DATE


UNITED STATES DISTRICT JUDGE