

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

BUERGOFOL GMBH, Plaintiff, vs. OMEGA LINER COMPANY, INC., Defendant.	Civil Action No.: 22-cv-04112-KES BUERGOFOL’S RESPONSES TO OMEGA’S REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS TO BUERGOFOL (SET TWO) (Nos. 15-97)
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PROPOUNDING PARTY: OMEGA LINER COMPANY, INC.

RESPONDING PARTY: BUERGOFOL GMBH

SET NUMBER: TWO (2)

To OMEGA and its attorneys of record:

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Plaintiff
BUERGOFOL GMBH (“Buergofol”) hereby responds to Defendant OMEGA LINER
COMPANY, INC.’s (“Omega”) “Omega’s Second Set Of Request For Production Of
Documents And Things To Buergofol (15-97) as follows:

BUERGOFOL’S DOCUMENT PRODUCTION IS ONGOING

Buergofol’s search and investigation into the universe of existing documents
(documents in the possession, custody or control of Buergofol) that may be responsive to
one or more of Omega document production requests (RFPs 15-97) has not yet been
completed, and is ongoing. Responsive documents will be produced periodically as
review of and processing of documents proceeds. Buergofol’s responses set forth below

to individual ones of Omega requests are based upon such information and documents that have as of the present time been identified and reviewed in association with individual Omega requests RFPs 15-97. As Buergofol searches for, identifies, and reviews additional documents, previously served responses to individual ones of Omega's requests below may be revealed to be incomplete and/or incorrect, in which case Buergofol will in a timely manner serve supplemental responses pursuant to Rule 26(e) if such supplementing is necessary. Buergofol's production of responsive documents shall be completed no later than a reasonable time specified in this response, which is by May 12, 2023 after Buergofol's counsel will next be present at Buergofol's facilities in Germany.

Documents responsive to individual Omega requests are being withheld on the basis of privilege and work product immunity. Those withheld documents are being listed on a privilege log pursuant to Rule 26(b)(5). Information in the privilege log is based on the current state of Buergofol's review of documents. If as Buergofol's review of documents and document production continues it is revealed that the privilege log is in some way incomplete and/or incorrect, Buergofol will update the privilege log as appropriate at that time. Some documents responsive to individual Omega requests are being withheld as containing trade secrets, and are covered by Buergofol's motion for a protective order. (Dkts. 72-76)

GENERAL OBJECTIONS

Buergofol objects to the requests to the extent that they seek production of privileged or work product (fact work product or opinion work product) information.

Buergofol objects to the requests to the extent that they seek production of Buergofol trade secret information and sensitive commercial information subject to protection under Rule 26(c)(1)(G), such as Buergofol trade secret information pertaining

to how Buergofol makes Buergofol film products including Buergofol's UV CIPP inner film and outer film products.

Plaintiff objects to the requests to the extent that they seek documents that cannot be located after a reasonable search of known document repositories most likely to contain the responsive information.

Plaintiff objects to the requests to the extent that they seek documents already within Omega's possession, custody, or control, or to the extent that the documents sought are publicly available, or would require Buergofol to locate and produce documents that could more easily and more efficiently be located and obtained by Omega. Such documents include publicly available court filings available from Courts, and patent documents (issues patents, patent applications, and patent file wrappers) available from patent offices.

PRODUCTION REQUESTS, OBJECTIONS AND RESPONSES

REQUEST FOR PRODUCTION NO. 15:

The physical "2021 Sample" identified by Buergofol in response to Interrogatory No. 2.

RESPONSE TO REQUEST FOR PRODUCTION NO. 15:

Buergofol has already produced a piece of the physical "2021 Sample" (the Georgia sample) identified by Buergofol in response to Omega's Interrogatory No. 2. In addition to this, Buergofol will be producing nothing more in response to this request.

REQUEST FOR PRODUCTION NO. 16:

Each physical Omega Inner Foil in the possession, custody or control of Buergofol.

RESPONSE TO REQUEST FOR PRODUCTION NO. 16:

Buergofol objects to this response for being overbroad to the extent that it calls for “Documents and Tangible Things” that under FRCP 26(b)(3) constitute work product. Buergofol will not produce work product (fact work product or opinion work product) “Documents and Tangible Things” in response to RFP 16.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 16 as follows:

Buergofol received inner foils from Omega in response to Buergofol’s requests for production, so Buergofol will not return those Omega Inner Foils back to Omega in response to RFP 16. Other than the Omega inner foils received from Omega as a result of document production, Buergofol has already produced a piece of all responsive non-work product “Omega Inner Foils” (two samples, 2021 Sample and 2022 Sample) in Buergofol’s possession, and Buergofol will be producing nothing more in response to RFP 16.

REQUEST FOR PRODUCTION NO. 17:

Each physical Omega Outer Foil in the possession, custody or control of Buergofol.

RESPONSE TO REQUEST FOR PRODUCTION NO. 17:

Buergofol objects to this request for being overbroad to the extent that it calls for “Documents and Tangible Things” that under FRCP 26(b)(3) constitute work product. Buergofol will not produce work product (fact attorney work product or opinion attorney work product) “Documents and Tangible Things” in response to RFP 17.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 17 as follows:

Buergofol received outer foils from Omega in response to Buergofol’s requests for production, so Buergofol will not return those Omega Outer Foils back to Omega in

response to RFP 17. Other than the Omega outer foils received from Omega as a result of document production, Buergofol has already produced a piece of all responsive non-work product “Omega Outer Foils” (two samples, 2021 Sample and 2022 Sample) in Buergofol’s possession, and Buergofol will be producing nothing more in response to RFP 17.

REQUEST FOR PRODUCTION NO. 18:

Two samples of each Buergofol or licensed third-party product that allegedly practices or uses the subject matter of any Claim-in-Suit, including any packaging, manuals, or labels for each product.

RESPONSE TO REQUEST FOR PRODUCTION NO. 18:

Buergofol is not in possession of any sample that is responsive to RFP 18, and consequently will be producing nothing in response to RFP 18. The request calls for production of “product” that allegedly practices or uses “the subject matter of any Claim-in-Suit”, and each claim of the patents-in-suit recites a liner (more specifically, an insertion tube), and Buergofol is not in possession of any such liner. The portion of request “including any packaging, manuals, or labels for each product” is a logical impossibility and an apparent attempt at describing types of products that practice or use claimed subject matter (“the subject matter of any Claim-in-Suit)a “Claim-in-Suit”). Because packaging, manuals, and labels cannot “practice” or “use” inventions claimed in the ‘269 Patent and ‘882 Patent, this portion of the request describes no document or tangible thing that could be produced, so Buergofol will be producing nothing in response to the “including any packaging, manuals, or label” language in the request.

REQUEST FOR PRODUCTION NO. 19:

All documents relating to Buergofol’s acquisition of any Omega Liner or any component thereof, including but not limited to those identified in Buergofol’s Response

to Interrogatory Nos. 1 and 2.

RESPONSE TO REQUEST FOR PRODUCTION NO. 19:

Buergofol objects to this request for being overbroad to the extent that it calls for “Documents and Tangible Things” that under FRCP 26(b)(3) constitute work product, including attorney work product (fact work product and/or opinion work product). Buergofol will not produce work product (fact attorney work product or opinion attorney work product) “Documents and Tangible Things” in response to RFP 17. Buergofol also objects to the “All documents relating to” language of RFP 19 because it lacks specificity. Any attorney work product documents that are not being produced are listed on the privilege log.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 16 as follows:

Buergofol acquired components of an Omega Liner that Mr. Stark of Buergofol obtained from Mr. Quitter, and Buergofol has produced or will produce all non-privileged and non-work product documents (in Buergofol’s possession, custody or control) that are related to components of that Omega Liner. Buergofol already has produced emails related to the components Mr. Stark obtained from Mr. Quitter. More broadly, Buergofol will produce all non-privileged and non-work product documents responsive to RFP 19.

REQUEST FOR PRODUCTION NO. 20:

All documents relating to Buergofol’s testing of any Omega Liner, Omega Inner Foil or Omega Outer Foil.

RESPONSE TO REQUEST FOR PRODUCTION NO. 20:

Buergofol objects to the request for being overbroad to the extent that it calls for “Documents and Tangible Things” that under FRCP 26(b)(3) constitute work product, including attorney work product (fact work product and/or opinion work product), and including attorney work product produced after initiation of this lawsuit. For example,

what tests an attorney elects to do, and what objects the attorney elects to have tested, and the personnel chosen to do the tests and instructions given, and other aspects of testing is information that reveals the mental impressions and assessments of the person (for example, an attorney) who requested that the testing be done, and constitutes work product. Buergofol will not produce work product (fact attorney work product or opinion attorney work product) “Documents and Tangible Things” in response to RFP 20. Any attorney work product documents that are not being produced are listed on the privilege log.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 20 as follows:

Buergofol has already produced and will produce documents related to testing of the “2021 Sample” (the sample identified by Buergofol in response to Interrogatory No. 2). More broadly, Buergofol will produce all non-privileged and non-work product documents responsive to RFP 20.

REQUEST FOR PRODUCTION NO. 21:

Organizational charts sufficient to show the names, positions, titles, duties, and reporting relationships of all officers, employees, and other personnel involved in the design, development, operation, marketing, or sale of any Buergofol product that allegedly practices or uses the subject matter of any Claim-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 21:

Buergofol does not now, nor has Buergofol ever, made or sold UV CIPP liner, nor has Buergofol ever designed any “Buergofol product” that allegedly “practices or uses the subject matter of any Claim-in-Suit,” so by the language of RFP 21 there can be no organizational chart that shows the names of Buergofol personnel involved in the “design, development, operation, marketing, or sale” of any such “Buergofol product.” In addition, Buergofol does not know what the term “allegedly” means in the context of the

request, so Buergofol objects is vague and unintelligible on that basis. It is unclear what is being alleged, and by whom. Reading the request by its terms, Buergofol is in possession of no responsive “organizational chart.” Notwithstanding the language of RFP 21 that makes a request to which no document is responsive, Buergofol does not use “organizational charts” and consequently is not in possession of any responsive “organizational charts”, and consequently is not in possession of organizational charts “sufficient to show” the names and titles of “all” Buergofol officers, and “all” Buergofol employees, and “all” other personnel involved in the design of any Buergofol product. Buergofol, however, will voluntarily produce a very basic old organizational chart of company functions that was found in Buergofol’s documents.

REQUEST FOR PRODUCTION NO. 22:

Documents sufficient to describe all Buergofol electronic data and document retention policies.

RESPONSE TO REQUEST FOR PRODUCTION NO. 22:

Buergofol will produce documents sufficient to described Buergofol electronic data and document retention policies, to the extent any such “policies” exist, to the extent any responsive document exists, to the extent that production of the documents do not reveal attorney-client privileged or work product information.

REQUEST FOR PRODUCTION NO. 23:

Documents related to each product (including each version thereof) sold by Buergofol to Omega Liner Company, Inc. sufficient to show the structure and composition of each component part of each product (or version thereof).

RESPONSE TO REQUEST FOR PRODUCTION NO. 23:

Buergofol objects to the request, and does not produce any documents responsive to the request, and moves for a protective order under Rule 26(c) relieving Buergofol of

any obligation to produce documents responsive to the request, because complying with the request would cause Buergofol to disclose confidential “trade secret or other confidential research, development, or commercial information” to Omega when Omega has no legitimate litigation need to know the information. The request refers to “the structure and composition of each component part of each product,” but the “structure and composition” of each component part of each Buergofol product sold to Omega can be shown to different levels of specificity and detail. The request is objectionable because it is vague and lacks specificity as to the level of detail that is to be shown. Moreover, in responding to Omega’s ROG No. 10, Buergofol is already providing information to Omega indicating the structure and composition of each and every inner and outer film Buergofol sold to Omega. This “structure” and “composition” information is being disclosed to Omega to an adequate level of specificity and detail considering the issues in the present litigation. More specifically, all Buergofol outer films sold to Omega had the multi-layered structure PE/AP/PA/AP/PE. All Buergofol inner films sold to Omega had either the multi-layered structure PA/AP/PA/AP/PE or the multi-layered structure PA/AP/PA/AP/PE/PE/PE. In these structural layer designations, “PA” denotes a polyamide layer, “PE” denotes a polyethylene layer, and “AP” denotes an adhesion promoter layer. Buergofol has disclosed to Omega that the innermost layer of all Buergofol inner film sold to Omega had a VICAT temperature of one hundred degrees Celsius or more. Buergofol has disclosed to Omega that the outermost layer of all Buergofol inner film sold to Omega included an amount of a migrating compound, specifically EBS wax, some of which migrated to and coated the outer side of the layer. This disclosure to Omega about the “structure” and “composition” of all Buergofol films sold to Omega is to an adequate level of specificity and detail for purposes of resolving the issues in the present patent infringement litigation.

Buergofol is in possession of documents that reveal more detailed and specific information about the structure and composition of the inner and outer films that

Buergofol produced and sold to Omega. Buergofol, however, possesses this more detailed information and knowhow as valuable trade secrets. This trade secret information includes documents that reveal more detailed confidential technical information regarding the chemical composition and structure of the materials making up individual layers in the films, and thicknesses, and ingredients, and different types of characteristics of the materials making up the layers. Buergofol is in possession of documents that reveal aspects of the composition and structure of parts of Buergofol's films by virtue of revealing Buergofol's manufacturing specifications and methodologies that Buergofol employed in manufacturing the films. Buergofol objects to producing documents that reveal any of this information. If another entity (for example, Omega or Omega's "new" film supplier) were to learn of Buergofol's trade secret information about how Buergofol manufactures Buergofol's special UV CIPP films, then that entity might be able to make UV CIPP film in direct competition with Buergofol. This could result in financial harm to Buergofol. Because Omega has no legitimate litigation need for knowing additional detailed information about the structure and composition of the films Buergofol produced and sold to Omega, Buergofol is not producing any documents in response to the request and has moved the Court under Rule 26(c) for an appropriate protective order.

REQUEST FOR PRODUCTION NO. 24:

Manufacturing specifications for each product (including each version thereof) sold by Buergofol to Omega Liner Company, Inc.

RESPONSE TO REQUEST FOR PRODUCTION NO. 24:

Buergofol objects to the request, and does not produce any documents responsive to the request, and moves for a protective order under Rule 26(c) relieving Buergofol of any obligation to produce documents responsive to the request, because complying with the request would: 1) result in disclosure of Buergofol trade secret information, and 2) impose

an undue burden on Buergofol (because the effort and expense involved in performing Omega's desired document search would not be proportional to the needs of this case when the factors of Rule 26(b)(1) are properly considered).

The manufacturing specifications and processes Buergofol used to manufacture the UV CIPP films that Buergofol sold to Omega constitute trade secrets of Buergofol. Non-confidential information about how the inventions claimed in the patents-in-suit can be made is available for Omega to read in the enabling disclosures set forth in the patent documents themselves. Beyond that disclosure, Buergofol does not want to, through discovery in this case, disclose Buergofol's proprietary manufacturing processes and techniques to Omega and thereby to teach Omega how to knock-off Buergofol's superior films. Confidential details and knowhow of how Buergofol manufactures Buergofol's special UV CIPP films are Buergofol's trade secrets and are not patented. If Omega were to learn of Buergofol's trade secret information about how Buergofol manufactures Buergofol's special UV CIPP films, then Omega might be able (potentially along with Omega's "new" film supplier mentioned in Omega's court papers) to make UV CIPP film in direct competition with Buergofol. This could result in financial harm to Buergofol. Not only are the manufacturing specifications Buergofol trade secrets, but also Omega has no legitimate litigation need to discover the manufacturing specifications Buergofol employs to manufacture Buergofol's UV CIPP film products.

In addition to objecting to the request because complying with it would involve disclosing Buergofol's trade secrets, Buergofol also objects to the request because complying with the request would be unduly burdensome to Buergofol. The effort and expense involved in performing the document production would not be proportional to the needs of this case when the factors of Rule 26(b)(1) are properly considered. Although the term "manufacturing specifications" used in the request is objectionable for being vague and lacking adequate specificity, Buergofol can say that documentary information bearing on how Buergofol manufactures its films is located in various places at Buergofol's

facilities, including in electronic form and in paper form. Buergofol's manufacturing documentation pertaining to its old CIPP film production, to the extent such documentation still exists, exists largely if not exclusively in paper form. The old paper is not in computer-searchable form. Moreover, approximately 99 percent of Buergofol's business does not pertain to film for UV CIPP pipe liners, but rather relates to other types of films for packaging of food, cosmetics, semiconductors and automotive applications. As a consequence, it is believed that the relatively small amount of old documentation pertaining to the manufacture of older CIPP films that might remain would be mixed in with the vastly larger amount of irrelevant documentation pertaining primarily to food packaging films. The old manufacturing paperwork is in the German language, is located at a factory in Germany, and would have to be reviewed for responsiveness by U.S. litigation counsel. The only way to determine if a responsive document pertaining to the "manufacturing specifications" exists would be for litigation counsel manually to go through all the old manufacturing paperwork in Germany, in a needle-in-the-haystack type search estimated to involve about 10 minutes to review each of the approximately 1,000 existing binders of old production paperwork. As a result, if Buergofol were required to search for and produce such information related to Buergofol's manufacturing specifications, doing so would be unduly burdensome and would not be proportional to the needs of this case under Rule 26(b)(1). For these reasons (trade secret and undue burden) Buergofol is not producing any documents responsive to the request, and moves the Court for a protective order under Rule 26(c) relieving Buergofol of any obligation to produce documents responsive to the request.

REQUEST FOR PRODUCTION NO. 25:

All documents relating to or referring to the qualities, characteristics, specifications, capabilities, properties, composition, additives used in and/or layers of all film (inner tubular film and outer film) made or offered for sale by Buergofol prior to March 11, 2013.

RESPONSE TO REQUEST FOR PRODUCTION NO. 25:

This request has been withdrawn by Omega's counsel. Buergofol will not be producing any documents responsive to withdrawn RFP 25.

REQUEST FOR PRODUCTION NO. 26:

All documents relating to the advertising, marketing or promotion of any Buergofol or licensed third-party product that allegedly practices or uses the subject matter of any Claim-in-Suit, including advertisements or advertising campaigns, brochures, pamphlets, catalogs, price lists, website content, and social media posts.

RESPONSE TO REQUEST FOR PRODUCTION NO. 26:

There is no Buergofol "product" that "practices" or "uses" the subject matter claimed in either patent-in-suit because every claim of the patents-in-suit recites a liner (an insertion tube), and Buergofol did not in the past and does not now make or sell any such product. Moreover, Buergofol has never licensed either of the patents-in-suit, so there exists no licensed third-party product that "practices" or "uses" the subject matter claimed by any claim of either patent-in-suit. Accordingly, given the way Buergofol interprets the request, Buergofol is not in possession of any document responsive to this request. Buergofol will therefore not be producing documents in response to RFP 26.

REQUEST FOR PRODUCTION NO. 27:

All documents relating to the cured-in-place pipe (CIPP) liner market, including any studies, reports, or analyses relating to market share, market demand, market segments, competition, consumer surveys, or revenue.

RESPONSE TO REQUEST FOR PRODUCTION NO. 27:

Buergofol objects to the request for being unduly vague and lacking in adequate specificity due to the use of the omnibus term "relating to." In the context of this request, it is not known what "all documents relating to" a CIPP liner market refers to, and does

not refer to. Buergofol further objects to the request because the meaning of the “including any studies, reports . . . or revenue” is not understood. It is not known what “market demand” means, or what “market segments” means, or what “consumer surveys” means, or what “revenue” means, with respect to “the” CIPP “liner market.” For example, with respect to the term “revenue” appearing in the request, is that referring to “revenue” of a “market”? In addition, it is not known what “customer surveys” of a CIPP liner market could mean. Buergofol objects to the request as being overbroad to the extent it calls for producing documents related to CIPP liner that is not UV CIPP liner (for example, steam-cured CIPP liner). Buergofol objects to the request as calling for information outside the scope of permissible discovery under Rule 26(b)(1) because the request is calling for documents that have no relevance to any issue in this case.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 27 as follows: Buergofol will produce all documents in Buergofol’s possession that are studies or market reports of the UV CIPP liner market in the United States, including documents that discuss market shares of various individual UV CIPP manufacturers, and documents that discuss the size of the overall UV CIPP market, if there exist any such UV CIPP market analysis documents. Buergofol will also produce any customer surveys pertaining to reviews of Buergofol UV CIPP film products, if there exist any such documents. Other than the documents outlined above, Buergofol will not produce any other documents in response to this request.

REQUEST FOR PRODUCTION NO. 28:

All documents relating to the market demand for, or market share of, any Buergofol or licensed third-party product that allegedly practices or uses the subject matter of any Claim-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 28:

There is no Buergofol “product” that “practices” or “uses” the subject matter

claimed in either patent-in-suit because every claim of the patents-in-suit recites a liner (an insertion tube), and Buergofol did not in the past and does not now make or sell any such liner product. Moreover, Buergofol has never licensed either of the patents-in-suit, so there exists no licensed third-party product that “practices” or “uses” the subject matter claimed by any claim of either patent-in-suit. Accordingly, Buergofol is in possession of no document responsive to this request. Buergofol will therefore not be producing documents in response to RFP 28.

REQUEST FOR PRODUCTION NO. 29:

Documents sufficient to show, on a quarterly basis, the quantity sold, price, gross revenue, terms and conditions of sale, customer name, and country of sale for each Buergofol or licensed third-party product that allegedly practices or uses the subject matter of any Claim-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 29:

Buergofol objects to the request to the extent that it calls for production of commercial information that Buergofol does not have to produce pursuant to Rule 26(c)(1)(G), especially considering that Omega has no legitimate litigation need to know Buergofol’s revenues or customers in that such information is not relevant to any issue in this case. Moreover, there is no Buergofol “product” that “practices” or “uses” the subject matter claimed in either patent-in-suit because every claim of the patents-in-suit recites a liner (an insertion tube), and Buergofol did not in the past and does not now make or sell any such liner product. Moreover, Buergofol has never licensed either of the patents-in-suit, so there exists no licensed third-party product that “practices” or “uses” the subject matter claimed by any claim of either patent-in-suit. Accordingly, Buergofol is in possession of no document responsive to this request, and Buergofol will therefore not be producing documents in response to RFP 29.

REQUEST FOR PRODUCTION NO. 30:

Documents sufficient to show the profitability of each Buergofol or licensed third-party product that allegedly practices or uses the subject matter of any Claim-in-Suit, including revenues, costs of sale, order contributions, product margins, gross margins, and operating profits.

RESPONSE TO REQUEST FOR PRODUCTION NO. 30:

Buergofol objects to the request to the extent that it calls for production of commercial information that Buergofol does not have to produce pursuant to Rule 26(c)(1)(G), especially considering that Omega has no need to know Buergofol's profitability in that that profitability information is not relevant to any issue in this case. There is no Buergofol "product" that "practices" or "uses" the subject matter claimed in either patent-in-suit because every claim of the patents-in-suit recites a liner (an insertion tube), and Buergofol did not in the past and does not now make or sell any such liner product. Moreover, Buergofol has never licensed either of the patents-in-suit, so there exists no licensed third-party product that "practices" or "uses" the subject matter claimed by any claim of either patent-in-suit. Accordingly, Buergofol is in possession of no document responsive to this request, and Buergofol will therefore not be producing documents in response to RFP 30.

REQUEST FOR PRODUCTION NO. 31:

All documents identified in Buergofol's initial disclosures under Federal Rule of Civil Procedure 26(a) or used, relied on, or considered by Buergofol in drafting its initial disclosures.

RESPONSE TO REQUEST FOR PRODUCTION NO. 31:

Buergofol objects to the request to the extent that it calls for the production of work product (fact work product and opinion work product) and documents revealing attorney-client communications, used in the drafting of Buergofol's initial disclosures.

Buergofol also objects because all the documents relied on or considered in drafting Buergofol's initial disclosures are no longer known, and the attorneys who prepared the initial disclosures no longer remember what all of the documents relied upon were. As such, Buergofol objects to the overbroad request to the extent it calls for the production of all documents used, or relied on, or considered in the drafting of Buergofol's initial disclosures. Buergofol objects to the request for being overbroad to the extent that it calls for the unreasonably cumulative and duplicative production of voluminous official patents, official patent applications, and official prosecution histories (file wrappers), that Omega itself can obtain from official government sources in a way that is more convenient, less burdensome, and less expensive than having Buergofol formally produce and provide voluminous copies to Omega.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 31 as follows: Buergofol will produce all responsive non-privileged and non-work product documents specifically identified in Buergofol's FRCP 26(a) initial disclosures, to the extent such specifically identified documents have not already been produced or have not already been made known to Omega. Buergofol will not, however, produce copies of patents, patent applications, or patent prosecution histories (file wrappers) because doing so would be unduly burdensome, unreasonably duplicative, considering that Omega can obtain official copies from a more convenient, less burdensome, and less expensive source.

REQUEST FOR PRODUCTION NO. 32:

All documents identified in Buergofol's Complaint or used, relied on or considered by Buergofol in drafting its Complaint.

RESPONSE TO REQUEST FOR PRODUCTION NO. 32:

Buergofol objects to the request to the extent that it calls for the production of work product (fact work product and opinion work product) and documents revealing

attorney-client communications, used or relied upon in the drafting of Buergofol's Complaint. Buergofol also objects because all the documents relied on or considered in drafting Buergofol's Complaint are no longer known, and the attorneys who prepared the Complaint no longer remember what all of the documents relied upon were. Documents that an attorney may have chosen to consult would reveal attorney work product in certain instances. As such, Buergofol objects to the request to the extent it calls for the production of all documents used, relied on, or even considered in the drafting of Buergofol's Complaint. Buergofol further objects to the request as being unduly burdensome in that it calls for large amounts of undiscoverable documents that counsel for Omega should know are not discoverable, and that truly listing "all" such documents (including documents that an attorney relied upon in drafting a Complaint) on a privilege log is an onerous waste of time, and the burden, time and effort to do such a thing would far outweigh a likely benefit going through the discovery exercise would have.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 32 as follows: Buergofol will produce all responsive non-privileged and non-work product documents that are specifically identified in Buergofol's Complaint. Buergofol will not, however, produce copies of patents, patent applications, or patent prosecution histories (file wrappers) because doing so would be unduly burdensome, unreasonably duplicative, considering that Omega can obtain official copies from a more convenient, less burdensome, and less expensive source.

REQUEST FOR PRODUCTION NO. 33:

All documents received by Buergofol in response to any subpoenas propounded by Buergofol in this case.

RESPONSE TO REQUEST FOR PRODUCTION NO. 33:

Buergofol has no responsive documents to produce, and therefore will be producing no documents in response to RFP 33.

REQUEST FOR PRODUCTION NO. 34:

All documents identified in Buergofol's responses to all interrogatories and requests for admissions or used, relied on, or considered by Buergofol in drafting its responses to interrogatories or requests for admissions.

RESPONSE TO REQUEST FOR PRODUCTION NO. 34:

Buergofol objects to the request to the extent that it calls for the production of FRCP 26(b)(3) work product (fact work product and opinion work product), and documents revealing attorney-client communications. Buergofol also objects because all the documents used, relied on or considered in drafting Buergofol's responses to interrogatories are no longer known or remembered.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 34 as follows: Buergofol will produce all responsive non-privileged and non-work product responsive documents pertaining to Buergofol's responses to interrogatories. Omega has not served any requests for admission, so Buergofol will not be producing any documents pertaining to any such non-existent requests for admission. Buergofol will not, however, produce copies of patents, patent applications, or patent prosecution histories (file wrappers) because doing so would be unduly burdensome, unreasonably duplicative, considering that Omega can obtain official copies from a more convenient, less burdensome, and less expensive source.

REQUEST FOR PRODUCTION NO. 35:

All documents that support, refute, or otherwise relate to any claim, defense, allegation, or potential remedy in this lawsuit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 35:

Buergofol objects to this request as being ridiculously overbroad and lacking in specificity to the extreme, and as a result even trying to respond to it would be unduly

burdensome on Buergofol, and as such would involve producing information outside the scope of discovery under Rule 26(b)(1). Buergofol cannot possibly produce all documents that support, refute, or “relate to” any claim, or defense, or allegation, or potential remedy, in this lawsuit. Furthermore, Buergofol objects to the vague and hypothetical request because Buergofol does not understand what the reference to “potential remedy” means. Due to the extreme overbreadth of the request, Buergofol will not produce any documents in response to this request.

REQUEST FOR PRODUCTION NO. 36:

For each Patent-in-Suit, all agreements, including licenses, transferring an interest in the Patent-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 36:

Buergofol will produce all non-privileged and non-work product documents in Buergofol’s possession, custody or control that are responsive to this request.

REQUEST FOR PRODUCTION NO. 37:

All agreements that Buergofol contends are comparable to a license that would result from a hypothetical reasonable royalty negotiation.

RESPONSE TO REQUEST FOR PRODUCTION NO. 37:

The request calls for production of agreements that Buergofol “contends” are comparable to a license in some way. Buergofol has made no such contention, so there are no agreements responsive to RFP 37. Consequently, Buergofol will produce nothing in response to RFP 37.

REQUEST FOR PRODUCTION NO. 38:

All agreements that otherwise may be used to support Buergofol’s damages case.

RESPONSE TO REQUEST FOR PRODUCTION NO. 38:

Buergofol objects to the request because “otherwise may be used” has no meaning, and it is so hypothetical and speculative that it is not known how Buergofol can determine whether an agreement is or is not responsive to the request. Buergofol cannot reasonably know what “may” happen in the future.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 38 as follows: Buergofol will produce all written agreements that Buergofol at this time believes bear on what a reasonable royalty would be for the ‘882 Patent and for the ‘269 Patent, but otherwise will produce no documents in response to this request.

REQUEST FOR PRODUCTION NO. 39:

Documents constituting or relating to any communications between Buergofol and any third-party regarding assignment, licensing, contracts, agreements, covenants not to sue, settlement agreements, actual or potential infringement, invalidity, or unenforceability of either of the Patents-in-Suit or patents related to the Patents-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 39:

Buergofol objects to the request to the extent that it is onerous and the burden and expense of responding to it fully would outweigh the likely benefit of the discovery, considering the tremendous effort and time Buergofol would have to spend searching for and producing the voluminous documents. Buergofol also objects to the request to the extent that it calls for the production of privileged documents and the production of work product documents and things. Buergofol further objects to the request as being overbroad and vague and lacking in adequate specificity due to the request to produce “documents . . . relating to . . .” “infringement,” and “documents . . . relating to . . .” “invalidity.” Buergofol does not know what a document “relating to” infringement is, or is not. Buergofol does not know what a document that relates to “potential” infringement is. Buergofol does not know what a document “relating to” invalidity is, or is not.

Buergofol therefore objects to the request because the scope of the request is too vague and cannot be determined.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 39 as follows: Buergofol will produce all non-privileged and non-work product documents in Buergofol's possession, custody or control, that relate to communication between Buergofol and a third party, where the document refers to either the '882 Patent or the '269 Patent, or to any "Related Patents", but Buergofol will not produce copies of the patent or patent application or file wrapper itself because doing so would be unduly burdensome. Omega can obtain copies of official patents and patent applications from official government sources in a way that is more convenient, less burdensome, and less expensive. Other than producing the documents referred to above that refer to the patents-in-suit and to "Related Patents", Buergofol will produce no other documents in response to this request.

REQUEST FOR PRODUCTION NO. 40:

Any agreements relating to the subject matter or outcome of this lawsuit, including agreements reflecting any financial or other interest in the lawsuit's outcome.

RESPONSE TO REQUEST FOR PRODUCTION NO. 40:

Buergofol objects to the request in that Buergofol does not know what "the subject matter" of "this lawsuit" is, and is not. Buergofol also objects to the request in that Buergofol does not know what the "outcome" of "this lawsuit" is, and is not.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 40 as follows: Buergofol will produce all non-privileged and non-work product agreement documents responsive to this request, to the extent that such agreement documents exist.

REQUEST FOR PRODUCTION NO. 41:

All documents relating to any license, agreement, contract, or negotiation between Buergofol and any third party regarding the manufacture, use, sale, offer to sell, or importation of any cured-in-place pipe (CIPP) liner products, including but not limited to any licensing policies or guidelines.

RESPONSE TO REQUEST FOR PRODUCTION NO. 41:

Buergofol objects to the request in that the request for “all documents” “relating to” lacks adequate specificity, and therefore the meaning of the request cannot be adequately understood. Documents pertaining to other types of liner, such as steam-cured liner, are not relevant to the issues in this case. Notwithstanding the objection above, Buergofol has not been and is not now in the business of making, using, selling, offering to sell, or importing any type of CIPP liner. Consequently, Buergofol has no responsive documents, and will be producing no documents in response to this request.

REQUEST FOR PRODUCTION NO. 42:

All documents relating to the ownership of any of the Patents-in-Suit or any Related Patent, including any assignment, title, or transfer agreements or offers.

RESPONSE TO REQUEST FOR PRODUCTION NO. 42:

Buergofol objects to this request to the extent that it calls for the production of privileged and/or work product documents and things. Buergofol objects to the request as being unduly burdensome to the extent that the request calls for Buergofol to produce unreasonably cumulative and duplicative assignment documents Omega already has possession of, and that Omega can more readily obtain from official government sources in a way that is more convenient, less burdensome, and less expensive than having Buergofol formally produce copies.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 42 as follows: Buergofol will produce all non-privileged and non-work product

documents that are responsive to this request to the extent they affect ownership of one of the Patents-in-Suit. Buergofol will not produce other ownership documents for other patents if those other ownership documents do not affect ownership of a patent-in-suit, because Omega does not have a legitimate litigation need for such other ownership documents under Rule 26(c) considering the burden on Buergofol that would be involved in searching for, locating, and formally producing the irrelevant documents.

REQUEST FOR PRODUCTION NO. 43:

All documents relating to any third party's right, title, or interest in or lien against any of the Patents-in-Suit or any Related Patent, or any third party's interest in this lawsuit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 43:

Buergofol objects to this request to the extent that it calls for the production of privileged and/or work product documents and things.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 43 as follows: Buergofol will produce all non-privileged and non-work product documents that are responsive to this request to the extent they affect title or interest in one of the Patents-in-Suit. Buergofol will not produce other title or interest documents for other patents if those other title or interest documents do not affect title, interest, or lien against a patent-in-suit because Omega does not have a legitimate litigation need for such other documents under Rule 26(c) considering the burden on Buergofol that would be involved in searching for, locating, and formally producing the irrelevant documents.

REQUEST FOR PRODUCTION NO. 44:

All documents related to Buergofol's acquisition of U.S. Patent No. 8,794,269.

RESPONSE TO REQUEST FOR PRODUCTION NO. 44:

Buergofol objects to this request to the extent that it calls for the production of

privileged and/or work product documents and things.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 44 as follows: Buergofol will produce all non-privileged and non-work product documents that are responsive to this request.

REQUEST FOR PRODUCTION NO. 45:

All communications and all documents related to communications between Buergofol, or anyone acting on its behalf, and Loparex or any of Loparex's predecessors in interest in U.S. Patent No. 8,794,269, regarding either or both of the Patents-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 45:

Buergofol objects to this request to the extent that it calls for the production of privileged and/or work product documents and things.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 45 as follows: Buergofol will produce all non-privileged and non-work product documents that are responsive to this request.

REQUEST FOR PRODUCTION NO. 46:

All documents constituting or relating to any communications between Buergofol, or anyone acting on its behalf, and Omega Liner Company, Inc. prior to August 15, 2022.

RESPONSE TO REQUEST FOR PRODUCTION NO. 46:

Buergofol objects to this request to the extent that it calls for the production of privileged and/or work product documents and things.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 46 as follows: Buergofol will produce all non-privileged and non-work product documents responsive to this request.

REQUEST FOR PRODUCTION NO. 47:

All documents constituting or relating to any communications between Buergofol, or anyone acting on its behalf, and Dr. Kurt Stark regarding the Patents-in-Suit, Omega Liner Company, Inc., any Omega Liner, any Omega Inner Foil and/or any Omega Outer Foil.

RESPONSE TO REQUEST FOR PRODUCTION NO. 47:

Buergofol objects to this request to the extent that it calls for the production of privileged and/or work product documents and things. Buergofol also objects to this request for being overbroad and unduly burdensome because Buergofol and Dr. Stark have been involved in numerous litigations in Germany involving voluminous documents. Buergofol objects to the request to the extent that it calls for Buergofol to go through voluminous litigation files and documents looking for references to the Patents-in-Suit or Omega Liner Company, Inc. because the burden and expense of having Buergofol attorneys go through every page of those litigation files outweighs the likely benefit of the proposed discovery under Rule 26(b)(1).

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 47 as follows: Buergofol will produce all non-privileged and non-work product documents that are responsive to this request, with the exception that Buergofol will not perform searching through litigation files for litigations conducted in Germany (German litigations involving Dr. Stark as a party) and will not be producing documents from such litigation files in response to this request.

REQUEST FOR PRODUCTION NO. 48:

All documents relating to any communications between Buergofol, or anyone acting on its behalf, and any third party relating to any of the Patents-in-Suit or this lawsuit, including any persons who acquire or value intellectual property.

RESPONSE TO REQUEST FOR PRODUCTION NO. 48:

Buergofol objects to this request to the extent that it calls for the production of privileged and/or work product documents and things. Buergofol also objects to this request for being overbroad and unduly burdensome because Buergofol and Dr. Stark have been involved in numerous litigations in Germany involving voluminous documents. Buergofol objects to the request to the extent that it calls for Buergofol to go through voluminous litigation files and documents looking for references to the Patents-in-Suit because the burden and expense of having Buergofol attorneys go through every page of those litigation files outweighs the likely benefit of the proposed discovery under Rule 26(b)(1).

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 48 as follows: Buergofol will produce all non-privileged and non-work product documents that are responsive to this request, with the exception that Buergofol will not perform searching through litigation files for litigations conducted in Germany (German litigations involving Dr. Stark as a party) and will not be producing documents from such litigation files in response to this request.

REQUEST FOR PRODUCTION NO. 49:

All documents relating to any communications between Buergofol, or anyone acting on its behalf, and employees, former employees, salespersons, customers or contractors of Omega Liner Company, Inc.

RESPONSE TO REQUEST FOR PRODUCTION NO. 49:

Buergofol objects to this request to the extent that it calls for the production of privileged and/or work product documents and things.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 49 as follows: Buergofol will produce all non-privileged and non-work product documents that are responsive to this request. Specifically, Buergofol will not produce

any attorney work product documents (either fact work product or opinion work product) in response to this request.

REQUEST FOR PRODUCTION NO. 50:

All documents relating to the circumstances surrounding the conception of each invention described or claimed in the Patents-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 50:

Buergofol objects to the request as overbroad and unclear in that it calls for production of all inventions “described” in the Patents-in-Suit. Unclaimed “inventions” that are described, but not claimed, in a patent-in-suit are not adequately relevant to any issue in this case to warrant looking for conception documents pertaining to such unclaimed invention. Buergofol objects to this request to the extent that it calls for the production of privileged and/or work product documents and things.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 50 as follows: Buergofol will not attempt to produce all conception documents relating to each “invention” that might be “described” in a patent-in-suit, because doing so would be unduly burdensome and disproportionate to the needs of the case. Buergofol will produce all non-privileged and non-work product documents that relate to the conception of any claimed invention that is claimed in one of the patents-in-suit.

REQUEST FOR PRODUCTION NO. 51:

For each Patent-in-Suit, all documents evidencing the conception, reduction to practice, design, and development of each claimed invention, which were created on or before the date of application for the Patent-in-Suit or the priority date of the Patent-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 51:

Buergofol objects to the request to the extent that it calls for the production of

documents that would reveal Buergofol trade secret information and information subject to protection from disclosure under FRCP 26(c)(1)(G). See Buergofol's responses to RFP 23 and RFP 24 above for an explanation of the type of trade secret information. Buergofol also objects to the request for being overbroad in calling for the production of "all documents" evidencing "the development" of each claimed invention to the extent that the request calls for the production of Buergofol trade secret information about how Buergofol UV CIPP inner and outer film is made, beyond the level of detail available in the enabling description in the '882 Patent and '269 Patent. That a document containing trade secret information was created before the date of application of a patent-in-suit does not mean that the document does not contain trade secret information.

Subject to and without waiving the foregoing objections, Buergofol will produce all non-privileged and non-work product documents that are responsive to this request, with the exception that Buergofol will not produce documents revealing trade secret information.

REQUEST FOR PRODUCTION NO. 52:

All documents relating to the development, reduction to practice, or testing of any subject matter described or claimed in the Patents-in-Suit or any Related Patents, including, but not limited to, engineering and laboratory notebooks, log books, record books, memorandum, design reviews, progress reports, technical reports, drawings, schematics, specifications, diagrams, computer records, diaries, calendars, test results, or other files.

RESPONSE TO REQUEST FOR PRODUCTION NO. 52:

Buergofol objects to the request to the extent that it calls for the production of documents that would reveal Buergofol trade secret information and information subject to protection from disclosure under FRCP 26(c)(1)(G). See Buergofol's responses to RFP 23 and RFP 24 above for an explanation of the type of trade secret information.

Buergofol also objects to the request for being overbroad and unduly burdensome in calling for the production of “all documents relating to” the development of the subject matter of patents other than the ‘882 Patent and the ‘269 Patent.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 52 as follows: Buergofol will not attempt to produce all documents relating to the development, reduction to practice, or testing of subject matter claimed in Related Patents because doing so would be unduly burdensome and the information about inventions not claimed in a patent-in-suit is not adequately related to any issue in the present lawsuit. Moreover, Buergofol will not produce documents that reveal Buergofol trade secrets, including trade secret information about inventions claimed in the ‘882 Patent and the ‘269 Patent. Notwithstanding the above, Buergofol will produce all documents relating to inventions claimed in the patents-in-suit including engineering notebooks, log books, record books, memorandum, design reviews, progress reports, technical reports, drawings, schematics, specifications, diagrams, computer records, diaries, calendars, and test results provided those documents, to the extent such documents exist, and to the extent such documents do not reveal Buergofol trade secrets.

REQUEST FOR PRODUCTION NO. 53:

For each Patent-in-Suit, all documents relating to any written description, communication, or drawing of any subject matter claimed in that patent that was made or prepared before the filing date of the earliest application to which the patent claims priority.

RESPONSE TO REQUEST FOR PRODUCTION NO. 53:

Buergofol objects to this request for being unacceptably vague and unclear (due to its run on sentence structure) as to what exactly is being called for by the request. Buergofol interprets this request as calling for the production of any document that is “relating to” the specifically claimed subject matter (i.e., the “insertion tube” that is

claimed in a claim of a patent-in-suit) of a patent-in-suit, and more particularly to a written description, a communication, or a drawing of such specific claimed subject matter, where that written description, communication, or drawing “was made or prepared before the earliest effective filing date” of “that” patent-in-suit. Buergofol further objects to this request to the extent that it calls for production of documents that disclose Buergofol trade secrets about Buergofol’s UV CIPP inner and outer films, including trade secrets about how Buergofol’s UV CIPP inner and outer films are made.

As stated above with respect to RFP 52, Buergofol objects to the request of RFP 53 to the extent that it calls for the production of documents that would reveal Buergofol trade secret information and information subject to protection from disclosure under FRCP 26(c)(1)(G).

Based on and using this understanding of the language of the request, Buergofol will produce all non-privileged and non-work product documents responsive to this request, to the extent such documents do not reveal Buergofol trade secrets.

REQUEST FOR PRODUCTION NO. 54:

All documents generated by or at the direction of any Named Inventor, or in which any Named Inventor made any notes or entries, relating to any subject matter described or claimed in the Patents-in-Suit or any Related Patents to which any of the Patents-in-Suit claims priority, including any invention disclosures related to any of the Patents-in-Suit or any Related Patent.

RESPONSE TO REQUEST FOR PRODUCTION NO. 54:

As stated above with respect to RFP 52, Buergofol objects to the request of RFP 54 to the extent that it calls for the production of documents that would reveal Buergofol trade secret information and information subject to protection from disclosure under FRCP 26(c)(1)(G). In addition, Buergofol objects to this poorly worded request for being overbroad in that it calls for the production of all documents generated by each

named inventor that are “relating to” “any subject matter” that is “described” in the patents-in-suit, as well as in “Related Patents”, where the requested documents are not even limited as to date. Buergofol reads this request as being so broad that it calls for the production of all documents generated by, or at the direction of, a named inventor where the document related in any way to UV CIPP films or UV CIPP liners, including any such documents created up the present date. The named inventors worked in the UV CIPP field for years. The request is too broad, and attempting to respond to it completely and fully would be unduly burdensome on Buergofol when the factors of Rule 26(b)(1) are considered, so the request calls for discovery outside the permissible scope of discovery, and Buergofol will not attempt to locate and to produce any document in response to this overbroad request.

REQUEST FOR PRODUCTION NO. 55:

All documents relating to the design or development of any Buergofol or licensed third-party product that allegedly practices or uses the subject matter of any Claim-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 55:

Buergofol objects to the request in that the request for “all documents” “relating to” lacks adequate specificity, and therefore the meaning of the request cannot be adequately understood. Notwithstanding the objection above, Buergofol has not been and is not now in the business of making, using, selling, offering to sell, or importing liner products. Moreover, Buergofol has never licensed either of the patents-in-suit, so there exists no licensed third-party product that “practices” or “uses” the subject matter claimed by any claim of either patent-in-suit. Accordingly, Buergofol is in possession of no document responsive to this request, and Buergofol will therefore not be producing documents in response to RFP 55.

REQUEST FOR PRODUCTION NO. 56:

All documents relating to the level of technical knowledge, schooling, experience, and expertise of a person having ordinary skill in the art of any subject matter claimed in the Patents-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 56:

Buergofol objects to this request as being unduly vague and lacking in adequate specificity because what the language “relating to” a “level” of skill means is unclear and unknown. Buergofol also objects to this request because the referred to “person having ordinary skill in the art” is presumably a hypothetical person in the law, and the request fails to define who Omega argues that hypothetical person of ordinary skill is for purposes of the request. Buergofol also objects to this request for being unduly vague because what “the art” (of subject matter claimed in the patents-in-suit) is not defined by the request. Buergofol also objects to the request as being overbroad because it does not even limit the time period during which the documents about the level of skill is being sought.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 56 as follows: Buergofol will produce all non-privileged and non-work product documents (in Buergofol’s possession, custody and control) that discuss or indicate what the “level” of skill of a typical ordinary worker in the UV CIPP arts was in the 2010-2015 timeframe, if such documents exist. Other than this, Buergofol will produce no documents in response to this vague and overbroad request.

REQUEST FOR PRODUCTION NO. 57:

All documents relating to any evidence of the obviousness or nonobviousness of any subject matter claimed in any of the Patents-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 57:

Buergofol objects to this request as being unduly vague, and ridiculously and

facially overbroad. Buergofol also objects because the meaning of the phrase “evidence of the obviousness or nonobviousness” is unknown, so the request cannot be responded to. Buergofol interprets the request to be so broad as to be calling for the production of “any evidence” of all prior art to any claim of either patent-in-suit. Buergofol will not produce any documents responsive to this request.

REQUEST FOR PRODUCTION NO. 58:

All documents relating to any alleged commercial success of any subject matter claimed in any of the Patents-in-Suit, including any alleged nexus between any alleged commercial success and the subject matter of any Claim-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 58:

Commercial success has not been “alleged” in this case, so by the language of the request itself there are no responsive documents to produce. Buergofol will not produce any documents responsive to this request at the current time.

REQUEST FOR PRODUCTION NO. 59:

All documents relating to any alleged long-felt need in the art for any subject matter claimed in any of the Patents-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 59:

Long-felt need has not been “alleged” in this case, so by the language of the request itself there are no responsive documents to produce. Buergofol will not produce any documents responsive to this request at the current time.

REQUEST FOR PRODUCTION NO. 60:

All documents relating to any alleged failure of others to solve the problems addressed by any subject matter claimed in any of the Patents-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 60:

Failure of others has not been “alleged” in this case, so by the language of the request itself there are no responsive documents to produce. Buergofol will not produce any documents responsive to this request at the current time.

REQUEST FOR PRODUCTION NO. 61:

All documents relating to any alleged skepticism or disbelief by any person relating to any subject matter claimed in any of the Patents-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 61:

Skepticism or disbelief of any person has not been “alleged” at the present time in this case, so by the language of the request there are no responsive documents to produce. Buergofol will not produce any documents responsive to this request at the current time.

REQUEST FOR PRODUCTION NO. 62:

All documents relating to any alleged positive recognition in the cured-in-place pipe (CIPP) liner industry for any subject matter claimed in any of the Patents-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 62:

“Positive recognition” (whatever that means exactly) in the cured-in-place pipe (CIPP) liner industry has not been “alleged” at the present time in this case, so by the language of the request there are no responsive documents to produce. Buergofol will not produce any documents responsive to this request at the current time.

REQUEST FOR PRODUCTION NO. 63:

All documents relating to any alleged unexpected results produced by any subject matter claimed in any of the Patents-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 63:

So called “unexpected results” have not been “alleged” at the present time in this

case, so by the language of the request there are no responsive documents to produce. Buergofol will not produce any documents responsive to this request at the current time.

REQUEST FOR PRODUCTION NO. 64:

For each Patent-in-Suit, all documents relating to any sale, offer to sell, manufacture, use, or importation of subject matter of any Claim-in-Suit made before the filing date of the earliest application to which the patent claims priority.

RESPONSE TO REQUEST FOR PRODUCTION NO. 64:

Buergofol objects to the request to the extent that it calls for the production of documents that would reveal Buergofol trade secret information and information subject to protection from disclosure under FRCP 26(c)(1)(G). That Buergofol trade secret information includes trade secret information about how Buergofol's inner and outer UV CIPP films are made. See Buergofol's response to RFPs 23-25 above for additional discussion and explanation of the type of trade secret information. Buergofol also objects to the request for overbroad and unduly burdensome to the extent that it calls for the production of "all documents relating to" the "manufacture" of the subject matter of any "Claim-in-Suit", because this would implicate disclosure to Omega of Buergofol trade secret information that Omega has no legitimate litigation need to know, and as such the call for production of such documents to Omega would be unduly burdensome and disproportionate to the needs of the case. Buergofol also objects to the request as being overbroad and calling for the production of information that is not adequately related to the issues in this case because the request calls for the production of "all" documents "relating to" foreign sales of Buergofol products and to offers for sale overseas. Items sold overseas do not, under the version of 35 U.S.C. 102 applicable in this case, constitute prior art to the patents-in-suit, so disclosure of such foreign sales information is not adequately relevant to any issue in this case to warrant the effort and expense that would be involve in producing all such foreign sales documents. Importantly, Buergofol

reads the phrase “subject matter of a Claim-in-Suit” literally as meaning a claimed invention as recited by a claim of one of the patents-in-suit.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 64 as follows: There are no documents responsive to this request because Buergofol has never made, or sold, or offered for sale, nor imported into the United States, any “insertion tube” as recited in a claim of either of the patents-in-suit. Buergofol will produce all non-privileged and non-work product documents that are responsive to the request (in Buergofol’s possession, custody or control), but there are no such documents.

REQUEST FOR PRODUCTION NO. 65:

All documents relating to the first offer for sale, first sale, first importation, first use, first demonstration, and first test of each Buergofol or licensed third-party product that allegedly practices or uses the subject matter of any Claim-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 65:

There is no Buergofol “product” that “practices” or “uses” the subject matter claimed in either patent-in-suit because every claim of the patents-in-suit recites a liner (an insertion tube) and Buergofol did not in the past and does not now make or sell any such product. Moreover, Buergofol has never licensed either of the patents-in-suit, so there exists no licensed third-party product that “practices” or “uses” the subject matter claimed by any claim of either patent-in-suit. Moreover, there is no allegation in this case that any Buergofol product or any licensed third-party product practices or uses the subject matter of any “Claim-in-Suit”, so by the language of the request itself there can be no documents responsive to the request. Accordingly, Buergofol is in possession of no document responsive to this request, and Buergofol will not be producing documents in response to RFP 65.

REQUEST FOR PRODUCTION NO. 66:

All documents related to technical or scientific writings or speeches related to any subject matter described or claimed in any of the Patents-in-Suit, whether published or not, that were authored by, attributed to, or given in whole or in part by the Buergofol or any Named Inventor.

RESPONSE TO REQUEST FOR PRODUCTION NO. 66:

Buergofol objects to the request for being so poorly worded, with multiple omnibus-term “related to” references, that it is not known for sure which phrases in the request modify which other phrases, and consequently the meaning of the request cannot be deciphered. There are multiple different ways to read this tortured request. It is not known what prior portion of the request language the “whether published or any Named Inventor” part of the request is referring to. Buergofol reads the request as calling for the production of “all documents . . . related to any subject matter described . . . in any . . . Patents-in-Suit . . . that were authored by . . . Buergofol or any Named Inventor.” The request is not limited in time, and Buergofol reads the request as calling for all documents written by any person at Buergofol at any time, up until the present date, that pertains to UV CIPP liners (because UV CIPP liners are described in the patents-in-suit, as well as many other things). As such, the request is far too broad and exceeds the scope of discovery permitted by Rule 26(b)(1). Moreover, Buergofol objects to the request to the extent that it calls for the production of Buergofol trade secret information, specifically Buergofol trade secret information pertaining to how to make Buergofol’s UV CIPP inner and outer film products.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 66 as follows: Buergofol will produce all documents relating to technical or scientific writings of a Buergofol employee or a Named Inventor, provided that such technical or scientific writing was published and pertained to the UV CIPP arts. Furthermore, Buergofol will produce all documents relating to any public speeches a

Buergofol employee or Names Inventor made, provided that such speech was publicly made and pertained to the UV CIPP arts. Buergofol will otherwise not endeavor to answer the overbroad and ambiguous and undecipherable request, and will not produce any other documents in response to this request.

REQUEST FOR PRODUCTION NO. 67:

For each Patent-in-Suit, documents (e.g., contracts, purchase orders, invoices, advertisements, marketing materials, offer letters, beta site testing agreements, and third party or joint development agreements) sufficient to show each discussion with, disclosure to, or other manner of providing to a third party, or sale of or offer to sell, or any public use of, the claimed invention prior to the date of application for the Patents-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 67:

Buergofol will produce all non-privileged and non-work product documents that are responsive to the request. Considering that Buergofol never made, used, sold, or offered for sale the “claimed invention” of any claim of either patent-in-suit, there are no responsive documents to produce.

REQUEST FOR PRODUCTION NO. 68:

All documents relating to the validity, enforceability, or scope of any of the Patents-in-Suit or any Related Patent, including any statements by any Named Inventor or any opinions of counsel obtained or requested by or on behalf of Buergofol.

RESPONSE TO REQUEST FOR PRODUCTION NO. 68:

Buergofol objects to the request to the extent that it calls for privileged and work product information. In addition, Buergofol objects to this request as facially overbroad and lacking in adequate specificity. Buergofol cannot possibly produce all documents “relating to the validity” of the “Patents-in-Suit”. Accordingly, Buergofol will not be

producing any documents responsive to this request.

REQUEST FOR PRODUCTION NO. 69:

All resumes or curriculum vitae for each Named Inventor, employment agreements for each Named Inventor, and agreements with each Named Inventor relating to intellectual property rights.

RESPONSE TO REQUEST FOR PRODUCTION NO. 69:

To the extent that this request calls for the production of all employment agreements of each inventor, Buergofol objects to this request as calling for sensitive information that is not relevant to any issue in the case, and as such production is not warranted under RFCP 26(b)(1). Buergofol also objects to the request as being overboard to the extent that it calls for the production of all agreements “relating to intellectual property rights”, where those rights may have nothing to do with any issue in this case.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 69 as follows: Buergofol will produce a current resume or curriculum vitae for each Names Inventor, if such a document exists. Buergofol will produce all documents relating to any financial interest a Named Inventor might have in receiving royalties or other financial remuneration as a consequence of being an inventor of a patent-in-suit. Only non-privileged and non-work product documents shall be produced. Other than this information, Buergofol will not produce any other documents in response to this request.

REQUEST FOR PRODUCTION NO. 70:

All documents relating to any of the Patents-in-Suit or any Related Patent, including all documents that reference or discuss any of the Patents-in-Suit or any Related Patent.

RESPONSE TO REQUEST FOR PRODUCTION NO. 70:

Buergofol objects to this request as being facially overbroad. It broadly calls for the production of all documents in the present case, because the present case of course relates to the patents-in-suit. It also broadly calls for production of “all documents” “relating to” other patents that are not in suit. Buergofol also objects to this request to the extent it calls for the production of privileged and work product information. Buergofol will not endeavor to produce documents in response to this facially overbroad request.

REQUEST FOR PRODUCTION NO. 71:

All documents relating to the decision to seek patent protection for any subject matter claimed in the Patents-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 71:

Buergofol objects to this request to the extent that it calls for the production of attorney-client privileged information. Buergofol also objects to the request because it refers to “the” decision to seek patent protection, but there were multiple decisions to seek various types of patent protection at different times, pertaining to different patents, so the reference in the request to “the decision” is ambiguous. Subject to and without waiving the foregoing objections, Buergofol responds to RFP 71 as follows: Buergofol will produce all non-privileged and non-work product documents responsive to the request.

REQUEST FOR PRODUCTION NO. 72:

All documents relating to the preparation, filing, or prosecution of any application that led to any of the Patents-in-Suit or any Related Patent, including all non-identical copies of all drafts and drawings and all correspondence with any Named Inventor.

RESPONSE TO REQUEST FOR PRODUCTION NO. 72:

Buergofol objects to this request to the extent that it calls for the production of

attorney-client privileged information. Subject to and without waiving the foregoing objections, Buergofol responds to RFP 71 as follows: Buergofol will produce all non-privileged and non-work product documents responsive to the request.

REQUEST FOR PRODUCTION NO. 73:

All documents relating to any Prior Art collected, identified, or considered by any person in connection with any of the Patents-in-Suit or any Related Patent, including any Prior Art located or identified through any search or investigation.

RESPONSE TO REQUEST FOR PRODUCTION NO. 73:

Buergofol objects to the request as being tremendously vague and lacking in specificity to such a degree that it is unintelligible and cannot be responded to. The meaning of the phrase “in connection with” a patent is vague and unknown. The reference to “any person” if taken literally as Buergofol takes it, calls for the production all Prior Art documents considered by a judge, or counsel for Omega, or a patent examiner, or one the inventors of a patent-in-suit, or a Buergofol attorney in this case, to the extent that “person” might be considering or in the past did consider one of the patents-in-suit in some way at some time. Moreover, the request calls for the production of all documents “relating to” and such Prior Art documents. The request is absurdly overbroad. Buergofol further objects to the use of the term “any Prior Art” as it is used in the request because it makes the request unduly broad, and therefore unduly burdensome on Buergofol to try to respond to fully and completely, because the term “Prior Art” in the request is defined as meaning all documents, information, acts or things that “qualify as prior art under any subsection of 35 U.S.C. §§102 and 103.” Accordingly, this “Prior Art” includes a vast amount of documentary information and printed publications, including documents that are utterly irrelevant to the issues in this case.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 73 as follows: To the extent that the documents do not disclose privileged or work

product information, Buergofol will produce all documents in Buergofol's possession, custody or control that relate to any "prior art searches" or "validity investigations" done specifically with respect to the '882 Patent or the '269 Patent, including any prior art documents that may have been revealed or discovered as a result of such prior art search of investigation, but otherwise Buergofol will not produce any documents in response to this request.

REQUEST FOR PRODUCTION NO. 74:

All documents relating to any decision regarding materials to cite or not to cite during the prosecution of any of the Patents-in-Suit or any Related Patent, including all Prior Art search results.

RESPONSE TO REQUEST FOR PRODUCTION NO. 74:

Buergofol objects to the request because the meaning of the phrase "all documents relating to any decision regarding materials" is not known, thereby making the request so vague that meaning of the request is not known and the request cannot be answered. Moreover, the meaning of "to cite or not to cite" during prosecution would appear to call for the production of each and every document that could have been cited (to the extent the document was known to any person prosecuting any of the patents-in-suit), because vast amounts of "materials" were certainly not cited to the patent examiner due prosecution of the patents-in-suit. Moreover, the referenced "decision" regarding materials is not identified with adequate specificity to allow Buergofol to determine what documents would be responsive to the request and what documents would not be responsive to the request. The request is hopelessly vague, and lacking in adequate specificity, and is tremendously overbroad. Buergofol also objects to the request as being overbroad to the extent that it calls for the production of "all documents" in the prosecution histories of numerous patents (the "Patents-in-Suit and the "Related Patents"). Omega counsel can obtain copies of those documents themselves, from official

government records, if Omega counsel really wants copies of all such documents. The documents Omega seeks are available from another source that is more convenient, less burdensome and less expensive. The amount of effort and burden on Buergofol that would be involved in formally producing copies of “all documents” of record in numerous patents prosecution history files would be unduly burdensome on Buergofol considering the lack of likely benefit doing the production would have when the factors of FRCP 26(b)(1) are considered.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 74 as follows: To the extent the documents do not disclose privileged or work product information, Buergofol will produce all documents in Buergofol’s possession, custody or control that relate to any “prior art searches” or “validity investigations” done specifically with respect to the ‘882 Patent or the ‘269 Patent, but otherwise Buergofol will not produce any documents in response to this request.

REQUEST FOR PRODUCTION NO. 75:

All documents relating to the identification, selection, or determination of the proper Named Inventors.

RESPONSE TO REQUEST FOR PRODUCTION NO. 75:

Buergofol objects to the request to the extent that it calls for the production of attorney-client privileged information, specifically related to attorney-client privileged communications related to inventorship determinations. Subject to and without waiving the foregoing objection, Buergofol responds to RFP 75 as follows: Buergofol will produce all non-privileged and non-work product documents that are responsive to the request.

REQUEST FOR PRODUCTION NO. 76:

All documents relating to the meaning or scope of the Claims-in-Suit, including any documents on which Buergofol may rely to support any construction or interpretation of any limitation of any Claim-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 76:

Buergofol objects to this request as being hopelessly vague such that the scope of the request cannot be understood adequately to produce “all documents” responsive to the request. The meaning of the phrase all documents “relating to the meaning . . . “ of a claim is unknown. Moreover, the reference in the request about “documents on which Buergofol” “may rely” makes the scope of the request speculative and hypothetical and unknowable, because what Buergofol “may” do is unknown. Similarly, the reference to “any construction or interpretation” of “any” limitation of “any” claim makes the request unintelligibly vague. Buergofol will not attempt to produce any documents in response to this request.

REQUEST FOR PRODUCTION NO. 77:

All documents relating to the scope of equivalents that Buergofol contends should be accorded any limitation of any Claim-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 77:

Buergofol does not “contend” that any scope of equivalents should be accorded to any limitation, so there are no responsive documents to produce. Buergofol objects to the request to the extent it calls for the production of attorney work production information and attorney-client privileged communications. Moreover, Buergofol objects to this request because the meaning of “related to the scope of equivalents” is so vague and lacking in specificity that Buergofol does not know what documents “relating to the scope” would be responsive to the request. Buergofol will not attempt to produce any documents in response to this request because the meaning of the request is unknowable.

REQUEST FOR PRODUCTION NO. 78:

All documents relating to any alleged copying by anyone of any subject matter claimed in any of the Patents-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 78:

Buergofol objects to the request as being overbroad and unduly burdensome, in that depending on how the term “copying” that appears in the request is interpreted, there exist vast amounts documents relating to the results of such copying. Buergofol also objects to the request for being unduly vague because the meaning of “relating to” copying is unknown.

Subject to and without waiving the foregoing objections, Buergofol responds to RFP 78 as follows: Buergofol interprets the term “copying” as that term appears in the request to be a reference to the legal term and secondary consideration (objective evidence of non-obviousness under 35 U.S.C. §103) type of copying of a patented article, where the patented article is copied by a competitor. Neither patentee (Buergofol in the case of the ‘882 Patent, and Loparex in the case of the ‘269 Patent) ever made or sold liner, so neither patentee ever made or sold the “subject matter claimed the any patent-in-suit, so there can be no copy of such a product and there can be no responsive documents to produce. For the reasons above, there are no responsive documents, and Buergofol will not attempt to produce any documents in response to this request.

REQUEST FOR PRODUCTION NO. 79:

All documents relating to the alleged infringement of any of the Patents-in-Suit or any Related Patent by Omega Liner Company, Inc. or any related person.

RESPONSE TO REQUEST FOR PRODUCTION NO. 79:

Buergofol interprets the reference in the request to “the alleged infringement” to mean the infringement of the ‘882 Patent and the ‘269 Patent as that infringement pleaded in the Buergofol complaint and pleadings in the case file of this litigation. The

request is facially overbroad for calling for production of most documents and correspondence pertaining to the present *Buergofol v. Omega* litigation. Buergofol has not “alleged infringement” by Omega of any patent other than the ‘882 Patent and the ‘269 Patent. Buergofol objects to the request as being unduly vague because Buergofol does not know who a “related person” is to the “Omega Liner Company, Inc.” is and is not. Importantly, Buergofol objects to this request to the extent that it calls for the production vast amounts of privileged and work product information. Buergofol will not attempt to produce any documents in response to this facially overbroad request.

REQUEST FOR PRODUCTION NO. 80:

All documents relating to the alleged infringement of any of the Patents-in-Suit or any Related Patent by any Person other than Omega Liner Company, Inc.

RESPONSE TO REQUEST FOR PRODUCTION NO. 80:

Buergofol objects to this request to the extent that it calls for the production of privileged and work product information. Moreover, Buergofol has not “alleged infringement” of any Patent-in-Suit by anyone other than defendant Omega Liner Company, Inc., so there is no “the alleged infringement” of any patent (either a Patent-in-Suit or a Related Patent) by “any Person other than Omega Liner Company, Inc.”, so there can be no documents responsive to this request. Buergofol will not produce any documents in response to this request.

REQUEST FOR PRODUCTION NO. 81:

All documents relating to any testing, analysis, or examination of any Omega Liner Company, Inc. product by or on behalf of Buergofol.

RESPONSE TO REQUEST FOR PRODUCTION NO. 81:

Buergofol objects to the request to the extent that is calls for the production of privileged and work production information.

Subject to and without waiving the foregoing objection, Buergofol responds to RFP 81 as follows: Buergofol will produce all non-privileged and non-work product documents that are responsive to the request.

REQUEST FOR PRODUCTION NO. 82:

All documents relating to any analysis, consideration, or evaluation of any alleged infringement of any of the Patents-in-Suit or any Related Patent by any person other than Omega Liner Company, Inc. by or on behalf of Buergofol.

RESPONSE TO REQUEST FOR PRODUCTION NO. 82:

Buergofol objects to the request to the extent that it calls for the production of privileged and work product information.

Subject to and without waiving the foregoing objection, Buergofol responds to RFP 82 as follows: There is no “alleged infringement” of any Patent-in-Suit or any “Related Patent” by any person other than Omega Liner Company, Inc., so the way Buergofol reads the request there are no responsive documents to this request, and as a result Buergofol will not be producing any documents in response to this request.

REQUEST FOR PRODUCTION NO. 83:

All documents relating to Buergofol's first knowledge of Omega Liner Company, Inc.'s alleged infringement of any of the Patents-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 83:

Buergofol objects to the request to the extent that it calls for the production of privileged and work product information. Buergofol also objects the request for being too vague to answer fully and completely because the meaning of “all documents relating to” Buergofol’s “first” knowledge of “alleged infringement” is unclear.

Subject to and without waiving the foregoing objection, Buergofol responds to RFP 83 as follows: Buergofol interprets the reference to “Buergofol’s first knowledge of

Omega Liner Company, Inc.’s alleged infringement” in the request to be referring to specific infringement allegations alleged and pleaded in Buergofol’s complaint, because there is no other “alleged infringement.” Using this definition and understanding of the meaning of the request, Buergofol will produce all non-privileged and non-work product documents responsive to this request.

REQUEST FOR PRODUCTION NO. 84:

All documents relating to instituting this lawsuit against Omega Liner Company, Inc., including documents reflecting meetings or discussions of Buergofol’s officers.

RESPONSE TO REQUEST FOR PRODUCTION NO. 84:

Buergofol objects to this request to the extent that it calls for the production of privileged and work product information (fact work product and opinion work product). To the extent any pre-suit investigation done by or for Buergofol in anticipation of litigation in asserting a patent-in-suit against Omega Liner Company, Inc. is privileged, and/or is subject to protection as work product, Buergofol will not produce such documents relating to any such pre-suit investigation.

Subject to and without waiving the foregoing objection, Buergofol responds to RFP 84 as follows: Buergofol will produce all non-privileged and non-work product documents that are responsive to the request.

REQUEST FOR PRODUCTION NO. 85:

All documents relating to any licensing of, or effort, offer, request, or refusal to license, any right, title, or interest in any of the Patents-in-Suit or any Related Patent, including any license or settlement agreement.

RESPONSE TO REQUEST FOR PRODUCTION NO. 85:

Buergofol objects to this request to the extent that it calls for the production of privileged and work product information. Buergofol objects because it does not know

what the meaning of “refusal to license” means. Buergofol has not licensed Omega Liner Company, Inc. under either of the patent-in-suit, and has sued Omega Liner Company, Inc. for patent infringement in this litigation, but it is not known whether this constitutes a “refusal” to license.

Subject to and without waiving the foregoing objection, Buergofol responds to RFP 85 as follows: Buergofol will produce all non-privileged and non-work product documents that are responsive to the request.

REQUEST FOR PRODUCTION NO. 86:

All documents relating to any communications in which any person was notified of, or accused of infringing, any of the Patents-in-Suit, including notice letters, demand letters, presentations, claim charts, or other correspondence.

RESPONSE TO REQUEST FOR PRODUCTION NO. 86:

Buergofol objects to this request to the extent that it calls for the production of privileged and work product information. Buergofol objects to the request as being overbroad and

Subject to and without waiving the foregoing objection, Buergofol responds to RFP 86 as follows: Buergofol will produce all non-privileged and non-work product documents that are responsive to the request.

REQUEST FOR PRODUCTION NO. 87:

All documents supporting, refuting, or otherwise relating to Buergofol's allegations that Omega Liner Company, Inc.'s alleged infringement of the Patents-in-Suit was willful and deliberate.

RESPONSE TO REQUEST FOR PRODUCTION NO. 87:

Buergofol objects to the request as being a falsehood that cannot be understood, because the meaning of the mentioned allegations that any alleged infringement “was

willful and deliberate” is not understood. Buergofol does not know what “allegations” are being referred to, because the request is vague and lacks specificity and is not understood. Buergofol will not attempt to produce documents in response to this request.

REQUEST FOR PRODUCTION NO. 88:

All documents relating to any civil action, International Trade Commission proceeding, arbitration, patent interference proceeding, appeal proceeding, administrative proceeding, or reissue or reexamination proceeding, whether inside or outside the United States, relating to any of the Patents-in-Suit or any Related Patent, including, but not limited to, pleadings, affidavits, declarations, reports, discovery requests or responses, orders, deposition or hearing transcripts, motions, briefs, letters, e-mails, or subpoenas.

RESPONSE TO REQUEST FOR PRODUCTION NO. 88:

Buergofol objects to this request to the extent it calls for the production of privileged or work product information. Buergofol objects to this request as being unduly burdensome and overbroad, to the extent that it calls for the production of vast amounts of irrelevant information. Buergofol will not, for example, go to the effort to produce to Omega “all documents” that are “relating to” the present lawsuit. The effort and cost involved in producing a copy of “all documents” in an entire case file for a civil action, or administrative proceeding would be extreme and would far outweigh any likely benefit the discovery might have under Rule 26(b)(1). Buergofol will not produce any documents in response to the overbroad request.

REQUEST FOR PRODUCTION NO. 89:

All documents related to any damages or remedies Buergofol may seek in this case.

RESPONSE TO REQUEST FOR PRODUCTION NO. 89:

Buergofol objects to this request to the extent it calls for the production of

privileged or work product information. Buergofol objects to this request as being unduly burdensome and overbroad and speculative to the extent that it calls for the production of “all documents” that relate to “any damages or remedies” that Buergofol “may” seek in this case. Buergofol does not know what “all documents” that relate to “damages” means, so Buergofol does not know how to go about deciphering the scope of this request. In this case, Buergofol is seeking reasonable royalty damages for infringement of the ‘882 Patent and the ‘269 Patent, and Buergofol is not seeking lost profits damages. To the extent such documents exist, Buergofol will produce documents sufficient to show the magnitude of such reasonable royalty damages Buergofol is seeking from Omega Liner Company, Inc., but otherwise will not attempt to produce additional documents in response to this overbroad and nebulous request.

REQUEST FOR PRODUCTION NO. 90:

All documents relating to any evidence that any subject matter claimed in any of the Patents-in-Suit drives consumer demand for any Omega Liner Company, Inc. product.

RESPONSE TO REQUEST FOR PRODUCTION NO. 90:

Buergofol objects to this request as being vague and lacking in specificity to such an extent that Buergofol cannot respond to it fully and completely. Buergofol objects to the “all documents relating to” as having no adequately specific meaning. Buergofol also objects to the request because Buergofol does not know what “drives” consumer demand means. Buergofol does not know what “consumer demand” means. In view of the unintelligible nature of the request, Buergofol will not attempt to produce any documents in response to this request.

REQUEST FOR PRODUCTION NO. 91:

All documents relating to any profits Buergofol contends it has lost or may lose as a result of Omega Liner Company, Inc.’s alleged infringement of any of the Patents-in-

Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 91:

Buergofol objects to this request as being overboard, and calling for irrelevant information, and as such Buergofol's producing documents in response to this request would be unduly burdensome to Buergofol under Rule 26(b)(1). Buergofol is not seeking lost profits damages in this litigation. Buergofol also objects to this request to the extent that it calls for the production of confidential commercial information of Buergofol that Buergofol does not have to produce pursuant to Rule 26(c)(1)(G), considering the lack of relevance of the information in view of the issues in this case. Because Buergofol has not contended that "it has lost or may lose" profits, there are no documents relate to such a contention, and as such there are no responsive in existence. Buergofol will not produce any documents in response to this request.

REQUEST FOR PRODUCTION NO. 92:

All documents relating to Buergofol's capacity to manufacture any product that allegedly practices or uses the subject matter of any Claim-in-Suit, or any contract or agreement for Buergofol to have a third party manufacture products for Buergofol.

RESPONSE TO REQUEST FOR PRODUCTION NO. 92:

Buergofol objects to this request as being overboard, and calling for information that is not relevant to any issue in this case, and as such Buergofol's producing documents in response to this request would be unduly burdensome to Buergofol under Rule 26(b)(1). Buergofol is not seeking lost profits damages in this litigation, so whether or not Buergofol has the capacity to manufacture UV CIPP liner is not relevant to any issue in this case. Buergofol will not produce any documents in response to this request

REQUEST FOR PRODUCTION NO. 93:

All documents relating to any royalties received by or on behalf of Buergofol for any rights under any of the Patents-in-Suit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 93:

Buergofol objects to this request to the extent that it calls for the production of privileged and work product information.

Subject to and without waiving the foregoing objection, Buergofol responds to RFP 93 as follows: Buergofol will produce all non-privileged and non-work product documents that are responsive to the request.

REQUEST FOR PRODUCTION NO. 94:

All documents relating to the valuation of any of the Patents-in-Suit or any royalties received or paid by Buergofol for technology related to the subject matter of any Claim-in-Suit, including any discussion of expected or recommended royalty rates.

RESPONSE TO REQUEST FOR PRODUCTION NO. 94:

Buergofol objects to this request to the extent that it calls for the production of privileged and work product information.

Subject to and without waiving the foregoing objection, Buergofol responds to RFP 94 as follows: Buergofol will produce all non-privileged and non-work product documents that are responsive to the request.

REQUEST FOR PRODUCTION NO. 95:

All documents supporting, refuting, or otherwise relating to Buergofol's allegations that it is entitled to treble damages for willful infringement.

RESPONSE TO REQUEST FOR PRODUCTION NO. 95:

Buergofol objects to the request as being a falsehood that cannot be understood, because the meaning of the mention in the request of “Buergofol’s allegations” that

Buergofol is entitled to treble damages has no meaning, and cannot be understood. Buergofol has not pleaded willful infringement, and has not pleaded entitlement to treble damages. Buergofol will not attempt to produce documents in response to this request.

REQUEST FOR PRODUCTION NO. 96:

All documents supporting, refuting, or otherwise relating to Buergofol's allegations that it is entitled to attorney fees and litigation costs.

RESPONSE TO REQUEST FOR PRODUCTION NO. 96:

Buergofol objects to the request as being a falsehood that cannot be understood, because the meaning of the mention in the request of "Buergofol's allegations" that it is entitled to attorney fees has no meaning, and cannot be understood. There is no request for attorney fees in Buergofol's complaint. Moreover, defendant Omega Liner Company, Inc. has no need at the current time to know the costs Buergofol has borne in bringing and prosecuting this litigation, and as such Omega is not entitled to discovery of documentation of those costs under Rule 26(b)(1). Buergofol will not produce any documents in response to this request

REQUEST FOR PRODUCTION NO. 97:

All documents supporting, refuting, or otherwise relating to Buergofol's allegations that it is entitled to a permanent injunction.

RESPONSE TO REQUEST FOR PRODUCTION NO. 97:

Buergofol objects to this request to the extent that it calls for the production of privileged and work product information.

Subject to and without waiving the foregoing objection, Buergofol responds to RFP 97 as follows: Buergofol will produce all non-privileged and non-work product documents that are responsive to the request.

Dated this 31st day of March, 2023 at Munich, Germany

IMPERIUM PATENT WORKS LLP

By /s/ Darien K. Wallace

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CERTIFICATE OF SERVICE

The undersigned certifies that, on the date indicated above, a true and correct copy of the foregoing document was served electronically using the CM/ECF system or email:

- Meghann M. Joyce (meghann@redstonelawfirm.com), *Attorney for Defendant*
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