

Mark Koffsky

From: Greg M. Popowitz <gmp@assoulineberlowe.com>
Sent: Thursday, October 17, 2024 1:50 PM
To: Mark Koffsky
Cc: Gary Serbin; contact@pearsonip.com; wais@cotmanlaw.com; ed@cotmanlaw.com; Eric N. Assouline
Subject: RE: IPR2024-00474 / Sixth Request for Additional Discovery (Further Information about Samples in Exhibit 2020)

Mark, please see the responses below in red. Also, you have referenced the samples as “rolls”, likely based on how the samples were shipped to your office from Element. The actual samples Patent Owner provided to Element are rectangular, for reference.

Thank you,

Greg

GREG M. POPOWITZ, ESQ.

Board Certified Intellectual Property Attorney
Registered Patent Attorney
Assouline & Berlowe, P.A.
(954) 929-1899

From: Mark Koffsky <mkoffsky@koffskyschwalb.com>
Sent: Wednesday, October 16, 2024 10:23 AM
To: Greg M. Popowitz <gmp@assoulineberlowe.com>
Cc: Gary Serbin <gserbin@koffskyschwalb.com>; contact@pearsonip.com; wais@cotmanlaw.com; ed@cotmanlaw.com; Eric N. Assouline <ENA@AssoulineBerlowe.com>
Subject: IPR2024-00474 / Sixth Request for Additional Discovery (Further Information about Samples in Exhibit 2020)

Greg:

Thank you for providing Patent Owner’s Exhibits 2020 (Tested Samples from Element) and 2021 (GhostPillow Sample Pillow). Having reviewed these Exhibits, Petitioner has the following addition discovery requests:

Exhibit 2020 includes three small (2"x2"x1") foam pieces and six foam rolls. The three pieces are in a bag labeled "3315 Gel, no PCM, no Punch." The six rolls are marked as follows:

- a) One roll marked "GBSolidFoam". It does not appear to have any PCM and is not punched.
- b) Two rolls marked "3315". They are both solid foam and do not appear to have any PCM.
- c) One roll marked "GBPunchedPCM". It appears to have a white PCM material on top surface.
- d) Two rolls marked "3315 w/400 glsm PCM Punched". The PCM appears as white material on top surface.

See the enclosed pictures.

Please answer the following questions:

- 1) What does "3315" mean and, assuming it refers to foam material, how is it different from "GBSolidFoam"?

Response: 3315 identifies the type of foam at the factory. 33 refers to a 3.3 pound density and 15 refers to the ILD (Indentation Load Deflection) deflection point of the foam. Both types of samples provided to Element for testing was 3315 foam.

- 2) How is the foam in the "3315" foam rolls different from the "3315 Gel" foam pieces?

Response: There are two foam samples as described in Mr. Quinn's declaration (Exhibit 2013) and in the Element test results (Exhibit 2017). A solid piece of foam (GBsolidfoam) and a solid piece of foam with holes and PCM (GBPunchedPCM), both at the Element requested sample sizing. I cannot see the small bag clearly but I do see some writing that looks like "gel". You are welcome to call Element as to their labeling. Patent Owner provided the two types of samples described herein.

- 3) What does "w/400 glsm" mean?

Response: 400 glsm is the measure of the amount of PCM coated on the foam.

- 4) The PCM on the surface of the rolls in (c) and (d) above is white while the PCM layer on Exhibit 2021, which is also illustrated in Exhibit 2022, is blue-colored. Please explain this discrepancy.

Response: The difference in color is simply the addition of a blue color pigment in the production facility. When the test samples were ordered, the factory was using PCM with a white pigment, not blue. There is no substantive difference in the PCM aside from its color. See earlier answers within Fifth Request for Discovery discussing dry PCM material being combined with polyester resin and pigment for colorant.

Thanks
Mark

Mark I. Koffsky | Partner | Koffsky Schwalb LLC
500 Seventh Avenue, 8th Floor | New York, New York 10018
Phone: (646) 553-1590 | Fax: (646) 553-1591 | Cell: (516) 510-6163

Web: www.koffskyschwalb.com | Email: mkoffsky@koffskyschwalb.com

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