



# CHEMEON® and its distributors and customers can use the accurate historical reference "formerly Metalast" to refer to CHEMEON's former "Metalast" name and products



NEWS PROVIDED BY  
**CHEMEON Surface Technology** →  
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MINDEN, Nev., May 16, 2018 /PRNewswire/ -- *Contrary to false statements being circulated to certain CHEMEON distributors and customers, the U.S. District Court for the District of Nevada has ruled that there is no ban on CHEMEON using the term "Metalast," and has also dismissed with prejudice the claims by David Semas and his company that CHEMEON's use of the phrase "formerly Metalast" may constitute trademark infringement or is deceiving or confusing.*

As CHEMEON explained in its press release of March 21, 2017:

In a March 15, 2017, order denying a motion for partial summary judgment by David Semas and Metalast International, Inc., U.S. District Court Judge Miranda Du ruled that an agreement to terminate use of the name Metalast did not "unambiguously impose an absolute ban" on use of the word "Metalast" by CHEMEON Surface Technology. In essence, Judge Du granted CHEMEON partial summary judgment on the topic.

This ruling in essence constitutes summary judgment for CHEMEON on the topic because it is, to this day, the law of the case and has the same legal effect as a summary judgment for CHEMEON and against the defendants David Semas and his company, Metalast International, Inc.

Judge Du's ruling was expressly based on the prior decision of the United States Court of Appeals for the Ninth Circuit in *Steppenwolf v. Kessbaum*, holding that a former Steppenwolf band member could not be prevented from identifying himself as formerly of Steppenwolf even by a trademark-dispute settlement contract with Steppenwolf saying he would not use the term Steppenwolf going forward. One reason this is so is because Courts will not construe contracts to reach absurd results, such as to prevent someone from accurately referring to their prior association with the trade name or trademark involved in such a settlement.



Recently, however, statements have been circulated, including by defendant David Semas, that there is something possibly inappropriate about referring to CHEMEON's products as "formerly Metalast." There has been no such ruling by any Court, and there is a Court ruling directly to the contrary.

While there is a recent Court statement saying that the Court understood that CHEMEON itself, as opposed to its products, was not "formerly Metalast," this statement was incorrect and now the subject of a motion to revise it because (1) CHEMEON was formerly known as Metalast when it had the name Metalast Surface Technology in 2014 and 2015, (2) this fact was not disputed by the parties before the Court, and (3) on November 1, 2016, Judge Du dismissed with prejudice the claims by Mr. Semas and Metalast International, Inc., that CHEMEON's use of the phrase "formerly Metalast" constitutes trademark infringement and that any such use is likely to be confusing or deceiving.

Consequently, any suggestion that one may infringe a Metalast trademark or tradename by use of the phrase "formerly Metalast" in reference to CHEMEON or its previously (prior to June 10, 2015) "Metalast" products, has been rejected by Court order – one entered with the consent of the parties, including Mr. Semas and his company, and is therefore final and un-appealable.

Anyone interested in reviewing these Court orders may procure them from either the U.S. District Court for the District of Nevada in the matter of CHEMEON v. Metalast International, Inc., Case 3:15-cv-00294-MMD-VPC, or on CHEMEON's website at <https://chemeon.com/p/the-companys-name-change/>.

#### **About CHEMEON Surface Technology**

CHEMEON Surface Technology is a global provider of advanced, environmentally responsible, surface engineering solutions. CHEMEON is licensed by the US Navy to manufacture and provide MIL-SPEC QPD/QPL Trivalent Chromium Pre-Treatment; CHEMEON TCP-HF (Hex Free), CHEMEON TCP-HF EPA (Extended Protection Additive), CHEMEON TCP-HF SP (Spray) and CHEMEON TCP-HF Touch Up Pen. CHEMEON's patented and proprietary chemistries include: Military Grade CHEMEON TCP-NP (No Prep) and patented zero chrome CHEMEON OCP- 6800, in addition to a full line of anodizing pre and post treatments, additives, dyes, custom R&D, consulting and university level training.

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