

U.S. District Court Has Ruled CHEMEON Can Accurately Recite Its Former Association With The Term Metalast



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CHEMEON Surface Technology →

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RENO, Nev., Dec. 19, 2018 /PRNewswire/ -- Contrary to false press releases and website reports by others, in the CHEMEON v. Metalast International, Inc. litigation, the U.S. District Court for the District of Nevada has issued a good number of orders and rulings in CHEMEON's favor, including that it can recite its product's former association with the term Metalast. The only restriction is that the references be accurate and not confusing.

This is because in fact CHEMEON was known as "Metalast," and its products were known as Metalast products, when CHEMEON's full name was Metalast Surface Technology LLC prior to March 12, 2015. And, these same products were known as Metalast products when they were provided by Metalast International, LLC, whose assets, including its goodwill, were purchased by CHEMEON on November 4, 2013.

In the Court case and elsewhere, Defendant David Semas has contended that a contract he has with CHEMEON bars it from using the term Metalast or accurate phrase "formerly Metalast." The Court has ruled, however, that the Settlement Agreement cannot be construed to provide any such absolute ban, and that, consistent with the governing decision of the U.S. Court of Appeals for the Ninth Circuit in *Kassbaum v. Steppenwolf Productions, Inc.*, 236 F.3d 487, 491-92 (9th Cir. 2000), the contract wording in issue must be construed to allow CHEMEON to recite its former association with the term provided the recitation does not cause likelihood of confusion. The Court has ruled that one reason this is so, is because "it is necessary [for CHEMEON] to explain the relationship between CHEMEON and Metalast, otherwise there would be confusion for products that have already been [in] the market." So, CHEMEON is free to recite, for example, that it was formerly, before June 9, 2015, Metalast because (i) it's true that it was, and (ii) that statement does not imply any association with that trade name today.

CHEMEON's distributors and customers are therefore free to accurately identify CHEMEON products that were formerly known as Metalast products – for example, "formerly, before June 9, 2018, Metalast TCP-HF." This is also because, in September 2017 the U.S. District Court **dismissed with prejudice** Mr. Semas' claims of trademark infringement, unfair competition, and dilution against marketing of CHEMEON products along with the phrase "formerly Metalast." This dismissal **with prejudice**, which also is non-appealable, should preclude any subsequent such or similar claims against any CHEMEON distributors or customers based on the same products and statement of fact about their prior house mark, Metalast.

CHEMEON has achieved yet other substantial victories in that pending litigation. CHEMEON also has procured (i) a preliminary injunction against the defendants, enjoining them from knowingly using CHEMEON trade secrets, certain trademarks, and copyrights, and (ii) summary judgment against David Semas, that the Metalast logo mark was abandoned and his logo registrations therefore would be cancelled, which they subsequently were. In addition, substantial CHEMEON claims remain pending, including claims for copyright infringement against David Semas, claims

of civil conspiracy, unjust enrichment, breach of fiduciary duty, breach of contract, conversion, and trademark infringement against another defendant, and claim of fraudulent renewal of a Metalast trademark registration by David Semas. The latter claim is the subject of CHEMEON's pending motion for summary judgment on the topic. CHEMEON also defeated the defendants' motion for a preliminary injunction against CHEMEON, denying their request that the Court to impose a ban on CHEMEON's use of phrases such as "formerly Metalast."

Further information and source Court documents can be found at <https://chemeon.com/p/the-companys-name-change/>.

About CHEMEON Surface Technology

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