

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

In the Matter of)
)
)
ECM BioFilms, Inc.,) **Docket No. 9358**
a corporation, also d/b/a)
Enviroplastics International)

**COMPLAINT COUNSEL’S RESPONSE TO
RESPONDENT**

discovery of information relevant to the allegations of the complaint, to the proposed relief, or to Respondent's defenses.

4. Complaint Counsel objects to each RFA to the extent that it is overly broad, unduly burdensome, vague or ambiguous.

5. Complaint Counsel objects to each RFA to the extent it is not relevant to the pending proceeding against Respondent and/or does not relate to statements or opinions of fact or of the application of law to fact, and thereby exceed the scope of Rule 3.32, governing admissions.

6. By providing information in response to the RFA, Complaint Counsel does not concede that such information is relevant, material, or admissible in evidence.

7. Complaint Counsel's objections and responses to each RFA is based on information now known to Counsel. Complaint Counsel has not yet completed its discovery of the facts in this case or prepared its responses to the RFAs. Complaint Counsel has not yet completed its discovery of the facts in this case or prepared its responses to the RFAs.

SPECIFIC OBJECTIONS AND RESPONSES

RFA 1:

That the FTC possesses evidence that ECM Plastics biodegrade.

RESPONSE TO RFA 1:

Denied. Complaint Counsel objects to the request as argumentative, prejudicial, improper, incorrect, vague, and/or ambiguous particularly with respect to the terms “FTC,” “evidence,” “ECM Plastics,” and “biodegrade.” Denied also to the extent the Response depends on expert opinion before the time designated for identification of experts and issuance of expert reports. See Scheduling Order, Dkt. No. 9358 (Nov. 21, 2013). Complaint Counsel will disclose testifying experts and their reports, including the bases and reasons for their opinions, in accordance with § 3.31A of the Commission’s Rules of Practice and the ALJ’s Scheduling Order in this case.

RFA 2:

Modern solid waste landfills in the U.S. are biologically active.

RESPONSE TO RFA 2:

Denied. Complaint Counsel objects to the request as argumentative, prejudicial, improper, incorrect, vague, and/or ambiguous particularly with respect to the terms “Modern solid waste landfills” and “biologically active.” Denied also to the extent the Response depends on expert opinion before the time designated for identification of experts and issuance of expert reports. See Scheduling Order, Dkt. No. 9358 (Nov. 21, 2013). Complaint Counsel will disclose testifying experts and their reports, including the bases and reasons for their opinions, in accordance with § 3.31A of the Commission’s Rules of Practice and the ALJ’s Scheduling Order in this case.

RFA 3:

The FTC and one or more attorneys at the FTC received a copy of the Article before February 14, 2014.

RESPONSE TO RFA 5:

Denied. Complaint Counsel objects to the request as argumentative, prejudicial, improper, incorrect, vague, and/or ambiguous particularly with respect to the terms “FTC attorney.” Complaint Counsel objects to the extent the RFA seeks information that is subject to the attorney-client privilege, the attorney work-product privilege, the investigative privilege, the non-testifying expert privilege, the deliberative privilege, the law enforcement privilege, the informant privilege, and the joint prosecution privilege, that is exempt from disclosure pursuant to confidentiality provisions set forth in the FTC Act, that is protected from disclosure by the privilege for information given to the FTC on a Pledge of Confidentiality, that is protected from disclosure under principles of financial privacy, that is subject to a protective order from another litigation, or that is subject to other applicable legal protection or privilege.

RFA 6:

On or before February 18, 2014, no FTC attorney had identified all corporate

from disclosure pursuant to confidentiality provisions set forth in the FTC Act, that is protected from disclosure by the privilege for information given to the FTC on a Pledge of Confidentiality, that is protected from disclosure under principles of financial privacy, that is subject to a protective order from another litigation, or that is subject to other applicable legal protection or privilege.

RFA 7:

There is no other consumer perception study/survey other than the APCO Study and Synovate Study possessed by the FTC concerning public perception of the rate at which biodegradation takes place.

RESPONSE TO RFA 7:

Denied. Complaint Counsel objects to the request as argumentative, prejudicial, improper, incorrect, vague, and/or ambiguous particularly with respect to the term “FTC.” Denied also to the extent the Response depends on expert opinion before the time designated for identification of experts and issuance of expert reports. See Scheduling(f)]f 0.004 Ty 14.mPt i

that is subject to a proceeding under this Act, or that is subject to other anti-trust litigation, or that is subject to other anti-trust litigation.

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Federal Trade Commission
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