

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



In the Matter of)
)
ECM BioFilms, Inc.,)
a corporation, also d/b/a)
Enviroplastics International)
_____)

Docket No. 9358
PUBLIC DOCUMENT

**JOINT MOTION FOR ENTRY OF PROPOSED ORDER
BASED ON STIPULATIONS REGARDING CERTAIN EMAIL ATTACHMENTS**

Pursuant to Commission Rule of Practice 3.31(f), Complaint Counsel and Respondent ECM Biofilms (“ECM”) respectfully request that the Court enter the attached proposed order based on the parties’ stipulations regarding certain email attachments. Specifically, both parties stipulate and agree to the following evidentiary presumptions; provided, however, that either party may attempt to rebut the presumption on a case-by-case basis. The parties stipulate and agree that the following presumptions shall apply to all attachments to emails sent after January 1, 2008 by any person who was, at the time of sending the email in question, an ECM employee:

1. Regarding any email sent before October 1, 2012, any email attachment that is titled in the Attachment line or described in the body of the email, at least in part, as a “certificate” or “cert” is presumed to be ECM’s Certificate of Biodegradability, ECM-FTC-000015.
2. Regarding any email sent on or after October 1, 2012, any email attachment that is titled in the Attachment line or described in the body of the email, at least in part, as a “certificate” or “cert” is presumed to be ECM’s Certificate of Biodegradability, ECM-FTC-000552.
3. Regarding any email sent before October 1, 2012, any email attachment that is titled in the Attachment line or described in the body of the email, at least in part, as a “logo” is presumed to be ECM’s logo, ECM-FTC-000066, which states: “ECM Biodegradable”.
4. Regarding any email sent on or after October 1, 2012, any email attachment that is titled in the Attachment line or described in the body of the email, at least in part, as a “logo” is presumed to be ECM’s logo, ECM-FTC-000551, which states: “ECM Biodegradable Plastic Products produced with our additives will biodegrade in

biologically active environments (including most landfills) in some period greater than a year.”

As such, the parties jointly ask the Court to enter an order to this effect.

Dated: April 1, 2014

Respectfully submitted,

/s/ Elisa Jillson
Katherine Johnson (kjohnson3@ftc.gov)
Jonathan Cohen (jcohen2@ftc.gov)
Elisa Jillson (ejillson@ftc.gov)
Federal Trade Commission
600 Pennsylvania Ave., N.W. M-8102B
Washington, DC 20580
Phone: 202-326-2185; -2551; -3001
Fax: 202-326-2551

Dated: April 1, 2014

Peter A. Arhangelsky¹
Jonathan W. Emord (jemord@emord.com)
Peter A. Arhangelsky (parhangelsky@emord.com)
Lou F. Caputo (lcaputo@emord.com)
Emord & Associates, P.C.
11808 Wolf Run Lane
Clifton, VA 20124
Phone: (202) 388-8899
Fax: (202) 466-6938

¹ Executed with Mr. Arhangelsky’s express authority.

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 |) | |
| |) | |

**[PROPOSED] ORDER ENTERING
THE PARTIES' STIPULATIONS REGARDING CERTAIN EMAIL ATTACHMENTS**

This matter having come before the Chief Administrative Law Judge on April 1, 2014, upon a Joint Motion for Entry of Proposed Order Based on Stipulations Regarding Certain Email Attachments, it is hereby ORDERED that the Joint Motion Is GRANTED.

It is FURTHER ORDERED that the following evidentiary presumptions shall apply to the proceedings in this matter; provided, however, that either party may attempt to rebut any of the following evidentiary presumptions on a case-by-case basis. The following presumptions shall apply to all attachments to emails sent after January 1, 2008 by any person who was, at the time of sending the email in question, an ECM employee.

1. Regarding any email sent before October 1, 2012, any email attachment that is titled in the Attachment line or described in the body of the email, at least in part, as a "certificate" or "cert" is presumed to be ECM's Certificate of Biodegradability, ECM-FTC-000015.
2. Regarding any email sent on or after October 1, 2012, any email attachment that is titled in the Attachment line or described in the body of the email, at least in part, as a "certificate" or "cert" is presumed to be ECM's Certificate of Biodegradability, ECM-FTC-000552.
3. Regarding any email sent before October 1, 2012, any email attachment that is titled in the Attachment line or described in the body of the email, at least in part, as a "logo" is presumed to be ECM's logo, ECM-FTC-000066, which states: "ECM Biodegradable".
4. Regarding any email sent on or after October 1, 2012, any email attachment that is titled in the Attachment line or described in the body of the email, at least in part, as a "logo" is presumed to be ECM's logo, ECM-FTC-000551, which states: "ECM

Biodegradable Plastic Products produced with our additives will biodegrade in biologically active environments (including most landfills) in some period greater than a year.”

SO ORDERED:

D. Michael Chappell
Chief Administrative Law Judge

Date:

CERTIFICATE OF SERVICE

I hereby certify that on April 1, 2014, I caused a true and correct copy of the foregoing to be served as follows:

One electronic copy to the **Office of the Secretary**, and one copy through the FTC's e-filing system:

Donald S. Clark, Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Room H-159
Washington, DC 20580
Email: secretary@ftc.gov

One electronic copy and one hard copy to the **Office of the Administrative Law Judge**:

The Honorable D. Michael Chappell
Administrative Law Judge
600 Pennsylvania Ave., NW, Room H-110
Washington, DC 20580

One electronic copy to **Counsel for the Respondent**:

Jonathan W. Emord
Emord & Associates, P.C.
11808 Wolf Run Lane
Clifton, VA 20124
Email: jemord@emord.com

Peter Arhangelsky
Emord & Associates, P.C.
3210 S. Gilbert Road, Suite 4
Chandler, AZ 85286
Email: parhangelsky@emord.com

Lou Caputo
Emord & Associates, P.C.
3210 S. Gilbert Road, Suite 4
Chandler, AZ 85286
Email: lcaputo@emord.com

I further certify that I possess a paper copy of the signed original of the foregoing document that is available for review by the parties and the adjudicator.

Date: April 1, 2013

/s/ Elisa Jillson
Katherine Johnson (kjohnson3@ftc.gov)
Jonathan Cohen (jcohen2@ftc.gov)
Elisa Jillson (ejillson@ftc.gov)
Federal Trade Commission
600 Pennsylvania Ave., N.W. M-8102B
Washington, DC 20580
Phone: 202-326-2185; -2551; -3001
Fax: 202-326-2551