



PARADIGM LABS, Inc.

PINE GROVE INDUSTRIAL PARK
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Ms. Lydia Guy
Regional Hearing Clerk (3RC00)
Environment Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

April 25, 2008

Dear Ms. Guy:

The purpose of this letter is to answer the complaint that was filed before the United States Environmental Protection Agency, Region III. Reference Docket No. FIFRA-03-2008-0168. Be advised also that a copy of this "Answer" has been sent to James Heenehann, Senior Assistant Regional Counsel, EPA, Region III as directed under "Quick Resolution, Section h", page 35 of the Complaint.

Paradigm Labs, Inc., hereby formally requests a hearing in accordance with
V. OPPORTUNITY TO REQUEST A HEARING.

Paradigm Labs continues to take the stance that this complaint has no merit because no FIFRA Laws apply to any of the products named in the complaint and, therefore, the EPA has no jurisdiction. It is this fact that Paradigm Labs has claimed since the original inspection that took place September 21, 2006. The case brought by the EPA is based on incorrect assumptions, misstatements and omissions. This is the fourth statement presented outlining our position. After our first meeting with the EPA, the EPA changed their position on what was wrong with our labels. They did the same after our second meeting. The EPA continues to describe harmless raw materials as pesticides to try to make their case. In fact, none of these products were ever intended to be pesticides. This is the reason the labels do not conform to EPA requirements.

Based on these facts, I am formally requesting a hearing to contest some of the facts in this case. I am willing to drive to Washington DC, if necessary. These actions continue to cost Paradigm Labs significant amounts of money in defense of our innocent position. To date this action has cost us all the original development and rollout costs, costs to defend ourselves and lost revenues because we stopped selling these products. The total cost so far is estimated to be between \$1,200,000 and \$2,050,000. This does not include the emotional and stress related costs to me, my family and my employees.

The report submitted by the inspector from the PA Dept of Agriculture has two questionable statements. Under FIFRA Section (9a), EPA or state officers are authorized to inspect facilities where pesticides are held. They are to "issue" a notice of inspection at the time they arrive. However, neither Marcia Lengel nor I remember being issued that notice at the time of entrance. The form used by the PA Dept. of Agriculture is a multi-copy form with a perforation separating the top half "Receipt for Samples" from the bottom half "Notice of Inspection". The copy I have has not been separated at the perforation. Since this document is perforated, it is obvious that it was designed to be separated and "issued" immediately upon entrance to our facility and immediately after the PDA officer identified himself. We believe that this is proof that the notice was improperly presented and, therefore, calls into question any evidence that was collected during the inspection process.

The second misstatement is when he indicated in his report that I supplied him with the website information from Microbloc Corporation. In fact, he brought the print out with him. He presented it to Marcia Lengel while I was not in the conference room. Also, the Microbloc Corporation website was commissioned and paid for by a former employee. In addition, Paradigm Labs was not mentioned on that website. It appears that you are trying to tie me directly to Microbloc Corporation by claiming that I supplied the printout. This is incorrect.

It is the responsibility of the EPA to prove that we are guilty. These accusations are incorrect in so many ways and yet the payment methods are included with this complaint. This is not about protecting public health and the environment as printed in your press release. This is strictly about money. Paradigm Labs has had no previous problems, but we are being treated like common criminals with onerous fines being levied. Our claims of innocence continue to fall on deaf ears. By its own admission, the EPA sees any violation that we may have committed as "minor" with little or no effect to the public health and environment. This is because the products are not pesticides. Therefore, I am requesting that all these charges be dropped and our records be expunged.

Sincerely,


Terry K. Maier
President

ANSWER IN THE MATTER OF:

Paradigm Labs, Inc.
7 Roberts Road
Pine Grove, Pennsylvania 17963

Respondent

Paradigm Labs, Inc.
7 Roberts Road
Pine Grove, Pennsylvania 17963

Facility

Administrative Complaint, Compliance Order and Notice of Opportunity for Hearing.

Docket No. FIFRA-03-2008-0168

Proceeding under Section 14(a) of the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. Section 1361(a).

II. RESPONSE TO THE FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Agree.
2. As much as a "person" is a corporation.
3. Agree
4. Except that Illegal Search and Seizure occurred as well as incorrect statement attempting to link Terry Maier with Microbloc Corp.

COUNT I

5. The responses of Paragraphs 1 through 4 are incorporated herein by reference.
6. Exceptions are relevant. This product does not contain toxicants nor does it make a claim. Microbloc MMR is a cleaner. See 40 CFR, Section 152.10(a). Since this product does not act to or claim to act to prevent, destroy, repel or mitigate any pest, nor is it used as a plant regulator, defoliant or desiccant it is not covered under FIFRA and, therefore, does not fall under the jurisdiction of the EPA.
7. See Count I, item 6.
8. See Count I, item 6.
9. See Count I, item 6.
10. See Count I, item 6.
11. See Count I, item 6. Recommended uses are to clean stains.
12. See Count I, item 6.
13. See Count I, item 6. The targeted market was the remediation market in which mold and mildew stains are a serious problem. The intent of this designation was for marketing purposes only. The description indicates that it is used to clean stains.
14. See Count I, item 6. See item 4.
15. See Count I, item 13.
16. See Count I, item 6. The EPA has tried to link harmless ingredients to claims. Enzymes are well known to help in the cleaning process such as removing grass stains from clothing.
17. See Count I, item 6. It has been explained to the EPA a number of times that the reason for the use of propylene glycol in the product is to lower the freezing point of the product. A study was presented to the EPA in my previous response showing that the amount of propylene glycol required for antibacterial and antifungal properties is 30%. See Attachment 1.
18. See Count I, item 6. The Product Information Sheets obtained were early draft copies from May 2006. Draft copies are never distributed.
19. See Count I, item 6. This Count is completely fabricated. The printout was brought to the inspection by the PDA and presented to Marcia Lengel while I was out of the room. This website was started up and paid for by a former employee. There is no mention of Paradigm Labs on the three pages. Microbloc Corporation has no connection to PLI. At no time has MMR been described as a durable protectant.
20. See Count I, item 19.
21. See Count I, item 6. Reference to the Microbloc Corporation website is a dishonest attempt to link Paradigm Labs to another company after the EPA has been informed on a number of times that there is no link.

22. See Count I, item 6 and paragraphs 15 to 21.
23. See Count I, items 6, 16 and 17.
24. See Count I, items 6 through 23.
25. See Count I, item 6.
26. See paragraph 4 above whereby referencing Illegal Search and Seizure and therefore, the samples obtained are inadmissible. Also, see Count I, item 6.

COUNT II

27. The responses of Paragraphs 1 through 26 are incorporated herein by reference.
28. Microbloc MMR contains no EPA registered product and makes no claims. See Count I, item 6.
29. See Count I, item 6. Since MMR makes no claims and contains no toxicants, the labeling requirements established for pesticides are not required.
30. See Count I, item 6.
31. See Count I, item 6. Paradigm Labs does have an active EPA Establishment number.
32. See Count I, item 6.
33. Agree.
34. See Count I, item 6.
35. See Count I, item 6.
36. See Count I, item 6.
37. See Count I, item 6.
38. See Count I, item 6.
39. See Count I, item 6.
40. See Count I, item 6.
41. See Count I, item 6.
42. See Count I, item 6.
43. See Count I, item 6.
44. See Count I, item 6. See Paragraph 4 above whereby referencing Illegal Search and Seizure and, therefore, the samples obtained are inadmissible.

COUNT III

45. The responses of Paragraphs 1 through 44 are incorporated herein by reference.
46. As is stated on the label, this product is a clear barrier. This was pointed out in our original statement dated September 21, 2006. Since it is a reactive silicone, it forms a clear long lasting barrier on the surface. It was purchased from Mason Chemical and the descriptions used were those that appeared on the Mason Chemical data sheets.

47. See Paragraph 4 above whereby referencing Illegal Search and Seizure and, therefore, the samples obtained are inadmissible. Also, see Count III, item 46.
48. By forming a clear physical barrier, moisture is inhibited from penetrating masonry, wood and other surfaces. This is covered as an exemption under 40 CFR, Section 152.10(c). Since it does not contain a toxicant and forms a barrier only, Microbloc DSP is not covered under FIFRA and, therefore, does not fall under the jurisdiction of the EPA. This product was not intended to be a pesticide.
49. Water-stable, Quat-Functional Reactive Siloxane is the description supplied to Paradigm Labs by the manufacturer, Mason Chemical. Quaternary ammonium compounds are a type of organic nitrogen compound in which the molecular structure includes a central nitrogen atom joined to four organic groups and a negatively charged acid radical. There are many different forms used for many different reasons. For instance, fabric softeners are forms of quaternary compounds. They are all cationic surface-active coordination compounds and tend to be adsorbed on surfaces. The quaternary functionality improves the adhesive properties of the silicone molecule on whatever surface it is applied.
50. The product information sheet in question was an early draft copy from May 2006. Draft copies are not distributed. This was wording picked up off an early version of a tech bulletin supplied to Paradigm Labs by Mason Chemical. This wording nor anything like it does not appear on the label. Using the EPA mantra: "The Label is the Law", it is only the label that should be considered. On the label the product is described as "a ready-to-use formula that creates a clear barrier on both porous and nonporous surfaces."
51. See Count III, items 47 and 48. This is part of an early draft for product information sheets.
52. See Count III, items 47 and 48. This accusation is completely fabricated on the original report from the PDA. The PDA officer brought the printout to our facility and presented it to Marcia Lengel when I was not in the conference room. This is an attempt to tie me directly to the Microbloc Corporation website. This website used our trademark illegally and was commissioned and paid for by a former employee. Paradigm Labs had no knowledge of it until the enforcement officer presented the printout to us.
53. This website was put up May 2006 and taken down September 2006. It is simply a draft format. As you can see, no claims were made in the description of DSP. At that time, we were still trying to formulate a marketing plan and to determine which product to use. We had been talking to several suppliers; some of whom did have registered silicone products including Microbe Guard and Nova Biogenetics. We had originally planned to distribute a product made by Nova Biogenetics called AM 500. This product was registered so we put it on an early draft of our website. However, due to our use as a clear coating (barrier) only and due to questionable business practices by Microbe Guard and Nova Biogenetics, we decided to work with Mason Chemical. After we made the decision to work

with Mason, we simply forgot to update the website. In our business, websites and advertising are not important and not something we continuously change. In addition we wanted to stay clear of anything that might cause us to inadvertently fall under FIFRA regulations. We had purposely stayed away from regulated products since the company had been founded in 1991. None of our products were intended to be pesticides.

54. The responses referenced above in Paragraphs 48-53 give credence to Microbloc DSP being a barrier product only. See Count III, item 47.
55. See Count III, items 47 and 48.
56. See Count III, items 47 and 48.
57. See Count III, items 47 and 48.
58. See Count III, items 47 and 48.

COUNT IV

59. The responses of paragraphs 1 through 58 are incorporated herein by reference.
60. See Count III, items 47 and 48.
61. See Count III, items 47 and 48.
62. See Count III, items 47 and 48.
63. See Count III, items 47 and 48.
64. See Count III, items 47 and 48.
65. See Count III, items 47 and 48.
66. See Count III, items 47 and 48.
67. See Count III, items 47 and 48.

COUNT V

68. The responses of paragraphs 1 through 67 are incorporated herein by reference.
69. Microbloc MSE is a moisture barrier. It is not intended to be a pesticide. See 40 CFR Section 152.10(c). On the label Microbloc MSE is described as “a durable, water resistant encapsulant for use on various substrates to both hide stains and discoloration caused by mold and mildew and inhibit bleed through of these stains. It acts as an excellent primer for basements, crawl spaces, concrete walls, and other structures where moisture & staining is a problem.” The instructions are “Apply to clean dry surfaces only! If mold and mildew stains are present, clean thoroughly with Microbloc MMR or Microbloc DC. Allow surface to dry prior to applying Microbloc MSE.” The reference to mold and mildew is only because this was the market we were targeting. It works on any stains to cover and hide them. No claims are being made.
70. See Count V, item 69.

71. Product Sheet was an old draft. We do not distribute drafts. We had thought of adding a registered product to the MSE so we could make a treated articles claim, but decided against it. See Count V, item 69.
72. See Count V, item 71.
73. See Count V, item 71.

74. This is another attempt to link Paradigm Labs to Microbloc Corporation. This accusation is completely false as the PDA officer brought the Microbloc Corporation website with him and presented it to Marcia Lengel when I was not in the conference room.
75. The statements referenced above in paragraphs 70-74 do not singly and/or collectively constitute pesticidal claims.
76. See Count V, item 69.
77. See Count V, item 69.
78. See Count V, item 69.
79. See Count V, item 69.

COUNT VI

80. The statements of Paragraphs 1 through 79 are incorporated herein by reference.
81. See Count V, item 69.
82. See Count V, item 69.
83. See Count V, item 69. Zinc Oxide is used as an opacifier and UV light absorber. In other words, it gives the paint a more powerful ability to hide stains. It is not intended to be a toxicant in this formula. Zinc Oxide is insoluble in water and helps the Titanium Dioxide whiten the product.
84. See Count V, item 69. Dipropylene Glycol Dibenzoate is sold under the trademark Benzoflex 50. It is used in paints and coatings to improve both the adhesion, flexibility and water resistance. This is another example of the EPA trying to infer that a nonpesticidal product is a pesticide. If the people who are passing judgment on us do not know what is and what is not a pesticide, this entire exercise is a farce.
85. See Count V, item 69. Titanium Dioxide is used to make paints and coatings white. It also increases the resistance to ultraviolet light. In addition, it acts as an opacifier like Zinc Oxide. See Count VI, item 83.
86. See Count VI, item 69. Microbloc MSE was not intended to be a pesticide.
87. See Count VI, item 86.
88. See Count VI, item 86. Product reformulated to exclude DSP. This is why we don't send out draft copies of Product Information Sheets.
89. See Count VI, item 86.
90. See Count VI, item 86.

III. PROPOSED CIVIL PENALTY

The Penalty proposed in this complaint is unconstitutional due to the fact that since 1990 an inflation adjustment has been granted on two separate occasions to increase the fines. However, the minimum size of the company to fall under this penalty has not been granted the same adjustments. See Attachment 2. This is a calculation of the inflation since 1990 to 2008 as figured by the US government. Note that for \$1,000,000 in 1990 the value is \$1,633,726 in 2008. This figure of \$1,633,726 is above the sales of Paradigm Labs. Had the \$1,000,000 minimum size company been treated the same as the penalty, which would be both fair and constitutional, then Paradigm Labs would fall under this minimum threshold.

COUNTS I THROUGH VI

1. The products are not toxic. They are not pesticides. The warning we put on the label was strictly to advise that anybody spraying the product should not inhale the spray. This was done as a responsible manufacture and not for any OSHA mandate.
2. There is no potential harm to human health because these products are not pesticides.
3. There is no potential harm to the environment because these products are not pesticides.
4. Based on the fact that no prior enforcement actions have ever been taken against Paradigm Labs, this whole matter should be dropped.
5. Paradigm Labs is never negligent. Our intent was and is to manufacture products that are safe to use and environmentally friendly.