

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

PPG Industries, Inc.	)	
	)	
Plaintiff,	)	
	)	No. _____
vs.	)	
	)	Hon.
Julius E. Dohany and Roger L. Pecsok	)	
	)	
Defendants.	)	
	)	
	)	

Plaintiff PPG Industries, Inc. by and through the undersigned attorneys, brings this lawsuit against Julius E. Dohany and Roger L. Pecsok and states, upon knowledge with respect to its own acts, and upon information and belief as to other matters, as follows:

**THE NATURE OF THE ACTION**

1. This action arises under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and seeks a declaration that the claims of U.S. Patent No. 6,063,855 (“the ‘855 patent”) are not infringed by PPG’s Duranar Powder Coatings and/or are invalid under 35 U.S.C. §§ 102, 103, and/or 112.

**THE PARTIES**

2. PPG is a Pennsylvania corporation, having its principal place of business at One PPG Place, Pittsburgh, Pennsylvania 15272. Founded in 1883, PPG is the world’s leading coatings and specialty products company.

3. Upon information and belief, Julius E. Dohany is an individual residing at 480 Howellville Rd., Berwyn, Pa 19312.

4. Upon information and belief, Roger L. Pecsok is an individual residing at 314 Abbey Rd., Berwyn, Pa 19312.

### **JURISDICTION AND VENUE**

5. This action arises under the patent laws of the United States of America, United States Code, Title 35, Section 1, *et seq.* and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338.

6. This Court has personal jurisdiction over Defendants Dohany and Pecsok by virtue of their systematic and continuous contacts with this jurisdiction. Defendants also listed Pennsylvania as their state of residence on U.S. Patent No. 6,063,855, the patent that is in dispute in this case.

7. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b).

### **BACKGROUND**

#### **U.S. Patent No. 6,063,855**

8. The '855 patent, entitled "Process for the manufacture of vinylidene fluoride powder coatings," issued to Defendants Dohany and Pecsok on May 16, 2000. A copy of the '855 patent is attached to this complaint as **Exhibit A**.

9. Upon information and belief, there are no assignees to the '855 patent and the '855 patent expires on Jan 2, 2018.

10. The '855 patent contains 5 claims. Claim 1 is independent. Claims 2-5 depend from claim 1.

11. Claim 1 is directed generally to a process for producing a pigmented film-forming vinylidene fluoride polymer powder comprising the steps of (a) dispersing at least one pigment in an aqueous dispersion of a fluorine-free polymer that is compatible with the vinylidene

fluoride polymer, (b) mixing the aqueous dispersion from step (a) with a powder of said vinylidene fluoride polymer, and (c) milling, drying, and classifying the compound from step (b) to obtain a specified particle size ranging from about 2 to 75  $\mu\text{m}$ .

12. Claims 2 through 5 further limit claim 1, including claim 2 (specific percent of vinylidene fluoride monomer units), claim 3 (specific comonomers), claim 4 (specific powder particle size), and claim 5 (composition prepared by process of claim 1).

### **PPG's DURANAR® Powder Coatings**

13. Powder coatings are an environmentally friendly coating solution offering superior performance for applications which require maximum abrasion resistance and hardness.

14. Automobiles, major appliances, tool boxes, motorcycle frames, heavy duty equipment, computer chassis, office furniture, car parts and barbeques all benefit from the unique properties and cost efficiency of powder coatings.

15. PPG Powder Coatings employ breakthrough technology to bring new levels of aesthetics and performance to industrial markets. PPG's Duranar two-coat fluoropolymer powder coatings are formulated to provide the ultimate performance against weathering in environments where added protection against industrial or seacoast influences such as corrosive chemicals or salt spray is required.

16. PPG's Duranar powder coatings are highly resistant to chalking, fading, chipping, and peeling and environmental stressors like acid rain, salt deposits, mortar deposits, humidity and graffiti.

17. PPG's patented manufacturing process provides economic small batch availability and unmatched color capabilities. PPG's manufacturing process for Duranar powder coatings is

protected, among others, by U.S. Patent No. 7,625,973, entitled “Methods for preparing fluoropolymer powder coatings” and issued on December 1, 2009.

### **Defendants’ Assertions of Infringement**

18. On May 18, 2010, attorneys representing Mr. Pecsok sent a letter to PPG in Pittsburgh, Pennsylvania, asserting that U.S. Patent No. 6,063,855 is available for licensing and that the ‘855 patent and Duranar powder coating “may be closely related.”

19. On June 2, 2010, PPG responded that PPG’s “investigation has confirmed that [PPG’s] product does not use the claimed technology” in the ’855 patent. PPG invited Defendants, however, to “let [PPG] know if [Defendants] have a contrary view, or if there is any further information [Defendants] would like [PPG] to consider.”

20. PPG did not hear back from Defendants for more than 33 months. PPG, therefore, considered the matter closed.

21. On March 21, 2013, attorneys representing Mr. Pecsok again contacted PPG, asserting this time that “[Defendants] believe that PPG’s process to manufacture its Duranar Powder Coatings infringes the process claimed in the ‘855 patent.” The letter further asserted, “Unless you provide a detailed explanation of your reasons [for avoiding a finding of infringement], we will be compelled to conclude that PPG is a willful patent infringer, and we will proceed accordingly.”

22. Since March 21, 2013, the parties have attempted to amicably resolve this matter but have been unable to so.

### **COUNT I**

#### **Declaration of Non-Infringement of the ‘855 Patent**

23. PPG re-alleges and incorporates herein the allegations of paragraphs 1-22.

24. There is an actual, substantial, continuing and justiciable controversy between PPG and Defendants regarding whether PPG's Duranar powder products infringe a valid claim of the '855 patent.

25. Defendants have threatened to file a patent infringement suit as to the '855 patent.

26. There exists a substantial controversy, between PPG and Defendants, having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

27. PPG has not infringed, contributed to the infringement of, or induced the infringement of any valid claim of the '855 patent and is not liable for such infringement.

28. PPG is entitled to a declaration that all claims of the '855 patent are not infringed.

#### **PRAYER FOR RELIEF**

WHEREFORE, PPG respectfully requests that this Court enter a Judgment and Order in its favor and against Defendants as follows:

- A. declaring that all claims of the '855 patent are not infringed;
- B. awarding PPG its attorneys' fees, costs and/or expenses; and
- C. awarding such other relief as the Court determines to be just and proper.

Attorneys for Plaintiff  
PPG Industries, Inc.

*/s/ Eric G. Soller*

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