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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MINERALS TECHNOLOGIES INC. and	:	
SPECIALTY MINERALS INC.,	:	
	:	
Plaintiffs,	:	Civil Action File No.
:	:	04-CV-04484(JSR)
v.	:	
	:	ECF CASE
OMYA AG,	:	
OMYA INDUSTRIES INC.,	:	
and OMYA, INC.,	:	
	:	
Defendants.	:	
	:	
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**COMPLAINT FOR  
PATENT INFRINGEMENT AND INJUNCTIVE RELIEF**

Minerals Technologies Inc. and Specialty Minerals Inc. (collectively “Plaintiffs”) hereby make the following allegations in support of their claims for relief:

**THE PARTIES**

1. Minerals Technologies Inc. is a Delaware Corporation with its principal place of business at 405 Lexington Avenue, New York, New York.
2. Specialty Minerals Inc. is a Delaware Corporation with its principal place of business at 405 Lexington Avenue, New York, New York.

3. Upon information and belief, Omya AG is a Swiss company with its principal place of business in Oftringen, Switzerland.

4. Upon information and belief, Omya Industries Inc. is a Vermont corporation with its principal place of business at 61 Main Street, Proctor, Vermont.

5. Upon information and belief, Omya, Inc. is a Vermont corporation with its principal place of business at 61 Main Street, Proctor, Vermont.

### **JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction over this controversy under 28 U.S.C. §§ 1331 and 1338(a).

7. Upon information and belief, Omya AG dominates Omya Industries Inc. and Omya, Inc. and has acted in concert with them in the illegal acts specified below and has directed and controlled their illegal activities as described below.

8. Upon information and belief, this action arises out of the transaction of business, commission of tortious injuries, and other activities of Omya AG, Omya Industries Inc. and Omya, Inc. (collectively “Defendants”) within the judicial district of the United States District Court for the Southern District of New York and elsewhere. Accordingly, upon information and belief, Defendants are subject to personal jurisdiction in New York and the judicial district of this Court.

9. Upon information and belief, venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) & (c) and § 1400(b).

10. In this action, Plaintiffs seek damages and injunctive relief against Defendants for acts of patent infringement in violation of the Patent Act of the United States, 35 U.S.C. §§ 1, *et seq.*

**COUNT ONE  
INFRINGEMENT OF THE '017 PATENT**

11. U.S. Patent No. 5,043,017 (“’017 Patent”), titled “Acid-Stabilized Calcium Carbonate, Process for its Production and Method for its Use in the Manufacture of Acidic Paper,” was duly and legally issued by the United States Patent and Trademark Office on August 27, 1991. A copy of the ‘017 Patent is attached hereto as Exhibit A.

12. Plaintiffs own the ‘017 Patent and have the right to sue for infringement thereof.

13. Upon information and belief, Defendants are infringing, inducing the infringement of, or contributing to the infringement of one or more claims of the ‘017 Patent in violation of 35 U.S.C. § 271 by making, using, selling, and/or offering to sell the invention patented in the ‘017 Patent.

**COUNT TWO  
INFRINGEMENT OF THE '719 PATENT**

14. U.S. Patent No. 5,156,719 (“’719 Patent”), titled “Acid Stabilized Calcium Carbonate, Process for its Production and Method for its Use in the Manufacture of Acidic Paper,” was duly and legally issued by the United States Patent and Trademark Office on October 20, 1992. A copy of the ‘719 Patent is attached hereto as Exhibit B.

15. Plaintiffs own of the ‘719 Patent and have the right to sue for infringement thereof.

16. Upon information and belief, Defendants are infringing, inducing the infringement of, or contributing to the infringement of one or more claims of the ‘719 Patent in violation of 35 U.S.C. § 271 by making, using, selling, and/or offering to sell the invention patented in the ‘719 Patent.

**PRAYER FOR RELIEF**

WHEREFORE, as a direct and proximate result of Defendants' infringement of the '017 and the '719 Patents, Plaintiffs have been and continue to be damaged in their business and property, including, among other ways, the loss of substantial profits.

WHEREFORE, by reason of Defendants' infringing acts, Defendants have caused, are causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiffs great and irreparable injury to, among other things, Plaintiffs' good will and business reputation and Plaintiffs' business relations with their customers, and will continue to infringe, contribute to the infringement of, and induce others to infringe the patents-in-suit, all of which cannot be adequately compensated or measured in money. Plaintiffs have no adequate remedy at law for this harm.

WHEREFORE, Defendants' infringement of any and all of the '017 and '719 Patents is, has been, and continues to be committed with full knowledge of Plaintiffs' rights under these patents, and in willful, wanton and deliberate disregard thereof.

WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

- (a) That Defendants, their officers, agents, servants, and employees and all persons acting in concert with them, and each of them, be preliminarily and permanently enjoined from infringing, contributing to, and inducing others to infringe U.S. Patent Nos. 5,043,017 and 5,156,719;
- (b) That the U.S. Patent Nos. 5,043,017 and 5,156,719 be adjudged to be infringed;
- (c) That Plaintiffs be awarded damages under 35 U.S.C. § 284 adequate to compensate it for patent infringement, which are in no event less than a reasonable royalty, together with interest and costs as fixed by this Court;

(d) That the damages awarded to Plaintiffs in connection with Defendants' willful patent infringement be trebled pursuant to 35 U.S.C. § 284;

(e) That prejudgment interest be assessed on all damages;

(f) That Plaintiffs be awarded their reasonable attorneys' fees and costs of suit under 35 U.S.C. § 285; and

(g) That Plaintiffs be awarded such other relief as the Court may deem just and proper.

DATED: June 15, 2004

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