

Jonathan M. James (#012204)  
Mark E. Strickland (#022291)  
Perkins Coie Brown & Bain P.A.  
2901 North Central Avenue, Suite 2000  
Phoenix, Arizona 85012  
Telephone: (602) 351-8000  
jjames@perkinscoie.com  
mstrickland@perkinscoie.com

(Additional counsel listed on signature page)

*Attorneys for Cabot Microelectronics Corporation*

**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

DuPont Air Products NanoMaterials  
L.L.C. (a Delaware limited liability  
company),

Plaintiff and Counterclaims-  
Defendant;

v.

Cabot Microelectronics Corporation  
(a Delaware corporation),

Defendant and Counterclaims-  
Plaintiff.

Cabot Microelectronics Corporation,

Counterclaims-Plaintiff;

v.

Precision Colloids, L.L.C. (a Georgia  
limited liability company) and The Virkler  
Company (a Delaware corporation) d/b/a  
Chemical Technologies LLC,

Counterclaims-Defendants.

**No. CV06-2952-PHX-ROS**

**CABOT MICROELECTRONICS  
CORPORATION'S NOTICE OF  
APPEAL**

**CABOT MICROELECTRONICS CORPORATION'S**  
**NOTICE OF APPEAL**

Counterclaims-Plaintiff Cabot Microelectronics Corporation (“Cabot Micro”) appeals to the United States Court of Appeals for the Federal Circuit from final judgment against Cabot Micro (arising from the jury verdict and pre-trial and post-trial decisions of the district court), including any orders adverse to Cabot Micro that are merged in such judgment—including but not limited to: (1) the Orders of the district court construing certain claims in the patents-in-suit (including, without limitation, those addressed in Dkt. Nos. 223, 402, 529, 539, 540, and 640); and (2) the denial of Cabot Micro’s Motions for Judgment as a Matter of Law (e.g., Dkt. 693).

Although not required in a notice of appeal, *see, e.g.*, 16A Charles A. Wright, Arthur R. Miller & Edward H. Cooper, *Federal Practice & Procedure* § 3949.4 (“A notice of appeal that names the final judgment suffices to support review of all earlier orders that merge in the final judgment . . . .”) (citing cases), Cabot Micro notes that it appeals all Orders underlying the final judgment, including without limitation:

- I. All Orders construing (or relying on constructions of) patent claim terms, including:
  - A. the Markman Order entered on August 11, 2008 (Dkt. No. 223) construing certain patent claim terms;
  - B. the Summary Judgment Order entered on November 17, 2009 (Dkt. No. 402) denying Cabot Micro's motion for summary judgment and construing certain patent claim terms;
  - C. the sealed Orders entered on June 4, 2010 (Dkt. No. 529) ruling on certain motions *in limine* and construing (or relying on constructions of) certain patent claim terms.
  - D. the Court's other pre-trial rulings construing (or relying on constructions of) certain patent claim terms, including, without limitation, those addressed in Dkt. 539 and 540; and
  - E. the Court's instructions to the jury on the meaning of the terms of the asserted claims (Dkt. 640).
  
- II. The Court's denial of Cabot Micro's initial and Renewed Motions for Judgment as a Matter of Law. (Denial of Renewed Motion at Dkt. 693.)

Included herewith is payment of the five-dollar (\$5.00) filing fee required by 28 U.S.C. § 1917, and the four-hundred-and-fifty-dollar (\$450.00) docketing fee required by Federal Circuit Rule 52(a)(3)(A), paid to the District Court as required by Federal Circuit Rule 52(a)(2) and Rule 3(e) of the Federal Rules of Appellate Procedure.

Dated: November 10, 2010

By: /s/ Joseph J. Mueller

Jonathan M. James  
Mark E. Strickland  
Perkins Coie Brown & Bain P.A.  
2901 North Central Avenue, Suite 2000  
Phoenix, Arizona 85012  
Telephone: (602) 351-8000  
jjames@perkinscoie.com  
mstrickland@perkinscoie.com

Wayne L. Stoner (*pro hac vice*)  
Joseph J. Mueller (*pro hac vice*)  
Gregory P. Teran (*pro hac vice*)  
Christopher R. Noyes (*pro hac vice*)  
WILMER CUTLER PICKERING  
HALE AND DORR LLP  
60 State Street  
Boston, Massachusetts 02109  
Telephone: (617) 526-6000  
Fax: (617) 526-5000  
wayne.stoner@wilmerhale.com  
joseph.mueller@wilmerhale.com  
gregory.teran@wilmerhale.com  
christopher.noyes@wilmerhale.com

*Attorneys for Cabot Microelectronics  
Corporation*

**CERTIFICATE OF SERVICE**

I hereby certify that on November 10, 2010, I caused to be electronically transmitted the attached documents to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

Michael J. Farrell, Esq.: mfarrell@jsslaw.com  
Alan M. Grimaldi, Esq.: grimaldia@howrey.com  
Thomas W. Jenkins, Esq.: jenkest@howrey.com  
Kevin M. Bell, Esq.: kbell@pattonboggs.com  
Scott A. Chambers, Esq.: schambers@pattonboggs.com  
David Bancroft Robinson, Esq.: drobinson@pattonboggs.com

*Attorneys for DuPont Air Products NanoMaterials L.L.C.,  
Precision Colloids, L.L.C., and The Virkler Company*

By: /s/ Joseph J. Mueller