

# PATENT ASSIGNMENT

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SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT
<b>CONVEYING PARTY DATA</b>	
Name	Execution Date
Foss Manufacturing Company Inc.	12/07/2012
<b>RECEIVING PARTY DATA</b>	
Name:	Foss Manufacturing Company LLC
Street Address:	11 Merrill Industrial Drive
City:	Hampton
State/Country:	NEW HAMPSHIRE
Postal Code:	03843-5000
<b>PROPERTY NUMBERS Total: 1</b>	
Property Type	Number
Patent Number:	6841244
<b>CORRESPONDENCE DATA</b>	
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<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	
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ATTORNEY DOCKET NUMBER:	32141 6841244
NAME OF SUBMITTER:	David W Gomes
Total Attachments: 23 source=32141AS#page1.tif source=32141AS#page2.tif source=32141AS#page3.tif source=32141AS#page4.tif	

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**United States Patent & Trademark Office  
Assignment Branch**

U.S. Patent No.: 6,841,244  
Issued: January 11, 2005  
Application No. 10/770,306  
Filed: February 2, 2004

**DECLARATION AND CONFIRMATORY ASSIGNMENT**

I, David V. Rowell, hereby declare that:

1. I am executing this Declaration and Confirmatory Assignment individually and in behalf of Foss Manufacturing Company, Inc. (FMC, Inc.) and Foss Manufacturing Company, LLC ("FMC, LLC"), with respect to recording in the U.S. Patent & Trademark Office Assignment Branch records a transfer of U.S. patent 6,814,244 from FMC, Inc. to FMC, LLC.
2. I was Executive Vice President of FMC Inc. in April, 2006 at the time of execution of the attached ASSET PURCHASE AGREEMENT (Exhibit A hereto) between FMC, Inc. ("Seller" therein) and FMC, LLC ("Buyer" therein) and I am currently Vice President of Sales and Marketing of FMC, LLC.
3. The ASSET PURCHASE AGREEMENT was made under control and guidance of the Federal Bankruptcy Court in New Hampshire in connection with the bankruptcy of FMC, Inc. Case No. 05-13724-JMD (Bankruptcy Ct. D.N.H.) to transfer from FMC, Inc. to FMC, LLC substantially all operative tangible and intangible assets of FMC, Inc. including all patents and trademarks as part of reorganization of FMC, Inc. from a corporate entity form to a limited liability entity form. FMC, Inc. was administratively dissolved August 29, 2008. Under New Hampshire corporation law Section RSA 293-A:14.21 (copy of RSA sections 293-A: 14.05-.07 and 14.20-21 enclosed as Exhibit B hereto) a dissolved corporation continues corporate existence but may not carry on any business except as appropriate to wind up and liquidate its business and affairs,
4. It was the intent of the ASSET PURCHASE AGREEMENT to transfer to FMC, LLC, under its section 2.1(s), substantially all operating assets used in the business of FMC, Inc., including Intellectual Property of FMC, Inc., as defined in its page 4 to include all patents of FMC, Inc. and including U.S. Patent 6,841,244, which was not specifically listed in Schedule 2.1(e). The omission was inadvertent, not intentional.
5. U.S. Patent 6,841,244, on its title page, and also at its column 1, lines 6-8 (Exhibit C hereto), claims priority from parent U.S. Patent Application no. 09/565, 138, filed May 5, 2000, now U.S. Patent 6,723,428, which parent application and patent is specifically listed as transferred by the ASSET PURCHASE AGREEMENT in its Schedule 2.1(e).

6. I was not and am not aware in 2006 or any time since then of any intent or attempt to exclude U.S. Patent 6,841,244 from the ASSET PURCHASE AGREEMENT.

7. In behalf of FMC, Inc. and FMC, LLC, I do hereby confirm the assignment of U.S. patent 6,841,244 made in 2006, and do hereby assign U.S. Patent 6,841,244 from Foss Manufacturing Company, Inc. to Foss Manufacturing Company, LLC, effective as of the April 7, 2006 date of the ASSET PURCHASE AGREEMENT and now reconfirmed.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United State Code.

David V. Rowell  
David Rowell

December 7, 2012  
Date

Foss Manufacturing Company, Inc. (FMC, Inc.) [Assignor]

By: David V. Rowell  
David Rowell, Executive Vice President

December 7, 2012  
Date

Foss Manufacturing Company, LLC (FMC, LLC) [Assignee]

By: David V. Rowell  
David Rowell, Vice President of Sales & Marketing Date

December 7, 2012

4848-3527-8093.1

## Exhibit A

### ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this "Agreement"), dated as of April 7, 2006, is by and between FOSS MANUFACTURING COMPANY, INC., a New Hampshire corporation (the "Seller") by Patrick J. O'Malley as he is Chapter 11 Trustee of Seller and FOSS MANUFACTURING COMPANY, LLC, a Nevada limited liability company ("Buyer").

#### WITNESSETH:

WHEREAS, the Seller is engaged in the business of manufacturing, producing, designing, developing, marketing, selling, and distributing automotive, consumer and fiber products, and related products and materials;

WHEREAS, on September 16, 2005, the Seller commenced a voluntary case for reorganization under Chapter 11 of the Bankruptcy Code, 11 U.S.C. §§ 101-1330, as amended (the "Bankruptcy Code") in the United States Court for the District of New Hampshire (the "Bankruptcy Court");

WHEREAS, the Seller desires to sell to Buyer, and the Buyer desires to purchase from the Seller, the Acquired Assets (as hereinafter defined), subject to the terms and conditions of this Agreement; and

WHEREAS, the Acquired Assets will be sold pursuant to the terms of this Agreement and an order of the Bankruptcy Court approving and authorizing such sale under Section 363 of the Bankruptcy Code pursuant to a Sale Approval Order (as defined below) and the Accepted Contracts shall be the subject of a Motion under Section 365 of the Bankruptcy Code.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and promises contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

#### ARTICLE I

##### DEFINITIONS

1.1 Defined Terms. In addition to terms that are used and otherwise defined in this Agreement, the terms below shall have the following meanings:

"Accepted Contract" shall mean any contract, agreement, lease and/or license that (i) is listed on Schedule 2.5 of this Agreement; and (ii) is subject to an order entered by the Bankruptcy Court that authorizes the Seller to assume and/or assign the contract, agreement, lease and/or license to Buyer free and clear of Encumbrances as permitted by the Bankruptcy Code (after payment of any pre-petition cure amounts by Buyer under Section 2.5 of this Agreement).

"Accounts Receivable" shall mean the Seller's gross accounts receivable, notes receivable or other obligations receivable, without adjustments for reserves or allowances for doubtful accounts, due from third parties, but specifically excluding Accounts Receivable due from past and present Affiliates and Insiders.

"Acquired Assets" has the meaning set forth in Section 2.1 of this Agreement.

"Affiliates" has the meaning set forth in the Bankruptcy Code.

"Assignment, Assumption and Payment Agreement" shall mean the Assignment, Assumption and Payment Agreement to be executed by the Buyer and the Seller on the Closing Date substantially in the form of Exhibit A attached hereto.

"Assumed Liabilities" has the meaning set forth in Section 2.3 of this Agreement.

"Auction" shall mean the auction that shall, subject to the terms of this Agreement, be scheduled to take place for the sale of the Acquired Assets pursuant to a Motion to be filed by the Seller with the Bankruptcy Court.

"Bankruptcy Code" has the meaning set forth in the Recitals of this Agreement.

"Bankruptcy Court" has the meaning set forth in the Recitals of this Agreement.

"Benefit Plans" shall mean any employee pension benefit plan covered by Title IV of the ERISA or subject to the minimum funding standards under Section 412 of the Internal Revenue Code of 1986, as amended, and any 401(k), bonus, pension, profit sharing, deferred compensation, incentive compensation, stock ownership, stock purchase, stock option, stock purchase, restricted stock, stock appreciation rights, phantom stock, retirement, supplemental retirement, vacation, severance, termination, disability, death benefit, hospitalization, retiree medical or other plan, program, insurance, arrangement, agreement, commitment or understanding (whether or not legally binding) providing benefits to any current or former employee, officer, director or shareholder of the Seller or any of its subsidiaries. Without limiting the foregoing, the term "Benefit Plan" shall include the Foss Companies Retirement Benefit Accumulation Plan.

"Bidding Procedures Order" has the meaning set forth in Section 9.3 of this Agreement.

"Bill of Sale" shall mean the Bill of Sale to be executed by the Seller on the Closing Date substantially in the form of Exhibit B attached hereto.

"Business Day" shall mean any day excluding Saturday, Sunday and any day that is a legal holiday within the meaning of Rule 9006(a) of the Federal Rules of Bankruptcy Procedure.

"Buyer" has the meaning set forth in the header of this Agreement, and its successors and permitted assigns.

"Buyer Closing Breach" has the meaning set forth in Section 3.2 of this Agreement.

"Buyer Documents" has the meaning set forth in Section 6.1 of this Agreement.

"Causes of Action" shall mean any and all actions, causes of action, choses in action, defenses, liabilities, obligations, rights, suits, debts, sums of money, damages, judgments, claims or proceedings to recover money or property and demands of any nature whatsoever, whether known or unknown, in law, equity or otherwise, including, but not limited to, causes of action arising or held by the Seller (a) under Sections 502, 510, 541, 544, 545, 547, 548, 549, 550 or 553 of the Bankruptcy Code, or under related state or federal statutes and common law, including fraudulent transfer law, (b) relating to commercial tort claims, or (c) relating to directors and officers liability.

"Capital Source Indebtedness" shall mean all amounts due from the Seller to CapitalSource Finance LLC ("CapSource") as of the time of Closing, whether arising out of the financing arrangements with Seller prior to the filing by Seller of its Chapter 11 proceeding or in connection with post petition financing provided by CapSource to Seller.

"Chapter 11 Trustee" shall mean Patrick J. O'Malley, and any successor Chapter 11 Trustee appointed by the Bankruptcy Court.

"Closing" has the meaning set forth in Section 4.1 of this Agreement.

"Closing Date" has the meaning set forth in Section 4.1 of this Agreement.

"Deposit Amount" has the meaning set forth in Section 3.2 of this Agreement.

"Disclosure Schedule" shall mean the schedule delivered by Seller to Buyer prior to execution to this Agreement with respect to the provisions of this Agreement, including, without limitation, the representations and warranties in Article V of this Agreement.

"Employees" has the meaning set forth in Section 2.6(b) of this Agreement.

"Employees' Accrued Liabilities" has the meaning set forth in Section 2.6(b) of this Agreement.

"Employees' Wage Liability" has the meaning set forth in Section 2.6(b) of this Agreement.

"Encumbrance" shall mean any interest, pledge, lien, mortgage, security interest, judgment, demand, successor liability claim, restriction, charge of any kind or nature, claim (as

and to the full extent that term is defined in Bankruptcy Code Section 101(5) of the Bankruptcy Code), obligation, option, right, or restriction whether imposed by agreement, understanding, law, equity or otherwise (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, liquidated or unliquidated, senior or subordinated) in or with respect to any assets of the Seller and/or against the Seller.

"ERISA" shall mean the means the Employee Retirement Income Security Act of 1974, as amended, and the related regulations and published interpretations.

"Equity Securities" shall mean (a) shares of capital stock, limited liability company membership interests, partnership interests, joint venture interests or other equity securities, stock or shares of any kind of such Person, (b) securities directly or indirectly convertible into or exercisable or exchangeable for any of the securities referred to in (a) above, (c) rights, warrants, options, calls, subscriptions or commitments of any kind or character relating to, or entitling any Person directly or indirectly to purchase or otherwise acquire, any of the securities or rights referred to in (a) or (b) above, and (d) equity equivalents, interests in the ownership or earnings of, or equity appreciation, phantom stock or other similar rights of, or with respect to, such Person.

"Escrow Agent" has the meaning set forth in Section 3.2 of this Agreement.

"Escrow Agreement" shall mean the Escrow Agreement to be executed by the Buyer, the Seller and the Escrow Agent in the form of Exhibit C attached hereto.

"Excluded Assets" has the meaning set forth in Section 2.2 of this Agreement.

"Insiders" has the meaning set forth in the Bankruptcy Code.

"Intellectual Property" means (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all patents, patent applications, and patent disclosures, together with all continuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof, (b) all trademarks, service marks, trade dress, logos, trade names, and corporate names, together with all translations, adaptations, derivations, and combinations thereof and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (c) all copyrightable works, all copyrights, copyright registrations and all applications and renewals in connection therewith, (d) all logos, mask works and all applications, registrations, and renewals in connection therewith, (e) all trade secrets and confidential business information, (f) all inventions, ideas, improvements, research and development, know-how, technical knowledge, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals, (g) all computer software owned by Seller (including data and related documentation), (h) all formulas, (i) all intangible assets relating to web sites, and all other similar interests and proprietary rights which the Seller has any right of



ownership or use, (j) all know how, show how, trade dress, industrial designs, formulations and recipes, (k) all websites, e-mail addresses and Internet domain names, (l) all customer lists and goodwill, (m) all copies and tangible embodiments thereof (in whatever form or medium), and (n) all other items of intangible or intellectual property that are listed on Schedule 2.1(e).

"Inventory" shall mean all raw materials, in process goods, and finished goods and products and all other materials and supplies used or consumed by the Seller in the production of finished goods inventories, wherever located, whether or not paid for, whether in transit, at vendors or otherwise, and owned outright by the Seller.

"IRS" has the meaning set forth in Section 3.3 of this Agreement.

"Knowledge" means the actual knowledge of the Chapter 11 Trustee for any period after November 1, 2005, after reasonable investigation and inquiry of the senior executive management of the Company,

"Machinery and Equipment" shall mean all tangible personal property owned by Seller, including machinery, equipment, supplies, manufactured and purchased parts, furniture, fixtures, furnishings, automobiles, trucks, tractors, trailers, tools, tooling, molds, leasehold improvements (subject to any leasehold rights of or obligations to any landlord), jigs, dies, computer hardware and software, servers, modems, data processing equipment, office equipment and other items of similar character owned by the Seller.

"Material Adverse Event" shall mean the occurrence of any of the following events:

(a) a decrease of the Seller's aggregate gross revenue of more than 15% measured by comparing (i) the Seller's aggregate gross revenue for the previous twelve (12) month period from and prior to the date of this Agreement, versus (ii) the Seller's aggregate gross revenue for the previous twelve (12) month period from and prior to the Closing; or

(b) any material physical loss, physical damage or destruction, between the date of this Agreement and the Closing Date, of or to any material portion of the Acquired Assets.

"Payment Amount" means (a) the Purchase Price, less (b) the Deposit Amount referred to in Section 3.2.

"Person" shall mean any individual, corporation, partnership, limited liability company, trust, association, joint venture or other entity of any kind whatsoever.

"Post-Petition Causes of Action" shall mean all Causes of Action against third parties that have arisen since September 16, 2005, but only to the extent that such Causes of Action have arisen or shall arise in the ordinary course of business of the Seller and which are (i) required to enforce the Buyer's rights to ownership of the Acquired Assets, or (ii) related to the value, collection or condition of the Acquired Assets.

"Premises" shall mean real estate occupied by Seller in Hampton, New Hampshire, Los Angeles, California, Atlanta, Georgia, and Elkhart, Indiana.

"Purchase Price" has the meaning set forth in Section 3.1 of this Agreement.

"Release" shall mean the Release to be executed by the Buyer on the Closing Date substantially in the form of Exhibit D attached hereto.

"Sale Approval Order" shall mean an order of the Bankruptcy Court, naming the Buyer as the winning bidder at the Auction and approving consummation of the transactions contemplated hereby by Buyer and Seller, certified by the clerk of the Bankruptcy Court as a true and correct copy of such order, reasonably satisfactory in form and substance to Buyer, Seller and their respective counsel, entered after a hearing conducted on adequate notice given in Seller's bankruptcy case.

"Sale Motion" has the meaning set forth in Section 9.2 of this Agreement.

"Seacoast Indebtedness" shall mean shall mean all amounts due from the Seller to Coastal Economic Development Corporation (formerly known as Seacoast Business Alliance Corporation) and Business Finance Authority of the State of New Hampshire as of the time of Closing.

"Securities" means (a) Equity Securities, (b) notes, bonds, debentures, certificates of deposit and all other evidences of indebtedness, (c) securities directly or indirectly convertible into or exercisable for exchangeable for any of the securities referred to in (b) above, (d) rights, warrants, options, calls, subscriptions or commitments of any kind or character relating to, or entitling any Person to purchase or otherwise acquire, any of the securities or rights referred to in (b) or (c) above, and (e) all other securities of any type.

"Seller" has the meaning set forth in the header of this Agreement.

"Seller Documents" has the meaning set forth in Section 5.1 of this Agreement.

"Termination Fee" has the meaning set forth in the Bidding Procedures Order.

## ARTICLE II

### PURCHASE AND SALE OF ASSETS BY BUYER, ASSUMPTION OF LIABILITIES AND PURCHASE PRICE

2.1 Purchase and Sale of Assets. Upon the terms and subject to the conditions and provisions contained herein and in the Sale Approval Order, and to the extent permitted by the Bankruptcy Code, at the Closing, Seller shall sell, convey, transfer, assign and deliver to Buyer, and Buyer shall acquire and accept from Seller, free and clear of any and all Encumbrances, except Assumed Liabilities, all of the following assets owned by the Seller (collectively, the "Acquired Assets");

- (a) all Inventory;
- (b) all Machinery and Equipment and other personal property, other than Inventory, including furniture and fixtures, whether located at the Premises, subject to purchase orders or in transit;
- (c) any rights under all Accepted Contracts referred to in Section 2.5 below;
- (d) all licenses, approvals and permits of Seller listed on Schedule 2.1(d);
- (e) all Intellectual Property of Seller listed on Schedule 2.1(e);
- \* (f) all Securities of Foss Australasia, Pty. Ltd.;
- (g) all Accounts Receivable;
- (h) all post-petition prepaid expenses and deposits, subject to any third party claims or rights of setoff or recoupment;
- (i) the good will of the Seller as a going concern;
- (j) all pre-paid items, subject to any third party claims or rights of setoff or recoupment;
- (k) all security deposits relating to leases to any of the Premises, and customer deposits, including all cash in respect thereof, that are listed on Schedule 2.1(k) (collectively, the "Deposits"), in each case subject to any third party claims or rights of setoff or recoupment;
- (l) all credits, rights to receive refunds and/or Inventories, parts, components or supplies in respect of all cash prepayments, advances or deposits paid to vendors or suppliers of the Seller for specific items of Inventories, parts, components, supplies or services ordered for future delivery (collectively, the "Inventory Advances"), in each case subject to any third party claims or rights of setoff or recoupment;

(m) all supplies, packaging materials, marketing and sales literature, advertising materials, catalogues, consumable materials and other items of similar character used in the operation of the Businesses;

(n) all Post-Petition Causes of Actions;

(o) all books, records, manuals, ledgers, files, documents, computer software, tapes, computer disks, manuals, correspondence, lists, plats, architectural plans, drawings, and specifications, creative materials, advertising and promotional materials, studies, reports, and other printed or written materials, including without limitation, all vendor lists, customer lists, sales, manufacturing and customer records, technical and support manuals, parts manuals, personnel and payroll records, accounting records, purchase records, price lists, correspondence, quality control records and all research and development files (except Seller's corporate minute book, stock ownership records and tax returns);

(p) all rights in and with respect to the assets associated with any Benefit Plan(s) which are included in the Assumed Liabilities;

(q) to the extent such items are not directly related to the Excluded Assets or Excluded Liabilities, all guarantees, warranties, indemnities and similar rights in favor of the Seller with respect to any Acquired Assets, in each case subject to any third party claims or rights of setoff or recoupment;

(r) to the extent their transfer is permitted by law, all of the Seller's rights in, to and under any Accepted Contract with any consultants, agents, representatives, customers, suppliers, vendors or otherwise, of the Seller regarding non-competition, non-solicitation and/or confidentiality of trade secrets, proprietary or other information; and

(s) any and all other rights and assets owned by the Seller and used by the Seller in the operation of its business, but excluding the Excluded Assets.

2.2 Excluded Assets. Notwithstanding anything to the contrary contained in this Agreement, the Acquired Assets shall not include all (collectively the "Excluded Assets");

(a) cash and cash equivalents on hand at Closing;

(b) all Securities of Foss Manufacturing Europe, S.A.S.;

(c) all interests in and rights under insurance policies, including but not limited to life insurance and directors and officers liability policies, and proceeds of insurance (provided that, (i) as to any insurance proceeds received post-petition on account of damage to the Acquired Assets, at the Buyer's option, the Seller shall either apply said proceeds toward the repair of the Acquired Asset or turn over such insurance proceeds to Buyer at Closing and (ii) except as provided in the prior clause, to the extent that any insurance policies or insurance contracts are

included in the Accepted Contracts, Buyer's rights thereunder shall be limited to insured matters arising following the Closing); *provided, however*, nothing contained in this Section 2.2(c) or elsewhere in this Agreement shall be construed to grant Buyer any rights in any directors and officers liability insurance policies or any fiduciary policies of the Seller.

(d) all rights and obligations under contracts, agreements, leases or licenses of the Seller which do not constitute Accepted Contracts hereunder;

(e) all rights to or claims for refunds or rebates of taxes for any period ending on or prior to the Closing Date, and the benefit of net operating loss carry-forwards, carry-backs or other credits of Seller relating to any such period; and

(f) all Causes of Action, other than Post-Petition Causes of Action.

2.3 Assumption of Liabilities. Upon the terms and subject to the conditions and provisions contained in this Agreement, at the Closing the Buyer will execute and deliver to the Seller the Assignment, Assumption and Payment Agreement, pursuant to which the Buyer will, effective as of the Closing, assume, satisfy, perform or pay all of the following liabilities and obligations of the Seller (collectively, the "Assumed Liabilities");

(a) all of the liabilities and obligations of the Seller arising under the Accepted Contracts (including payment in cash at Closing of all pre-petition cure amounts due under the Accepted Contracts, pursuant to Section 2.5 of this Agreement);

(b) all of the Employees' Accrued Liabilities set forth in Section 2.6(b);

(c) all of the Employees' Wage Liability set forth in Section 2.6(b);

(d) payment in cash at Closing of all of the liabilities and obligations under or in connection with the key employee retention plan approved by the Bankruptcy Court by Order dated January 12, 2006;

(e) all of the liabilities and obligations under or in connection with Seller's Foss Companies Employees Savings Incentive Plan and those specific Benefit Plans that are listed on Schedule 5.14 hereto, *other* than liabilities or obligations associated with the Foss Companies Retirement Benefit Accumulation Plan;

(f) all of the liabilities and obligations under or in connection with the Seacoast Indebtedness;

(g) payment in cash at Closing of all amounts associated with the so-called wind-down budget attached to the Final Order (I) Authorizing Chapter 11 Trustee to Obtain Post-Petition Financing, Grant Security Interests and Accord Priority Status; (II) Affording Adequate Protection; and (III) Granting Related Relief entered by the Bankruptcy Court on January 17, 2006 (the "Post-Petition Financing Order");

(i) the Seller has not made any change in the method of establishing the prices charged for services or products, except in the ordinary course of business as conducted after November 1, 2005, and has not changed their credit and collection policies.

5.10 Real Estate.

(a) The Seller does not own any real property.

(b) The Disclosure Schedule lists and describes briefly all real estate leased or subleased to the Seller. To the Knowledge of Seller, the Seller has delivered to the Buyer copies of the leases and subleases (as amended to date). With respect to each lease and sublease, except as would not constitute a Material Adverse Event or as set forth in the Disclosure Schedule to the Knowledge of Seller since November 1, 2005:

(i) no party to the lease or sublease has repudiated any provision thereof in writing or orally;

(ii) the Seller is not in default in the payment of rent or other material obligation under any such lease or sublease; and

(iii) except as approved by the Bankruptcy Court, the Seller has not assigned, transferred, conveyed, mortgaged, deeded in trust, or encumbered any interest in the leasehold or subleasehold.

5.11 Intellectual Property. To the Knowledge of the Seller:

(a) the Seller owns, licenses or otherwise has the right to use pursuant to license, sublicense, agreement, or permission all Intellectual Property used by Seller in the operation of its business;

(b) the Seller has not interfered with, infringed upon, misappropriated, or otherwise come into conflict with any Intellectual Property rights of third parties, and no third party has interfered with, infringed upon, misappropriated, or otherwise come into conflict with any Intellectual Property rights of the Seller, which interference, infringement or misappropriation would constitute a Material Adverse Event;

(c) Schedule 2.1(e) annexed hereto (i) identifies each patent or registration which has been issued to any of the Seller, with respect to any of its Intellectual Property (including, without limitation, all trademarks and trade names used in connection with the operation of Seller's business), and (ii) identifies each pending patent application or application for registration which the Seller, has made with respect to any of its Intellectual Property;

(d) the Seller has made available to the Buyer copies of all such patents, registrations, applications, licenses, agreements, and permissions (as amended to date) and all other written

documentation evidencing ownership and prosecution (if applicable) of each such item which are in the possession and control of the Seller; and

(e) with respect to each item of Seller's Intellectual Property:

(i) the item is not subject to any outstanding injunction, judgment, order, decree, ruling, or charge;

(ii) no action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand is pending or, to the Knowledge of Seller, is threatened which challenges the legality, validity, enforceability, use, or ownership of the item; and

(iii) the Seller, has not, since November 1, 2005, agreed in writing to indemnify any Person for or against any interference, infringement, misappropriation, or other conflict with respect to the item.

5.12 Contracts. The Seller has delivered or made available to the Buyer a copy of each written Accepted Contract.

5.13 Product Liability. To the Knowledge of Seller, there are no claims pending or threatened against Seller arising after November 1, 2005, related to any bodily injury to individuals or physical damage to property as a result of the ownership, possession, or use of any product manufactured, sold, leased, or delivered by the Seller, except in each case, as would not cause a Material Adverse Event.

5.14 Employees and Labor Matters. Except as Described in the Disclosure Schedule:

(a) To Seller's Knowledge, the Seller has made available to Buyer (i) a list of all employee handbooks and/or other manuals relating to the employees, and (ii) a list of all salaried employees of Seller.

(b) To Seller's Knowledge, no executive, supervisor, key employee, or group of employees of the Seller has any plans to terminate employment with Seller.

(c) None of the employees of Seller is represented by any union, labor organization, employee group or other entity which affects the employment of employees of the Seller and (ii) the Seller is not a party to or bound by any collective bargaining or related agreement with a labor organization, nor has the Seller experienced any strikes or work stoppages since November 1, 2005. The Seller has no Knowledge of any organizational effort presently being made or threatened by or on behalf of any labor organization with respect to employees of the Seller.

(d) To the Knowledge of Seller, Schedule 5.14 annexed hereto sets forth a complete list of all Benefit Plans to which the Seller is a party. To the Knowledge of the Seller, except where non-compliance is not material, each Benefit Plan to be included in the Accepted

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed under seal all as of the day and year first above written.

SELLER:

FOSS MANUFACTURING COMPANY, INC.

By: Patricia J. O'Halley  
Name: Patricia J. O'Halley  
Title: Chapter 11 Trustee

BUYER:

FOSS MANUFACTURING COMPANY, LLC

By: \_\_\_\_\_  
Name: AJ Nassar,  
Title: Managing Member



WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed under seal all as of the day and year first above written.

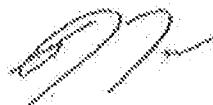
*SELLER:*

FOSS MANUFACTURING COMPANY, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*BUYER:*

FOSS MANUFACTURING COMPANY, LLC



By: \_\_\_\_\_  
Name: AJ Nassar,  
Title: Managing Member

4/6/2006

Schedule 2.1(e)

Intellectual Property

- 37 -

000160/01154 NYCDOS2 336842v10

# Koss Manufacturing Co., Inc. Patents/Applications

CTV	Patent/Docket No.	Issue Date	Ser. No.	Filing Date	Short Title	Status/Notes
US	4197343	4.2.80	930,151	8.2.78	Needle-punched laminate	Expired
US	4673615	6.16.87	817,128	1.8.86	Stiff clay resistant mat	Expired
US	4673616	6.16.87	917,807	10.10.86	Moldable latex impregn...	Expired
US	4942082	7.17.90	772,361	4.12.85	Incompressible polymer...	Expires 7.17.06
US	5851931	12.22.98	927,139	9.3.97	Paintable substrate ...	Maintenance tax due 12.22.06
US	5981411	11.9.99	078,975	5.14.98	Thermofusible material	Maintenance tax due 11.9.07
US	6613429	9.2.03	615,333	7.12.00	Method making therm...	Maintenance tax due 9.4.07
US	6723428	4.20.04	565,138	5.5.00	Antimicrobial fiber...	Maintenance tax due 4.12.08
US	6946196	9.20.05	768,840	1.30.04	Antimicrobial fiber...	Maintenance tax due 3.20.09
US	FOS-P39B		762,920	1.22.04	Antimicrobial fiber...	Response due 4.19.06 (1-month ext.)
US	FOS-P39CON		010,546	12.13.04	Antimicrobial fiber...	Response due 4.12.06
US	FOS-P39DIV1		406,720	4.2.03	Antimicrobial fiber...	Pending, response filed 1.17.06
US	FOS-P39DIV3		772,127	2.4.04	Antimicrobial fiber...	Pending, response due 6.21.06
US	FOS-P39DIV4		765,414	10.14.04	Antimicrobial fiber...	Response due 4.23.06 (1-month ext.)
US	FOS-P39DIV5		765,255	1.27.04	Antimicrobial fiber...	Response due 4.10.06 (2-mo Final O.A.)
US	FOS-P39DIV7		785,850	2.24.04	Antimicrobial fiber...	Abandoned (per letter of 1.26.06)
US	FOS-P43		665,330	9.14.03	Antimicrobial garments	Response due 4.16.06 (2-month ext.)
US	FOS-P69		917,817	8.13.04	Flame retardant spiral...	Pending, no action necessary
US	FOS-P70		917,816	8.13.04	Synthetic FFFB fibers	Response due 5.16.06
US	FOS-P71		111,515	4.21.05	Fire retardant aircraft...	Pending, no action necessary
US	FOS-P74		989,961	11.16.04	Hollow antimicrobial...	Response due 6.1.06
US	FOS-P75		048,418	2.1.05	Antimicrobial, antifungal	Pending, no action necessary

US	SOLEMAITE	2374152	8.8.00	757360886	9.22.97	8.8.10	§8.15 statements due 8.8.06
US	OZITE GRILL MAT	2644064	10.29.02	767179417	12.13.00	10.29.12	§8.15 statements due 10.29.08
US	SNOW FELT	2756637	8.26.03	768029981	4.20.00	8.26.13	§8.15 statements due 8.26.09
US	FLASH FELT	2756638	8.26.03	768029982	4.20.00	8.26.13	§8.15 statements due 8.26.09
US	POSS	2898868	11.2.04	769516756	5.8.03	11.2.14	§8.15 statements due 11.2.10
US	FOSSHIELD	2918372	1.18.05	764433003	9.25.02	1.18.15	§8.15 statements due 1.18.11
US	FOSSHIELD (logo)	2918373	1.18.05	764433004	9.25.02	1.18.15	§8.15 statements due 1.18.11
US	DURALAST	2976431	7.26.05	75945314	2.24.00	7.26.15	§8.15 statements due 7.26.11
US	KUNIN FELTED WOOL			769530277	2.2.05		Abandoned 3.1.06 (no response to OA)

EXHIBIT B

**Section 293-A:14.05**

**293-A:14.05 Effect of Dissolution.** -- (a) A dissolved corporation continues its corporate existence but may not carry on any business except that appropriate to wind up and liquidate its business and affairs, including:

- (1) Collecting its assets.
- (2) Disposing of its properties that will not be distributed in kind to its shareholders.
- (3) Discharging or making provision for discharging its liabilities.
- (4) Distributing its remaining property among its shareholders according to their interests.
- (5) Doing every other act necessary to wind up and liquidate its business and affairs.

(b) Prior to making any distribution of its remaining property among its shareholders according to their interests, the corporation shall first obtain a certificate of dissolution from the department of revenue administration in accordance with RSA 77-A:18 and RSA 77-E:12.

(c) Dissolution of a corporation does not:

- (1) Transfer title to the corporation's property.
- (2) Prevent transfer of its shares or securities, although the authorization to dissolve may provide for closing the corporation's share transfer records.
- (3) Subject its directors or officers to standards of conduct different from those prescribed in RSA 293-A:8.01 through 293-A:8.58.
- (4) Change quorum or voting requirements for its board of directors or shareholders; change provisions for selection, resignation, or removal of its directors or officers or both; or change provisions for amending its bylaws.
- (5) Prevent commencement of a proceeding by or against the corporation in its corporate name.
- (6) Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution.
- (7) Terminate the authority of the registered agent of the corporation.

Source. 1992, 255:1. 1993, 350:26, eff. July 1, 1993.

**Section 293-A:14.06**

**293-A:14.06 Known Claims Against Dissolved Corporation.** -- (a) A dissolved corporation may dispose of the known claims against it by following the procedure described in this section.

(b) The dissolved corporation shall notify its known claimants in writing of the dissolution at any time after its effective date. The written notice shall:

- (1) Describe information that shall be included in a claim;
- (2) Provide a mailing address where a claim may be sent;
- (3) State the deadline, which may not be fewer than 120 days from the effective date of the written notice, by which the dissolved corporation shall receive the claim; and
- (4) State that the claim will be barred if not received by the deadline.

(c) A claim against the dissolved corporation is barred:

- (1) If a claimant who was given written notice under subsection (b) does not deliver the claim to the dissolved corporation by the deadline.
- (2) If a claimant whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within 90 days after the effective date of the rejection notice.

(d) For purposes of this section, "claim" shall not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

Source. 1992, 255:1, eff. Jan. 1, 1993.

### **Section 293-A:14.07**

**293-A:14.07 Unknown Claims Against Dissolved Corporation.** -- (a) A dissolved corporation may also publish notice of its dissolution and request that persons with claims against the corporation present them in accordance with the notice.

(b) The notice shall:

(1) Be published one time in a newspaper of general circulation in the county where the dissolved corporation's principal office, or, if none in this state, its registered office, is or was last located;

(2) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

(3) State that a claim against the corporation will be barred unless a proceeding to enforce the claim is commenced within 5 years after the publication of the notice.

(c) If the dissolved corporation publishes a newspaper notice in accordance with subsection (b), the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within 5 years after the publication date of the newspaper notice:

(1) A claimant who did not receive written notice under RSA 293-A:14.06;

(2) A claimant whose claim was timely sent to the dissolved corporation but not acted on;

(3) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(d) A claim may be enforced under this section:

(1) Against the dissolved corporation, to the extent of its undistributed assets; or

(2) If the assets have been distributed in liquidation, against a shareholder of the dissolved corporation to the extent of his pro rata share of the claim or the corporate assets distributed to him in liquidation, whichever is less, but a shareholder's total liability for all claims under this section shall not exceed the total amount of assets distributed to him.

Source. 1992, 255:1, eff. Jan. 1, 1993.

## **B. Administrative Dissolution**

### **Section 293-A:14.20**

**293-A:14.20 Grounds for Administrative Dissolution.** -- The secretary of state may administratively dissolve a corporation under RSA 293-A:14.21 if:

(1) The corporation for 2 consecutive years does not pay within 60 days after they are due any franchise fees or penalties imposed by this chapter or other law;

(2) The corporation for 2 consecutive years does not deliver its annual report to the secretary of state within 60 days after it is due;

(3) The corporation is without a registered agent or registered office in this state for 60 days or more;

(4) The corporation does not notify the secretary of state within 60 days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued; or

(5) The corporation's period of duration stated in its articles of incorporation expires.

Source. 1992, 255:1. 1993, 344:11, eff. July 1, 1993.

## Section 293-A:14.21

**293-A:14.21 Procedure for and Effect of Administrative Dissolution.** — (a) If the secretary of state determines that one or more grounds exist under RSA 293-A:14.20 for dissolving a corporation, the secretary of state shall administratively dissolve the corporation by mailing a notice of dissolution to the corporation at its principal address as listed in the records of the secretary of state. Such notice shall recite the grounds for dissolution and effective date, together with an application for reinstatement and shall at the same time give notice to the department of revenue administration, but such notice shall not constitute written or published notice to claimants otherwise required under RSA 293-A:14.06 or RSA 293-A:14.07.

(b) A corporation administratively dissolved continues its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under RSA 293-A:14.05 and notify claimants under RSA 293-A:14.06 and 293-A:14.07.

(c) The administrative dissolution of a corporation shall not terminate the authority of its registered agent.

(d) The secretary of state shall not permit any other individual, corporation, or other business entity to assume the same name or a similar name, of a corporation administratively dissolved under this section, or any trade name registered by such corporation pursuant to RSA 349, for a period of 120 days following the notice of administrative dissolution without the written consent of such corporation.

Source. 1992, 255:1. 1999, 189:2. 2004, 248:10. 2006, 316:3, eff. July 1, 2006.



US006841244B2

(12) **United States Patent**  
Foss et al.

(10) Patent No.: **US 6,841,244 B2**  
(45) Date of Patent: **Jan. 11, 2005**

(54) **ANTI-MICROBIAL FIBER AND FIBROUS PRODUCTS**

(75) Inventors: Stephen W. Foss, Rye Beach, NH (US); Robert V. Sawyell, Jr., Columbia, SC (US)

(73) Assignee: Foss Manufacturing Co., Inc., Hampton, NH (US)

(\*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: 10/779,306

(22) Filed: Feb. 2, 2004

(65) Prior Publication Data

US 2004/0197553 A1 Oct. 7, 2004

#### Related U.S. Application Data

- (62) Division of application No. 09/565,138, filed on May 5, 2000, now Pat. No. 6,723,428.  
(60) Provisional application No. 60/181,251, filed on Feb. 9, 2001, provisional application No. 60/180,536, filed on Feb. 7, 2001, provisional application No. 60/180,740, filed on Feb. 6, 2001, provisional application No. 60/173,207, filed on Dec. 31, 1999, provisional application No. 60/172,208, filed on Dec. 17, 1999, provisional application No. 60/172,533, filed on Dec. 17, 1999, and provisional application No. 60/136,261, filed on May 27, 1999.

- (51) Int. Cl.<sup>7</sup> ..... D01F 8/06  
(52) U.S. Cl. .... 428/370; 428/373; 428/374  
(58) Field of Search ..... 428/370, 373, 428/374

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#### U.S. PATENT DOCUMENTS

3,589,956 A \* 6/1971 Kraus et al. .... 264/115

4,019,844 A 4/1977 Shiokawa et al.  
4,350,006 A 9/1982 Anzawa et al.  
4,525,410 A \* 6/1985 Hagiwara et al. .... 428/196  
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JP 07-145514 A 6/1995  
JP 10-60740 A 3/1998

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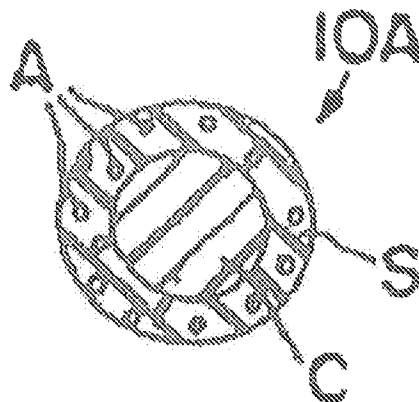
Primary Examiner—N. Edwards

(74) Attorney, Agent, or Firm—Perkins Smith & Cohen; Jerry Cohen; John A. Hamilton

(57) **ABSTRACT**

An anti-microbial and/or anti-fungal synthetic fiber that comprises various thermoplastic polymers and additives in a bi-component form in either a core-sheath or side-by-side configurations. The anti-microbial synthetic fibers comprise inorganic anti-microbial additives, distributed in certain areas to reduce the amount of the anti-microbial agents being used, and therefore the cost of such fibers. The fibers can incorporate anti-microbial additives so that they are not removed by repeating washing in boiling water and in dry clean cycles and become ineffective and conversely enhance access to the additives by washing or the like. The fibers comprise high tenacity polymers (e.g. PET) in one portion and hydrolysis resistance polymers (e.g. PCT) in another portion with the additives. The fibers can further be blended with non-anti-microbial fibers such as cotton, wool, polyester, acrylic, nylon etc. to provide anti-microbial finished fabrics. In one such embodiment, binder fibers are used which are mixed with other fibers.

15 Claims, 7 Drawing Sheets





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## ANTI-MICROBIAL FIBER AND FIBROUS PRODUCTS

## CROSS-REFERENCE TO RELATED APPLICATIONS

The present application is a divisional application of Ser. No. 09/565,138 filed May 5, 2000 now U.S. Pat. No. 6,723,428 which claims the priority of the following provisional applications: Ser. No. 60/136,261, filed May 27, 1999; Ser. No. 60/173,207, filed Dec. 27, 1999; Ser. No. 60/172,285, filed Dec. 17, 1999; Ser. No. 60/172,533, filed Dec. 17, 1999; Ser. No. 60/180,536, filed Feb. 7, 2000; Ser. No. 60/181,251, filed Feb. 9, 2000; and Ser. No. 60/180,240, filed Feb. 4, 2000.

## FIELD OF THE INVENTION

The present invention relates generally to fiber, and, more particularly to a fiber having anti-microbial (and/or anti-fungal) properties which remain with the fiber when used in a fabric product after repeated launderings/uses. More specifically it provides a wholly or partly synthetic fiber and multi- or mono-component anti-microbial and/or anti-fungal synthetic fibers, alone or integrated with other synthetic or natural fibers, using various thermoplastic polymers and additives. It may be a bi-component fiber having either a core-sheath or side-by-side configuration or other configurations (e.g. pie-wedge). One arrangement uses binder fibers, which are staple fibers or filaments.

## BACKGROUND OF THE INVENTION

There is a growing interest today in products which have anti-microbial and anti-fungal properties. There are a number of additives, fibers and products on the market which claim to have these properties. However, many do not have such properties, or the properties do not remain for the life of the product, or they have adverse environmental consequences.

Various materials have been used in the past to provide anti-microbial and anti-fungal properties to fibers and fabrics.

Examples of some organic types of anti-microbial agents, are U.S. Pat. Nos. 5,408,022 and 5,494,987 (an anti-microbial polymerizable composition containing an ethylenically unsaturated monomer, a specific one-, di- or tri-functional anti-microbial monomer and a polymerization initiator which can yield an unreleasable anti-microbial polymer from which the anti-microbial component is not released), 5,709,870 (a silver containing anti-microbial agent which comprises carboxymethylcellulose, a crosslinked compound, containing silver in the amount of 0.01 to 1% by weight and having a degree of substitution of carboxymethyl group of not less than 0.4 and the anti-microbial agent being a silver salt of carboxymethylcellulose, which is insoluble to water), 5,783,570 (an organic solvent-soluble mucopolysaccharide consisting of an ionic complex of at least one mucopolysaccharide and a quaternary phosphonium), an anti-bacterial antithrombogenic composition comprising organic solvent-soluble mucopolysaccharide and an organic polymer material, an antibacterial antithrombogenic composition comprising organic solvent-soluble mucopolysaccharide and an inorganic antibacterial agent, and to a medical material comprising organic solvent-soluble mucopolysaccharide).

Examples of some inorganic types of anti-microbial agents are:

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Japanese Patent No. 1246204 (1988) which discloses an anti-microbial thermoplastic article with copper or a compound added to the melted polymer just before extruding, in which the anti-microbial material is said to be resistant to washing.

U.S. Pat. No. 5,180,505 which discloses an antimicrobial with a first coating providing the antimicrobial properties and a second coating as a protective layer. A metal having antimicrobial properties is used including silver which is coated with a secondary protective layer.

Japanese Patent No. 2099606 (1996) which discloses a fiber with anti-microbial properties made of a liquid polyester and inorganic micro particles of zinc silicate, both being added to the melted polymer after polymerization and just before extrusion.

The use of anti-microbial agents in connection with thermoplastic material is known from U.S. Pat. No. 4,624,679 (1986). This patent is concerned with the degradation of anti-microbial agents during processing. This patent states that thermoplastic compounds which are candidates for treatment with anti-microbial agents include material such as polyamides (nylon 6 or 6,6), polyvinyl, polyolefins, polyurethanes, polyethylene terephthalate, styrene-butadiene rubbers.

Japanese Patent No. 2091009 (1990) and U.S. Pat. No. 5,047,448 disclose an anti-microbial thermoplastic polymer with copper or zinc compounds and fine particles of Al, Ag, Fe and Zn compounds and a liquid polyester, in which the anti-microbial material is said to be resistant to washing.

Japanese Patent No. 2169740 (1996) discloses a thermoplastic fiber such as PET which uses silver, copper or zinc as an anti-microbial agent. There is a cellulose component which reduces the amount of thermoplastic with anti-microbial agent and reduces the cost.

Examples of inorganic types of anti-microbial agent which have zeolite with silver is disclosed in U.S. Pat. Nos. 4,911,898, 5,094,847, 4,938,958 (use of zeolite with exchangeable ions such as silver and others), 5,244,667 (an anti-microbial composition which involves use of partial or complete substitution of ion-exchangeable metal ion such as silver, copper, zinc and others), 5,405,544 (an anti-microbial fiber having a silver containing inorganic microbicide and the silver ion is stated to have been supported by zeolite, among other materials, the purpose being to prevent discoloration).

Various products have been made using anti-microbial fibers. U.S. Pat. No. 5,071,531 discloses a water purifier having a secondary filter downstream of its primary filter for removing microorganisms and antimicrobial means disposed between the two filters, use of an anti-microbial agent for a water purifier.

Japanese Patent No. 6116872 (1994) discloses a suede-like synthetic leather with an anti-microbial agent. It discloses the use of anti-microbial zeolite having an anti-microbial metal ion. It uses two fiber types and includes PET.

U.S. Pat. No. 5,733,949 discloses an anti-microbial adhesive composition for dental use. The composition was made by blending of a polymerizable monomer having alcoholic hydroxy group and water to a dental composition containing an anti-microbial polymerizable monomer and a polymerizable monomer having acidic group, and with a polymerization catalyst. Such composition has capability to improve adhesive strength between the tooth and the restorative material to prevent microbial invasion at the interface and kill microorganisms remaining in the microstructure.

U.S. Pat. No. 5,876,489 discloses a germ-removing filter with a filter substrate and an anti-microbial material dis-