

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Marine Polymer Technologies, Inc.

v.

Civil No. 06-cv-100-JD

HemCon, Inc.

O R D E R

Marine Polymer Technologies, Inc. moves in limine to preclude HemCon, Inc. from introducing evidence at trial related to Vascular Solutions, Inc. v. Marine Polymer Techs., Inc., 590 F.3d 56 (1st Cir. 2009), and to the reexamination proceeding. HemCon objects to both motions on the ground that the "related to" language is too broad. HemCon agrees that evidence of the Vascular Solutions case and of the reexamination proceeding will not be introduced, subject to its reservation of rights.

HemCon explains that evidence pertinent to its invalidity defenses in this case will also be introduced in the reexamination proceeding. Similarly, HemCon contends that testimony given in the Vascular Solutions case about Marine Polymer's employees' responsibilities, competing products, and other impeachment evidence are relevant in this case. HemCon agrees that it will not introduce evidence, statements, or arguments which indicate that the USPTO has granted HemCon's request for reexamination of the '245 patent, or evidence,

statements, or arguments which are directly related to the claim and allegations of product disparagement, the verdict, and the appeal in Vascular Solutions, unless Marine Polymer "opens the door" to such evidence.

Conclusion

For the foregoing reasons, Marine Polymer's motions in limine to preclude evidence related to the reexamination proceeding (document no. 199) and the Vascular Solutions case (document no. 200) are granted to the extent allowed in this order. Before introducing any evidence related to the reexamination proceeding or the Vascular Solutions case, HemCon shall notify the court and opposing counsel and shall not introduce such evidence without prior approval of the court.

SO ORDERED.


Joseph A. DiClerico, Jr.
United States District Judge

March 30, 2010

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