Message

From: Beard, Phillip [Beard.Phillip@epa.gov]
Sent: 8/3/2021 11:02:09 AM
To: Annicella, Alan [Annicella.Alan@epa.gov]
Subject: FW: Seal Shield - SSURO Partial Termination

Here you go. Catching up on my emails.

From: Binford, Marshall <Binford.Marshall@epa.gov>
Sent: Friday, July 30, 2021 6:23 PM
To: Ed Schwartz <ess@mseslegal.com>
Cc: Caplan, Robert W. <Caplan.Robert@epa.gov>; Beard, Phillip <Beard.Phillip@epa.gov>
Subject: RE: Seal Shield - SSURO Partial Termination

Ed:

Thank you again for your coordination earlier this week regarding the international version of the website, and Seal Shield's approach to handling that matter.

To follow up on a few outstanding issues, which you noted in your previous email this week, the draft partial termination of the SSURO is currently in routing for approval by EPA Region 4 management. We anticipate that it will be signed on Monday.

During a previous call earlier this month, you requested that we send you a short summary of the Agency's position regarding Seal Shield's continuing use of the word "silver" in the names of Seal Shield products. As we explained on that call, EPA has determined that use of the word is not acceptable at this time because it has the potential for creating significant confusion in the marketplace by misleading the public about the presence of, and purpose of silver in the products. As you know, silver is a commonly recognized and commonly used antimicrobial substance in multiple products.

Seal Shield's historical use of the term silver in its marketing of antimicrobial products only compounds the potential to mislead and confuse the public if the products are marketed at this time with silver in the name. In this regard, EPA notes that Seal Shield currently uses the term 'silver' for product offerings on its website, including, but not limited to, the "*Silver Seal Waterproof Keyboard*", the "*Silver Surf Waterproof Mouse*", and the "*Silver Storm Waterproof Mouse*". EPA also notes that Seal Shield's marketing of its products and the literature available on its website historically emphasized antimicrobial protection in connection with the term silver due to the company's "silver ion technology". As just one example, the following health-related claim was observed by EPA in preparing the April 2020 SSURO: "*Silver Seal Protection. This product is Silver Seal Protected. It contains an antimicrobial, fungistatic agent which protects the product and keeps it cleaner, greener and fresher by inhibiting the growth of microbial bacteria, mold, mildew and fungi on the products surface*". With this history and context in mind, EPA has concluded that there is significant likelihood that the continued use of the term "silver" in Seal Shield's marketing materials could suggest an antimicrobial effect to consumers under the circumstances.

Finally, with regard to your requests for EPA to remove the name of the Seal Shield 'antimicrobial' from the recent June 2021 SSURO; to provide Seal Shield with a copy of EPA's penalty calculation work sheet for the past violations, and your request to allow Seal Shield to import product containing the registered pesticide, we are working on these issues and will get back to you with an update next week as soon as we are able. Thanks very much and have a nice weekend.

Regards,

F. Marshall Binford, Jr. | Associate Regional Counsel

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From: Ed Schwartz <ess@mseslegal.com>
Sent: Friday, July 30, 2021 9:41 AM
To: Binford, Marshall <Binford.Marshall@epa.gov>
Cc: Caplan, Robert W. <Caplan.Robert@epa.gov>
Subject: Seal Shield - SSURO Partial Termination

Marshall,

During our last discussion on this matter, EPA indicated that the SSURO partial termination with regard to the ElectroClave would be issued this week. Please let me know the status of the partial termination as soon as possible.

Sincerely,

Ed Schwartz

"HONI SOIT QUI MAL Y PENSE"

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