

LEGAL ISSUES WEARCON VS NORDBAK 2006 TO CURRENT

Following the dispute between **Wearcon & Nordbak** regarding intellectual property rights to epoxy composites, I bring the following to your attention:

Wearcon was founded in 1995. Initially buying epoxy composites from another local manufacturer (1995 -2001) and concentrating on product applications. In 2000 Wearcon started experimenting with formulations which it proceeded to manufacture in 2001. The products proved to be of good quality and acceptable to companies like Sasol, Anglo American, Eskom and many others.

In 2007 a claim was made by Nordbak that Wearcon stole its formulas by breaking in to a Nordbak site in 2006. This claim was denied by Wearcon on the basis that it had its own formulations since 2001. In this respect the criminal court has not made a ruling against Wearcon. Claims in the market that Wearcon formulas were stolen in 2006 and Wearcon based their production on it cannot be justified since Wearcon 2001 formulas were developed before 2006.

In 2009, Wearcon was interdicted not to use Nordbak formulas. This interdict did not affect Wearcon nor stop them from manufacturing products unique to Wearcon and made by them since 2001, nor developing or manufacturing new unique epoxy composites. It has in fact never been proven that Wearcon actually used Nordbak formulas.

Wearcon have also continuously been improving their formulations, with the help of professional consultants and to this effect have been granted a patent on six of its products in 2010. This patent was based on modernization of Wearcon 2001 formulations. The products developed in Wearcon own laboratories are substantially different to what was used in 2001 and is not in contravention of any court interdict.

It is also important to note that the technology used by Wearcon and its competitors prior to 2010, were never patented since the technology has been in the public domain since the early 1950's. To date it is only Wearcon who have come up with unique new patentable techniques in manufacturing that can claim to currently have a patent and unique technology in the field of epoxy composites in South Africa.

It is also important to understand that no one company can claim exclusivity on the individual raw materials in epoxy formulation which have long been in the public domain. The South African and international marketplace is in fact full of examples of identical and similar products in make-up that

are allowed to compete. The courts made it clear that no exclusivity on individual components are granted to any one company on raw materials that are freely available in the market.

Wearcon has put their own unique products on the market under non conflicting names and formulations, which in no way infringes on the intellectual property rights of its competitors. As such Wearcon has advanced the quality of its products on offer to its clients.

Wearcon reserves its constitutional right to compete in a matured market and will continue to find unique ways to keep its formulations relevant to market conditions.

We trust that the above deals sufficiently with any uncertainty.