



Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, APRIL 23, 1980

AT
202-633-2014

The Department of Justice today filed a civil suit against FMC Corporation of Chicago, Illinois, to enjoin enforcement of its patent on carbofuran, a pesticide.

Attorney General Benjamin R. Civiletti said the complaint, brought under the patent law, was filed in U.S. District Court in Philadelphia.

FMC Corporation is a multinational corporation whose businesses include the manufacture and distribution of pesticides. Its Agricultural Chemical Group has headquarters in Philadelphia.

Sanford M. Litvack, Assistant Attorney General in charge of the Antitrust Division, said the complaint alleges that FMC failed to file certain agreements with the U.S. Patent and Trademark Office as required by law.

The complaint alleges that the agreements were entered into by FMC in its settlement of an interference proceeding before the Patent and Trademark Office on carbofuran patent applications filed by FMC and Bayer AG, a West German corporation. Bayer AG markets agricultural chemicals in the United States through the Chemagro Division of its subsidiary, Mobay Chemical Corporation.

An interference proceeding is held by the Patent and Trademark Office when it must decide priority of invention

(MORE)

between conflicting patent applications. Section 135(c) of the Patent law -- which the suit alleges was violated -- requires parties to an interference proceeding to put in writing and file with the Patent and Trademark Office all agreements made in connection with their settlement of the interference.

Carbofuran, which is sold under the trademark Furadan by FMC and Chemagro, is used principally as a corn insecticide. FMC and Chemagro's combined United States sales of carbofuran products exceed \$100 million annually.

The complaint asks the court to declare unenforceable the carbofuran patent that was issued to FMC after termination of the interference proceeding.

####