

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

**RECEIVED**  
CLERK'S OFFICE

AUG 11 2003

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. )  
)  
MECALUX ILLINOIS, INC., a Delaware )  
corporation, )  
)  
Respondent. )

STATE OF ILLINOIS  
Pollution Control Board

No. PCB 03-222  
(Enforcement)

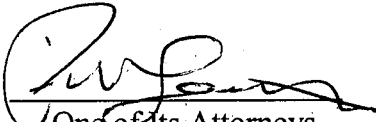
**NOTICE OF FILING**

To: Christopher Grant  
Assistant Attorney General  
Environmental Bureau  
188 West Randolph St., 20th Floor  
Chicago, IL 60601

PLEASE TAKE NOTICE that on August 11, 2003, I caused to be filed with the Clerk of the Illinois Pollution Control Board an **APPEARANCE** and **MECALUX ILLINOIS, INC.'S ANSWER TO COMPLAINT**, copies of which are attached hereto and hereby served upon you.

Respectfully submitted,

MECALUX ILLINOIS, INC.

By:   
One of Its Attorneys

Richard M. Saines  
BAKER & MCKENZIE  
One Prudential Plaza  
130 East Randolph Drive  
Chicago, Illinois 60601  
(312) 861-8000

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the **APPEARANCE** and **MECALUX ILLINOIS, INC.'S ANSWER TO COMPLAINT** were served on the person to whom the foregoing Notice is addressed by mailing a copy via first class mail, postage prepaid, on August 11, 2003.



\_\_\_\_\_  
One of Its Attorneys

CHIDOC02, 589269.1

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. )  
)  
MECALUX ILLINOIS, INC., a Delaware )  
corporation, )  
)  
Respondent. )

**RECEIVED**  
CLERK'S OFFICE

AUG 11 2003

No. PCB 03-222 )  
(Enforcement) )  
STATE OF ILLINOIS )  
Pollution Control Board )

APPEARANCE

I, Richard M. Saines, hereby file my Appearance in this proceeding on behalf of Mecalux Illinois, Inc.

  
Richard M. Saines

Richard M. Saines  
BAKER & MCKENZIE  
One Prudential Plaza  
130 East Randolph Street  
Chicago, Illinois 60601  
(312) 861-8000

RECEIVED

CLERK'S OFFICE

AUG 11 2003

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 MECALUX ILLINOIS, INC., a Delaware )  
 corporation, )  
 )  
 Respondent. )

STATE OF ILLINOIS  
Pollution Control Board

No. PCB 03-222  
(Enforcement)

**MECALUX ILLINOIS, INC.'S ANSWER TO COMPLAINT**

Mecalux Illinois, Inc. ("Mecalux"), by its attorneys, Baker & McKenzie, answers Complainant's Complaint as follows:

**COUNT I**  
**VIOLATION OF VOM STANDARDS**

1. This Complaint is brought on behalf of THE PEOPLE OF THE STATE OF ILLINOIS by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request Illinois Environmental Protection Agency ("Illinois EPA") pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2002).

**ANSWER:** Paragraph 1 is a legal conclusion to which no answer is required and contains no allegations related to Mecalux.

2. Illinois EPA is an administrative agency of the State of Illinois, established by Section 4 of the Act, 415 ILCS 5/4 (2002), and is charged, *inter alia*, with the duty of enforcing the Act, and regulations promulgated by the Illinois Pollution Control Board ("Board").

**ANSWER:** Paragraph 2 is a legal conclusion to which no answer is required and contains no allegations related to Mecalux.

3. At all times relevant to this complaint, Respondent MECALUX ILLINOIS, INC. ("Mecalux") was, and is, a Delaware corporation, duly authorized to transact business in the State of Illinois.

**ANSWER:** Mecalux admits the factual allegations in Paragraph 3 but denies that any liability results from such allegations.

4. Mecalux owns and operates a manufacturing facility, located at 1600 North 25th Avenue, Melrose Park, Cook County, Illinois ("Facility" or "Site"). At its Facility, Mecalux manufactures and coats metal storage system components.

**ANSWER:** Mecalux admits the allegations in Paragraph 4.

5. Mecalux' coating lines consist, inter alia, of a hydro-soluble process, consisting of degreasing and demineralization equipment and a paint spray booth ("Hydro-Soluble process"), and a cataphoresis coating process, consisting of a cataphoresis painting dip tank and an open top degreaser ("Cataphoresis process"). Both the Hydro-Soluble process and the Cataphoresis process emit volatile organic compounds ("VOC's") to the atmosphere inside and outside of the facility.

**ANSWER:** Mecalux denies the factual allegations in sentence one of Paragraph 5.

Mecalux admits the factual allegations in Sentence 2 of Paragraph 5 but denies that these allegations result in any violations of the Act, regulations or its permit.

6. On or about November 21, 2000, Mecalux began construction of the Hydro-Soluble coating line. On or about December 4, 2000, Mecalux began construction of the Cataphoresis coating process. Mecalux did not apply for and obtain construction or operation permits prior commencing construction of the two coating lines.

**ANSWER:** Mecalux denies the allegations in Paragraph 6.

7. On August 14, 2001, the Illinois EPA issued a Construction and operating permit ("Permit") for the two coating lines at Mecalux' facility. A true and accurate copy of Respondent's Permit is attached hereto as 'Exhibit A.'

**ANSWER:** Mecalux admits the allegations in Paragraph 7, but denies that any liability results from such allegations.

8. From approximately May 25, 2001 until a date better known to respondent, but no later than August 14, 2001, Mecalux used and applied coatings containing a VOC content in excess of 2.8 pounds per gallon ("noncomplying coatings") in the Hydro-Soluble coating process at the facility. The noncomplying coatings were used to coat the metal storage system components produced at the Facility.

**ANSWER:** Mecalux denies the allegations in Paragraph 8.

9. During the period from May 25, 2001 until August 14, 2001, Respondent applied approximately 537 gallons of noncomplying coatings to various metal parts at its facility.

**ANSWER:** Mecalux admits the allegations in Paragraph 9.

10. Section 9(a) of the Act, 415 ILCS 5/9(a) (2002) provides, as follows:

No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

**ANSWER:** The allegations of Paragraph 10 are legal conclusions to which no answer is required.

11. Section 3.26 of the Act, 415 ILCS 5/3.26 (2002), provides, as follows:

“PERSON” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

**ANSWER:** The allegations of Paragraph 11 are legal conclusions to which no answer is required.

12. The Respondent, a Delaware corporation, is a “person” as that term is defined in Section 3.26 of the Act, 415 ILCS 5/3.26 (2002).

**ANSWER:** The allegations of Paragraph 12 are legal conclusions to which no answer is required.

13. Pursuant to authority granted under the Act, the Board has promulgated regulations governing the discharge of contaminants into the air, codified at 35 Ill. Adm. Code Subtitle B (“Board Air Pollution regulations”).

**ANSWER:** The allegations of Paragraph 13 are legal conclusions to which no answer is required.

14. Section 201.141 of the Board Air Pollution regulations, 35 Ill. Adm. Code 201.141 provides, as follows:

No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any state so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, or so as

to violate the provisions of this Chapter, or so as to prevent the attainment or maintenance of any applicable ambient air quality standard.

**ANSWER:** The allegations of Paragraph 14 are legal conclusions to which no answer is required.

15. Part 218 of Subtitle C of the Board Air Pollution regulations, titled "Organic Material Emission Standards and Limitation for the Chicago Area" regulates the VOM content of Coatings used at the Respondent's facility. Respondent's coating operations are regulated under the category of "Miscellaneous Metal Parts and Products."

**ANSWER:** The allegations of Paragraph 15 are legal conclusions to which no answer is required.

16. Section 218.204 of the Board Air Pollution regulations, 35 Ill. Adm. Code 218.204, provides, in pertinent part, as follows:

Except as provided in Sections 218.205, 218.207, 218.208 and 218.216 of this Subpart, no owner or operator of a coating line shall apply at any time any coating in which the VOM content exceeds the following emission limitations for the specified coating. Except as provided in Section 218.204(1), compliance with the emission imitations marked with an asterisk in this Section is required and after March 15, 1996 and compliance with emission limitations not marked with an asterisk is required until March 15, 1996 . . . [t]he emission limitations are as follows:

\* \* \*

j) Miscellaneous Metal Parts and Products Coating

\* \* \*

4) All other coatings

	kg/l	lbs/gal
Baked	0.34*	2.8

**ANSWER:** The allegations of Paragraph 16 are legal conclusions to which no answer is required.

17. Between May 25, 2001 and August 14, 2001, the Respondent applied at least 537 gallons of a coating which exceeded the applicable VOM limitation. Respondent has therefore

violated Sections 218.204 and 201.141 of the Board Air Pollution regulations, 35 Ill. Adm. Code Sections 218.204 and 201.141, and thereby also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2002).

**ANSWER:** Mecalux admits to the allegations in sentence 1 of Paragraph 17. Mecalux denies that it has violated Section 9(a) of the Act.

**COUNT II**  
**CONSTRUCTION WITHOUT A PERMIT**

1-10. Complainant realleges and incorporates by reference herein paragraphs 1 through 7 and paragraphs 11 through 13 of Count I as paragraphs 1 through 10 of this Count II.

**ANSWER:** Mecalux re-answers and incorporates by reference herein Paragraphs 1 through 7 and Paragraphs 11 through 13 of Count I as its Answers to Paragraphs 1 through 10 of this Count II.

11. Section 9 of the Act, 415 ILCS 5/9 (2002), provides, in pertinent part, as follows:

No person shall:

\* \* \*

(b) Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit.

**ANSWER:** The allegations of Paragraph 11 of Count II are legal conclusions to which no answer is required.

12. Section 201.142 of the Board Air Pollution regulations, 35 Ill. Adm. Code 201.142, provides, as follows:

No person shall cause or allow the construction of any new emission source or any new air pollution control equipment, without first obtaining a construction permit from the Agency, except as provided in Section 201.146.

**ANSWER:** The allegations of Paragraph 12 of Count II are legal conclusions to which no answer is required.



13. Section 3.06 of the Act, 415 ILCS 5/3.06 (2002), provides, as follows:

“CONTAMINANT” is any solid, liquid, gaseous matter, any odor, or any form of energy, from whatever source.

**ANSWER:** The allegations of Paragraph 13 of Count II are legal conclusions to which no answer is required.

14. The VOM emitted from the two coating lines at Respondent’s facility, is a “contaminant”, as that term is defined in Section 3.06 of the Act, 415 ILCS 5/3.06 (2002).

**ANSWER:** The allegations of Paragraph 14 of Count II are legal conclusions to which no answer is required.

15. Section 201.102 of the Board Air Pollution regulations, 35 Ill. Adm. Code 201.102, provides, in pertinent part, as follows:

“Emission Source”: any equipment or facility of a type capable of emitting specified air contaminants to the atmosphere.

“New Emission Source”: any emission source, the construction or modification of which is commenced on or after April 14, 1972.

**ANSWER:** The allegations of Paragraph 15 of Count II are legal conclusions to which no answer is required.

16. Respondents coating lines are “emission source[s]” and “new emission source[s]” as those terms are defined in 35 Ill. Adm. 201.102.

**ANSWER:** The allegations of Paragraph 16 of Count II are legal conclusions to which no answer is required.

17. Section 3.02 of the Act, 415 ILCS 5/3.02 (2002), contains the following definition:

“AIR POLLUTION” is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

**ANSWER:** The allegations of Paragraph 17 of Count II are legal conclusions to which no answer is required.

18. Respondent's two coating lines emit, or are capable of emitting VOM, a contaminant injurious to human health, to the atmosphere, and therefore are capable of causing or contributing to air pollution.

**ANSWER:** Mecalux denies the allegations of Paragraph 18.

19. On or about November 21, 2000 and December 4, 2000, the Respondent commenced construction of, respectively, the Hydro-Soluble line and the Cataphoresis coating line, without first having applied for or obtained construction permits from Illinois EPA.

**ANSWER:** Mecalux denies the allegations of Paragraph 19 of Count II.

20. By commencing construction of the two coating lines, Respondent caused or allowed the construction of two new emission sources without first having applied for or obtained a permit from Illinois EPA. Respondent therefore violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), and Section 201.142 of the Board Air Pollution regulations, 35 Ill. Adm. Code 201.142.

**ANSWER:** Mecalux denies the allegations of Paragraph 20 of Count II.

Respectfully submitted,

MECALUX ILLINOIS, INC.

By: 

One of its Attorneys

Richard M. Saines  
BAKER & MCKENZIE  
Attorneys for Petitioner  
One Prudential Plaza  
130 East Randolph Street  
Chicago, Illinois 60601  
(312) 861-8000

CHIDOC02, 588845.1