

STATEMENT OF CONSIDERATIONS

PETITION FOR ADVANCE WAIVER OF PATENT RIGHTS BY THE 3M COMPANY ("3M") UNDER COOPERATIVE AGREEMENT NO. DE-FC36-08GO18027 BETWEEN 3M AND DOE; W(A)-09-052; CH-1516

The Petitioner, 3M, has requested a waiver of domestic and certain foreign patent rights for all subject inventions that may be conceived or first actually reduced to practice by 3M arising from its participation under the above referenced cooperative agreement entitled "Cleanable and Hardcoat Coatings for Increased Durability of Silvered Polymeric Mirrors."

The objective of the project is to develop improved coatings for metalized mirror films used in concentrated solar power (CSP) installations. More specifically, the object is to develop novel optical coatings for application to silvered polymeric mirrors to make them more durable and less costly. Furthermore, the project will validate the impact of the developed coatings on the levelized cost of electricity in field trials.

The total cost of the project is approximately \$3.6 million with the Petitioner providing at least 20% cost sharing. This waiver is contingent upon the Petitioner maintaining, in aggregate, the above cost sharing percentages over the course of the cooperative agreement.

As noted in its waiver petition, Petitioner is a diversified technology company with extensive experience in a variety of technical fields including broad experience in the areas of hardcoats, cleanable coatings and durability technologies. Furthermore, 3M is a recognized leader in accelerated weathering testing and has invested millions of dollars into research of hardcoat and cleanable coating technologies.

Considering Petitioner's technical expertise and significant investment in this technology including sizable cost sharing in this cooperative agreement, it is reasonable to conclude that Petitioner will continue to develop and ultimately commercialize the technology and products which may arise from this cooperative agreement.

Petitioner has agreed that this waiver shall be subject to the march-in and preference for U.S. industry provisions, as well as the U.S. Government license, comparable to those set out in 35 U.S.C. 202-204. Further, Petitioner has agreed to the attached U.S. Competitiveness provision paragraph (t). In brief, Petitioner has agreed that products embodying a waived invention or produced through the use of a waived invention will be manufactured substantially in the United States unless the Petitioner can show to the satisfaction of the DOE that is not commercially feasible to do so.

Referring to item 10 of the waiver petition, granting this waiver is not anticipated to have any adverse impact on competition. Several competitors are working on different film technologies and there are several commercially available coatings already on the market.

Considering the foregoing, it is believed that granting this waiver will provide Petitioner with the necessary incentive to invest its resources in the commercialization

of the results of the cooperative agreement in a fashion which will make the above technology available to the public in the shortest practicable time. Therefore, upon evaluation of the waiver petition and in view of the objectives and considerations set forth in 10 CFR 784, all of which have been considered, it is recommended that the requested waiver be granted.

/Brian J. Lally/

Brian J. Lally

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Intellectual Property Law Division

DOE Chicago Office

Date: September 15, 2009

Based upon the foregoing Statement of Considerations and representations in the attached waiver petition, it is determined that the interests of the United States and the general public will best be served by a waiver of patent rights of the scope described above, and therefore the waiver is granted. This waiver shall not apply to any modification or extension of the cooperative agreement, where through such modification or extension, the purpose, scope or cost of the cooperative agreement has been substantially altered.

CONCURRENCE:



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Date: 10/2/07

APPROVAL:



Paul A. Gottlieb
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Date: 10/2/07