

EXHIBIT 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ADVANCED FIBER TECHNOLOGIES (AFT) TRUST,)
)
<i>Plaintiff/Counter-Defendant,</i>)
)
v.)
)
J&L FIBER SERVICES, INC.,)
)
<i>Defendant/Counter-Plaintiff.</i>)
)
)

Civil Action No.:
1:07-CV-1191

LEK/DRH

**DECLARATION OF BRETT M. HUTTON, ESQ. IN
SUPPORT OF PLAINTIFF’S MOTION TO STRIKE THE EXPERT
REPORT OF PETER SEIFERT AND PRECLUDE MR. SEIFERT FROM
TESTIFYING AT TRIAL REGARDING INVALIDITY OF THE ‘940 PATENT**

I, Brett M. Hutton, declare and state as follows:

1. I am an attorney duly licensed to practice law before the courts of the State of New York and the United States District Court for the Northern District of New York, and a shareholder with the law firm of Heslin Rothenberg Farley & Mesiti P.C., attorneys for Plaintiff Advanced Fiber Technologies (AFT) Trust (hereinafter “Plaintiff” or “AFT”) in this action. I make this Declaration in support of Plaintiff’s Motion to Strike the Expert Report of Peter Seifert and Preclude Mr. Seifert from Testifying at Trial Regarding Invalidity of the ‘940 Patent.

2. On May 1, 2009, Defendant served the Expert Report of Peter Seifert on the Invalidity of U.S. Patent RE39,940. A true and accurate copy of the Expert Report of Peter Seifert on the Invalidity of U.S. Patent RE39,940 served on May 1, 2009, is attached here as **Exhibit “A”**.

3. AFT deposed Defendant's expert and Rule 30(b)(6) corporate designee on invalidity, Peter Seifert, on August 5, 2009. Attached hereto as **Exhibit "B"** are true and accurate excerpts from Mr. Seifert's deposition taken on August 5, 2009.

4. AFT deposed Defendant's expert and Rule 30(b)(6) corporate designee on invalidity, Dr. Richard Venditti, on July 29, 2009. Attached hereto as **Exhibit "C"** are true and accurate excerpts from Dr. Venditti's deposition taken on July 29, 2009.

5. AFT deposed Defendant's Screen Cylinder Product Manager and Rule 30(b)(6) designee on infringement, Mark Lutz, on July 15, 2009. Attached hereto as **Exhibit "D"** are true and accurate excerpts from Mr. Lutz's deposition taken on July 15, 2009.

6. I declare under the penalty of perjury under the laws of the United States of America that the foregoing information contained in this Declaration is true and correct.

Dated: October 1, 2009

/s/ Brett Hutton
Brett Hutton, Esq.

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

ADVANCED FIBER TECHNOLOGIES
(AFT) TRUST,

Plaintiff,

-against-

J&L FIBER SERVICES, INC.,

Defendant.

Civil Action No: 07-01191 LEK/DRH

**EXPERT REPORT OF PETER SEIFERT ON THE INVALIDITY OF U.S. PATENT
RE39,940**

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