

ESTTA Tracking number: **ESTTA244522**

Filing date: **10/23/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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|------------------------|--|
| Proceeding | 91173411 |
| Party | Plaintiff 3M Company |
| Correspondence Address | Joel D. Leviton Fish & Richardson P.C. 60 South Sixth Street, Suite 3300 Minneapolis, MN 55402 UNITED STATES leviton@fr.com, jal@fr.com, tmdoctc@fr.com |
| Submission | Other Motions/Papers |
| Filer's Name | Susan J. Hightower |
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| Signature | /SJH/ |
| Date | 10/23/2008 |
| Attachments | hightower decl.pdf (88 pages)(5347453 bytes) |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

3M Company,

Opposer,

v.

Professional Gallery, Inc.,

Applicant.

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Opposition No. 91173411

**DECLARATION OF SUSAN J. HIGHTOWER IN SUPPORT OF
OPPOSER'S RESPONSE IN OPPOSITION TO APPLICANT'S RENEWED MOTION
TO COMPEL DISCOVERY RESPONSES**

I, Susan J. Hightower, declare as follows:

1. I am an attorney with the law firm Pirkey Barber LLP in Austin, Texas, and counsel for 3M Company ("3M") in the above-captioned proceeding.
2. This declaration is submitted in support of Opposer's Response to Applicant's Renewed Motion to Compel Discovery Responses.
3. Attached as Exhibit P-3 is a true and correct copy of a letter from Dustin R. DuFault to William G. Barber dated July 30, 2008.
4. Attached as Exhibit P-4 is a true and correct copy of a letter from Eric R. Olson to Dustin R. DuFault dated August 6, 2008.
5. Attached as Exhibit P-5 is a true and correct copy of an email from Bill Barber to Dustin DuFault dated September 9, 2008.
6. Attached as Exhibit P-6 is a true and correct copy of Applicant's Privilege Log.

7. Attached as Exhibit P-7 is a true and correct copy of a letter from Joel D. Leviton to Dustin R. DuFault dated September 15, 2008 with attachment 3M Company v. Professional Gallery Inc. Supplemental Privilege Log.

8. Attached as Exhibit P-8 is a true and correct copy of a letter from Joel D. Leviton to Dustin R. DuFault dated July 16, 2007.

9. Attached as Exhibit P-9 is a true and correct copy of *Autotech Technologies Limited Partnership v. Automationdirect.com, Inc.*, 248 F.R.D. 556 (N.D. Ill. 2008), obtained from the Westlaw database.

10. Attached as Exhibit P-10 is a true and correct copy of *McCord v. State Farm Fire & Casualty Insurance Co.*, No. 06-4998, 2008 WL 1988850 (E.D. La. May 2, 2008), obtained from the Westlaw database.

11. Attached as Exhibit P-11 is a true and correct copy of *Schmidt v. Levi Strauss & Co.*, No. C04-01026, 2007 WL 2688467 (N.D. Cal. Sept. 10, 2007), obtained from the Westlaw database.

12. Attached as Exhibit P-12 is a true and correct copy of *Ponca Tribe of Indians of Oklahoma v. Continental Carbon Co.*, No. CIV-05-445-C, 2006 WL 2927878 (W.D. Okla. Oct. 11, 2006), obtained from the Westlaw database.

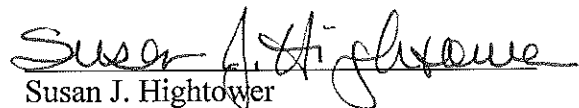
13. Attached as Exhibit P-13 is a true and correct copy of *Wyeth v. Impax Laboratories, Inc.*, 248 F.R.D. 169 (D. Del. 2006), obtained from the Westlaw database.

14. Attached as Exhibit P-14 is a true and correct copy of *Pace v. International Mill Service, Inc.*, No. 205 CV 69, 2007 WL 1385385 (N.D. Ind. May 7, 2007), obtained from the Westlaw database.

15. Attached as Exhibit P-15 is a true and correct copy of *Kentucky Speedway, LLC v. National Association of Stock Car Auto Racing, Inc.*, No. 05-138, 2006 WL 5097354 (E.D. Ky. Dec. 18, 2006), obtained from the Westlaw database.

16. Attached as Exhibit P-16 is a true and correct copy of *Bank Brussels Lambert v. Credit Lyonnais (Suisse) S.A.*, 160 F.R.D. 437 (S.D.N.Y. 1995).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed in Austin, Texas this 23rd day of October, 2008.

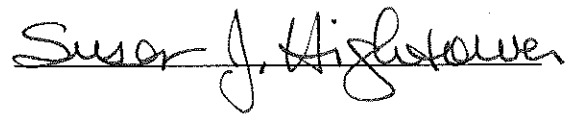

Susan J. Hightower

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing DECLARATION OF SUSAN J. HIGHTOWER IN SUPPORT OF OPPOSER'S RESPONSE IN OPPOSITION TO APPLICANT'S RENEWED MOTION TO COMPEL DISCOVERY RESPONSES has been served via First Class Mail, postage prepaid, to each counsel for Applicant at the addresses below, on October 23, 2008:

Dustin R. DuFault
DuFault Law Firm
700 Lumber Exchange Building
Ten South Fifth Street
Minneapolis, MN 55402

Paul Egtvedt, Esq.
2915 Wayzata Blvd.
Minneapolis, MN 55405



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