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

Proceeding	92044874
Party	Plaintiff 3M Company 3M Company 3M Center 220-11W-01 Saint Paul, MN 55144
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Date	03/07/2006
Attachments	2006-03-07 Leviton Decl.pdf (97 pages)

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

3M COMPANY,

Petitioner,

v.

GASKA TAPE, INC.,

Registrant.

In the matter of Registration No. 2,963,732

For the mark GHB

Registered on June 28, 2005

Cancellation No.: 92044874

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

**DECLARATION OF JOEL D. LEVITON IN SUPPORT OF 3M COMPANY'S
MOTION FOR ENTRY OF A PROTECTIVE ORDER**

I, Joel D. Leviton, declare as follows:

1. I am an attorney with Fish & Richardson P.C., P.A., Minneapolis, Minnesota, and counsel for 3M Company ("3M") in the above-captioned proceeding.
2. This declaration is submitted in support of 3M's Motion for Entry of a Protective Order.
3. 3M served its first set of written discovery requests upon Registrant ("Gaska") on November 17, 2005. On December 20, 2005, counsel for Gaska telephoned me seeking a thirty-day extension to respond to 3M's written discovery requests. 3M granted Gaska a thirty-day extension of time to respond to 3M's discovery requests.
4. On December 27, 2005, I sent counsel for Gaska 3M's Stipulated Protective Order. Attached hereto as Exhibit 1 is a true and correct copy of my letter dated December 27, 2005 enclosing the Stipulated Protective Order. Attached hereto as Exhibit 2 is a true and

correct copy of 3M's proposed Stipulated Protective Order. Gaska did not respond to my letter of December 27, 2005 enclosing the protective order.

5. On February 7, 2006, I telephoned Gaska's counsel regarding the protective order. In a return call, Gaska's counsel indicated to me that he would discuss the protective order with his client. Gaska's counsel further indicated that his client consented to a two-month extension of the discovery period.

6. On February 9, 2006, I sent an electronic mail to Gaska's counsel following up on our telephone call of February 7, 2006. Gaska's counsel did not respond to my follow-up email, nor has he contacted me regarding the status of the protective order. Gaska also has not produced any documents in response to 3M's document requests.

7. Attached hereto are as Exhibit 3 are true and correct copies of Gaska's responses to 3M's first set of interrogatories and discovery requests.

8. Attached hereto as Exhibit 4 is a true and correct copy of *U.S. Steel Corp. v. U.S.*, 730 F.2d 1465 (Fed. Cir. 1984).

9. Attached hereto as Exhibit 5 is a true and correct copy of a printout from the Lexis database of a Board decision issued in *Helene Curtis, Inc. v. Derma-Cure, Inc.*, Cancellation No. 23,306, 1996 TTAB LEXIS 457 (T.T.A.B. July 9, 1996).

10. Attached hereto as Exhibit 6 is a true and correct copy of the *Order on Protective Order filed in Minnesota Mining & Mfg. Co., et al. v. Acco Brands, Inc., et al.*, Civ. No. 01-607 JRT/AJB (D. Minn. Aug. 20, 2003).

11. Attached hereto as Exhibit 7 is a true and correct copy of the *Order on Protective Order filed in 3M Co. and 3M Innovative Props. Co. v. Reflexite Corp.*, Civil No. 02-1251 ADM/AJB (D. Minn. Aug. 21, 2003).

12. Attached hereto as Exhibit 8 is a true and correct copy of the *Order on Protective Order filed in 3M Innovative Props. Co. and Dyneon, LLC v. Dupont Dow Elastomers, LLC*, Civ. No. 03-3364 PAM/RLE (D. Minn. Jan. 14, 2004).

I declare under penalty of perjury that the foregoing is true and correct. Executed on
March 7, 2006


Joel D. Leviton

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**Declaration of Joel D. Leviton
3M Company v. Gaska Tape, Inc.
Cancellation No.: 92044874
Registration No.: 2,963,732
Registration Date: June 28, 2005**

EXHIBIT 1

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