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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

RICOH COMPANY, LTD.; RICOH
CORPORATION; and RICOH ELECTRONICS,
INC.,

Plaintiffs,

vs.

KATUN CORPORATION; PNA HOLDINGS
LLC; GENERAL PLASTICS INDUSTRIAL
CO., LTD.; and NASHUA CORPORATION,

Defendants.

Civil Action No. 03-CV-2612 (WHW)

**GENERAL PLASTIC INDUSTRIAL
CO., LTD'S AMENDED
COUNTERCLAIM TO
PLAINTIFFS' FIRST AMENDED
COMPLAINT FOR PATENT
INFRINGEMENT, TRADEMARK
INFRINGEMENT, UNFAIR
COMPETITION, AND
COPYRIGHT INFRINGEMENT
WITH JURY REQUEST**

For its counterclaim against Plaintiffs Ricoh Company Ltd. ("Ricoh Ltd."), Ricoh Corporation ("Ricoh Corp."), and Ricoh Electronics, Inc. ("REI") (collectively, "Plaintiffs" or "Ricoh"), Defendant General Plastic Industrial Co., Ltd. ("GPI") states as follows:

1. Defendant GPI's counterclaim arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and under 28 U.S.C. § 1338(a). There is a justiciable controversy concerning the infringement, validity, and enforceability of U.S. Patent Nos. 5,455,662 ("the

'662 patent"), 5,627,631 ("the '631 patent"), 5,828,935 ("the '935 patent"), 6,075,963 ("the '963 patent"), 6,289,195 ("the '195 patent"), and 6,418,293 ("the '293 patent"), collectively, the "patents-in-suit," as set forth in the First Amended Complaint and in the Answer to which this counterclaim is appended.

2. This Court has subject matter jurisdiction over this counterclaim under 28 U.S.C. §§ 1331 and 1338. Personal jurisdiction and venue is proper as a result of Plaintiffs having availed themselves of this Court to sue Defendants.

PARTIES

3. GPI Corporation is a Minnesota corporation with a place of business at 10951 Bush Lake Road, Minneapolis, Minnesota.

4. Ricoh Ltd. claims to be the owner by assignment of the patents-in-suit, Ricoh Corp. claims to be the exclusive licensee of the patents-in-suit, and Plaintiff REI claims to be a subsidiary of Ricoh Corp. engaged in, *inter alia*, the manufacture of toner bottles.

THE FACTS

5. The '662 patent issued on October 3, 1995 naming Hideo Ichikawa, Takeshi Saito, Sunao Ikeda, Nobuhiro Makita, Seiji Ozawa, Shigeru Yoshiki, and Takaaki Yanagisawa as inventors.

6. The '631 patent issued on May 6, 1997 naming Hideo Ichikawa, Takeshi Saito, Sunao Ikeda, Nobuhiro Makita, Seiji Ozawa, Shigeru Yoshiki, and Takaaki Yanagisawa as inventors.

7. The '963 patent issued on June 13, 2000 naming Hideo Ichikawa, Takeshi Saito, Sunao Ikeda, Nobuhiro Makita, Seiji Ozawa, Shigeru Yoshiki, and Takaaki Yanagisawa as inventors.

8. The '195 patent issued on September 11, 2001 naming Hideo Ichikawa, Takeshi Saito, Sunao Ikeda, Nobuhiro Makita, Seiji Ozawa, Shigeru Yoshiki, and Takaaki Yanagisawa as inventors.

9. The '293 patent issued on July 9, 2002 naming Hideo Ichikawa, Takeshi Saito, Sunao Ikeda, Nobuhiro Makita, Seiji Ozawa, Shigeru Yoshiki, and Takaaki Yanagisawa as inventors.

10. The '935 patent issued on October 27, 1998 naming Kenzo Tatsumi, Noboru Kusunose, and Shigeru Yoshiki as inventors.

11. Plaintiffs allege in their First Amended Complaint that Defendant GPI is infringing each of the patents-in-suit.

COUNT I: NON-INFRINGEMENT OF RICOH'S PATENTS-IN-SUIT

12. Defendant GPI incorporates herein and realleges as if fully set forth in this paragraph the averments of paragraphs 1-11 of this counterclaim.

13. Defendant GPI has not infringed, and is not infringing the patents-in-suit.

14. Unless plaintiffs are enjoined, Defendant GPI believes Plaintiffs will continue to assert that Defendant GPI is infringing the patents-in-suit.

COUNT II: INVALIDITY OF RICOH'S PATENTS-IN-SUIT

15. Defendant GPI incorporates herein and realleges as if fully set forth in this paragraph the averments of paragraphs 1-14 of this counterclaim.

16. The asserted claims of the patents-in-suit are invalid for failure to comply with one or more of the provisions of section 35 U.S.C. §§ 101, *et seq.*, including, without limitation, 35 U.S.C. §§ 102, 103, and 112.

17. Unless plaintiffs are enjoined, Defendant GPI believes Plaintiffs will continue to assert that Defendant GPI is infringing the patents-in-suit.

COUNT III: UNENFORCEABILITY OF RICOH'S U.S. PATENT NO. 5,828,935
AND OTHER PATENTS IN ITS CHAIN OF PRIORITY

18. Defendant GPI incorporates herein and realleges as if fully set forth in this paragraph the averments of paragraphs 1-17 of this counterclaim.

19. The '935 patent is unenforceable for inequitable conduct for failure to comply with 37 C.F.R. § 1.56. In particular, those associated with and involved in the drafting, filing, and/or prosecution of the patent application that resulted in the '935 patent had knowledge of information of the type described in section 1.56 that was not disclosed to the United States Patent & Trademark Office ("the U.S.P.T.O").

20. The '935 patent was filed on October 11, 1996 and issued on October 27, 1998. For at least during that time, those associated with and involved in the drafting, filing, and/or prosecution of the patent application that resulted in the '935 patent had a duty of candor and good faith in dealing with the U.S.P.T.O, including a duty to disclose to the U.S.P.T.O. all information known to be material to patentability as defined in 37 C.F.R. § 1.56. Ricoh, the named inventors of the '935 patent, and Ricoh's counsel were subject to the duty of candor and good faith in dealing with the U.S.P.T.O.

21. On or around July 23, 1993, Ricoh filed suit against International Communication Materials, Inc. ("ICM") for infringement of Ricoh's U.S. Patent Nos.

4,611,730 (“the ‘730 patent”) and 4,878,603 (“the ‘603 patent”). Ricoh’s patent counsel that prosecuted the patents-in-suit, including the ‘935 patent, represented Ricoh in their patent infringement case against ICM.

22. Ricoh Ltd. is listed as the assignee of the ‘730 and ‘603 patents, which are not at issue in the present action.

23. Both the ‘730 patent and the ‘603 patent are directed to toner bottles that can be driven to rotate. ICM, on March 31, 1994 filed a Request for Reexamination Pursuant to 37 C.F.R. §1.510 for both the ‘730 patent and the ‘603 patent. One of the prior art references forming the basis for ICM’s Requests for Reexamination of the ‘730 and ‘603 patents was U.S. Patent No. 3,853,246 (“the Dubois reference”). Another prior art reference forming the basis for ICM’s Request for Reexamination of the ‘730 patent was U.S. Patent No. 4,212,264 (“the Knechtel reference”).

24. Ricoh’s patent counsel that prosecuted the patents-in-suit, including the ‘935 patent, represented Ricoh in the Reexamination proceedings for the ‘730 and ‘603 patents, based in part on the Knechtel and Dubois references.

25. Ricoh, and Ricoh’s counsel, further demonstrated their awareness of the Knechtel and Dubois references, and the materiality of those references, by citing the Knechtel and Dubois references to the U.S.P.T.O. on an Information Disclosure Statement filed with the U.S.P.T.O. on or around November 21, 1994 during the prosecution of the application that issued as the ‘662 patent. The ‘662 patent was before a different Patent Examiner than the Examiner for the ‘935 patent. Ricoh’s patent counsel for the prosecution of the ‘662 patent was also Ricoh’s patent counsel for the prosecution of the ‘935 patent.

26. The Knechtel and Dubois references were also cited by the European Patent Office via a European Search Report on or around February 27, 1996, in conjunction with Ricoh's European application for a patent covering a toner bottle.

27. In a communication on or around June 9, 1996, the European Patent Office discussed the Dubois Reference in a rejection of Ricoh's patent claims for a toner bottle. In particular, the European Patent Office stated that the Dubois reference "disclose[s] a cylindrical container for use with a holding means and a driving means for rotating said container about a longitudinal axis". The European Patent Office continued by stating that the Dubois reference "show[s] the well-known bottle shape of the cylindrical developer container."

28. Ricoh again demonstrated its awareness of the materiality of the Knechtel and Dubois references by filing these European Patent Office Documents with the U.S.P.T.O. during the prosecution of the application that issued as the '631 patent. The Patent Examiner for the '631 patent was different than the Examiner for the '935 patent. Ricoh's patent counsel for the prosecution of the '631 patent was also Ricoh's patent counsel for the prosecution of the '935 patent.

29. The '935 patent shares at least one named inventor in common with the '662 and '631 patents.

30. The Knechtel reference discloses a toner bottle that may be rotatably driven from a bottom portion opposite the end containing an opening. The Knechtel reference discloses each and every limitation of claim 15 of the '935 patent. A reasonable examiner would have found the Knechtel reference material to the patentability of at least claim 15 of the '935 patent.

31. The Knechtel and Dubois references were material to the examination of the '935 patent and Ricoh, its patentees, and its patent counsel knew, or should have known, that his withheld information was material.

32. Despite the awareness of the materiality of the Knechtel and Dubois references by Ricoh, Ricoh's counsel, and at least one named inventor on the '935 patent, the Knechtel and Dubois references were not disclosed to the Patent Examiner of the application that resulted in the '935 patent.

33. An inference of an intent to deceive the U.S.P.T.O. on the part of Ricoh, Ricoh's patent counsel, and at least one named inventor of the '935 patent can and should be drawn based upon the information of the type described in 37 C.F.R. § 1.56 that Ricoh, Ricoh's counsel, and at least one named inventor of the '935 patent were aware of, but was not disclosed to the Patent Examiner at the U.S.P.T.O.

COUNT IV: UNENFORCEABILITY OF RICOH'S U.S. PATENT NO. 6,075,963
AND OTHER PATENTS IN ITS CHAIN OF PRIORITY

34. Defendant GPI incorporates herein and realleges as if fully set forth in this paragraph the averments of paragraphs 1-33 of this counterclaim.

35. The '963 patent is unenforceable for inequitable conduct for failure to comply with 37 C.F.R. § 1.56. In particular, those associated with and involved in the drafting, filing, and/or prosecution of the patent application that resulted in the '963 patent had knowledge of information of the type described in section 1.56 that was not disclosed to the U.S.P.T.O.

36. The '963 patent was filed on May 6, 1999 and issued on June 13, 2000. For at least during that time, those associated with and involved in the drafting, filing, and/or

prosecution of the patent application that resulted in the '963 patent had a duty of candor and good faith in dealing with the U.S.P.T.O., including a duty to disclose to the U.S.P.T.O. all information known to be material to patentability as defined in 37 C.F.R. § 1.56. Ricoh, the named inventors of the '963 patent, and Ricoh's counsel were subject to the duty of candor and good faith in dealing with the U.S.P.T.O.

37. Ricoh is listed as the assignee of U.S. Patent No. 5,983,059 ("the '059 patent"), which is not at issue in the present action. Ricoh's patent counsel that prosecuted the patents-in-suit also prosecuted the '059 patent.

38. Ricoh filed the '059 patent in the U.S.P.T.O. on September 8, 1997 and it issued on November 9, 1999. The issued claims of the '059 patent set forth a bottle and a cap that is inserted into the outlet or mouth of that bottle.

39. The Patent Examiner who prosecuted the '059 patent did not prosecute the application that resulted in the '963 patent, nor any other of the patents-in-suit that are genealogically related to the '963 patent.

40. The first substantive Office Action in the prosecution of the '059 patent issued on approximately March 31, 1999. There the Patent Examiner rejected all of the pending claims as being unpatentable over the prior art.

41. In the seventh paragraph of that Office Action for the '059 patent, the Patent Examiner stated:

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lutzker (348), Ayotte *et al.* (496), Obrist *et al.* (749), Fattori (866), Lane *et al.* (141), Mills *et al.* (988), and Krall (657) disclose art in caps. Ichikawa *et al.* (663) discloses art in the developer container.

42. In the response to this Office Action, Ricoh through its counsel, amended the claims of the '059 patent during prosecution, which led to allowance of the '059 patent on November 9, 1999.

43. On May 6, 1999—about two months after it received the Office Action for the '059 patent—Ricoh filed the application that eventually issued as the '963 patent, which is one of the patents-in-suit.

44. The '963 patent claims a lid or cap for a toner bottle.

45. The terms “lid” and “cap” may be used interchangeably. Ricoh itself uses the term “cap” in the '059 patent for the identical component as the “lid” in the '963 patent. *Compare* Fig. 30, reference numeral “55” of the '059 patent *with* Fig. 3B, reference numeral “25” of the '963 patent. In addition, the Patent Examiner who prosecuted the '963 patents used the terms interchangeably when he prosecuted Ricoh's U.S. Patent No. 5,500,719, which is the great grandparent of the '963 patent and in the same chain of priority. *See* Office Action dated May 16, 1995 for '719 patent, pp. 5-6; *see also* Ricoh's responsive Amendment dated September 11, 1995, pp. 5-6 (correspondingly using the terms cap and lid interchangeably).

46. During the prosecution of the '963 patent, Ricoh did not disclose the prior art references that the Examiner prosecuting the '059 patent determined to be “pertinent” regarding their “disclosure in the art of caps.” These patents are listed in paragraph 7 of the '059 patent's Office Action and quoted *supra*.

47. One example of this prior art that Ricoh, its inventors, and representatives failed to cite to the U.S.P.T.O. is U.S. Patent No. 3,318,496 to Ayotte *et al.* (“the Ayotte reference”) – the second patent in the Examiner's listing of relevant references quoted

above—which discloses an “insert plug 18” that includes all features of the claimed lid set forth in the body of claim 1. Moreover, the disclosed “insert plug 18” also embodies all of the limitations set forth in the dependent claims of the ‘963 patent.

48. Other relevant references cited during the prosecution of the ‘059 patent as being “pertinent” but Ricoh failed to cite to the Patent Examiner include, for example, U.S. Patent Nos. 3,400,866 to Fattori and 4,171,749 to Obrist *et al.* Similar to the Ayotte reference, these other references are likewise material to the lid or cap that Ricoh claimed in the ‘963 patent.

49. Despite the alleged inventors of the ‘963 patent, their assignee Ricoh, and Ricoh’s counsel each respectively having an obligation to disclose to the U.S.P.T.O. all material prior art of which they were aware, none of these entities informed the Patent Examiner prosecuting the ‘963 patent of the “pertinent” prior art disclosing “the art of caps” previously cited during the prosecution of Ricoh’s ‘059 patent.

50. These “pertinent” references were material to the examination of the ‘963 patent and Ricoh, its patentees, and its counsel knew, or should have known, that this withheld information was material.

51. The failure to cite the “pertinent” patents for their “disclosure in the art of caps” cited during the prosecution of the ‘059 patent constitutes inequitable conduct that renders all claims of the ‘963 patent unenforceable.

This inequitable conduct also renders other patents in the same priority chain unenforceable. Of note, the Patent Examiner for the ‘963 patent determined that “[t]he exact same device or mechanism is shown and claimed in the U.S. Patent No. 5,455,622” in claim 24 as in the claims for the ‘963 patent. *See* Office Action dated October 13, 1999, p. 3.

52. The withheld “pertinent” references providing “disclosure in the art of caps” that were cited during the prosecution of the ‘059 patent also render the claims of the ‘963 patent invalid as anticipating them or, alternatively, rendering them obvious.

53. An inference of an intent to deceive the U.S.P.T.O. on the part of Ricoh and Ricoh’s patent counsel can and should be drawn based upon the information of the type described in 37 C.F.R. § 1.56 that at least Ricoh and Ricoh’s counsel were aware of, but was not disclosed to the Patent Examiner at the U.S.P.T.O.

COUNT V: ANTITRUST

54. Defendant GPI incorporates herein and realleges as if fully set forth in this paragraph the averments of paragraphs 1-54 of this counterclaim.

55. Ricoh has asserted that one or more claims of the patents-in-suit are infringed by Defendant GPI. GPI denies such infringement. Ricoh has created at least a reasonable apprehension of suit against GPI by, among other acts, filing suit against GPI. Accordingly, there is a present and actual controversy between Ricoh and GPI.

A. RICOH’S ONGOING AND SYSTEMATIC FRAUD ON THE U.S.P.T.O.

56. Ricoh knowingly and willfully obtained the issuance and grant of the ‘662, ‘631, ‘935, and ‘963 patents by intentional, material fraud.

57. Ricoh’s fraud included knowingly, willfully, and falsely swearing before the U.S.P.T.O. that no material prior art existed which may have invalidated one or more of the claims of the ‘662, ‘631, ‘935, and ‘963 patents.

58. In addition to the intentional false statements and omissions stated in paragraphs 1-54 of this counterclaim, Plaintiff made additional deliberate and false

statements and omissions of material fact to the U.S.P.T.O. during the prosecution of the '662 and '631 patents.

59. During the prosecution of the '662 patent, the Patent Examiner rejected several claims that eventually issued over two prior art references. In response to the rejection, Plaintiffs made false statements related to the spiral guide inside the claimed toner bottle. The statements consisted of telling the Patent Examiner that the “combination of a small or reduced diameter mouth in conjunction with the guide means for providing material from the wide portion to the narrow portion when the material is rotated provides an advantage over any system anticipated by the prior art.” *See* '662 Patent File History, Amendment received at U.S.P.T.O. , Nov. 21, 1994 page 6.

60. Prior to making those statements to the U.S.P.T.O, Plaintiff was aware and had technically analyzed JP Sho.[1985] – 159769 (“Kitajima”) and knew that the Kitajima reference disclosed a system to provide for the movement of material from the wide portion to the narrow portion of the bottle. *See* RCL 5916-5923.

61. Despite this knowledge of the materiality of the Kitajima reference Plaintiffs intentionally omitted disclosing the Kitajima reference to the U.S.P.T.O. during prosecution of the '662 patent and falsely stated that the system of “providing movement from the wide portion to the narrow portion when the material was rotated” was not present in the prior art.

62. Likewise, during the prosecution of the '631 patent, the Patent Examiner rejected several claims that eventually issued over the Nakagawa prior art reference. Plaintiff amended its application and in an interview distinguished the Nakagawa reference by stating that in Nakagawa the guide means does not extend to the mouth. *See* '631 Patent File History, Examiner Interview Summary, Aug. 7, 1996.

63. Plaintiff argued that the guide means recited in the '631 patent application is a "means plus function" limitation wherein said guide means is recited as being provided on the shoulder portion and having a function of 'guiding a developer stored in said developer container to said mouth portion as said body is rotated." (emphasis in original.) See '631 Patent File History, Amendment received by U.S.P.T.O. on Sept. 17, 1996, page 4.

64. When Plaintiffs made their arguments to the U.S.P.T.O. in the '631 application to overcome the Nakagawa reference they had knowledge of and had technically analyzed the Kitajima reference and Plaintiff knew the Kitajima reference discloses a spiral guide means for guiding a developer to the mouth portion.

65. Despite knowledge of the materiality of the Kitajima reference Plaintiffs intentionally omitted disclosing the Kitajima reference to the U.S.P.T.O. during prosecution of the '631 patent and instead made deliberate and intentionally misleading and false statements about the patentability of the '631 patent.

66. The deliberate and false statements and omissions detailed in paragraphs 1-66 of this counterclaim were of facts clearly material to patentability and were intended to and did mislead and deceive the Patent Examiner and the U.S. Patent and Trademark Office into granting the '662, '631, '935, and '963 patents. Such facts, concealed or misrepresented by Ricoh, constitute a complete bar to patentability under 35 U.S.C. § § 102 or 103 so that the subject matter claimed in one or more of Ricoh's patent claims was not patentable. That is, the U.S.P.T.O. would not have granted these four of Ricoh's patents had Ricoh, its agents, and its representatives refrained from making these intentional, material misrepresentations and omissions.

67. At the time the '662, '631, '935, and '963 patents were issued, Ricoh knew that the patents had been obtained fraudulently through its intentional misleading and deceptive false statements and omissions of facts clearly material to patentability.

Ricoh also knew that the '662, '631, '935, and '963 patents had been obtained fraudulently through its intentional misleading and deceptive false statements and omissions of facts clearly material to patentability when it filed suit against Defendants.

B. THE MARKET FOR TONER BOTTLES

68. Ricoh manufactures and produces copiers and printers for sale in the United States. Based on a Business Wire publication dated April 2, 2003, Ricoh is ranked first in both the U.S. copier market and the color laser printer market. That publication also noted that Ricoh has recently experienced "impressive" growth in the copier market and color laser printer markets in the United States. As discussed below the product markets at issue are for the toner bottles used in Ricoh copiers and printers.

69. Ricoh printers and copiers have unique designs that are different from the printers and copiers designed and sold by other printer and copier manufacturers. In order to operate, Ricoh printers and copiers require toner supplied from specifically designed toner bottles. These toner bottles are specifically designed and manufactured for use in corresponding Ricoh machines. The toner bottles are not compatible in printers or copiers designed or sold by other manufacturers, nor are the bottles made for use in other manufacturer's printers or copiers compatible with Ricoh machines.

70. The relevant product market at issue consist of empty toner bottles for use in Ricoh copiers and printers that are for sale to manufacturers of the filled toner bottles. The

empty toner bottle product markets consists of sub-markets made up of the family of toner bottles compatible with an individual Ricoh copier or printer model.

71. The empty toner bottle product market consists of empty and uncapped toner bottles designed and manufactured for use in Ricoh copiers and printers. Empty toner bottles are sold to manufacturers, such as Katun or Ricoh, who further prepare the filled toner bottles by filling and labeling the bottles.

72. Ricoh has a dominant share of the market for empty toner bottles for use in Ricoh copiers and printers. Ricoh has market power in the market for empty toner bottles for use in Ricoh copiers and printers.

73. The relevant geographic market at issue consists of all toner bottles manufactured, sold, or offered for sale in the United States.

74. Ricoh intends to monopolize the empty toner bottle market by forcing out and directly interfering with other competitors or attacking other competitor's businesses through the use of its patent rights—rights that it knows are invalid or were procured through willful and intentional fraud upon the U.S.P.T.O. and which, but for such fraud, Ricoh would not have the same patent rights asserted against GPI in this action.

75. Through its acts and conduct, there exists a dangerous probability that Ricoh will achieve monopolization of the empty toner bottle markets in the United States.

76. Ricoh's acts violate Section 2 of the Sherman Act, 15 U.S.C. § 2.

77. Ricoh's willful, intentional, and continuing acts and efforts to control, lessen, and destroy competition in the relevant markets and monopolize the same has damaged GPI in an amount to be shown by the evidence and presented at trial.

78. The existence of this dispute creates a justiciable controversy between the parties, which this Court may hear pursuant to 28 U.S.C. § 2201(a).

PRAYER FOR RELIEF

WHEREAS, Defendant GPI prays that:

- (a) Judgment be granted dismissing with prejudice Plaintiffs' First Amended Complaint;
- (b) Judgment be granted that Defendant GPI has not infringed any of the patents-in-suit;
- (c) Judgment be granted that the patents-in-suit are invalid;
- (d) Judgment be granted that the patents-in-suit are unenforceable;
- (e) Judgment be granted that Ricoh's actions were unlawful restraint of trade and interstate commerce and an attempt to monopolize the relevant markets in violation of the Sherman Antitrust Act and awarding treble damages;
- (f) Judgment be granted enjoining Plaintiffs and their officers, employees, agents, representatives, attorneys and others acting on their behalf, from representing anyone, either directly or indirectly, that defendant has infringed or is infringing the patents in suit;
- (g) This action be declared exceptional under 35 U.S.C. § 285, and judgment be entered awarding Defendant GPI its costs and reasonable attorney fees, and for such other relief as may be appropriate; and
- (h) Such other relief as this Court may deem just and proper.

REQUEST FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Defendant GPI hereby demands a trial by jury for all issues so triable.

CERTIFICATION PURSUANT TO LOCAL CIVIL RULE 11.2

Pursuant to Local Civil Rule 11.2, the undersigned hereby certifies that to the best of his knowledge and information, the matter in controversy is not currently the subject of any other pending court action or arbitration proceeding.

This 12th day of May, 2005.

By: _____ /s/ Kevin H. Marino

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