

Richard H. An (RA1492)
Elizabeth Valentina (EV4345)
JENNER & BLOCK LLP
919 Third Avenue, 37th Floor
New York, N.Y. 10022
(212) 891-1600
(212) 891-1699 (facsimile)
*Attorneys for Defendants, Revlon, Inc.
and Revlon Consumer Products Corporation*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SUSAN L. SNYDER

Plaintiff,

vs.

REVLON, INC., REVLON CONSUMER
PRODUCTS CORPORATION, REVLON
PROFESSIONAL, INC., MODI-REVLON
PVT. LTD., EMERGING PLANET INDIA
PVT. LTD., HOT HEAD UNIVERSAL,
LTD., HOT HEAD/UNIVERSAL, LTD.,
HOT HEAD LIMITED, HOT HEAD LTD.,
HOT HEAD NORTH AMERICA INC.,
SPILO WORLDWIDE, INC., MARKETX
INC., KOMB LTD., KOMB LIMITED,
UNIVERSAL PRODUCTS (LYTHAM) LTD
and ASSOCIATION OF UK SALON
OWNERS LIMITED

Defendants.

C.A. No. 07 CIV 2383 (LAK) (GWG)

Electronically Filed

**ANSWER TO AMENDED COMPLAINT OF REVLON, INC. AND
REVLON CONSUMER PRODUCTS CORPORATION**

Revlon, Inc. (“Revlon”) and Revlon Consumer Products Corporation (“RCPC”) answer
the complaint filed by Susan L. Snyder (“Snyder”) as follows:

THE PARTIES

1. Plaintiff, MRS. SNYDER, is a citizen of Florida, and at [sic] resides at 1204 Royal Oak Dr., Dunedin, Florida.

RESPONSE: Admitted.

2. Defendant REVLON is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 237 Park Avenue, New York, NY 10017.

RESPONSE: Admitted.

3. Defendant RCPC is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 237 Park Avenue, New York, NY 10017.

RESPONSE: Admitted.

4. Defendant HOT HEAD UNIVERSAL, LTD. is a corporation organized and existing under the laws of the State of New York, with its principal place of business at 69 Mall Drive, Commack, NY 11725.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 4.

5. Defendant HOT HEAD/UNIVERSAL LTD. is a corporation organized and existing under the laws of Illinois, with its principal place of business at 315 Park Avenue, Glencoe, IL 60022.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 5.

6. Defendant HOT HEAD LIMITED is a corporation organized and existing under the laws of the State of Illinois, with its principal place of business at 315 Park Avenue, Glencoe, IL 60022.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 6.

7. Defendant HOT HEAD LTD. is a corporation organized and existing under the laws of the State of Illinois, with its principal place of business at 315 Park Avenue, Glencoe, IL 60022.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 7.

8. Defendant HOT HEAD NORTH AMERICA INC. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 315 Park Avenue, Glencoe, IL 60022.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 8.

9. Defendant SPILO is a corporation organized and existing under the laws of the State of California, with its principal place of business at 585 South Santa Fe Avenue, Los Angeles, CA 90013.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 9.

10. Defendant MARKETX is a corporation organized and existing under the laws of the State of Illinois, with its principal place of business at 315 Park Avenue, Glencoe, IL 60022.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 10.

11. Defendant KOMB, LTD. is a corporation organized and existing under the laws of the State of Illinois, with its principal place of business at 315 Park Avenue, Glencoe, IL 60022.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 11.

12. Defendant KOMB LIMITED is a corporation existing under the laws of the United Kingdom with its principal place of business at The Stock Exchange Building, 4 Norfolk Street, Manchester, United Kingdom, M2 1DW.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 12.

13. Defendant UNIVERSAL PRODUCTS (LYTHAM) MANUFACTURING LTD. is a corporation existing under the laws of the United Kingdom, with its principal place of business at Fairfield, Bradshaw Lane Greenhalgh, Kirkham Preston, Lancashire, United Kingdom, PR4 3JA.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 13.

14. Defendant ASSOCIATION OF UK SALON OWNERS LIMITED is a corporation existing under the laws of the United Kingdom, with its principal place of business at Fairfield, Bradshaw Lane Greenhalgh, Kirkham Preston, Lancashire, United Kingdom, PR4 3JA.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 14.

JURISDICTION AND VENUE

15. This action arises under the Patent Laws of the United States of America, Title 35 of the United States Code. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

RESPONSE: Admitted.

16. Defendant REVLON does substantial and not isolated business in this District and an act of Revlon caused the claimed injury in this state.

RESPONSE: Denied.

17. Defendant RCPC does substantial and not isolated business in this District and an act of RCPC caused the claimed injury in this state.

RESPONSE: Admitted that RCPC does substantial business in this District. Except as specifically admitted, Revlon and RCPC deny the remaining allegations of Paragraph No. 17.

18. Upon information and belief, defendant HOT HEAD UNIVERSAL LTD. does substantial and not isolated business in this District and an act of HOT HEAD UNIVERSAL LTD caused the claimed injury in this state.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 18.

19. Upon information and belief, defendant HOT HEAD/UNIVERSAL LTD. does substantial and not isolated business in this District and an act of HOT HEAD/UNIVERSAL LTD. caused the claimed injury in this state.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 19.

20. Upon information and belief, defendant HOT HEAD LIMITED does substantial and not isolated business in this District and an act of HOT HEAD LIMITED caused the claimed injury in this state.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 20.

21. Upon information and belief, defendant HOT HEAD LTD. does substantial and not isolated business in this District and an act of HOT HEAD LTD caused the claimed injury in this state.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 21.

22. Upon information and belief, defendant HOT HEAD NORTH AMERICA INC. does substantial and not isolated business in this District and an act of HOT HEAD NORTH AMERICA caused the claimed injury in this state.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 22.

23. Upon information and belief, defendant SPILO does substantial and not isolated business in this District and an act of SPILO caused the claimed injury in this state.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 23.

24. Upon information and belief, defendant MARKETX does substantial and not isolated business in this District and an act of MARKETX caused the claimed injury in this state.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 24.

25. Upon information and belief, defendant KOMB LTD. does substantial and not isolated business in this District and an act of KOMB LTD caused the claimed injury in this state.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 25.

26. Upon information and belief, defendant KOMB LIMITED does substantial and not isolated business in this District and an act of KOMB LIMITED caused the claimed injury in this state.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 26.

27. Upon information and belief, defendant UNIVERSAL PRODUCTS (LYTHAM) LTD. does substantial and not isolated business in this District and an act of UNIVERSAL PRODUCTS (LYTHAM) LTD caused the claimed injury in this state.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 27.

28. Upon information and belief, defendant ASSOCIATION OF UK SALON OWNERS LIMITED does substantial and not isolated business in this District and an act of ASSOCIATION OF UK SALON OWNERS LIMITED caused the claimed injury in this state.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 28.

29. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(b).

RESPONSE: Pursuant to the United States District Court for the Western District of Wisconsin's Order, this case has been transferred to the United States District Court for the Southern District of New York, where Revlon and RCPC admit venue is proper.

PLAINTIFF'S CLAIMS

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 5,024,243

30. MRS. SNYDER hereby realleges and incorporates by reference the allegations of Paragraphs 1-29.

RESPONSE: Revlon and RCPC re-aver their answers to Paragraph Nos. 1-29.

31. On June 18, 1991, U.S. Patent No. 5,024,243 ("the '243 patent"), entitled "COMB FOR PRACTICING SELECTIVE HAIR COLORING," was duly and legally issued for inventions relating to hair coloring. A true and correct copy of the '243 patent is attached hereto as Exhibit A.

RESPONSE: Revlon and RCPC admit that U.S. Patent No. 5,024,243 ("the '243 patent") was issued on June 18, 1991 and that a correct copy of the patent is attached as Exhibit A to the Amended Complaint. Except as specifically admitted, Revlon and RCPC deny the remaining allegations of Paragraph No. 31.

32. Plaintiff MRS. SNYDER is the owner of the entire right, title, and interest in and to the '243 patent.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 32.

33. Each of the Defendants manufactures or manufactured, uses or used, offers to sell or offered to sell, and/or imports or imported products that infringe the claims of the '243 patent.

RESPONSE: Denied with respect to Revlon and RCPC. With respect to all other defendants, Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 33.

34. Upon information and belief, each of the Defendants is now selling or has in the past sold such infringing products in this District.

RESPONSE: Denied with respect to Revlon and RCPC. With respect to all other defendants, Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 34.

35. The aforementioned acts of each of the Defendants, including those acts in this District, infringe the '243 patent pursuant to 35 U.S.C. § 271.

RESPONSE: Denied with respect to Revlon and RCPC. With respect to all other defendants, Revlon and RCPC lack sufficient information or belief to admit or deny the remaining allegations of Paragraph No. 35.

36. The infringement by each of the Defendants of the '243 patent has caused MRS. SNYDER injury, including lost profits, lost royalties, and other damage.

RESPONSE: Denied with respect to Revlon and RCPC. With respect to all other defendants, Revlon and RCPC lack sufficient information or belief to admit or deny the remaining allegations of Paragraph No. 36.

37. Each of the Defendants has had for some time actual knowledge of the '243 patent and has been willfully, deliberately and intentionally infringing the claims of the '243 patent.

RESPONSE: Denied with respect to Revlon and RCPC. With respect to all other defendants, Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 37.

38. The actions of each of the Defendants have been “exceptional” within the meaning of 35 U.S.C. § 285.

RESPONSE: Denied with respect to Revlon and RCPC. With respect to all other defendants, Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 38.

COUNT II

INFRINGEMENT OF U.S. PATENT NO. 4,987,909

39. MRS. SNYDER hereby realleges and incorporates by reference the allegations of paragraphs 1-29.

RESPONSE: Revlon and RCPC re-aver their answers to Paragraph Nos. 1-29.

40. On January 29, 1991, U.S. Patent No. 4,987,909 (“the ‘909 patent”) entitled “METHOD OF SELECTIVE HAIR COLORING AND COLORING COMB FOR PRACTICING METHOD,” was duly and legally issued for inventions relating to hair coloring. A true and correct copy of the ‘909 patent is attached hereto as Exhibit B.

RESPONSE: Revlon and RCPC admit that U.S. Patent No. 4,987,909 (“the ‘909 patent”) was issued on January 29, 1991 and that a correct copy of the patent is attached to the amended complaint as Exhibit B. Except as specifically admitted, Revlon and RCPC deny the allegations of Paragraph No. 40.

41. Plaintiff MRS. SNYDER is the owner of the entire right, title, and interest in and to the ‘909 patent.

RESPONSE: Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 41.

42. Each of the Defendants manufactures or manufactured, uses or used, offers or offered to sell, and/or sells or sold products that actively induce others to infringe the claims of the '909 patent.

RESPONSE: Denied with respect to Revlon and RCPC. With respect to all other defendants, Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 42.

43. Each of the Defendants is now inducing or has in the past induced infringement of the '909 patent in this District.

RESPONSE: Denied with respect to Revlon and RCPC. With respect to all other defendants, Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 43.

44. The aforementioned acts of each of the Defendants, including those acts in this District, infringe the '909 patent, pursuant to 35 U.S.C. § 271(b).

RESPONSE: Denied with respect to Revlon and RCPC. With respect to all other defendants, Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 44.

45. The infringement by each of the Defendants of the '909 patent has caused MRS. SNYDER injury, including lost profits, lost royalties, and other damage.

RESPONSE: Denied with respect to Revlon and RCPC. With respect to all other defendants, Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 45.

46. Each of the Defendants has had for some time actual knowledge of the '909 patent and has been willfully, deliberately and intentionally infringing the claims of the '909 patent.

RESPONSE: Denied with respect to Revlon and RCPC. With respect to all other defendants, Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 46.

47. The actions of each of the Defendants have been "exceptional" within the meaning of 35 U.S.C. § 285.

RESPONSE: Denied with respect to Revlon and RCPC. With respect to all other defendants, Revlon and RCPC lack sufficient information or belief to admit or deny the allegations of Paragraph No. 47.

COUNT III

REVLON'S AND RCPC'S BREACH OF CONTRACT, ESTOPPEL AND WAIVER

48. MRS. SNYDER hereby realleges and incorporates by reference the allegations of paragraphs 1-29.

RESPONSE: Revlon and RCPC re-aver their answers to Paragraph Nos. 1-29.

49. On or about January 19, 1990, when Mrs. Snyder's patent application had been allowed as to the '909 patent and was pending as to the '243 patent, Revlon drafted and presented to Mrs. Snyder an agreement (the "Contract") that it required Mrs. Snyder to execute as a condition to dealing with Revlon with respect to her inventions. A copy of the Contract is attached hereto as Exhibit C and incorporated here by reference.

RESPONSE: Revlon and RCPC admit that, after Mrs. Snyder had sent an unsolicited request that Revlon consider her so-called inventions, Revlon sent a letter dated

January 19, 1990, to Mrs. Snyder. In that letter, Revlon advised Mrs. Snyder that it would consider her material if but only if Mrs. Snyder agreed that she would rely solely on the rights provided by the U.S. patent and trademark laws with respect to her submission of information to Revlon. Revlon and RCPC admit that a true and correct copy of the letter is attached to the amended complaint as Exhibit C. Except as specifically admitted, Revlon and RCPC deny the allegations of Paragraph No. 49.

50. In reliance on Revlon's covenants and promises expressed and implied in the Contract, Mrs. Snyder adhered to, accepted and executed it on or about January 24, 1990, and delivered it to Revlon on or about January 25, 1990, and thereupon shared with Revlon confidential information relating to her inventions, which Revlon shared with RCPC, and Mrs. Snyder undertook to negotiate an arrangement with Revlon to promote, make and sell products covered by her patent application and by the '909 and '243 patents as they were issued.

RESPONSE: Revlon and RCPC admit that Mrs. Snyder signed a copy of the January 19, 1990 letter and returned it to Revlon on or about January 25, 1990. Except as specifically admitted, Revlon and RCPC deny the allegations of Paragraph No. 50.

51. In the course of and by virtue of Revlon's conduct and the conduct of RCPC, Revlon's wholly owned subsidiary, as alleged in Counts I and II above, Revlon and RCPC breached the Contract, in that, among other things:

- A. Revlon and RCPC violated Mrs. Snyder's rights under the U.S. patent laws, including but not limited to her rights against infringement of her patents; and
- B. Revlon and RCPC breached their implied covenant of good faith as it relates to Mrs. Snyder's inventions and to her rights in respect

thereto, including by not limited to her rights under the U.S. patent laws.

RESPONSE: Denied.

52. By virtue of and as a result of Revlon's and RCPC's breach of the Contract, Mrs. Snyder sustained damages, including lost profits, loss of a reasonable royalty and other damages.

RESPONSE: Denied.

53. The allegations of this Count III are incorporated by reference into Counts I and II above as to Revlon and RCPC. By virtue of the Contract, and Revlon's and RCPC's covenants, promises and breach, and under the doctrines of waiver and estoppel, Revlon and RCPC are precluded from asserting any limitation on damages under 35 USCA § 287(a) and are precluded from asserting failure to mark, lack of notice or any equivalent defense, under § 287 or otherwise, to any part or all of any claim for damages in this case.

RESPONSE: Denied.

AFFIRMATIVE DEFENSES

1. The '243 patent is invalid under the provisions of Title 35 U.S.C., including but not limited to Sections 101, 102, 103 and 112.
2. The '909 patent is invalid under the provisions of Title 35 U.S.C., including but not limited to Sections 101, 102, 103 and 112.
3. Revlon's and RCPC's products do not infringe any valid claim of the '243 patent.
4. Revlon's and RCPC's products do not infringe any valid claim of the '909 patent.
5. Plaintiff's claims are for damages limited pursuant to 35 U.S.C. § 287.
6. Count III is preempted by federal patent law.
7. Count III fails to state a claim upon which relief can be granted.
8. The contract alleged in Count III is an unenforceable executory agreement.

9. The contract alleged in Count III is unenforceable for lack of consideration.
10. The contract alleged in Count III is unenforceable by reason of plaintiff's breach.
11. Count III is barred by estoppel and waiver.
12. Plaintiff has failed to state a claim upon which relief can be granted against Revlon.

COUNTERCLAIM

1. Revlon and RCPC adopt and incorporate by reference the allegations and responses to paragraphs 1-3, 15, 29, 49 and 50 of the Complaint.
2. To the extent that Revlon's January 19, 1990 letter and Mrs. Snyder's return of the letter with her signature constitutes a contract, RCPC is a third party beneficiary and obligor of that agreement.
3. Mrs. Snyder had no obligations under the exchange of letters and, therefore, no agreement was created. But to the extent that the exchange does constitute an agreement, its terms are quite simple: The sole undertaking of Revlon and RCPC is to consider the information submitted by Mrs. Snyder. Mrs. Snyder's sole undertaking is that she would rely exclusively upon federal patent and trademark laws as a remedy for any action that might arise out of the relationship.
4. Revlon and RCPC fully discharged any contractual obligations by considering the information submitted by Mrs. Snyder.
5. Mrs. Snyder breached her obligations by asserting, in Count III of her Amended Complaint, causes of action other than under federal patent and trademark law.
6. Revlon and RCPC have been damaged by Mrs. Snyder's breach in that they have been put to the cost of defending Count III.

PRAYERS FOR RELIEF

Wherefore, Revlon and RCPC pray for entry of judgment:

- A. Dismissing the Complaint with prejudice;
- B. Declaring that Revlon and RCPC have neither infringed, nor willfully infringed, any valid and enforceable claim of the '243 patent;
- C. Declaring that Revlon and RCPC have neither infringed, nor willfully infringed, any valid and enforceable claim of the '909 patent;
- D. Declaring that the claims of the '243 patent are invalid under Title 35 U.S.C., including but not limited to Sections 101, 102, 103 and 112;
- E. Declaring that the claims of the '243 patent are invalid under Title 35 U.S.C., including but not limited to Sections 101, 102, 103 and 112;
- F. Declaring this an exceptional case under Title 35, U.S.C. Section 285 and awarding Defendants their reasonable attorneys fees;
- G. Awarding Revlon and RCPC an amount of damages to be proved at trial on its counterclaim;
- H. Awarding such other and further relief as the Court may deem just and proper.

Dated: March 23, 2007

Respectfully submitted,

/s Richard An
Robert L. Byman
Darrick J. Hooker
JENNER & BLOCK LLP
330 N. Wabash Avenue, Suite 4000
Chicago, IL 60611-7603
(312) 222-9350
(312) 840-7679 (facsimile)

Richard An (RA1492)
Elizabeth Valentina (EV4345)
JENNER & BLOCK LLP
919 Third Avenue, 37th Floor
New York, N.Y. 10022-3908
(212) 891-1600
(212) 891-1699 (facsimile)

*Attorneys for Defendants Revlon,
Inc. and Revlon Consumer Products
Corporation*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 23rd day of March, 2007, Answer to Amended Complaint of Revlon Inc. and Revlon Consumer Products Corporation was served upon the following attorneys, by electronically filing it and sending it via email addressed as follows:

David Hanson, Esq.
William A. Rinehart, Esq.
REINHART, BOERNER, VAN DEUREN S.C.
1000 North Water Street
Milwaukee, WI 53202
dhanson@reinhardtlaw.com
wrinehar@reinhardtlaw.com
COUNSEL FOR HOT HEAD UNIVERSAL, LTD. and
HOT HEAD/UNIVERSAL, LTD.

Willmore F. Holbrow, Esq.
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 Wilshire Boulevard, Seventh Floor
Los Angeles, CA 90025-1030
bill_holbrow@bstz.com
COUNSEL FOR SPILO WORLDWIDE, INC.

James D. Peterson, Esq.
LAFOLLETTE GODFREY & KAHN
One East Main Street
Madison, WI 53703
jpeterson@gklaw.com
COUNSEL FOR UNIVERSAL PRODUCTS (LYTHAM) MANUFACTURING, LTD.
and MARKETX, INC.

Scott A. Meyer, P.C.
CHALKER FLORES, LLP
2711 LBJ Freeway, Suite 1036
Dallas, TX 75234
smeyer@chalkerflores.com
COUNSEL FOR UNIVERSAL PRODUCTS (LYTHAM) MANUFACTURING, LTD.
and MARKETX, INC.

Julian Nihill, Esq.
4514 Cole Avenue
Dallas, TX 75205
jnihill@jnihill.com
COUNSEL FOR UNIVERSAL PRODUCTS (LYTHAM) LTD. and
ASSOCIATION OF UK SALON OWNERS LIMITED

Stanely Goodman
GOODMAN & SAPERSTEIN
600 Old Country Road
Garden City, NY 11530
gsesq600@aol.com
COUNSEL FOR HOT HEAD UNIVERSAL, LTD. and
HOT HEAD/UNIVERSAL, LTD.

Shane A. Brunner, Esq.
MICHAEL BEST & FRIEDRICH LLP
One South Pinckney Street, Suite 700
Madison, WI 53703
SABrunner@michaelbest.com
COUNSEL FOR SPILO WORLDWIDE, INC.

Linda E.B. Hansen
Hannah L. Renfro-Sargent
FOLEY & LARDNER LLP
777 East Wisconsin Avenue
Milwaukee, WI 53202-5306
lhansen@foley.com
COUNSEL FOR SUSAN L. SNYDER

and by sending by overnight courier to:

Komb Limited,
Maribeth Cleary and Gary Rosenthal,
c/o MarketX, Inc.,
315 Park Avenue,
Glencoe, IL 60022.
Owners of Komb Limited.

Komb Ltd.,
Maribeth Cleary and Gary Rosenthal,
c/o MarketX, Inc.,
315 Park Avenue,
Glencoe, IL 60022.
Owners of Komb Ltd.

Dated: March 23, 2007

Respectfully submitted,

/s Richard An
Richard An (RA1492)
JENNER & BLOCK LLP
919 Third Avenue, 37th Floor
New York, N.Y. 10022-3908
(212) 891-1600
(212) 891-1699 (facsimile)

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