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17 **UNITED STATES DISTRICT COURT**
 18 **IN AND FOR THE DISTRICT OF ARIZONA**

19 SOILWORKS, LLC, an Arizona
 20 corporation,
 21 Plaintiff / Counterdefendant /
 22 Counterclaimant,

23 v.

24 MIDWEST INDUSTRIAL SUPPLY, INC.,
 25 an Ohio corporation authorized to do
 business in Arizona,
 26 Defendant / Counterclaimant /
 27 Counterdefendant.

NO.: 2:06-CV-2141-DGC

**STIPULATED DESCRIPTION OF
 THE CASE**

(Before the Honorable David G. Campbell)

1 Pursuant to the Court's Pretrial Order dated August 7, 2008, the following is the
2 parties' stipulated description of the case:

3 The Plaintiff in this case is a limited liability company by the name of Soilworks,
4 LLC ("Soilworks"). The Defendant and Counterclaimant is a corporation known as Midwest
5 Industrial Supply, Inc. ("Midwest"). Soilworks and Midwest are competitors in the dust
6 control and soil stabilization industry, manufacturing and distributing products used in
7 connection with construction projects, unpaved roads, airports and helipads, and numerous
8 other applications. Both companies have asserted claims that the other company has not
9 competed fairly and lawfully within the marketplace. Soilworks claims that Midwest has
10 published false and misleading advertisements about its own and Soilworks' business, and
11 that Soilworks has been damaged as a result of those advertisements. Midwest has been
12 granted patents by the United States Patent and Trademark Office for certain formulations
13 used in some of its products and certain methods for the use of those products. Midwest
14 claims that one or more of Soilworks' products infringes those patents. Midwest also claims
15 that Soilworks has wrongfully used Midwest's trademark "Soil Sement" in Soilworks' own
16 advertising and promotion.

17 Both of the parties allege claims for damages suffered as a result of the conduct of the
18 other and both of the parties are asking that the other party be prohibited from engaging in
19 certain conduct and activities.

20 Dated this 19th day of September, 2008.

21 KUTAK ROCK LLP

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23 By _____ /s E. Scott Dosek
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