

Exhibit 1

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<p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA</p> <p>SOILWORKS, LLC, an Arizona corporation, Plaintiff/Counterdefendant, vs. MIDWEST INDUSTRIAL SUPPLY, INC., an Ohio corporation authorized to do business in Arizona, Defendant/Counterclaimant.</p> <p style="text-align: center;">Phoenix, Arizona April 10, 2008 9:00 a.m.</p> <p style="text-align: center;">C O N F I D E N T I A L DEPOSITION OF CHAD FALKENBERG SOILWORKS, LLC 30 (b) (6) (VOLUME II, Pages 230 - 356)</p> <p style="text-align: center;">LEA, SHERMAN & HABESKI Registered Professional Reporters 834 North First Avenue Phoenix, Arizona 85003 Phone: 602.257.8514 - Fax: 602.257.8582 Reported by: Linda Blackmon, RPR/RMR Certified Reporter Certificate No. 50320</p>	<p style="text-align: center;">I N D E X (Continued)</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">EXHIBITS</th> <th style="text-align: left;">DESCRIPTION</th> <th style="text-align: right;">PAGE</th> </tr> </thead> <tbody> <tr><td>50</td><td>Soil-Sement Patent No. 1,204,198</td><td style="text-align: right;">322</td></tr> <tr><td>51</td><td>Soil-Sement Patent No. 2,222,732</td><td style="text-align: right;">322</td></tr> <tr><td>52</td><td>Google search results for soil sement</td><td style="text-align: right;">324</td></tr> <tr><td>53</td><td>Google search results for soil sement</td><td style="text-align: right;">337</td></tr> <tr><td>54</td><td>HTML Code for Soiltac Home Page</td><td style="text-align: right;">339</td></tr> <tr><td>55</td><td>HTML Code for Soiltac Home Page</td><td style="text-align: right;">345</td></tr> <tr><td>56</td><td>HTML Code for Soilworks dot com</td><td style="text-align: right;">346</td></tr> <tr><td>57</td><td>HTML Code for Soilworks dot com</td><td style="text-align: right;">347</td></tr> </tbody> </table>	EXHIBITS	DESCRIPTION	PAGE	50	Soil-Sement Patent No. 1,204,198	322	51	Soil-Sement Patent No. 2,222,732	322	52	Google search results for soil sement	324	53	Google search results for soil sement	337	54	HTML Code for Soiltac Home Page	339	55	HTML Code for Soiltac Home Page	345	56	HTML Code for Soilworks dot com	346	57	HTML Code for Soilworks dot com	347																
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<p style="text-align: right;">322</p> <p>1 break and gather up some information and see where we 2 are at. 3 (Recess.) 4 (Exhibits Nos. 50 and 51 were marked.) 5 Q. BY MR. SKERIOTIS: Mr. Falkenberg, you have 6 just been handed what have been marked Exhibits 50 and 7 51, do you recognize those documents? 8 A. I haven't seen these documents before. 9 Q. I will purport to you that Exhibit 50 is a 10 U.S. trademark registration for Soil-Sement, 11 S-e-m-e-n-t, Registration No. 1,204,198, and Exhibit 51 12 is a U.S. trademark registration for the same mark 13 Soil-Sement, Registration No. 2,222,732, and the 14 differences between the two are basically the goods. 15 Do you have a product that is competitive 16 to Midwest's Soil-Sement? 17 A. I believe we have products that would compete 18 against Soil-Sement in the marketplace. 19 Q. In fact the product you have is Soiltac, 20 correct? 21 A. That would be one of the products that I 22 believe would compete with Soil-Sement. 23 Q. What other ones do you have that you believe 24 would compete with Soil-Sement? 25 A. It would depend on the application and how the</p>	<p style="text-align: right;">324</p> <p>1 Q. BY MR. SKERIOTIS: Mr. Falkenberg, you have 2 just been handed what has been marked as Exhibit 52; do 3 you recognize that document? 4 A. It appears to be a printout of Google search 5 results. 6 Q. Google search results for the mark soil 7 sement? 8 A. Soil sement is listed in the search, and 9 that's soil sement with an S. 10 Q. Correct. And do you see on the right-hand 11 side under Sponsored Links it says Soiltac soil 12 stabilizer? Do you see that? 13 A. I see that. 14 Q. Do you know how it came to be that the search 15 for soil sement on Google's web site produced as a 16 sponsored link Soiltac soil stabilizer? 17 A. There must be a term that is a trigger for 18 that sponsored link to appear. 19 Q. What term would that be? 20 A. Well, if I am guessing it would either be the 21 entire phrase or it would be either of those words. 22 Q. Who is in charge at Soilworks of adopting key 23 words for Google's web site? 24 A. I am the person that primarily has dealt with 25 our Google campaigns.</p>
<p style="text-align: right;">323</p> <p>1 Soil-Sement was being used. 2 Q. To your knowledge has Soil-Sement ever been in 3 competition with Durasoil? 4 A. Not to my recollection. 5 Q. Has Soil-Sement ever been in competition with 6 Gorilla-Snot? 7 A. I think it's very likely. 8 Q. Has Soil-Sement ever been in competition with 9 Surtac? 10 A. It's possible. 11 Q. And I think there is one more. Has 12 Soil-Sement ever been in competition with Powdered 13 Soiltac? 14 A. That's possible. 15 Q. I think that's all five. When did you first 16 know that Soil-Sement was a registered trademark of 17 Midwest? 18 A. I am really not sure. 19 Q. When did you first become aware of the product 20 Soil-Sement? 21 A. Most likely when I worked for Environmental 22 Products Applications. 23 Q. And that was prior to 2003 then, correct? 24 A. That sounds right. 25 (Deposition Exhibit No. 52 was marked.)</p>	<p style="text-align: right;">325</p> <p>1 Q. Was there ever a time that you indicated to 2 Google that you would like your web site Soiltac dot 3 com to pop up when someone is searching for soil 4 sement? 5 A. What do you mean by indicated to them? 6 Q. Well, have you ever taken out the key word 7 soil sement so that Soiltac dot com would pop up as a 8 sponsored link? 9 A. I believe so. 10 Q. And you did that because you wanted someone 11 searching for soil sement to see Soiltac under the 12 sponsored link, correct? 13 A. That trigger, we wanted the result of our ad 14 to show up with that trigger. 15 Q. Correct. And the trigger being soil sement? 16 A. If that's the key word that was being used. 17 Q. Do you know if that's the key word that was 18 being used? 19 A. I believe that that key word is used or has 20 been used. 21 Q. It's my understanding, then, that you chose 22 the trademark soil sement as a key word on Google's web 23 site so that when someone searches for soil sement they 24 find Soiltac, correct? 25 A. As a trigger term?</p>

326	<p>1 Q. Right. Correct.</p> <p>2 A. I think that sounds correct.</p> <p>3 Q. And you did that because you wanted someone</p> <p>4 who is searching for Midwest's Soil-Sement to know</p> <p>5 and/or find Soiltac?</p> <p>6 A. We compete in similar industries.</p> <p>7 Q. Right. But that's what you intended to have</p> <p>8 happen, right, somebody searching for Midwest's</p> <p>9 Soil-Sement would find Soiltac?</p> <p>10 A. Soil-Sement can also be misspelled and that is</p> <p>11 a very common misspelling, there is soil sement with a</p> <p>12 S and soil cement with a C.</p> <p>13 Q. But you wanted someone searching for</p> <p>14 Soil-Sement to find Soiltac, correct?</p> <p>15 A. I think that's reasonable to state.</p> <p>16 Q. Could you turn to Page 2. Do you see</p> <p>17 International Soil Technologies, LLC?</p> <p>18 A. I do.</p> <p>19 Q. Do you know who that is?</p> <p>20 A. Yes.</p> <p>21 Q. Who is that?</p> <p>22 A. It's another one of the companies that I am</p> <p>23 related to.</p> <p>24 Q. How are you related to International Soil</p> <p>25 Technologies, LLC?</p>	328	<p>1 Q. Why doesn't Soilworks hold a contractor's</p> <p>2 license?</p> <p>3 A. We felt it was beneficial to keep those</p> <p>4 separate.</p> <p>5 Q. Who felt that way?</p> <p>6 A. Dorian and myself.</p> <p>7 Q. Does International Soil Technologies, LLC have</p> <p>8 a web site?</p> <p>9 A. I don't think so.</p> <p>10 Q. What products does International Soil</p> <p>11 Technologies sell?</p> <p>12 A. I would say that they can sell the product</p> <p>13 lines that are manufactured by Soilworks. I don't see</p> <p>14 them necessarily selling anything else.</p> <p>15 Q. I am sorry, I guess I forgot already, did you</p> <p>16 say International Soil Technologies has a web site?</p> <p>17 A. I don't think it does.</p> <p>18 Q. So you are telling me legally it's in no way</p> <p>19 related to Soilworks; is that correct?</p> <p>20 MR. DOSEK: Object to the form.</p> <p>21 A. I am saying those are two separate companies.</p> <p>22 Q. BY MR. SKERIOTIS: Do they both sell soil</p> <p>23 stabilization products?</p> <p>24 A. I believe they both can.</p> <p>25 Q. Have you sold Durasoil under International</p>
327	<p>1 A. I am one of the members.</p> <p>2 Q. And what is International Soil Technologies,</p> <p>3 LLC?</p> <p>4 A. It's a company that primarily is in the</p> <p>5 business of applying soil stabilization, dust control</p> <p>6 and erosion control products.</p> <p>7 Q. Where?</p> <p>8 A. Wherever it's allowed to do business.</p> <p>9 Q. Who are the members of International Soil</p> <p>10 Technologies, LLC?</p> <p>11 A. I believe Masterson Properties and Dorian</p> <p>12 Falkenberg.</p> <p>13 Q. Is that in any way related to Soilworks?</p> <p>14 A. They are two separate companies.</p> <p>15 Q. Are you a member of any other company other</p> <p>16 than International Soil Technologies and Soilworks?</p> <p>17 A. I don't think so.</p> <p>18 Q. Why was International Soil Technologies</p> <p>19 established apart from Soilworks?</p> <p>20 A. It holds our contracting license to do</p> <p>21 business and Soilworks does not have a contractor's</p> <p>22 license.</p> <p>23 Q. And the contractor's license is for what?</p> <p>24 A. Certain bids require a contractor's license to</p> <p>25 be able to bid on that project.</p>	329	<p>1 Soil Technologies, LLC?</p> <p>2 A. It's possible.</p> <p>3 Q. You don't know if you have or not?</p> <p>4 A. I can't say for sure.</p> <p>5 Q. What is your interest in International Soil</p> <p>6 Technologies? Are you a minority holder, majority; do</p> <p>7 you recall?</p> <p>8 A. I am not majority.</p> <p>9 Q. Who is the majority holder?</p> <p>10 A. Likely Masterson Properties.</p> <p>11 Q. Are they also a majority holder of Soilworks?</p> <p>12 A. That's likely.</p> <p>13 Q. Do you and Dorian together hold a minority</p> <p>14 share in Soilworks or a minority share together?</p> <p>15 A. I am not sure where it stands right now.</p> <p>16 Q. When it was first formed were you and Dorian</p> <p>17 together majority shareholders or minority?</p> <p>18 A. I am pretty sure we were minority.</p> <p>19 Q. What makes you believe you are not sure where</p> <p>20 it stands now?</p> <p>21 A. Things change over time.</p> <p>22 Q. So your interests in Soilworks have changed</p> <p>23 since it was first formed?</p> <p>24 A. I would love to own 100 percent myself of</p> <p>25 both.</p>