EXHIBIT 2

Midwest's Infringement Claim Obfuscation Timeline

"**At least some of the claims"** Midwest's outside counsel sent a letter to counsel for Soilworks asserting, among other things, that Midwest "fe[lt] **that at least some of the claims in [our] two patent applications** cited above could potentially affect your client's ability to make, use and sell Durasoil in the future . . . " **[SOF ¶ 4]**

Soilworks Counsel makes 3rd request for claims chart.

Midwest counterclaims for patent infringement. No claims identified.

"**On information and belief**, Plaintiff is infringing **one or more** claims of the Midwest Patents" and "Plaintiff's publicly available information" supports infringement. (*see Midwest's Settlement Conference Memorandum* dated December 30, 2008.)

Midwest's 30(b)(6) admits no basis for patent infringement claim other than publicly available information.

"This is a very uncertain patent trial. We're going into this trial not even knowing what claims are at issue." Judge Campbell, Pre-trial Hearing, October 9, 2008.

Defendant's patent infringement claim is identified as "the evidence will demonstrate that Soilworks' infringes **one or more** of the claims" of the Midwest patents. (Joint Final Pretrial, dated 9/19/08).

| June 8, 2006 | July 18, 2006 | July 27, 2006 | Aug. 8, 2006 | March 26, /2007 | Dec. 31, 2007 | Feb. 20, 2008 | April 21, 2008 | Aug. 19, 2008 | Oct. 9, 2008 | Sept. 19, 2008 | Jan. 9, 2009 |

NO TESTS PERFORMED Midwest had not performed any tests to determine whether the Durasoil product infringed the Midwest Patents prior to its June 8th Letter. To the extent Midwest did perform any tests, Midwest drew no conclusions from those tests.

Claims Chart Requested. Soilworks Counsel requests claims chart citing *View Eng., Inc. v. Robotic Vision Systems*, 208 F.3d 981 (Fed. Cir. 2000)

Counsel for Soilworks makes 2nd request for claims chart

Prior to filing its counterclaim for patent infringement, Midwest's counsel based its infringement claim on "The publicly available information." (*see Midwest's Settlement Conference Memorandum* dated December 30, 2008.)

Midwest responds to patent infringement discovery requests stating Durasoil "Is included within the elements of **at least one** independent claim" of the 266 and 270 patent based upon "publicly available information."

Midwest, for the first time, asserts the claims allegedly infringed by Soilworks: (a) claims 1, 7, 8, and 9 of U.S. Patent No. 7,074,266 ("The '266 Patent") and (b) claims 1 and 3 of U.S. Patent No. 7,081,270 ("The '270 Patent"). *See* Midwest's Jan. 9, 2009 Brief.

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