

1 E. SCOTT DOSEK #012114
 JOHN P. PASSARELLI #16018 (NE)
 2 KUTAK ROCK LLP
 Suite 300
 3 8601 North Scottsdale Road
 Scottsdale, AZ 85253-2742
 4 (480) 429-5000
 Facsimile: (480) 429-5001
 5 *Attorneys for*
Plaintiff/Counterdefendant/Counterclaimant
 6 *Soilworks, LLC*

7 CRAIG A. MARVINNEY #0004951 (OH)
 BROUSE MCDOWELL
 8 1001 Lakeside Avenue, Suite 1600
 Cleveland, OH 44114
 9 (216) 830-6830
Attorneys for
 10 *Defendant/Counterclaimant/Counterdefendant*
 11 *Midwest Industrial Supply, Inc.*

12 JOHN M. SKERIOTIS #0069263 (OH)
 BROUSE MCDOWELL
 13 388 S. Main Street, Suite 500
 Akron, OH 44311-4407
 (330-535-5711
 14 Facsimile: (330) 253-8601
Attorneys for
 15 *Defendant/Counterclaimant/Counterdefendant*
 16 *Midwest Industrial Supply, Inc.*

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

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

23 v.

24 MIDWEST INDUSTRIAL SUPPLY, INC.,
 an Ohio corporation authorized to do
 25 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

22
23 By _____ /s E. Scott Dosek
24 E. Scott Dosek, Esq.
25 John P. Passarelli, Esq.
26 Suite 300
27 8601 North Scottsdale road
28 Scottsdale, AZ 85253-2742
Attorneys for Plaintiff Soilworks, LLC

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BROWSE MCDOWELL

By /s Craig A. Marvinney
Craig A. Marvinney, Esq.
1001 Lakeside Avenue, Suite 1600
Cleveland, OH 44114
*Attorneys for Midwest Industrial Supply,
Inc.*

BROWSE MCDOWELL

By /s John M. Skeriotis
John M. Skeriotis, Esq.
388 S. Main Street, Suite 500
Akron, OH 44311-4407
*Attorneys for Defendant Midwest
Industrial Supply, Inc.*

COPY of the foregoing electronically filed
this 19th day of September, 2008, and copies electronically
submitted this same date to:

Donald L. Myles, Jr., Esq.
Jones, Skelton & Hochuli PLC
2901 North Central Avenue
Suite 800
Phoenix, Arizona 85012
dmyles@jshfirm.com
Attorneys for Defendant Midwest Industrial Supply, Inc.

By: s/Amy Fletcher