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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

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Soilworks, LLC, an Arizona corporation,)

No. CV-06-2141-PHX-DGC

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Plaintiff/Counterdefendant/
Counterclaimant,)

ORDER

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vs.)

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Midwest Industrial Supply, Inc., an Ohio)
corporation authorized to do business in)
Arizona,)

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Defendant/Counterclaimant/
Counterdefendant.)

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On August 7, 2008, the Court issued an order granting in part and denying in part the parties' motions for summary judgment. Dkt. #94; *see* Dkt. ##78-79. Midwest has filed a motion for clarification of that order. Dkt. #97.

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In summarizing its rulings, the Court stated that "[s]ummary judgment is denied with respect to Midwest's claims for a declaratory judgment that Soilworks infringes the '266 and '270 Patents." Dkt. #94 at 24-25, ¶ 1(h). Midwest seeks clarification that "it is *Soilworks'* summary judgment motion that is denied" with respect to Midwest's claims for infringement. Dkt. #97 at 3-4 (emphasis in original).

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As Midwest correctly notes in its motion, it did not seek summary judgment on its infringement claims. *Id.* at 3 (citing Dkt. #78 at 3 n.1). Midwest is therefore correct in concluding that when the Court denied summary judgment with respect to Midwest's

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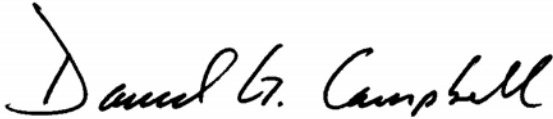
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1 infringement claims, it was denying Soilworks' request for summary judgment. *See* Dkt. #94
2 at 22-23.

3 **IT IS ORDERED:**

- 4 1. Midwest's motion for clarification (Dkt. #97) is **granted**.
5 2. In its August 7, 2008 order, the Court denied Soilworks' summary judgment
6 motion with respect to Midwest's claims for a declaratory judgment of
7 infringement.

8 DATED this 5th day of September, 2008.

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13 David G. Campbell
14 United States District Judge
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