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14 **UNITED STATES DISTRICT COURT**  
 15 **NORTHERN DISTRICT OF CALIFORNIA**  
 16 **SAN FRANCISCO DIVISION**  
 17

18 THE PROCTER & GAMBLE COMPANY, )  
 19 Plaintiff, )  
 v. )  
 20 KRAFT FOODS GLOBAL, INC., )  
 21 Defendant. )  
 22 )  
 23 )  
 24 )  
 25 )  
 26 )  
 27 )  
 28 )

Case No.: CV 07-04413 PJH

**Honorable Phyllis J. Hamilton**

**DECLARATION OF BEN M. DAVIDSON  
 IN SUPPORT OF THE PROCTER &  
 GAMBLE COMPANY'S MOTION FOR A  
 PRELIMINARY INJUNCTION**

**Date: October 24, 2007  
 Time: 9:00 a.m.  
 Court: Courtroom 3, 17<sup>th</sup> Floor**

1 I, Ben M. Davidson, hereby declare:

2 1. I am an attorney at law duly licensed to practice before all of the courts in the State of  
3 California, including this court. I am a member of the firm of Howrey LLP, counsel for plaintiff The  
4 Procter and Gamble Company. Except as stated herein, the matters stated below are of my personal  
5 knowledge. If called as a witness, I could and would testify competently thereto.

6 2. Filed herewith as Exhibit 1 is a true and correct copy of United States Patent  
7 No. 7,169,418 B2 (Dalton, et al.), issued January 30, 2007.

8 3. Filed herewith as Exhibit 2 is a true and correct copy of the file history of Reexam  
9 Control No. 95/000,219 for United States Patent No. 7,169,418 B2 (Dalton, et al.).

10 4. Filed herewith as Exhibit 3 is a true and correct copy of U.S. Patent Application  
11 Publication No. US 2007/0187420, published on August 16, 2007.

12 5. Filed herewith as Exhibit 4 is a true and correct copy of a page from Kraft's website  
13 referring to a "New *Maxwell House* Packaging" using a blue metal can. In trying to locate a Maxwell  
14 House 39-ounce plastic container at retailers, an employee supervised by me has found retailers who  
15 continue to offer Maxwell House only in a metal can.

16 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
17 true and correct.

18 Executed this 14th day of September, 2007, at Irvine, California

19  
20 HOWREY LLP

21  
22 By *Ben Davidson*  
23 Ben M. Davidson

24 Attorneys for Plaintiff  
25 The Procter & Gamble Company

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