

EXHIBIT 14

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

19 UNITED STATES GYPSUM COMPANY,
 20

21 Plaintiff,

22 v.

23 PACIFIC AWARD METALS, INC.,

24 Defendant.
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 27
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Case No. C 04-04941 FMS

**DEFENDANT'S RESPONSES TO
 PLAINTIFF'S SECOND SET OF
 INTERROGATORIES (Nos. 7-11)**

1 Defendant and Counterclaimant Pacific Award Metals, Inc. ("Award Metals")
2 provides the following responses to the Third Set of Interrogatories of Plaintiff and
3 Counterclaim Defendant United States Gypsum Company ("USG").

4 **GENERAL OBJECTIONS**

5 1. Award Metals objects to the interrogatories to the extent that the
6 interrogatories seek to impose a duty on Award Metals beyond that which is required by
7 the Federal Rules of Civil Procedure, the Civil Local Rules of the United States District
8 Court for the Northern District of California, and/or the Patent Local Rules of the United
9 States District Court for the Northern District of California.

10 2. Award Metals objects to these interrogatories to the extent that they call for
11 information protected by the attorney-client privilege, the work product doctrine, and/or
12 any other applicable privilege. Such information will not be provided in response to these
13 interrogatories.

14 3. Award Metals objects to these interrogatories to the extent that they purport
15 to require Award Metals to provide information that is not relevant to the claims or
16 defenses of any party asserted in the litigation or not reasonably calculated to lead to the
17 discovery of admissible evidence under Federal Rule of Civil Procedure 26.

18 4. Award Metals objects to these interrogatories to the extent that they seek
19 information that is subject to confidentiality agreements, protective orders, or any other
20 obligation pursuant to which Award Metals is required to protect and/or maintain the
21 confidentiality of any third party's documents or information. Notwithstanding this
22 objection, Award Metals will initiate any necessary process of notification to such third
23 parties that may be a predicate to disclosure of any such confidential information.

24 5. Award Metals objects to these interrogatories to the extent that they seek
25 information regarding activities of Award Metals outside of the United States.

26 6. Award Metals objects to these interrogatories as premature to the extent that
27 they seek information regarding information, contentions, or defenses which the parties
28

1 have agreed to provide later in the case and/or which are to be provided according to the
2 schedule set by the Local Rules, the Patent Local Rules, and/or the Case Management
3 Order in this case. In addition, discovery in this matter and Award Metals' investigation of
4 the subject matter of this litigation, including expert investigation and third party
5 discovery, is ongoing.

6 7. Nothing in Award Metals' responses to these interrogatories constitutes an
7 admission concerning the scope of the claims of any patent at issue nor of the relation of
8 any such claims to any product made, used, sold, offered for sale, or imported by Award
9 Metals.

10 8. Award Metals expressly reserves the right to supplement and/or amend its
11 responses to these interrogatories at a later date.

12 **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

13 1. Award Metals objects to the Definitions and Instructions in the
14 Interrogatories to the extent that they seek to impose a duty on Award Metals beyond that
15 which is required by the Federal Rules of Civil Procedure and/or the Civil Local Rules of
16 the United States District Court for the Northern District of California, and/or the Patent
17 Local Rules of the United States District Court for the Northern District of California.

18 2. Award Metals objects to the definition of the term "documents" to the extent
19 that USG seeks to impose a duty on Award Metals beyond that which is required by the
20 Federal Rules of Civil Procedure and/or the Civil Local Rules of the United States District
21 Court for the Northern District of California.

22 **INTERROGATORIES**

23 **Interrogatory No. 7:**

24 State all facts which you contend support your allegation that Plaintiff has engaged
25 in unfair competition, specifying each and every act claimed to constitute an alleged act of
26 unfair competition, and identify any and all documents that support or otherwise relate to
27 each alleged act of unfair competition.
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1 **Response To Interrogatory No. 7:**

2 Award Metals incorporates by reference its General Objections and Objections to
3 Definitions and Instructions. Award Metals further objects to this interrogatory on the
4 grounds that it is overbroad, unduly burdensome, oppressive and duplicative of other
5 requests. In addition, Award Metals objects to this interrogatory to the extent that it seeks
6 documents or information protected by the attorney-client privilege, the work product
7 doctrine, and/or any other applicable privilege.

8 Subject to and without waiving the foregoing objections, Award Metals respond as
9 follows:

10 Award incorporates by reference its responses to Interrogatories 4 and 13. USG has
11 marked upon, or affixed to, packaging for its paper faced corner bead products "U.S. Patent
12 No. 5,131,198" or an equivalent designation suggesting that the product so marked
13 embodies one or more claims of the '198 patent. The material, if any, that is included on
14 one or more of the products so marked does not meet the claim limitation requiring a
15 coating on the paper of "about 0.001 to 0.005 inches." Due to the substantial difference
16 between the thickness of the material, if any, that appears on at least certain of USG's
17 marked products and the thickness referenced in the '198 patent, USG must have been
18 aware that such marking was not warranted. While an employee of BeadeX, Wesley
19 Dunham advised BeadeX management of this false designation. (See, e.g., July 7, 2005
20 deposition transcript of Wesley Dunham, pp. 45-49 and December 22, 2005 rough
21 deposition transcript of Wesley Dunham, pp. 65, 101-103). Additional information
22 concerning USG's motivations and objectives in connection with its false marking is under
23 the control of USG, and are the subject of pending discovery requests and depositions of
24 USG employees. Award Metals expressly reserves the right to supplement its response to
25 this interrogatory at a later date.

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1 **Interrogatory No. 8:**

2 Identify and describe with particularity all damages Award Metals has suffered as a
3 result of Plaintiff's alleged unfair competition and identify all documents supporting each
4 claimed damage.

5 **Response To Interrogatory No. 8:**

6 Award Metals incorporates by reference its General Objections and Objections to
7 Definitions and Instructions. Award Metals further objects to this interrogatory on the
8 grounds that it is overbroad, unduly burdensome, oppressive and duplicative of other
9 requests. USG has only recently produced documents relating to this request and Award
10 Metals has not been able to fully review such documents in order to identify potentially
11 relevant documents and witnesses. Further, Award Metals has yet to depose USG's
12 witnesses with knowledge relevant to this subject. In addition, Award Metals objects to
13 this interrogatory to the extent that it seeks documents or information protected by the
14 attorney-client privilege, the work product doctrine, is the subject of anticipated expert
15 testimony and/or any other applicable privilege. Further, Award Metals objects to this
16 Interrogatory as it seeks disclosure of expert opinion and analysis prior to disclosure of
17 expert reports. Award Metals will disclose such expert opinions and analysis in the
18 manner provided for in the Case Management Order.

19 Subject to and without waiving the foregoing objections, Award Metals responds as
20 follows: On information and belief, USG's practice of falsely marking its products with
21 the '198 Patent and USG's claim that Award Metals' accused products infringe the '198
22 Patent through prosecution of this action have caused Award Metals to lose actual and
23 potential customers and sales of Award's paper faced corner bead products.

24 **Interrogatory No. 9:**

25 State whether Award Metals claims that it has lost any sales as a result of any acts
26 of unfair competition by Plaintiff and if so, identify for each alleged lost sale (a) the name
27 of the customer (b) the products involved (c) the approximate date of the lost sale (d) the
28 quality and price of the goods involved (e) the individual or individuals involved in

1 attempting to market or sell products to the customer on behalf of Award, and (f) all
2 documents that evidence or otherwise relate to the foregoing.

3 **Response To Interrogatory No. 9:**

4 Award Metals incorporates by reference its General Objections and Objections to
5 Definitions and Instructions. Award Metals further objects to this interrogatory as vague
6 and ambiguous. In addition, Award Metals objects to this interrogatory on the grounds that
7 it is overbroad, unduly burdensome, oppressive, compound and duplicative of other
8 requests. USG has only recently produced documents relating to this request and Award
9 Metals has not been able to fully review such documents in order to identify potentially
10 relevant documents and witnesses. Further, Award Metals has yet to depose USG's
11 witnesses with knowledge relevant to this subject. Award Metals further objects to this
12 interrogatory to the extent that it seeks documents or information protected by the attorney-
13 client privilege, the work product doctrine, and/or any other applicable privilege. Award
14 Metals further objects to this interrogatory to the extent that it seeks documents or
15 information that are not relevant to the claims or defenses of any party asserted in the
16 litigation or not reasonably calculated to lead to the discovery of admissible evidence under
17 Federal Rule of Civil Procedure 26. Further, Award Metals objects to this Interrogatory as
18 it seeks disclosure of expert opinion and analysis prior to disclosure of expert reports.
19 Award Metals will disclose such expert opinions and analysis in the manner provided for
20 in the Case Management Order.

21 Subject to and without waiving the foregoing objections, Award Metals respond as
22 follows: On information and belief, USG's practice of falsely marking its products with
23 the '198 Patent and USG's claim that Award Metals' accused products infringe the '198
24 Patent through prosecution of this action have caused Award Metals to lose actual and
25 potential customers and sales of Award's paper faced corner bead products.

26 **Interrogatory No. 10:**

27 State the date of Award Metals' first commercial sale of any coated paper faced
28 corner bead product, and the date Award Metals' paper faced corner bead product was first