

**04-387 Gemtron Corporation v. Saint Gobain Corporation**  
**EXHIBIT A**

**Avern  
Cohn/MIED/06/USCOURTS**  
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06/03/2008 12:30 PM

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Subject Gemtron v. Saint-Gobain (Case No. 04-387) - Permanent Injunction

Counsel:

I have given further consideration to the matter of a permanent injunction as part of the final judgment in this case. Given that Gemtron and Saint-Gobain are competitors in the refrigerator shelf market, a permanent injunction against infringement by Saint-Gobain of the '573 patent is appropriate. Also, given the likelihood of an appeal, which will likely raise substantial questions, the permanent injunction will be stayed until the resolution of the appeal. Further briefing is not necessary. See Fresenius Medical Care Holdings, Inc., et al. v. Baxter International, Inc., et al., 2008 WL 928496 (N.D. Cal. April 4, 2008) (granting motion for permanent injunction where infringer and patentee were direct competitors); Tivo, Inc. v. Echostar Communications Corp., et al., 446 F. Supp. 2d 664 (E.D. Tex. 2006) (granting motion for permanent injunction and declining to stay its effect; appeals court subsequently granted stay of the injunction pending appeal, see 516 F.3d 1290 (Fed. Cir. 2008)); Standard Havens Products, Inc. v. Gencor Industries, Inc., 897 F.2d 511 (Fed. Cir. 1990) (listing criteria for granting stay).

What is important is to bring this case to conclusion at the district court level. I am scheduling a further hearing on June 25, 2008 at 2:00 p.m. to resolve outstanding issues. If Saint-Gobain can persuade me a trial on the issue of prior sale has merit, that is a bridge to be crossed at the hearing.

Avern Cohn  
U.S. District Judge  
313-234-5160