

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

)	
HYSITRON INCORPORATED,)	Civil Action No. 07 CV 1533 ADM/AJB
a Minnesota corporation,)	
)	
Plaintiff,)	
)	
v.)	
)	
MTS SYSTEMS CORPORATION,)	
a Minnesota corporation,)	
)	
Defendant.)	
)	

**DECLARATION OF ODEN WARREN IN OPPOSITION TO
DEFENDANT MTS SYSTEMS CORPORATION'S
MOTION FOR PARTIAL SUMMARY JUDGMENT**

I, Dr. Oden L. Warren, hereby declare as follows:

1. I am Chief Technology Officer (“CTO”) at Hysitron, Inc. This declaration is respectfully submitted in opposition to Defendant’s Motion for Partial Summary Judgment.

2. I first joined Hysitron in 1998. I led the development effort for the TriboIndenter nanomechanical test instrument, which provides nanomechanical data and in-situ imaging, and which is the company’s flagship product. I also have direct personal knowledge of Hysitron’s TriboScope and Ubi products, which also provide nanomechanical data and in-situ imaging. In my capacity as CTO, I also have direct

personal knowledge of Hysitron's competitive relationship with Defendant MTS Systems Corporation ("MTS").

3. MTS is primarily known for larger scale test equipment, for ground vehicle, aerospace, and civil engineering applications. MTS is not as well known for its nanomechanical test equipment. MTS began to compete in the area of nanomechanical test products after it bought a nanomechanical company in Tennessee.

4. Hysitron markets its nanomechanical test products at tradeshow, generally as part of technical conferences, in the United States and around the world. It would not be unusual for Hysitron to participate in thirty such shows in a year. Based in part on my attendance of such events, it appears that Hysitron showcases its nanomechanical test products at a far greater number of tradeshow than does MTS.

5. It is further my experience that is not uncommon for Hysitron to meet prospective customers at these tradeshow having no previous experience with nanomechanical test products, and some prospective customers are not aware of MTS' existence as a provider of nanomechanical test products or even the identity of any company that competes with Hysitron in the field of nanomechanical test products.

Dated: 05/09/08

/s/ Oden L. Warren
Oden L. Warren