

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

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

**DECLARATION OF JOSHUA GRAHAM IN OPPOSITION TO
DEFENDANT'S RENEWED MOTION TO STAY LITIGATION
PENDING REEXAMINATION OF PLAINTIFF'S PATENTS**

I, Joshua Graham, hereby declare as follows:

1. I am an attorney with the law firm of Merchant & Gould located in Minneapolis, Minnesota and represent Plaintiff Hysitron Incorporated ("Hysitron") in the above-captioned action.
2. Attached hereto as Exhibit A is a true and correct copy of "Defendant's Prior Art Statement," excluding Appendix A thereto, dated September 17, 2007.
3. Attached hereto as Exhibit B is a true and correct copy of the "Information Disclosure Statement by Applicant," which was submitted during the Reexamination of U.S. Patent No. 5,553,486 and indicates that the Examiner considered each reference listed therein.

4. Attached hereto as Exhibit C is a true and correct copy of the internet cite located at <http://www.mtsnano.com/news>, as it appeared on July 21, 2008.

5. Attached hereto as Exhibit D is a true and correct copy of a letter from Agilent Technologies to Allen Hinderaker, dated June 30, 2008.

6. Attached hereto as Exhibit E is a true and correct copy of *Ecolab, Inc. v. FMC Corp.*, 05-CV-831, 2007 U.S. Dist. LEXIS 39189 (D. Minn. May 29, 2007).

7. Attached hereto as Exhibit F is a true and correct copy of the “Comments on Statement of Reasons for Patentability and/or Confirmation,” submitted on May 23, 2008, during the Reexamination of U.S. Patent No. 5,553,486.

8. Attached hereto as Exhibit G is a true and correct copy of a Nano Vision brochure.

9. Attached hereto as Exhibit H is a true and correct copy of an e-mail from David Pearson to Allen Hinderaker, dated July 21, 2008.

I state under penalty of perjury that the forgoing is true and correct.

Dated: June 24, 2008

/s/Joshua P. Graham
Joshua P. Graham