

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 TODD S. WERNER IN SUPPORT OF OPPOSITION TO
DEFENDANT’S MOTION *IN LIMINE* TO EXCLUDE PLAINTIFF’S
EXPERT WITNESS FROM MARKMAN PROCEEDING**

I, Todd S. Werner, 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. This declaration is respectfully submitted in support of Opposition to Defendant’s Motion *In Limine* to Exclude Plaintiff’s Expert Witness from Markman Proceeding.

2. Attached hereto as Exhibit A is a true and accurate copy of U.S. Patent No. 6,026,677.

3. Attached hereto as Exhibit B is a true and accurate copy of Defendant’s Preliminary Proposed Construction of Disputed Claim Terms, Phrases and Clauses dated September 17, 2007.

4. Attached hereto as Exhibit C is a true and accurate copy of the curriculum vitae of Richard J. Colton.

5. Attached hereto as Exhibit D is a true and accurate copy of a letter dated October 31, 2007, from Allen Hinderaker to Matthew Spohn.

6. Attached hereto as Exhibit E is a true and accurate copy of a letter dated October 31, 2007, from Matthew Spohn to Allen Hinderaker.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: November 7, 2007

By: *s/Todd S. Werner*
Todd S. Werner