

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

THOMAS A. SIMONIAN,

Relator,

v.

MAYBELLINE LLC,

Defendant.

Civil Action No. 1:10-cv-01615

Honorable Virginia M. Kendall

RELATOR’S NOTICE OF SUPPLEMENTAL AUTHORITY

Thomas A. Simonian, as *qui tam* relator (“Relator”), respectfully submits the attached supplemental authority in support of his Response to the Motions to Dismiss and Stay filed by Defendant Maybelline LLC (“Maybelline”) (Dkt. Nos. 30 and 32).

With regard to the issues of whether the Relator has standing to bring this *qui tam* action and whether the Relator has sufficiently pled a false marking claim, the Relator refers the Court to Judge Bucklo’s Order of August 13, 2010 in *Simonian v. Advanced Vision Research*, attached as **Exhibit A**. The Court denied Advanced Vision’s Rule 12(b)(1) Motion, following Judge Shadur’s opinion in *Zojo Solutions*. The Court also denied Advanced Vision’s 12(b)(6) Motion, stating as follows: “[The Relator] alleges that defendant is a sophisticated company and that it (or its lawyers) know how long a patent lasts, and therefore knew these patents had expired. No more is necessary at this stage.”

Dated: August 13, 2010

Respectfully submitted,

THOMAS A. SIMONIAN, as Relator

By: s/ Martin Goering

One of his attorneys

Attorneys for Relator

Joseph M. Vanek
John Paul Bjork
VANEK, VICKERS & MASINI, P.C.
111 S. Wacker Drive, Suite 4050
Chicago, Illinois 60606

Martin Goering
Jessica E. Rissman
EUGENE M. CUMMINGS, P.C.
One North Wacker Drive, Suite 4130
Chicago, Illinois 60606

Bruce S. Sperling
Robert D. Cheifetz
SPERLING & SLATER, P.C.
55 West Monroe Street, Suite 3200
Chicago, Illinois 60603

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on August 13, 2010, a true and correct copy of **RELATOR'S NOTICE OF SUPPLEMENTAL AUTHORITY** was filed electronically with the Clerk of the Court and was served via the Court's CM/ECF System which will automatically provide electronic notice upon all counsel of record.

s/ Martin Goering

Martin Goering
Attorney for Relator