

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

THOMAS A. SIMONIAN,

Plaintiff,

v.

MAYBELLINE LLC,

Defendant.

Civil Action No. 1:10-cv-01615

JURY TRIAL DEMANDED

Hon. Virginia M. Kendall

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 Motion to Dismiss filed by Defendant Maybelline LLC.

With regard to the issues of whether the Relator has standing to bring this *qui tam* action and whether the Relator has sufficiently plead a false marking claim, the Relator respectfully cites the Court to the following additional authority:

1. Judge Gettleman’s August 23, 2010 opinion in *Simonian v. Oreck Corp. et al* denying Defendants’ 12(b)(1) and 12(b)(6) Motions to Dismiss, attached as **Exhibit A**. With respect to standing, the Court stated, “This court agrees with *Patent Compliance* and rejects the reasoning in *Stauffer*. The text of §292 clearly gives standing to whomever witnesses or discovers a violation of the statute. The claimant need not be a competitor or consumer of the product, nor must he allege an injury to the United States economy to acquire standing.” As for whether the Relator had sufficiently plead his false marking claim, the Court held, “By alleging that the defendants had

knowledge of their false marking and that the marks were false, [this] creates a rebuttable presumption of deceptive intent.”

Dated: August 24, 2010

Respectfully submitted,

THOMAS A. SIMONIAN, as Relator

s/ John Bjork

John Bjork

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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on August 24, 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/ John Bjork

John Bjork