

EXHIBIT B

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6
7 **UNITED STATES DISTRICT COURT**
8 **IN AND FOR THE DISTRICT OF ARIZONA**

9
10 SOILWORKS, LLC, an Arizona
corporation,

11 Plaintiff,

12 v.

13 MIDWEST INDUSTRIAL SUPPLY, INC.,
14 an Ohio corporation authorized to do
business in Arizona,

15 Defendant.
16

NO.: 2:06 CV - 2141

**COMPLAINT FOR DAMAGES AND
EQUITABLE RELIEF AND DEMAND
FOR JURY TRIAL**

17 Plaintiff, Soilworks, LLC ("Soilworks"), brings this action against Defendant,
18 Midwest Industrial Supply, Inc. ("Midwest"), and alleges as follows:

19 **JURISDICTION AND VENUE**

20 1. This is a Complaint for an injunction, damages and other appropriate relief to
21 stop Midwest from misrepresenting material facts concerning Soilworks and its products and
22 Midwest and its products. In this action, Soilworks asserts violations of the Lanham Act,
23 15 U.S.C. § 1041 et. seq., of the Arizona Deceptive Trade Practices Act, and of Arizona
24 common law. In addition, Soilworks seeks declaratory relief under 28 U.S.C. §§ 2201 and
25 1338 with regard to U.S. Patent No. 7,081,270 which Midwest purports to own.

26 2. This Court has subject matter over Soilworks' claims pursuant to 15 U.S.C.
27 § 1121 and 28 U.S.C. §§ 1331, 1338 and supplemental jurisdiction under 28 U.S.C. § 1367.
28

1 3. This Court has personal jurisdiction over Midwest by virtue of the fact that
2 Midwest does business in this judicial district, has a substantial nexus with the State of
3 Arizona and has committed tortious conduct in this judicial district.

4 4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because
5 (i) Midwest conducts business in this judicial district; and (ii) a substantial part of the events
6 or omissions giving rise to the claims occurred, or a substantial part of the property that is the
7 subject of the action is situated, in this judicial district.

8 **THE PARTIES**

9 5. Soilworks is a limited liability company that maintains its principal place of
10 business at 681 North Monterey Street, Suite 101, Gilbert, Arizona 85233. All of the
11 members of Soilworks are residents and citizens of the state of Arizona.

12 6. Upon information and belief, Midwest is a corporation incorporated under the
13 laws of a state other than Arizona and maintains its principal place of business in Canton,
14 Ohio.

15 **FACTUAL BACKGROUND**

16 7. Soilworks distributes environmentally-safe soil stabilizers, dust control agents
17 and erosion control agents throughout the United States. Soilworks has spent substantial
18 resources in the form of effort and capital in the sourcing, distribution and marketing of the
19 foregoing products and has built a reputation for providing excellent products in a timely
20 manner at a reasonable price. Soilworks' business is national in scope and Soilworks has
21 earned the respect of distributors, customers and end users throughout the United States.

22 8. Midwest competes with Soilworks and has recently embarked on a scheme to
23 injure the reputation that Soilworks has established with its distributors, customers and end
24 users. Pursuant to this scheme, Midwest has disparaged Soilworks and its products, falsely
25 represented that Soilworks is infringing alleged patent rights of Midwest, and falsely
26 represented that Soilworks' products fall within the scope of alleged patent claims owned by
27 Midwest. Midwest also falsely represents characteristics and attributes of its company and
28 products. Pursuant to this scheme, Midwest has attempted to divert sales from Soilworks

1 and injure Soilworks' reputation by, among other things, representing that Soilworks'
2 products infringe Midwest's alleged patent rights.

3 9. Midwest has disseminated information and documentation to Soilworks'
4 distributors, customers and end users which is inaccurate, misleading and which is causing
5 irreparable harm and damage to Soilworks, Soilworks' reputation and the reputation of
6 Soilworks' products.

7 10. Midwest's conduct is intended to cause mistake, deception and consumer
8 confusion and was done by Midwest with the intention of damaging Soilworks and the
9 reputation Soilworks has earned in the industry. The conduct of Midwest wrongfully diverts
10 the potential market and customer loyalty to which Soilworks is entitled.

11 11. Defendant has engaged in the foregoing wrongful conduct intentionally and in
12 order to profit from such conduct. Midwest's conduct is causing, and will continue to cause,
13 irreparable harm to Soilworks and to tarnish and diminish the substantial goodwill Soilworks
14 has cultivated with respect to its company, products and the proprietary rights associated
15 therewith.

16 12. Midwest has allegedly obtained a United States Patent with respect to a method
17 of chemical soil stabilization and dust control, U.S. Patent No. 7,081,270. Midwest
18 intentionally has misrepresented the scope of said patent rights and has misrepresented to
19 Soilworks' distributors, customers and end users that Soilworks' products fall within the
20 scope of said patent rights, which is false. Midwest has also represented to Soilworks'
21 distributors, customers and end users that Midwest owns a proprietary position with regard to
22 Midwest's products and services which is false and/or misleading.

23 13. Midwest has disseminated marketing communications with regard to U.S.
24 Patent No. 7,081,270 that are false, misleading and intended to tarnish and diminish the
25 substantial goodwill Soilworks has cultivated with respect to its company, products and
26 Soilworks' proprietary rights associated therewith.

1 14. Midwest has disseminated marketing communications with regard to U.S.
2 Patent No. 7,081,270 that are false, misleading and intended to misrepresent characteristics
3 of Midwest's products and its proprietary position with regard to those products.

4 **COUNT I**

5 **FALSE REPRESENTATION UNDER LANHAM ACT, § 43(A)**

6 15. Soilworks incorporates by reference paragraphs 1 through 14 above.

7 16. Midwest is disseminating information and documentary materials in a manner
8 that is likely to cause confusion, mistake and deception among consumers of Soilworks'
9 products regarding Soilworks' conduct and products. Such activities will mislead and divert
10 customers of Soilworks and damage and tarnish the excellent reputation Soilworks has
11 established in the marketplace.

12 17. Midwest has used, and continues to use, false and misleading statements and
13 representations of fact in commercial advertising and promotion, thereby misrepresenting the
14 nature, characteristics and qualities of their products, services and commercial activities of
15 those of competitors.

16 18. Midwest's conduct constitutes false designation of origin and association in
17 violation of the Lanham Act, 15 U.S.C. § 1125(a).

18 19. Midwest's unlawful conduct is causing Soilworks severe and irreparable harm
19 that cannot be adequately remedied solely by monetary damages. Unless restrained and
20 enjoined by this Court, Midwest's unlawful actions are likely to continue, to Soilworks'
21 harm and detriment.

22 **COUNT II**

23 **DECLARATORY JUDGMENT UNDER 28 U.S.C. § 2201**

24 20. Soilworks incorporates by reference paragraphs 1 through 19 above.

25 21. Midwest has averred that the U.S. Patent No. 7,081,270 was duly and legally
26 issued, that Midwest is the lawful owner, including the right to sue and to recover for any
27 and all infringement of U.S. Patent No. 7,081,270 and that Soilworks infringes said patent.
28

22. Soilworks denies that, either directly, contributorily and by inducement, it has infringed, and that it is infringing, any valid and/or enforceable claim of U.S. Patent No. 7,081,270 and Soilworks further asserts that U.S. Patent No. 7,081,270 is invalid for failing to satisfy the conditions for patentability set forth in Part II of Title 35 of the United States Code, including, but not limited to, Sections 101, 102, 103 and 112.

23. Soilworks alleges that there has been and is now an actual controversy between Soilworks and Midwest as to the validity and scope of U.S. Patent No. 7,081,270.

COUNT III

MISAPPROPRIATION OF GOODWILL

24. Soilworks incorporates by reference paragraphs 1 through 23 above.

25. Midwest's conduct, as set forth above, constitutes misappropriation of Soilworks' valuable goodwill, reputation and business property.

26. As a direct result of Midwest's actions, as set forth above, Soilworks has been damaged. Midwest's unlawful conduct has caused Soilworks severe and irreparable harm that cannot be adequately remedied solely by monetary damages. Unless restrained and enjoined by this Court, Midwest's unlawful actions are likely to continue, to Soilworks' harm and detriment.

COUNT IV

TORTIOUS INTERFERENCE WITH BUSINESS

RELATIONSHIP AND EXPECTANCY

27. Soilworks incorporates by reference paragraphs 1 through 26 above.

28. Soilworks makes a substantial number of sales and has established customer relationships and has the expectancy to establish additional customer relationships as a result of the excellent reputation of its products.

29. Midwest knows of Soilworks' business relationships and expectancies and without justification, intentionally interfered with existing business relationships and has sought to frustrate Soilworks expected customer relationships.

30. As a direct result of Midwest's actions, as set forth above, Soilworks has been damaged. Midwest's unlawful conduct is causing Soilworks severe and irreparable harm that cannot be adequately remedied solely by monetary damages. Unless restrained and enjoined by this Court, Midwest's unlawful actions are likely to continue, to Soilworks' harm and detriment.

COUNT VI

ARIZONA COMMON LAW AND UNFAIR COMPETITION

31. Soilworks incorporates by reference paragraphs 1 through 30 above.

32. Midwest's conduct constitutes unfair competition prohibited by Arizona common law. Midwest's conduct has caused, and will continue to cause, damage to Soilworks.

33. As a result of Midwest's actions, Soilworks has been damaged. Midwest's unlawful conduct is causing Soilworks severe and irreparable harm that cannot be adequately remedied solely by monetary damages. Unless restrained and enjoined by this Court, Midwest's unlawful actions are likely to continue, to Soilworks' harm and detriment.

PRAYER FOR RELIEF

WHEREFORE, Soilworks respectfully requests that the Court enter judgment against Midwest as follows:

1. For judgment against Midwest that it has committed the wrongful acts as described herein.

2. That the Court issue temporary and permanent injunctive relief against Midwest, and Midwest's officers, agents, representatives, servants, employees, attorneys, successors and assigns, and all others in active concert or participation with Midwest from:

(a) Disparaging Soilworks and Soilworks' products;

(b) Falsely representing that Soilworks is infringing alleged patent rights of
est:

(c) Falsely representing that Midwest owns a proprietary position with regard to its products which it does not, in fact, own;

1 (d) Using and misusing any and all alleged patent rights under U.S. Patent
2 No. 7,081,270 in competition with Soilworks; and

3 (e) Disseminating marketing communications which are in any respect
4 false, misleading and are intended to tarnish and diminish the substantial goodwill
5 Soilworks has cultivated with respect to its company, products and Soilworks'
6 proprietary rights associated therewith.

7 3. That the Court declare that Soilworks has not and does not infringe any valid
8 and/or enforceable claim of U.S. Patent No. 7,081,270, directly or indirectly, literally or by
9 equivalence.

10 4. That the Court declare that each claim of U.S. Patent No. 7,081,270 is invalid.

11 5. That the Court enjoin Midwest, its officers, agents, representatives,
12 distributors, employees, affiliates, parent and subsidiary corporations, attorneys and other
13 persons in active concert or participation with them from charging infringement or instituting
14 any action for infringement of U.S. Patent No. 7,081,270 against Soilworks or anyone in
15 privity with Soilworks, including its successors, assigns, agents, suppliers, distributors,
16 customers, licensees and sublicensees.

17 6. That the Court award Soilworks actual damages, in an amount to be proven at
18 trial.

19 7. That the Court award Soilworks treble damages, in an amount to be proven at
20 trial.

21 8. That the Court award Soilworks punitive damages, in an amount to be proven
22 at trial.

23 9. That the Court award Soilworks its attorneys' fees and costs incurred herein.

24 10. That the Court grant Soilworks all other relief to which it is entitled and such
25 other or additional relief as is just and proper.
26
27
28

1 Dated this 7th day of September, 2006.

2 KUTAK ROCK LLP

3
4 By 

5 E. Scott Dosek
6 John P. Passarelli
7 Suite 300
8 8601 North Scottsdale Road
9 Scottsdale, AZ 85253-2742

10 *Attorneys for Plaintiff*

11 **DEMAND FOR JURY**

12 Soilworks hereby demands a trial by jury of all issues triable of right by a jury.

13 KUTAK ROCK LLP

14
15 By 

16 E. Scott Dosek
17 John P. Passarelli
18 Suite 300
19 8601 North Scottsdale Road
20 Scottsdale, AZ 85253-2742

21 *Attorneys for Plaintiff*

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Soilworks, LLC

DEFENDANTS

Midwest Industrial Supply, Inc.

(b) County of Residence of First Listed Plaintiff Maricopa
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)
Kutak Rock LLP
8601 N. Scottsdale Rd., #300, Scottsdale, AZ 85253

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition				

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. § 1041 et seq.

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

9/7/06

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

(For Use In Civil Cases With District Judge as President)

UNITED STATES DISTRICT COURT

District of _____

Plaintiff

v.

Defendant

NOTICE, CONSENT, AND ORDER OF REFERENCE-
EXERCISE OF JURISDICTION BY A UNITED STATES
MAGISTRATE JUDGE

Case Number: _____

**NOTICE OF AVAILABILITY OF A UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION**

In accordance with the provisions of 28 U.S.C. 636© and Fed.R.Civ.P.73, you are hereby notified that a United States magistrate judge of this district court is available to conduct any or all proceedings in this case including a jury or nonjury trial, and to order the entry of a final judgment. Exercise of this jurisdiction by a magistrate judge is, however, permitted only if all parties voluntarily consent.

You may, without adverse substantive consequences, withhold your consent, but this will prevent the court's jurisdiction from being exercised by a magistrate judge. If any party withholds consent, the identity of the parties consenting or withholding consent will not be communicated to any magistrate judge or to the district judge to whom the case has been assigned.

An appeal from a judgment entered by a magistrate judge shall be taken directly to the United States court of appeals for this judicial circuit in the same manner as an appeal from any other judgment of a district court.

CONSENT TO THE EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of 28 U.S.C. 636© and Fed.R.Civ.P. 73, the parties in this case hereby voluntarily consent to have a United States magistrate judge conduct any and all further proceedings in the case, including the trial, order the entry of a final judgment, and conduct all post-judgment proceedings.

Signatures

Party Represented

Date

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

ORDER OF ASSIGNMENT

IT IS HEREBY ORDERED that this case be assigned to _____
United States Magistrate Judge, for all further proceedings and the entry of judgment in accordance with 28 U.S.C. 636(c), Fed.R.Civ.P. 73 and the foregoing consent of the parties. All further documents filed with the court are to carry the following case number _____.

Date _____

United States District Judge _____

NOTE: RETURN THIS FORM TO THE CLERK OF THE COURT ONLY IF ALL PARTIES HAVE CONSENTED ON THIS FORM TO THE EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE.

Armstrong, Valerie J.

From: azddb_responses@azd.uscourts.gov
Sent: Monday, September 11, 2006 12:18 PM
To: azddb_nefs@azd.uscourts.gov
Subject: Activity in Case 2:06-cv-02141-DGC Soilworks LLC v Midwest Industrial Supply Inc "New Case Opened"

*****NOTE TO PUBLIC ACCESS USERS*** You may view the filed documents once without charge. To avoid later charges, download a copy of each document during this first viewing.**

U.S. District Court

DISTRICT OF ARIZONA

Notice of Electronic Filing

The following transaction was received from PEM, entered on 9/11/2006 at 12:17 PM MST and filed on 9/7/2006

Case Name: Soilworks LLC v Midwest Industrial Supply Inc
Case Number: 2:06-cv-2141
Filer:
Document Number: 3

Docket Text:

Filing fee paid 9/7/06, receipt number PHX047896. This case has been assigned to the Honorable David G Campbell. All future pleadings or documents should bear the correct case number: CV06-2141-PHX-DGC. Notice of Availability of Magistrate Judge to Exercise Jurisdiction form attached. (PEM)

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1096393563 [Date=9/11/2006] [FileNumber=1135561-0]
][845d2dc0e36e6049f92c898b31fa56311fd313ac1da3e2c94fab49175f263944a40
7e6971f11ea58abb9b6e8ac214c83216d51074d5744cef4110b1246c69bec]]

2:06-cv-2141 Notice will be electronically mailed to:

E Scott Dosek scott.dosek@kutakrock.com, amy.fletcher@kutakrock.com,
valerie.armstrong@kutakrock.com

2:06-cv-2141 Notice will be delivered by other means to:

9/11/2006

Complaints and Other Initiating Documents2:06-at-10951 Soilworks LLC**U.S. District Court****DISTRICT OF ARIZONA**

Notice of Electronic Filing

The following transaction was received from Dosek, E Scott entered on 9/7/2006 at 3:22 PM MST and filed on 9/7/2006

Case Name: Soilworks LLC**Case Number:** 2:06-at-10951**Filer:** Soilworks LLC**Document Number:** 1**Docket Text:**

COMPLAINT, filed by Soilworks LLC. (Attachments: # (1) Civil Cover Sheet)(Dosek, E)

The following document(s) are associated with this transaction:

Document description:Main Document**Original filename:**n/a**Electronic document Stamp:**

[STAMP dcecfStamp_ID=1096393563 [Date=9/7/2006] [FileNumber=1130229-0]
[071ec51d43aac3a56e9bb63789ac0d5a416d4d7945f083118583199652dbdfc46ff3
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Document description:Civil Cover Sheet**Original filename:**n/a**Electronic document Stamp:**

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d1288dd20abd8348820c72fb7f64f3f9dfd1f319ba37d462c03b86f0f628]]

2:06-at-10951 Notice will be electronically mailed to:

E Scott Dosek scott.dosek@kutakrock.com, amy.fletcher@kutakrock.com,
valerie.armstrong@kutakrock.com

2:06-at-10951 Notice will be delivered by other means to:

Credit Card Payment2:06-at-10951 Soilworks LLC**U.S. District Court****DISTRICT OF ARIZONA**

Notice of Electronic Filing

The following transaction was received from Dosek, E entered on 9/7/2006 at 3:29 PM MST and filed on 9/7/2006

Case Name: Soilworks LLC**Case Number:** 2:06-at-10951**Filer:****Document Number:****Docket Text:**

SUBMISSION of CREDIT CARD INFORMATION for Civil Case Filing Fee in the amount of \$350.00;

Type of Credit Card: MASTER CARD;

Name as it appears on Credit Card: E. SCOTT DOSEK;

Contact Telephone Number: 480-429-7112;

Street: 8601 N. SCOTTSDALE ROAD;

Suite: 300;

Zip Code: 85253;

Credit Card Number: xxxx-xxxx-xxxx-xxxx

Expiration Date: xx/xx

Security Code: xxx

(Dosek, E)

The following document(s) are associated with this transaction: