IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BENTLEY A. HOLLANDER,	: :	
Plaintiff,	; ; ;	CIVIL ACTION
v.	: :	NO. 10-526
ETYMOTIC RESEARCH, INC.,	: :	
Defendant.	:	

<u>ORDER</u>

AND NOW, this _____ day of July, 2010, upon consideration of Defendant Etymotic Research, Inc.'s Motion to Dismiss or Transfer (Doc. 13); Plaintiff Bentley Hollander's Response in Opposition thereto (Doc. 14); Defendant's Motion to File a Reply (Doc. 15); and Plaintiff's Response in Opposition thereto (Doc. 16), IT IS HEREBY ORDERED and DECREED that Defendant's Motion to Dismiss or Transfer is GRANTED IN PART and DENIED IN PART as follows:

- Defendant's Motion to Dismiss or Transfer is GRANTED to the extent that Plaintiff's Complaint is DISMISSED for failure to state with particularity the circumstances constituting Defendant's alleged false marking.
- 2. Defendant's Motion to Dismiss or Transfer is otherwise **DENIED**.
- 3. On or before **Monday**, **July 26**, **2010**, Plaintiff may submit an amended complaint that complies with Fed. R. Civ. P. 9(b).

IT IS FURTHER ORDERED that Defendant's Motion for Leave to Reply is DENIED.

BY THE COURT:
/s/ Petrese B. Tucker
Hon. Petrese B. Tucker, U.S.D.J.