

Main Identity

From: "Gary Peterson" <gp@garypeterson.com>
To: "Katsock, Andrew J." <ajkesq@epix.net>
Sent: Tuesday, August 05, 2008 3:22 PM
Subject: Babyage/Leachco discovery

Andy, this follows up on our telephone conversation of today regarding our discovery requests to your clients.

I am willing to limit First Document Requests 6, 9, 12-16 and 22 to documents, tangible things and data relating to the Today's Mom Cozy Comfort pillow.

Regarding First Document Request 21 and First Interrogatory Answers 2 (Kiefer) and 3 (Babyage), you have stated that there are no such patent applications. You should be aware that the Babyage website states that the Today's Cozy Comfort pillow is "patent pending." If the responses and answers need to be corrected, that needs to be done immediately. If they are correct, you should be aware that we expect to seek leave to add a counterclaim for false patent marking. 35 U.S.C. § 292 provides a \$500 fine for each offense (i.e., sale) involving the false marking.

Regarding First Document Request No. 25, I am willing to limit it to web pages that reference either Leachco or its products, or the Today's Mom Cozy Comfort pillow.

On the discovery responses that came due on July 20 regarding patent invalidity, we need to get those answered based on what is known now. Your clients are the ones who seek a declaration of patent invalidity: we are entitled to know the basis.

One other matter I forgot to mention was that the answers to interrogatories from Mr. Kiefer were not under oath, as required by Rule 33(b)(3), and were not signed by him, as required by Rule 33(b)(5). And the answers from Babyage were not under oath. We need to get the answers sworn and signed.

Please let me hear from you about this as soon as possible. The responses and answers were served 1½ months late, and we still don't have all of what we need.

Gary

Exhibit A