

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

BEST VACUUM, INC., an Illinois Corporation,
Plaintiff,
v.
IAN DESIGN, INC., a New Jersey corporation,
Defendant.

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) 04 C 2249
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RECEIVED
JAN 13 2005
MARTIN C. ASHMAN
UNITED STATES MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT

NOTICE OF MOTION

PLEASE TAKE NOTICE that on Tuesday, January 18, 2004 at 10:30 a.m. or as soon thereafter as counsel may be heard, I shall appear before the Honorable Magistrate Judge Ashman in Room 1366 and then and there present the attached **PLAINTIFF'S MOTION TO SUPPLEMENT THE RECORD**, a copy of which is attached hereto and served upon you.

CERTIFICATE OF SERVICE

David M. Adler, an attorney, certifies that in accordance with Local Rule 5.3 of the United States District Court for the Northern District Of Illinois, he caused a copy of **PLAINTIFF'S MOTION TO SUPPLEMENT THE RECORD** to be served upon:

Charles Lee Mudd, Jr.
Law Offices of Charles Lee Mudd, Jr.
3344 North Albany avenue
Chicago, Illinois 60618
Attorney for Defendant

by placing the same in a United States Post Office Box located at 2 North LaSalle Street, Chicago, Illinois, postage prepaid, this 13th day of January, 2005.

By: 
David M. Adler, Esq.

David M. Adler, Esq.
DAVID M. ADLER, ESQ. & ASSOCIATES, PC
2 North LaSalle Street, Suite 1600
Chicago, IL 60602
Phone: (312) 379-0236
ISBA #6242403

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

BEST VACUUM, INC., an Illinois Corporation,
Plaintiff,

v.

IAN DESIGN, INC., a New Jersey corporation,
Defendant.

JUDGE HART
MAGISTRATE JUDGE
No. 04 C 2249
JURY TRIAL DEMANDED

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ASHMAN
UNITED STATES MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT

**MOTION TO SUPPLEMENT
THE RECORD OF THE HEARING ON
PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION**

Plaintiff, BEST VACUUM, INC. ("Plaintiff"), through its attorneys, moves this Court to supplement the Record of the hearing of November 24, 2004 on Plaintiff's Motion for Preliminary Injunction and in support thereof states as follows:

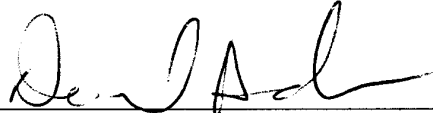
1. Plaintiff seeks to supplement the Record with the attached exhibit which, if accepted by the Court, would be denominated as Plaintiff's Exhibit D.
2. The exhibit consists of the one page State of Illinois Registration Certificate for the trademark "BEST VACUUM." The State of Illinois issued the Certificate after the hearing of November 24, 2004 on Plaintiff's Motion for Preliminary Injunction, but prior to a final ruling on the Motion.
3. The evidentiary significance of the Certificate is that it is probative of Plaintiff's claim to the exclusive right to use the mark "BEST VACUUM" in connection with various consumer products, including vacuums, as well as Plaintiff's claim that the mark is "famous."
4. Supplementing the Record of the hearing will assist the Court by providing for a more complete record, which includes evidence of registration of the mark at issue.

WHEREFORE, Plaintiff respectfully prays that the Court exercise its discretion by granting this Motion and accepting the attached Exhibit as a supplement to the evidence before the Court on Plaintiff's Motion for Preliminary Injunction.

DATED this 11th day of January, 2005.

DAVID M. ADLER, ESQ. & ASSOCIATES, PC

By:



David M. Adler, ISBA #6242403

David M. Adler, Esq.
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SERVICEMARK

CERTIFICATE OF REGISTRATION

Whereas, it appears from the application of **BEST VACUUM, INC.**, an **ILLINOIS corporation** located and doing business at **2646 N LINCOLN AVE, CHICAGO, IL 60614**, that said applicant has adopted and is using, within the State of Illinois, a certain **SERVICEMARK**, which is described as follows: "**BEST VACUUM**" a specimen or facsimile of which mark, as currently used, is attached hereto:



The mark was first used on **May 26, 1983** and first used in the state of Illinois on **May 26, 1983**, the mark is being used by said applicant to identify and distinguish "**RETAIL SALES OF VACUUMS, HUMIDIFIERS, LIGHTING, ANTI-ALLERGEN BEDDING AND ACCESSORIES**" in class **S-035**.

The application has been duly examined and has been found acceptable for registration according to the laws of this State. Said mark is therefore, registered as of this day, number **093349** for a five year period.

In Witness Whereof, I have hereunto set my hand and caused to be affixed the Great Seal of State, at the Capitol in the city of Springfield, November 30, 2004.

Jesse White

JESSE WHITE
SECRETARY OF STATE

