UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

INTERMARK FABRIC CORPORATION, Plaintiff, v. MICROFIBRES, INC. Defendant.	)	Civil Action No. 3:02 CV 1267 (AVC)

PLAINTIFF'S MOTION FOR LEAVE TO CORRECT THE RECORD IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT UNDER §§ 102 AND 103

Plaintiff, Intermark Fabric Corporation ("Intermark") hereby moves this Honorable Court for leave to correct the record in support of Intermark's Motion for Summary Judgment Under §§ 102 and 103. As grounds therefore, Intermark states as follows:

1. On September 22, 2003, Intermark filed a Motion for Summary Judgment Under §§102 and 103 ("Motion").

2. In conjunction with said Motion, and specifically in connection with its Local Rule 56(a)1 Statement, Intermark referenced and relied upon deposition testimony from Defendant's expert, Dr. David S. Brookstein, taken on September 10, 2003.

3. In preparing said Motion, counsel for Intermark used a rough draft version of the deposition transcript of Dr. Brookstein. The pinpoint references to the deposition transcript in Intermark's Local Rule 56(a)1 Statement inadvertently refer to the rough draft rather than the final version of the deposition transcript. The pages of the transcript that were attached as Exhibit W to the Declaration of Charles F. O'Brien in support of the Motion were taken from the final version of the deposition transcript and thus, as they reflect the page numbers from the

rough draft, the testimony cited does not correspond to the substance of the respective paragraphs in the Local Rule 56(a)1 Statement. This inadvertent error was not discovered until counsel for Intermark prepared the Reply Brief in response to Microfibres' Opposition to the Motion, which was filed on October 28, 2003.

4. The following is a breakdown of the pinpoint citations to the rough draft version of the deposition transcript, the corresponding pinpoint citations to the final version of the transcript and the paragraphs in the Local Rule 56(a)1 Statement that refer to such testimony:

Paragraph from Local Rule 56(a)1 Statement	**Rough Draft Cite**	**Final Version Cite**
77	156:2 - 16 165:22 - 166:2	166:20 - 167:9 176:14 - 19
97	105:14 - 106:22	116:10 - 117:18
98	44:9 - 23	55:1 - 16
99	41:2 - 42:4	51:19 - 52:21
142	159:3 - 7	169:21 - 25
144	66:3 - 68:10[1] 159:3 - 7	76:20 - 79:2 169:21 - 25
145	69:3 - 11	79:20 - 80:3
147	41:2 - 42:4	51:19 - 52:21
149 & 150	41:2 - 42:4 66:3 - 68:10 69:3 - 11 159:3 - 7	51:19 - 52:21 76:20 - 79:2 79:20 - 80:3 169:21 - 25
182	102:21 - 103:4	113:15 - 23

[1] The line citation in the Local Rule 56(a)1 Statement indicates line 68 which was typographical error and should read line 10.

5. The corresponding pages from the final version of the deposition transcript are attached as Exhibit W to the Supplemental Declaration of Charles F. O'Brien filed contemporaneously with the instant motion.

WHEREFORE, Plaintiff, Intermark Fabric Corporation respectfully moves this Honorable Court for leave to correct the record in support of the Motion by (1) substituting the pages from the final version of the deposition transcript of Dr. Brookstein that were collectively attached as Exhibit W to the Declaration of Charles F. O'Brien filed on September 22, 2003 with the correct pages from the final deposition transcript of Dr. Brookstein that are collectively attached as Exhibit W to the Supplemental Declaration of Charles F. O'Brien filed contemporaneously herewith, and (2) substituting the pinpoint references to the rough draft deposition transcript in the Local Rule 56(a)1 Statement with the corresponding pinpoint references to the final deposition transcript set forth above.

Respectfully submitted,
For the Plaintiff

By: _____

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Dated: 10/30/03

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the Plaintiff's Motion for Leave to Correct the Record in Support of Plaintiff's Motion for Summary Judgment Under §§ 102 and 103 was served via regular mail on this 30 day of October, 2003 upon:

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