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)

DECLARATION OF CHARLES F. O'BRIEN IN SUPPORT OF PLAINTIFF INTERMARK FABRIC CORPORATION'S MEMORANDUM OF LAW IN REPLY TO DEFENDANT'S OBJECTION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT UNDER §§102 AND 103

I, Charles F. O'Brien, hereby declare as follows:

1. I am an associate with the firm of Cantor Colburn LLP and I am one of the attorneys representing Plaintiff, Intermark Fabric Corporation in this matter. If called upon as a witness, I could and would testify competently thereto. I have personal knowledge of all the facts set forth in this Declaration.

2. Attached hereto as Exhibit WW is a true and accurate copy of a letter from Joanne Meyer of Intermark Corporation (f/k/a Intermark Flock Corp.) to Eva Jones of Standard Sprinkler Corp. dated January 30, 1992 and a check made payable to Intermark Corporation (f/k/a Intermark Flock Corp.).

3. Attached hereto as Exhibit XX is a true and correct copy of excerpts from the transcript of the deposition of William Lucchesi taken under oath in connection with this matter on July 24, 2003.

4. Attached hereto as Exhibit YY is a true and correct copy of excerpts from the transcript of the deposition of Charles Bunch taken under oath in connection with this matter on September 22, 2003.

5. Attached hereto as Exhibit ZZ is a true and correct copy of excerpts from the transcript of the deposition of Dr. Hauser taken under oath in connection with this matter on September 16, 2003.

6. Attached hereto as Exhibit AAA is a true and correct copy of excerpts from the transcript of the deposition of Dr. Perry taken under oath in connection with this matter on September 23, 2003.

7. Attached hereto as Exhibit BBB is a true and correct copy of excerpts from the transcript of the deposition of Dr. Brookstein taken under oath in connection with this matter on September 10, 2003.

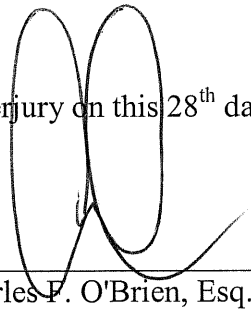
8. Attached hereto as Exhibit CCC is a true and correct copy of excerpts from the transcript of the deposition of Hemendrah Shah taken under oath in connection with this matter on May 22, 2003.

9. Attached hereto as Exhibit DDD is a true and correct copy of excerpts from the transcript of the deposition of Moustafa Nour taken under oath in connection with this matter on September 17, 2003.

10. Attached hereto as Exhibit EEE is a true and correct copy of a document entitled "A photographic essay of the Malden Mills fire" obtained from the Web site for the Boston Globe entitled <boston.com> on October 24, 2003.

11. Attached hereto as Exhibit FFF is a true and correct copy of excerpts from the transcript of the deposition of Peter Hadley taken under oath in connection with this matter on July 31, 2003.

Signed under the pains and penalties of perjury on this 28th day of October 2003.



Charles F. O'Brien, Esq.

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the Declaration of Charles F. O'Brien in Support of Plaintiff Intermark Fabric Corporation's Memorandum of Law in Reply to Defendant's Objection to Plaintiff's Motion for Summary Judgment Under §§102 and 103 was served via regular mail on this 28th day of October, 2003 upon:

Brent R. Canning, Esq.
William R. Grimm, Esq.
Hinckley. Allen & Snyder LLP
1500 Fleet Center
Providence, RI 02906

Jeffrey W. Kennedy, Esq.
Stephen G. Murphy, Jr., Esq.
Milano & Wanat
471 East Main Street
Branford, CT 06405

By: _____
Charles F. O'Brien, Esq.

EXHIBIT
WW

Intermark Flock Corp.

Manufacturer of Upholstery, Apparel, Packaging and Industrial Flocked Products

Community Avenue
P.O. Box 319
Plainfield, Connecticut 06374
Telephone (203) 564-2757
Fax (203) 564-1714

January 30, 1992

Ms. Eva Jones
Standard Sprinkler Corp.
P.O. Box 411
Gales, Ferry, CT 06335

Dear Eva:

Enclosed, please find our itemized list of items which were ruined when the main sprinkler pipe burst while being repaired by your company on January 15, 1992.

Please call if you have any questions.

Sincerely,

Joanne Meyer

Joanne Meyer
Accounting

CC: W. Lucchesi
File (1)

JM/cmm

Quantity	Item Description	Price
5 Cases	Invoices	$517.50
7 Cases	Sales Notes	638.89
4 Cases	Carbonless Checks	719.80
5 Cases	Sample Folders	665.00
4 Cases	Sample Sheets	667.00
3 Cases	Time Cards	45.00
6 Cases	Brown Paper Towels	158.64
2 Cases	Toilet Tissue	78.00
3 Cases	8 1/2 x 11 Copy Paper	107.70
3 Cases	8 1/2 x 14 Copy Ppaer	242.70
3	Sharp Calculators	104.70
5 Cases	Computer Paper	142.45
6 Cases	2" Masking Tape	175.68
4 Cases	1" Masking Tape	87.84
5 Cases	3" Brown Tape	160.80
4 Cases	3" Water Tape	102.60
4 Cases	2" Clear Tape	122.40
5	Typewriters	429.83
1 Full Set - Industry Show Sample Hangers		$1,150.00
50 New Ceiling tiles		149.50
15 Sheets of Plywood to replace floor plus Screws		187.04
1 Vacuum Cleaner		92.38
9 Hours (3 Men for Clean-Up)		218.50
	GRAND TOTAL	$6,963.32

14131309 719

[redacted]

CONTINENTAL CASUALTY CO.
[illegible] INSURANCE CO.
VALLEY FORGE INSURANCE CO.
AMERICAN CASUALTY CO.
COLUMBIA CASUALTY CO.

TRANSPORTATION INSURANCE CO.
TRANSCONTINENTAL INSURANCE CO.
CNA CASUALTY OF CALIFORNIA
CNA LLOYDS OF TEXAS
TRANSCONTINENTAL TECHNICAL SERVICES, INC.

Date Issued	Bank Acct.
11/23/92	493

Issuing Off. No. 14

Number	Desk Code	Insured	Date of Loss
14 426141	L3	STANDARD SPRINKLER SYSTEM	01/14/92

Box & Policy No.	Claimant
0 -7853773	INTERMARK FLOCK CORP

Comp. Ind From-Thru (Dates) In Payment of FULL SETTLEMENT OF ALL CLAIMS

PAY TO THE ORDER OF

HARRIS BANK Glencoe, Glencoe, Illinois

PAY ► Dollars • Cents ******$3,500.00

INTERMARK FLOCK CORP
AND ATTY JUDY A RABKIN
P O BOX 5116
WESTPORT CT 06881

Office Supplies

VOID IF NOT CASHED IN SIX MONTHS FROM MONTH OF ISSUE

⑈14131309⑈ ⑆071922227⑆ 04⑉229⑉493⑉2⑈

IFC-03568

EXHIBIT XX

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF CONNECTICUT

COPY

INTERMARK FABRIC CORPORATION, Plaintiff,	
vs.	Civil Action
MICROFIBRES, INC., Defendant.	No. 3:02 CV 1267

Deposition of WILLIAM LUCCHESI, JR., taken pursuant to the Federal Rules of Civil Procedure, at the law offices of Cantor Colburn LLP, 55 Griffin Road South, Bloomfield, Connecticut, before Jenny L. Albert, License #00207, a Registered Professional Reporter and Notary Public in and for the State of Connecticut, on Thursday, July 24, 2003, at 9:51 a.m.

Q. Who transfer printed on Intermark's Frosty product in 1989?

A. Culp, Spandauer and some other people but I -- I'd have to -- I don't -- can't give you the entire list.

Q. Does Intermark have any records of its sales of Frosty product to Culp in 1989 on which this transfer printing occurred?

A. I'm -- I don't know. I don't know. I believe yes but I don't know. I can't answer that.

Q. Does Intermark have any records of its sales of Frosty product to Spandauer on which Spandauer transfer printed in 1989?

A. A lot of our records were, during that time period, were lost due to a fire and flood that we had in our office area. So many of the records were destroyed.

Q. Does Intermark have any records of sales of Frosty product to Spandauer in 1989 which Spandauer transfer printed?

A. Again, I believe that most of the records were destroyed due to our -- during the flood and fire that we had.

Q. Sir, isn't it true that Intermark doesn't have any records of sales of Frosty product to

Spandauer in 1989?

MR. CASS: Object to the form of the question.

A. Again, most of our records were destroyed due to the fire and flood that we had.

Q. Isn't it true that Intermark does not have any records of sales of Frosty product to Spandauer on which Spandauer transfer printed in 1989?

MR. CASS: Object to the form of the question.

A. Again, all our records were destroyed in the flood and fire that we had.

Q. Is it true, Mr. Lucchesi, that Intermark does have records of sales of Frosty product to Dicey Mills in 1989?

A. I don't know. I can't answer that.

Q. Can you explain why it was that -- why it is that Intermark might have records of sales of Frosty in 1989 to Dicey Mills but no records of these alleged sales to Culp and Spandauer for transfer printing?

MR. CASS: Object to the form of the question.

A. Can I explain why?

MR. GRIMM: Could you repeat the question for him, please.

C E R T I F I C A T E

I hereby certify that I am a Notary Public, in and for the State of Connecticut, duly commissioned and qualified to administer oaths.

I further certify that the deponent named in the foregoing deposition was by me duly sworn, and thereupon testified as appears in the foregoing deposition; that said deposition was taken by me stenographically in the presence of counsel and reduced to typewriting under my direction, and the foregoing is a true and accurate transcript of the testimony.

I further certify that I am neither of counsel nor attorney to either of the parties to said suit, nor am I an employee of either party to said suit, nor of either counsel in said suit, nor am I interested in the outcome of said cause.

Witness my hand and seal as Notary Public this _____ day of _____, 2003.

_____
Jenny L. Albert, LSR, RPR
Notary Public
License #00207

My Commission expires:
August 31, 2005

EXHIBIT YY

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

INTERMARK FABRIC CORPORATION,

Plaintiff,

vs. CIVIL ACTION NO. 3:02-CV-1267 (AVC)

MICROFIBRES, INC.,

Defendant.

COPY

DEPOSITION OF: CHARLES L. BUNCH
DATE: September 22, 2003
TIME: 11:02 a.m.
LOCATION: Womble, Carlyle, Sandridge & Rice
301 S. College Street
Charlotte, North Carolina
TAKEN BY: Counsel for the Defendant
REPORTED BY: CINDY A. HAYDEN, RMR, CRR

you purchased from Vertipile in the early '80s?

A. I'm not sure I follow the question.

Q. Let me rephrase the question. It's a -- it's a bad question.

What was -- in the early 1980s, you were purchasing, from Vertipile, flocked fabric with a natural flock in the pigmented adhesive?

A. Correct.

Q. Then you were transfer printing on that material?

A. Correct.

Q. What would the transfer printed flock -- what color would that be in the end resulting product in the early 1980s?

MR. CANNING: Objection.

A. It depended on what we printed on, but sometimes you would have an omit, and you would have the -- the color of the ground showing through. Other times we would cover it up, and the -- the pigmented adhesive would simply make the finished product more rich in appearance.

Q. Okay. Were the transfer prints at all, in the early 1980s, dark in color?

A. Sometimes.

Q. And to whom was Bunch Fabrics selling

transfer printed flocked fabric with a pigmented adhesive in the early '80s?

A. The general trade. There were hundreds of furniture manufacturers in North Carolina, east Tennessee, northeast Mississippi, and we solicited a good cross-section of those customers.

Q. Now, when you solicit these customers in the early 1980s, how would you do that?

A. We had a small sales team plus myself.

Q. Would the -- would the sales team, including yourself, would there be samples that you show?

A. Typically, yes.

Q. Okay. Would samples of transfer printed flocked fabrics with pigmented adhesives have been shown in the early 1980s?

A. Yes.

Q. And one of your customers -- one of the customers of Bunch Fabrics in the early 1980s was Gaines Furniture?

A. Yes, Gaines Manufacturing, I think it is.

Q. That was Gaines Manufacturing?

A. I believe that was it.

Q. And what products was Gaines