EXHIBIT D

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF CONNECTICUT

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INTERMARK FABRIC CORPORATION

vs. C.A. NO. 3:02-CV-1267 (AVC)

MICROFIBRES, INC.

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Deposition of JAMES R. McCULLOCH, taken on behalf of the Plaintiff, pursuant to the Federal Rules of Civil Procedure, on Thursday, April 17, 2003, at the offices of Hinckley, Allen & Snyder LLP, 1500 Fleet Center, Providence, Rhode Island, taken before Lori R. Colwell, Notary Public, commencing at 10:10 a.m.

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of the patent, then the patent might not be enforceable?

MR. GRIMM: Objection. Could you read that back for me, please.

(Thereupon, the above-referred to question was read back by the reporter.)

MR. GRIMM: Objection to form.

Q. Did you come to have that understanding, sir, with respect to patents?

A. I was not listening; you've got to repeat the question again.

Q. Do you have an understanding that if there is literature in the prior art or literature in industry or activity in industry which predates the date of your invention, that that will impact the ability to enforce the '021 patent?

MR. GRIMM: Objection. I instruct you not to answer any advice that you received from your patent counsel or from me on these issues.

MR. CASS: That's improper. I'm asking what his understanding is.

MR. GRIMM: If he obtained that understanding based on conversations with his

patent counsel, I'm instructing him not to answer it. If he has some independent understanding, he can answer it.

Q. Do you have an independent understanding that prior art or literature might impact the validity of the '021 patent?

A. Yes.

Q. And you know that because you signed a declaration when you filed your patent to appraise the patent office of any prior art, correct.

A. I don't remember if I did, but -- I don't remember.

Q. So you understand that the date, that dates are involved in determining the validity of patents?

A. Yes.

Q. And you had that understanding at the time you filed this patent application, correct?

A. I can't say for certain. I know we couldn't show any samples to any customers before we filed, could not show any, I guess commercial samples to customers, I understood that, yes.

Q. And so you understand that in this litigation, one issue that will be litigated

A. I believe I -- I can't say for certain. I think I did. I'm not sure. I believe I did, but I don't -- I can't say for certain.

Q. Do you recall executing a declaration on or about September 14, 1992 that you had -- that you were the named inventor and that you had reviewed and understood the contents of the identified specification?

A. Repeat the question.

Q. Do you recall executing a declaration when you filed your patent application?

A. Do I specifically recall, no. It was ten years ago, but if it's in the process, then I believe I probably did.

Q. This patent took a long time to get to the patent office, didn't it?

A. Yes.

Q. How about how many years, do you recall?

A. I believe it was issued in '99, '98, or -- I don't know when. I believe it was issued in '99 or '98, so seven years, six, seven years.

Q. And did you come to have an understanding that the patent office rejected your patent on a number of occasions?

MR. GRIMM: Again, I instruct you

not to reveal any attorney/client communications when you answer.

MR. CASS: Well, with respect to communications with a patent counsel, you produced letters between Mr. --

MR. GRIMM: Do you have another question?

MR. CASS: I'm going to explain myself, Mr. Grimm.

MR. GRIMM: I'm not interested in your explanation.

MR. CASS: I don't know if you can claim an attorney/client privilege when you produced communication.

MR. GRIMM: Ask a question.

MR. CASS: I did ask a question. I'm waiting for his answer.

MR. GRIMM: I've gave him my instruction.

A. Repeat the question.

Q. I'll rephrase it. Were you aware that your patent application was rejected on a number of occasions over that seven-year period of time from 1992 to 1999?

A. I know it was rejected. I don't know how

statements.

Q. Let me rephrase that. At the time you received this in March of 1993, did you have an understanding based on your review of the first two paragraphs that the examiner was focusing on the pressure range of your invention for the transfer printing?

A. I can't say if he was focusing or not. There's a lot of stuff in here that is in this document. It is mentioned in this -- It's mentioned on those two paragraphs, yes.

Q. It's mentioned on the first one, isn't it, the very first paragraph on page 2?

A. It's mentioned in this document, yes.

Q. Well, and I understand we are going back roughly 10 years, but did you come to have an understanding that the pressure range of your invention was going to be important with respect to securing a patent?

MR. GRIMM: Objection and instruct you in answering that question not to reveal any confidential communications you had with your patent counsel.

A. Repeat the question.

Q. Did you have an understanding in March of 1993 with respect to whether or not the pressure range of the transfer printing was going to be important with respect to securing the patent?

A. No, I don't believe so, no.

Q. So the statement to you, "In essence, Applicant's method is at a low pressure of 10 to 59 pounds per square inch to transfer print a flock nylon fabric," that didn't indicate to you at all that the pressure range was important for the examiner?

A. I did not deal directly with the examiner. I dealt through our attorney and with Mr. Laird. I would like to add, though, on this prior question that on the pressure range that Hartford Fibres used, you mentioned Bill Laird in his deposition stated that a conventional range was 10 to 59 pounds, and technically, if you were transfer printing a very light color on a flat fabric where you did not need dark colors, you did not need good light-fastness, you did not need the physical crocking light-fastness, physical properties for upholstery fabric, then on

of the pigment was discussed between your attorney and the patent office?

A. Based on this, yes, it appears that it was discussed, but I was not present with him when he discussed it with the patent office.

Q. But this was a written document that was submitted to the patent office, correct, sir?

A. I believe so, yes.

Q. This is one of the papers that your attorney filed on your behalf?

A. Yes.

Q. And you understood that you had an ongoing duty to review the statements made to the patent office during the prosecution of your patent application, didn't you, sir?

A. I know I discussed with Jim Fulks and Bill Laird as well as I think there was again a discussion with the attorneys.

MR. GRIMM: Don't disclose your conversations with your attorneys.

THE WITNESS: Okay.

Q. Well, did you ever --

A. So they would discuss with me some of the objectives and if it was relevant for me to add information, I would.

Q. You would agree with me that dark adhesives, dark pigmented adhesive for flocked fabric were well known in the industry at least 10 years before the date of your patent application in 1992?

A. Yes, not on transfer printing, but use of dark adhesives, yes.

Q. I'd like to just direct your attention to tab -- Do you ever recall the examiner indicating to you or your representatives that he had studied the samples that had been submitted and I'm going to quote, "Examiner fails to see any an appreciable difference between the sample studied." Do you ever recall that information being communicated to you during your prosecution of the patent application?

MR. GRIMM: I object to the form and caution you that to the extent you're getting this statement from your attorney --

MR. CASS: It's a public statement.

MR. GRIMM: Want to rephrase your question?

Q. Were you aware the examiner stated, "Examiner

fails to see any appreciable difference between the sample submitted in or about April of 1994."?

A. I believe I read that, but I can't be a hundred percent sure. I either read it or Bill Laird advised me, I'm not sure, or the attorneys.

Q. So at least you knew at some point in 1994 that your patent application was being rejected because the samples that were being submitted on your behalf to the patent office, didn't satisfy the examiner, the examiner couldn't see any difference in those samples; is that correct?

A. What page are you referring to.

Q. I'm just asking for your memory, sir, you said you did at some point in time come to learn that the examiner couldn't determine a difference in them, and I'm just asking you if that was in 1994?

A. I don't remember the year.

Q. Did you know your patent application went abandoned?

A. I think so, but again -- I think so.

Q. Did you have an understanding as to why it

STATE OF RHODE ISLAND
ss. Providence, Rhode Island
COUNTY OF PROVIDENCE

BE IT KNOWN THAT I, Lori R. Colwell, Shorthand Reporter and Notary Public, reported stenographically the foregoing deposition pursuant to notice at the time and place stated in the caption hereof; that I was then and there a Notary Public in and for the State of Rhode Island; that by virtue thereof I was authorized to administer an oath; that the witness before testifying was duly sworn to tell the truth, the whole truth and nothing but the truth; that the testimony of said witness was reduced to typewriting under my direction; that the foregoing pages contain a full, true and correct transcription of the notes of said deposition; that the deponent has made the request to read and sign his deposition.

I, FURTHER CERTIFY that I am not of counsel nor attorney for either or any of the parties to said action or otherwise interested in the event thereof, and that I am not related to either or any of the parties to said cause.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my seal of office this 22nd day of April 2003.

Lori R Colwell
LORI R. COLWELL
Notary Public

My Commission Expires:
June 20, 2005