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August 13, 1997

Robert W. Hasel, D.D.S.
619 Quixote Avenue North
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Re: Investigation of License Agreement with Kerr Corporation
M&G #10618.3-US-PA

U.S. Constitution Patent Application Serial No. 08/646,707
METHOD OF RESTORING A TOOTH
M&G # 10618.1-US-C1

Dear Bob:

In view of our last several telephone conversations and our meeting on August 8, 1997, it is clear to us that you do not have confidence in your legal counsel. You are entitled to have confidence in your legal counsel, and it is very important to us that our clients have confidence in our advice. Furthermore, it is clear to us that you have adopted an adversarial posture with respect to Merchant & Gould. Under the circumstances, we can no longer represent you. As I expressed to you during a telephone conversation on August 11, 1997, Merchant & Gould is withdrawing from representing you. If you wish, we will provide you with referrals to other patent attorneys.

I met with you, Andy Grossman, and Chris Minick on August 8, 1997. During our conversation, I first spent about 15 minutes explaining the concept of attorney-client privilege and work product confidentiality. I explained that our discussion of information which may be protected by attorney-client privilege and/or work product may result in a waiver of the privileged status of that information because Andy Grossman and Chris Minick do not appear to have a direct interest in your legal matters. In addition, during two telephone conversations before the meeting, I recommended that if we were to go forward with this meeting, that we should conduct it in a private conference room rather than at Morton's Stell House. You indicated that I should discuss your matters with Andy Grossman and Chris Minick during the meeting because they were your "advisors." During lunch, our discussion focused on questions of claim construction including definitions of particular phrases, strategies for proceeding in your

DEPOSITION
EXHIBIT

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AD 105003

Robert W. Hasel, D.D.S.

August 13, 1997

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continuation application, possible explanations for Kerr's conduct, and the test results obtained by the scientist you hired. To my surprise, the issue of the validity of your patent in view of your clinical trials was never discussed during this meeting. Furthermore, I explained that I had not formed an opinion concerning infringement/noninfringement of your patent (either literally or under the doctrine of equivalence) because I have insufficient knowledge of Kerr Corporation's product.

With regard to your controversy with Kerr Corporation, our instructions from you were to not respond to Mr. Tomassi's letter dated June 18, 1997. I reported to you under separate cover a letter we received on August 11, 1997 from Mr. Tomassi.

Concerning your pending patent application, the extendible deadline for filing a response to the Office Action is August 14, 1997. You can extend the deadline to November 14, 1997 with the filing of requests for extension and by paying the appropriate extension fees. For your information, government fees for a one-month extension is \$110, for a two-month extension is \$390, and for a three-month extension is \$930. We expect that these fees will increase in October. Furthermore, please understand that the Office Action is in the form of a "final" Office Action. This means that you may have to file another continuation application in order to keep your application alive.

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As we explained to you in our letters dated November 6, 1996 and April 22, 1997, and during several telephone conversations, we believe it is appropriate to take a close look at your activities prior to filing the patent application to determine whether there is any duty to disclose those activities to the patent examiner. In particular, you have indicated to us that there were clinical studies conducted for several years prior to filing your original patent application. Clinical studies may give rise to a duty to disclose those activities to the patent office. We note that you canceled a meeting scheduled for August 22, 1996 at which time we planned to look into this matter and review your records. We tried to follow up, but were unsuccessful.

During our meeting on August 8, 1997, you denied having any responsibility for the fumed silica limitation in the claims and disclosure of your patent. I reviewed the file history of your patent application and observe that Philip Yip sent you a communication dated September 28, 1994 requesting you to review 4 pages of the draft patent application and offer any changes. These pages include a lengthy discussion of fumed silica. In addition, it appears that you signed the Rule 63 declaration before filing your original patent application. The Rule 63 declaration includes an averment that you read and understood the patent application. Furthermore, my letter to you dated December 19, 1995 requests your authorization to file the enclosed draft amendment. Several telephone conversations between us focused on whether the draft amended claims would cover the "Revolution" product. You told me that you checked with your scientist friend to confirm that it did. You then authorized me to file the amendment. I hope the enclosed document and the above discussion triggers your recollection. If you persist in your denial of responsibility for the fumed silica limitation in the claims of your patent, you should ask your new patent counsel to investigate the inventorship of those claims and take appropriate action to correct the inventorship, if needed.

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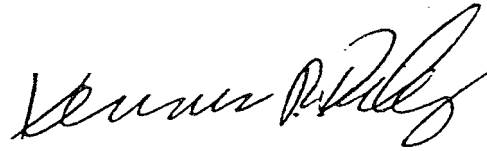
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- I remind you that when you instructed me to file the amendment to the claims in your first patent application, the strategy was to file a continuation application with new claims once the claims of your original application were allowed. We advised you to study the E&D Dental product so that we could explicitly craft claims covering their process and composition. In fact, I began drafting new claims in April 1996 directed at your method and which did not include a fumed silica limitation. Those claims attempted to distinguish the prior art based upon viscosity limitations. You instructed me not to proceed with those claims.

Please understand we do not take the decision to withdraw as your attorney lightly. I have reviewed the situation with Jack Clifford and he agrees with this decision. We have initiated the procedure to withdraw with the U.S. Patent and Trademark Office, and will forward your files to you as required by the applicable rules.



Sincerely,

Merchant, Gould, Smith, Edell, Welter &
Schmidt, P.A.

Dennis R. Daley

DRD:amr

Enclosures:

Letter dated 12/19/95

Fax cover sheet dated 9/28/94 w/ attachments

cc: John Clifford
Tim Conrad

AD 105005