

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MATE TECHNOLOGIES, INC. )  
)  
Complainant, )  
)  
v. )  
)  
F.I.C. AMERICA CORPORATION )  
)  
Respondent. )

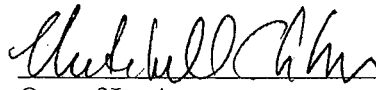
PCB No. 2004-075  
(Enforcement X)

**RECEIVED**  
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FEB 10 2004  
STATE OF ILLINOIS  
Pollution Control Board

**NOTICE OF FILING**

TO: Carey S. Rosemarin  
Law Offices of Carey S. Rosemarin, P.C.  
500 Skokie Boulevard, Suite 510  
Northbrook, IL 60062

PLEASE TAKE NOTICE that on the 10<sup>th</sup> day of February, 2004 F.I.C AMERICA CORPORATION, by and through its attorneys, Jeremy A. Gibson and Mitchell Chaban of MASUDA, FUNAI, EIFERT & MITCHELL, LTD., shall file its **MOTION FOR LEAVE TO FILE REPLY BRIEF INSTANTER** with the Office of the Clerk of the Pollution Control Board , a copy of which is hereby served upon you.

  
\_\_\_\_\_  
One of Its Attorneys

Jeremy A. Gibson  
Mitchell S. Chaban  
MASUDA, FUNAI, EIFERT & MITCHELL, LTD.  
203 N.LaSalle Street, Suite 2500  
Chicago, Illinois 60601  
(312) 245-7500

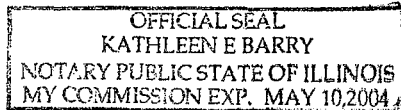
**PROOF OF SERVICE**

I, the undersigned, do hereby state on oath that I served the foregoing **NOTICE OF FILING** upon Carey S. Rosemarin, Law Offices of Carey S. Rosemarin, P.C. 500 Skokie Boulevard, Suite 510, Northbrook, IL 60062 by placing a copy of the same in a properly addressed, postage prepaid, envelopes and depositing the same in the U.S. Mail Chute at 203 N. LaSalle Street Suite 2500, Chicago, Illinois 60601 on this 10 day of December, 2004.

Erin L. Lueck

Subscribed and sworn to before me this  
10 day of February, 2004.

Kathleen E. Barry  
Notary Public



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**MOTION FOR LEAVE TO FILE REPLY BRIEF INSTANTER**

Respondent, F.I.C. AMERICA CORPORATION ("FIC") hereby moves for leave to file instanter its Reply of Respondent ("Reply") in support of its Motion to Dismiss or, in the alternative, Strike ("Motion"), which is attached.

1. Complainant, MATE TECHNOLOGIES, INC. ("Mate") has filed a complex 9-count Complaint. The Complaint and Mate's Response to the Motion ("Response") concern novel theories of liability for which there is little precedent directly on point. The Reply addresses and clarifies many points introduced by Mate. FIC would be materially prejudiced if it is not allowed to reply to the theories and arguments raised by the Response.

2. Mate has attached to the Response an exhibit purporting to be an FIC employee complaint to the U.S. Occupational Safety and Health Administration. This is an inappropriate effort to introduce factual information, as explained by the attached Reply. FIC would be materially prejudiced if it is not allowed to reply to Mate's assertions.

3. Mate served its Response to the wrong address, the former address of FIC's counsel. The Response served by Mate was not received by FIC counsel until on or about January 29, 2003. FIC's counsel has since reminded Mate's counsel of the correct address.

For the foregoing reasons, the Reply should be accepted instanter.

Respectfully submitted,

  
One of the Attorneys for Respondent

Jeremy A. Gibson  
Mitchell S. Chaban  
MASUDA, FUNAI, EIFERT & MITCHELL, LTD.  
203 North LaSalle Street, Suite 2500  
Chicago, Illinois 60601

## PROOF OF SERVICE

I, the undersigned, do hereby state on oath that I served the foregoing **MOTION FOR LEAVE**

**TO FILE REPLY BRIEF INSTANTER** upon Carey S. Rosemarin, Law Offices of Carey S.

Rosemarin, P.C. 500 Skokie Boulevard, Suite 510, Northbrook, IL 60062 by placing a copy of the

same in a properly addressed, postage prepaid, envelopes and depositing the same in the U.S. Mail

Chute at 203 N. LaSalle Street Suite 2500, Chicago, Illinois 60601 on this 10 day of

February, 2004.

Q.L.L.C

Subscribed and sworn to before me this

10<sup>th</sup> day of February, 2004.

Kathleen E. Bo  
Notary Public

Notary Public

