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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91197754
Party	Plaintiff Wolf-Peter Graeser
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**THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application Serial No.: 76701998

For the mark: LAVATEC

Published in the Official Gazette on November 2, 2010

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Mr. Wolf-Peter Graeser, )  
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 the "Opposer", )  
 )  
 v. ) Opposition No.: 91197754  
 )  
 Lavatec, Inc. )  
 )  
 the "Applicant" )  
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**OPPOSER'S NOTICE TO THE BOARD IN CONNECTION WITH APPLICANT'S  
MOTION TO COMPEL AND ORDER FOR ADMISSIONS**

Opposer hereby respectfully notifies the Board as follows:

1. Despite the allegations by Applicant that Opposer has employed techniques to avoid discovery and the revelation of documents, Opposer notifies the Board that since Opposer's Motion for a Protective Order has not yet been granted, Opposer has nonetheless duly complied with its obligation to respond to Applicant's First Set of Interrogatories, First Set of Requests for Admission, First Set of Document Requests and Second Set of Interrogatories by the due date of August 19, 2011.

2. On August 19, 2011, Opposer's counsel served Applicant's counsel with the responses to the discovery requests, consisting of well over 1,000 pages of documents dating back to 1987.

3. In order to provide Applicant with the requested discovery, Opposer was required to open and review archives created by his predecessor in interest dating back

to 1986, review all records, scan all documents and send them to Opposer's counsel. Opposer's counsel had to send an attorney from their German office to Opposer's place of business to assist Opposer in identifying the documents requested by Applicant (had Opposer's counsel not had an office in Germany, it would have taken substantially longer). Opposer's counsel then had to review all documents provided, most of which were in German, prior to responding to Applicant.

4. Opposer informed Applicant prior to Applicant's filing the Motion To Compel that Opposer was proceeding to provide discovery in accordance with the August 19, 2011, deadline, and restated the same position in Opposer's opposition to Applicant's Motion To Compel.

5. Opposer has timely complied with its discovery obligations in good faith and has acted reasonably under the circumstances. Given that the material was located overseas, voluminous, drafted in German and stored in an unfamiliar archive, we believe that Opposer complied with its obligations in a short period of time (i.e., 60 days).

6. Opposer considers that Applicant's Motion to Compel is unwarranted and a waste of the Board's time and resources.

Dated: New York, New York

August 23, 2011

Respectfully submitted.

/s/ Andrea Fiocchi  
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Attorneys for Opposer,  
Wolf-Peter Graeser

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Notice was served on Applicant at the correspondence address of record by email addressed to:

lind@ip-lawyers.com

On August 23, 2011

By: /s/ Kai Livramento