

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14D-1/A

Tender Offer Statement
Pursuant to Section 14(d)(1)
of the Securities Exchange Act of 1934
(Amendment No. 1)
and
SCHEDULE 13D/A

Pursuant to Section 13(d)
of the Securities Exchange Act of 1934
(Amendment No. 1)

International Comfort Products Corporation
(Name of Subject Company)

Titan Acquisitions, Ltd.
United Technologies Corporation
(Bidders)

Ordinary Stock, No Par Value Per Share
(Title of Class of Securities)

458978-10-3
(CUSIP Number of Class of Securities)

William H. Trachsel, Esq.
Senior Vice President, General Counsel and Secretary
United Technologies Corporation
One Financial Plaza
Hartford, CT 06101
Tel. Number (860) 728-7000
(Name, Address and Telephone Number of Persons Authorized to
Receive Notices and Communications on Behalf of Bidders)

With a copy to:
Christopher E. Austin, Esq.
Cleary, Gottlieb, Steen & Hamilton
One Liberty Plaza
New York, New York 10006
(212) 225-2000

1.
Name of Reporting Persons:
S.S. or I.R.S. Identification Nos. of Above Person

Titan Acquisitions Ltd.

2.
Check the Appropriate Box if a Member of a Group (a)
(See Instructions) (b)

3.
SEC Use Only

4.
Sources of Funds (see Instructions)
AF

5.
Check if Disclosure of Legal Proceedings is Required
Pursuant to Items 2(e) or 2(f)

6.
Citizenship or Place of Organization
Province of New Brunswick, Ontario, Canada

7.
Aggregate Amount Beneficially Owned by Each Reporting
Person
15,809,508

8.
Check Box if the Aggregate Amount in Row (7) Excludes
Certain Shares
(See Instructions)

9.
Percent of Class Represented by Amount in Row (7)
38.7%

10.
Type of Reporting Person (See Instructions)
CO

1.
Name of Reporting Persons:
S.S. or I.R.S. Identification Nos. of Above Person

United Technologies Corporation
060570975

2.
Check the Appropriate Box if a Member of a Group (a)
(See Instructions) (b)

3.
SEC Use Only

4.
Sources of Funds (see Instructions)
WC & OO

5.
Check if Disclosure of Legal Proceedings is Required Pursuant to Items 2(e) or 2(f)

6.
Citizenship or Place of Organization
Delaware

7.
Aggregate Amount Beneficially Owned by Each Reporting Person
15,809,508

8.
Check Box if the Aggregate Amount in Row (7) Excludes Certain Shares
(See Instructions)

9.
Percent of Class Represented by Amount in Row (7)
38.7%

10.
Type of Reporting Person (See Instructions)
CO

INTRODUCTION

Titan Acquisitions, Ltd., a corporation organized under the laws of the Province of New Brunswick, Canada ("Purchaser"), and United Technologies Corporation, a Delaware corporation ("Parent"), hereby amend their joint Tender Offer Statement on Schedule 14D-1 dated June 30, 1999 relating to an offer to purchase all outstanding ordinary shares (the "Shares") of International Comfort Products Corporation, a corporation continued under the federal laws of Canada (the "Company"), at US\$11.75 per Share (such Tender Offer Statement on Schedule 14D-1, the "Schedule 14D-1"). All terms defined in the Schedule 14D-1 have the same meanings in this Amendment.

Item 2. Identity and Background.

The following paragraph is hereby inserted after the last sentence:

Annex I of the Offer to Purchase shall be deemed to be amended as follows: On July 14, 1999, Purchaser decided to appoint the following additional officers, each of whom concurrently serves as an employee of either Parent or Parent's wholly owned subsidiary, Carrier Corporation: William Brown (Vice President), Lawrence Mowell, Jr. (Vice President), Donald Cawley (Vice President), Robert Wylie (Vice President), Frank Hartman (Vice President), Gilles Renaud (Vice President and Treasurer), John Healy (Secretary), George Minnich (Assistant Treasurer), Christopher Witzky (Assistant Treasurer) and Christine Rua (Assistant Secretary).

Item 10. Additional Information.

(e) The following sentence is hereby inserted after the last sentence:

On July 8, 1999, the Company and its directors filed a motion to dismiss the class action that had been brought against them by two shareholders of the Company in the Chancery Court for the State of Tennessee, Marshall County, Lewisburg in relation to the Offer.

SIGNATURES

After due inquiry and to the best of its knowledge and belief, each of the undersigned certifies that the information set forth in this statement is true, complete and correct.

United Technologies Corporation

/s/ William Trachsel

By: _____

Name: William Trachsel

Title: Senior Vice President,
General Counsel & Secretary

Titan Acquisitions, Ltd.

/s/ Ari Bousbib

By: _____

Name: Ari Bousbib

Title: President

Dated July 15, 1999

EXHIBIT INDEX

The following items (a) (8) and (a) (9) are hereby added to the Exhibit Index:

Exhibit No. -----	Description -----	---
(a) (8)	Complaint, dated June 25, 1999, filed in the Chancery Court for the State of Tennessee, Marshall County, Lewisburg	
(a) (9)	Motion to Dismiss, dated July 8, 1999, filed in the Chancery Court for the State of Tennessee, Marshall County, Lewisburg	

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
 17TH JUDICIAL DISTRICT, MARSHALL COUNTY, AT LEWISBURG

STANLEY GINKOWSKI and JEFF GRAU, On Behalf of Themselves and All Others Similarly Situated,)	No.
)	
Plaintiffs,)	CLASS ACTION
)	-----
)	
vs.)	
INTERNATIONAL COMFORT PRODUCTS CORP., RICHARD W. SNYDER, W. MICHAEL CLEVY, RICHARD C. BARNETT, STANLEY M. BECK, WILLIAM G. DAVIS, JOHN F. FRASER, ROY T. GRAYDON, MARVIN G. MARSHALL, ERNEST C. MERCIER, DAVID H. MORRIS, DAVID A. RATTEE and WILLIAM A. WILSON,)	CLASS ACTION
)	COMPLAINT FOR BREACH
)	OF FIDUCIARY DUTY
)	
)	
Defendants.)	
)	
)	Plaintiffs Demand A
)	Trial by Jury

SUMMARY OF THE ACTION

1. This is a class action on behalf of the public stockholders of International Comfort Products Corp. ("Comfort" or the "Company") against Comfort and its directors to enjoin or remedy defendants' misconduct undertaken in connection with the acquisition of the outstanding shares of Comfort by Carrier Corp. ("Carrier") (the "Merger") pursuant to a definitive merger agreement (the "Merger Agreement").

2. On June 24, 1999, defendants publicly announced that the Comfort Board had approved this acquisition of all of the outstanding shares of Comfort for a mere \$11.75 per share. In an effort to quickly consummate the Merger, defendants have also announced that they will commence a tender offer in less than 7 days. The proposed tender offer is designed to forever deprive plaintiffs and other public stockholders of Comfort (the "Class") of their equity investment in Comfort and the benefits associated therewith, including, among other things, the expected growth in Comfort's profitability. The proposed purchase price constitutes a premium

of less than 10% of Comfort's trading price prior to the announcement of the Merger and is a discount to where Comfort has traded as recently as 1998. The

unlawful plan by Carrier and defendants to cash out Comfort's public stockholders for grossly inadequate consideration is in direct breach of defendants' fiduciary duties owed to plaintiffs and the Class. Absent judicial intervention, defendants will continue to breach their fiduciary duties and will consummate the proposed transaction resulting in irreparable injury to plaintiffs and the Class.

3. The proposed acquisition will constitute a change of control which requires Comfort's directors to maximize shareholder value in connection with the transaction. However, despite their duty to maximize the price paid for Comfort's shares, defendants have failed to sufficiently ascertain the true value of Comfort and obtain the highest value reasonably available to the Comfort shareholders.

4. Plaintiffs seek to enjoin the proposed transaction or, alternatively, rescind the transaction and/or recover damages in the event that the transaction is consummated.

JURISDICTION AND VENUE

5. The claims asserted herein arise solely under statutory and/or state common law. This Court has jurisdiction over the cause of action asserted in this Complaint pursuant to Tenn. Code Ann. (S) (S)16-11-101, et seq.

-- ---

6. This Court has jurisdiction over each of the defendants as each of the defendants conducts business in, resides in and/or maintains operations in this County. Certain of the defendants are citizens of Tennessee, including defendants W. Michael Clevy and Comfort which has its principal place of business in this state. The amount in controversy of each plaintiffs' claim, exclusive of interest and costs, is less than \$75,000. This action is not removable. Venue is proper in this Court because defendants' wrongful acts arose in and emanated from this County.

THE PARTIES

7. Plaintiff Stanley Ginkowski is and has been an owner of 4,000 shares of Comfort common stock at all times relevant hereto.

8. Plaintiff Jeff Grau is and has been an owner of 2,000 shares of Comfort common stock at all times relevant hereto.

9. Defendant Comfort is a corporation with its principal executive offices and place of business located at 501 Corporate Centre Drive, Suite 200, Franklin, Tennessee 37067. Comfort designs and manufactures central air conditioning systems and gas and oil furnaces for use in homes and commercial buildings. As of June 1, 1999, Comfort had more than 40 million shares of common stock outstanding, trading on the American Stock Exchange.

10. Each of the following defendants (collectively the "Individual Defendants") are members of Comfort's Board of Directors ("Board").

11. Defendant Richard W. Synder ("Synder") has served as Chairman of the Board of Comfort since 1997. Synder is also a general partner of Ravine Partners, Ltd., an affiliate of SynderCapital Corp. ("SynderCapital"). SynderCapital, through its affiliate, owned over 8.3 million shares of Comfort common stock or approximately 20% of the Company. SynderCapital sold its entire interest in Comfort to Carrier by way of an "understanding" that was reached at the time the Merger Agreement was executed.

12. Defendant W. Michael Clevy ("Clevy") is the Chief Executive Officer and President of Comfort and has been a director of Comfort since 1995. Prior to joining Comfort, Clevy served as Vice President of Manufacturing and Technology at Carrier.

13. Defendants Richard C. Barnett, Stanley M. Beck, William G. Davis, John F. Fraser, Roy T. Graydon, Marvin G. Marshall, Ernest C. Mercier, David H. Morris, David A. Rattee and William A. Wilson are, and at all times relevant hereto were, directors of Comfort.

14. The Individual Defendants as officers and/or directors of Comfort have a fiduciary relationship and responsibility to plaintiffs and the other public stockholders of Comfort and owe to plaintiffs and the other Class members the highest obligations of good faith, loyalty, fair dealing, due care and candor.

15. By virtue of their positions as directors and/or officers of Comfort, the Individual Defendants have, and at all relevant times had, the power of control and influence, and did control and influence and cause Comfort to engage in the practices complained of herein. The Individual Defendants owed and owe Comfort stockholders fiduciary obligations and were and are required to use their ability to control and manage Comfort in a fair, just and equitable manner; act in furtherance of the best interests of Comfort and its stockholders; act to maximize stockholder value in connection with a change of ownership and control; and not to favor their own interests at the expense of Comfort and its stockholders.

CLASS ACTION ALLEGATIONS

16. Plaintiffs bring this action as a class action, pursuant to Rule 23 of the Tennessee Rules of Civil Procedure, on behalf of themselves and all other public holders of Comfort common stock, and their successors in interest, except defendants named herein and any person, firm, trust, corporation or other entity related to or affiliated with any of the defendants.

17. This action is properly maintainable as a class action.

18. The Class of stockholders is so numerous that joinder of all members is impracticable. As of June 1999, Comfort had more than 40 million shares of common stock outstanding. There are thousands of stockholders of record who are located throughout the United States.

19. There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual Class member. The common questions include, but are not limited to, whether, in connection with the proposed acquisition:

(a) The Individual Defendants have breached their fiduciary duty to secure and obtain the best price reasonable under the circumstances for the benefit of plaintiffs and the other members of the Class;

(b) The Merger compensation payable to plaintiffs and the Class is unfair and inadequate;

(c) Defendants have breached their fiduciary duty of undivided loyalty with respect to plaintiffs and the other members of the Class;

(d) Defendants have breached their fiduciary duty of independence with respect to plaintiffs and the other members of the Class;

(e) The Individual Defendants are engaging in self-dealing;

(f) Defendants have breached their fiduciary duty of due care with respect to plaintiffs and the other members of the Class;

(g) The Individual Defendants are unjustly enriching themselves;

(h) Defendants have breached any of their other fiduciary duties owed to plaintiffs and the other members of the Class, including the duties of good faith, diligence, honesty, fair dealing and full, candid and adequate disclosure; and

(i) Plaintiffs and the other members of the Class would be irreparably damaged were the transactions complained of herein consummated, or alternatively, whether they have suffered compensable damages.

20. Plaintiffs' claims are typical of the claims of the other members of the Class and plaintiffs do not have any interests adverse to the Class.

21. Plaintiffs are committed to prosecuting this action and have retained competent counsel experienced in litigation of this nature. Plaintiffs are adequate representatives of the Class.

22. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for the party opposing the Class.

23. Plaintiffs anticipate that there will be no difficulty in the management of this litigation.

24. For the reasons stated herein, a class action is superior to other available methods for the fair and efficient adjudication of this action. Because of the size of the individual Class members' claims, few, if any, Class members could afford to seek legal redress individually for the wrongs complained of herein. Absent a class action, the Class members will continue to suffer damage and Comfort's violations of law will proceed without remedy.

FIDUCIARY DUTIES OF COMFORT'S DIRECTORS AND OFFICERS

25. By reason of the above Individual Defendants' positions with the Company as directors and/or officers of Comfort, the Individual Defendants have a fiduciary duty to plaintiffs and the other public shareholders of Comfort. As fiduciaries, the Individual Defendants owe plaintiffs and the other members of the Class the utmost obligations of good faith, loyalty, independence, honesty, fair dealing, due care, diligence and full, candid and adequate disclosure.

26. Under Tennessee law, the Individual Defendants have an affirmative fiduciary obligation at all times and in all transactions affecting Comfort and its shareholders to act in good faith, with reasonable care, and in the best interest of Comfort and its shareholders.

27. In accordance with his/her duties of loyalty and good faith, a director or officer must not:

(a) Participate in any transaction where the director or officer receives or is entitled to receive a personal financial benefit not equally shared by the shareholders of the corporation; and/or

(b) Unjustly enrich themselves at the expense or to the detriment of a corporation's shareholders.

28. In any situation when the directors of a publicly traded corporation undertake a transaction that will result in a change in corporate control, the directors have an affirmative fiduciary obligation to obtain the highest value reasonably available for the corporation's shareholders. To comply with these duties, the directors may not take any action that:

(a) Contractually prohibits them from complying with their fiduciary duties;

(b) Will otherwise adversely affect their duty to search and secure the best value for the corporation's shareholders;

(c) Adversely affects the value provided to the corporation's shareholders; and/or

(d) Will discourage or inhibit alternative offers to purchase control of the corporation or its assets.

29. Plaintiffs allege herein that the Individual Defendants, separately and together, in connection with the Merger, violated their fiduciary duties owed to the public shareholders of Comfort, and/or took steps which were designed to avoid obtaining the highest value for Comfort's public stockholders.

30. Because the Individual Defendants have breached their duties in connection with the Merger, the burden of providing the entire fairness of the Merger, including all aspects of its negotiation, structure and price, is placed upon the Individual Defendants.

SUBSTANTIVE ALLEGATIONS

31. On May 19, 1999, Comfort issued a public release heralding Comfort's continued expansion and growth prospects. The release stated Comfort's international sales "increased by 125 percent to \$60 million in 1998 and are expected to exceed \$100 million this year." The release also stated:

"During the next three years, we will open other distribution outlets and establish manufacturing capacity in Europe and Latin America"

* * *

[Comfort] is also expanding in the parts and components aftermarket, where its 1998 net sales rose by 36 percent to \$67 million.

. . . Clevy explained that the Company will expand residential sales by continuing to introduce new products, adding new distributors and improving customer service.

Clevy added that they will continue to grow by making strategic acquisitions in North America and overseas.

32. On June 24, 1999, Comfort and Carrier announced that the Individual Defendants had agreed to the acquisition of Comfort by Carrier. The acquisition concludes a long-standing personal and financial relationship between the two companies. Under the terms

of the agreement, Carrier will purchase all of the outstanding shares of Comfort common stock for cash at \$11.75 per share. The release also announced that:

[Comfort's] largest shareholders, Ravine Partners, an affiliate of SynderCapital Corp., and the Ontario Teachers' Pension Plan Board,^{/1/} together holding approximately 40 percent of [Comfort's] shares, have agreed to tender their shares and support the transaction.

* * *

[Comfort's] will retain its current operational structure, sales infrastructure, distribution and dealer networks, and brands.

33. The Individual Defendants agreed to enter into the Merger with Carrier so that they could receive benefits for themselves, despite the fact that the proposed Merger would allow the price of Comfort stock to be capped and thereby deprive plaintiffs and the Class of the opportunity to realize any material increase in the value of Comfort stock. Despite the obvious long-term value of the Comfort acquisition for Carrier, Comfort shareholders will be receiving an inadequate takeover premium for Comfort's stock. The proposed Merger does not reflect the Company's true value.

34. By entering into the Merger Agreement with Carrier, Comfort's Board has initiated a process to sell the Company which imposes heightened fiduciary responsibilities and requires enhanced scrutiny by the Court. However, terms of the proposed transaction, as agreed to by the Individual Defendants, were not

the result of an auction process or an adequate independent market check, and were arrived at without a full and thorough investigation by the Individual Defendants. The terms are intrinsically unfair and inadequate from the standpoint of Comfort's shareholders.

^{/1/} Defendant Graydon is a portfolio manager for the Ontario Teachers' Pension Plan Board and a member of Comfort's Board of Directors.

35. The Individual Defendants have violated their fiduciary duties owed to the public shareholders of Comfort. The Individual Defendants' agreement to the terms of the transaction, its timing, the failure to auction the Company and invite other bidders, and defendants' failure to provide an adequate market check demonstrate a clear absence of the exercise of due care to Comfort's public shareholders.

36. The Individual Defendants' fiduciary obligations under these circumstances require them to:

(a) Undertake an appropriate and independent evaluation of Comfort's net worth as a merger/acquisition candidate;

(b) Actively evaluate the proposed transaction and engage in a meaningful auction with third parties in an attempt to obtain the best value for Comfort's public shareholders;

(c) Act independently so that the interests of Comfort's public shareholders will be protected; and

(d) Adequately ensure that defendants do not subvert the interests of Comfort's public stockholders because of conflicts of interests that may exist between the Individual Defendants' own interests and their fiduciary obligation to maximize shareholder value or, if such conflicts exist, to ensure that all conflicts are resolved in the best interests of Comfort's public shareholders.

37. The Individual Defendants have breached their fiduciary duties by reason of the acts and transactions complained of herein, including their decision to merge with Carrier without making the requisite effort to obtain the best offer possible.

38. Plaintiffs and the other members of the Class have been and will be damaged in that they will not receive their fair proportion of the value of Comfort's assets and business, will be largely divested from their right to share in Comfort's future growth and development and have been prevented from obtaining a fair and adequate price for their shares of Comfort common stock.

39. The consideration to be paid to Class members in the proposed Merger is unconscionable, unfair and grossly inadequate because, among other things:

(a) The intrinsic value of Comfort's common stock is materially in excess of the amount offered for those securities in the Merger, giving due consideration to the anticipated operating results, cash flow and profitability of the Company; and

(b) The consideration to be received by Comfort shareholders is not the result of an appropriate evaluation of the value of Comfort's shares because the Comfort Board approved the proposed Merger without undertaking reasonable steps to accurately ascertain Comfort's value through an adequate active bidding process.

40. The Individual Defendants have breached their duty of loyalty by using their control of Comfort to force plaintiffs and the Class to exchange their equity interest in Comfort for unfair consideration, and to deprive plaintiffs and Comfort's public shareholders of the maximum value to which they are entitled.

41. Unless enjoined by this Court, defendants will continue to breach their fiduciary duties owed to plaintiffs and the Class, and may consummate the proposed Merger which will exclude the Class from its fair share of Comfort's valuable assets and businesses, and/or benefit the Individual Defendants in an unfair manner all to the irreparable harm of plaintiffs and the Class.

42. Plaintiffs and the class have no adequate remedy at law. Only through the exercise of this Court's equitable powers can plaintiffs be fully protected from the immediate and irreparable injury which the defendants' actions threaten to inflict.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs demand judgment and preliminary and permanent relief, including injunctive relief, in their favor and in favor of the Class and against defendants as follows:

1. Declaring that this action is properly maintainable as a class action and certifying plaintiffs as class representatives;
2. Declaring and decreeing that the Merger Agreement was entered into in breach of the fiduciary duties of defendants and is therefore unlawful and unenforceable;
3. Preliminarily and permanently enjoining defendants, their counsel, agents, employees and all persons acting in concert with them from consummating the Merger, unless and until the Company adopts and implements a procedure or process to obtain the highest possible price for shareholders;
4. Directing the Individual Defendants to exercise their fiduciary duties to obtain a transaction which is in the best interests of shareholders;
5. Rescinding, to the extent already implemented, the Merger Agreement or any of the terms thereof;
6. In the event the Merger is consummated, award compensatory damages against defendants, jointly and severally, in an amount to be determined at trial, together with pre-judgment interest at the maximum rate allowable by law;
7. Awarding plaintiffs the costs and disbursements of this action, including reasonable attorneys' and experts' fees; and
8. Granting such other and further relief as this Court may deem just and proper.

9. Plaintiffs and other members of the Class have no other adequate remedy at law.

JURY DEMAND

Plaintiffs demand a trial by jury.

DATED: June 25, 1999

BARRETT, JOHNSTON & PARSLEY
GEORGE BARRETT (#2672)
DOUGLAS S. JOHNSTON, JR. (#5782)

/s/Douglas S. Johnston, Jr.

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Surety

I hereby certify that I am surety in this cause.

/s/Douglas S. Johnston, Jr.

DOUGLAS S. JOHNSTON, JR.

IN THE CHANCERY COURT OF THE SEVENTEENTH JUDICIAL DISTRICT
MARSHALL COUNTY, TENNESSEE
AT LEWISBURG

STANLEY GINKOWSKI and JEFF GRAU, On Behalf of)
Themselves and All Others Similarly Situated,)

Plaintiffs,)

No. 11077

v.)

INTERNATIONAL COMFORT PRODUCTS CORP., RICHARD W.)
SNYDER, W. MICHAEL CLEVY, RICHARD C. BARNETT,)
STANLEY M. BECK, WILLIAM G. DAVIS, JOHN F.)
FRASER, ROY T. GRAYDON, MARVIN G. MARSHALL,)
ERNEST C. MERCIER, DAVID H. MORRIS, DAVID A.)
RATTEE and WILLIAM A. WILSON,)

Defendants.)

DEFENDANTS' MOTION TO DISMISS

Defendants, International Comfort Products Corporation ("ICP"), and its Directors, Richard W. Snyder, W. Michael Clevy, Richard C. Barnett, Stanley M. Beck, William G. Davis, John F. Fraser, Roy T. Graydon, Marvin G. Marshall, Ernest C. Mercier, David H. Morris, David A. Rattee and William A. Wilson (collectively, the "ICP Defendants"), pursuant to Rule 12 of the Tennessee Rules of Civil Procedure, respectfully moves to dismiss this action on the following grounds:

1. The Court lacks subject matter jurisdiction over this action. This action arises under the corporate laws of Canada, particularly the Canadian Business Corporations Act ("CBCA"). ICP is a Canadian federal corporation. Exclusive jurisdiction over the claims asserted in the Complaint lie in the courts of Canada, rather than this Court, pursuant to the CBCA, as recognized by the Delaware Supreme Court in a recent decision. See Taylor v. LSI

submitted in support of this Motion). Under applicable Canadian law, the complaint also fails to state a claim.

2. This Court lacks venue over this action. No defendant resides in Marshall County, and the cause of action did not arise in this county. See

T.C.A. (S) (S) 20-4-101 et seq.
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3. This Court lacks personal jurisdiction over all Defendants, other than Michael Clevy, who is a resident of Williamson County, Tennessee.

4. Even if this Court held that it had subject matter jurisdiction and venue over this action and personal jurisdiction over all defendants, the case should be dismissed on the basis of forum non conveniens.

In support of this Motion, the ICP Defendants have filed a Brief which addresses the preliminary matters of lack of subject matter jurisdiction and improper venue. The ICP Defendants submit that these issues must be addressed before any other matters are addressed, including the Plaintiffs' "emergency" motion for expedited discovery (filed July 6) and "emergency" motion for a temporary restraining order (filed June 25). Since the other grounds raised in this Motion are factually based (at least in part), and the Defendants have additional

time under the Rules to develop and present those matters, the Defendants reserve briefing on all other Rule 12 issues./1/

Respectfully submitted,

/s/ Matthew J. Sweeney III

Matthew J. Sweeney, III
Robb S. Harvey
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(615) 313-3300

/s/ Walter Bussart

Walter Bussart
BUSSART & MEDLEY
520 North Ellington Parkway
Lewisburg, Tennessee 37091
(931) 359-6264

Attorneys for Defendants

/1/ The Defendants have filed a separate motion regarding the insufficiency of process and service of process (Rule 12.02(4) & (5)) as to International Comfort Products Corporation. On information and belief, only Michael Clevy has been served in this lawsuit. The Defendants preserve a rights and defenses with respect to process and service under Rule 12.

Further, because of the nebulous allegations in the Complaint, the Defendants are not certain what claims are being raised and what relief is being sought. As a result of those uncertainties, Defendants preserve their rights and defenses with respect to Rule 12.02(6) (failure to state a claim), Rule 12.02(7) (failure to join an indispensable party), and Rule 12.02(8) (matters required to be raised or pleaded under Rule 9.01, in particular, the standing of the Plaintiffs).

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served by hand delivery to George Barrett and Doug S. Johnston, Jr., BARRETT, JOHNSTON & PARSLEY, 217 Second Avenue, North, Nashville, Tennessee 37201, and by overnight delivery to William S. Lerach, Darren J. Robbins, Randall J. Baron, William J. Doyle, II, MILBERG WEISS BERSHAD HYNES & LERACH, LLP, 600 West Broadway, Suite 1800, San Diego, California 92101, this 8 day of July, 1999.

/s/ Robb S. Harvey

Robb S. Harvey

DEFENDANTS REQUEST THAT THIS MOTION BE HEARD DURING
THE SPECIAL SETTING ON PLAINTIFFS' "EMERGENCY MOTION FOR
LIMITED
EXPEDITED DISCOVERY," SET FOR FRIDAY, JULY 9, 1999.