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

Proceeding	85281225
Applicant	Heatcon, Inc.
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Submission	Applicants Request for Remand and Amendment
Attachments	RemandRequest18.042.pdf(92957 bytes)
Filer's Name	Marianne E. Dutton
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Signature	/Marianne E. Dutton/
Date	06/11/2013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Heatcon Inc.
Serial No.:	85/281225
Appeal Filed:	20 March 2013
Attny Docket No.:	18.042
Mark:	The Three-dimensional Configuration of the Arrangement of the HCS9000B Composite Repair Set's User Interface Components

APPLICANT'S REQUEST FOR REMAND

TO THE TRADEMARK TRIAL AND APPEAL BOARD:

The applicant requests that the Trademark Trial and Appeal Board (TTAB) remand the application to the application's examining attorney so that the applicant can amend the application to seek registration on the Supplemental Register. Amending the application to the Supplemental Register will obviate the examining attorney's refusal to register the mark on the Principal Register based on her assertion that the mark is not distinctive.

On 7 July 2011 the examining attorney issued an Office Action asserting, among other things, that the mark was not distinctive. On 5 January 2012, applicant responded to the examining attorney's assertion by providing a declaration of substantially exclusive and continuous use of the mark in commerce. On 10 February 2012, the examining attorney issued a second Office Action asserting, among other things, that the declaration was not sufficient to establish that the mark had acquired distinctiveness. On 10 August 2012, applicant responded to the examining attorney's assertion by providing additional evidence that the mark had acquired distinctiveness. On 20 September 2012, the examiner attorney issued the third and final Office Action, from which this appeal is taken, asserting among other things, that the evidence with

the previous declaration was not sufficient to establish that the mark had acquired distinctiveness.

With the distinctiveness issue removed from the appeal, the TTAB can focus on reviewing the examining attorney's other two reasons for refusing to register the mark: 1) Section 2(e)(5), asserting that the design is functional, and 2) 37 C.F.R. § 2.52 (b)(4), asserting that the mark is not drawn correctly.

DATED this 11th day of June 2013.

Respectfully submitted,
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