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

THE SERVICEMASTER COMPANY, :

Opposer, :

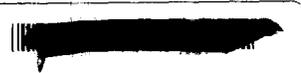
Opposition Nos.: 152,104; 125,743
Cancellation No.: 41,147

v. :

Stipulation to Consolidate Pending
Inter Partes Proceedings

UGI HVAC ENTERPRISES, INC. :

Applicant. :



05-22-2003

U.S. Patent & TMOfo/TM Mail Recpt. #22

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Commissioner of Trademarks
Box TTAB -- NO FEE
2900 Crystal Drive
Arlington, VA 22202-3513

STIPULATION TO CONSOLIDATE PENDING INTER PARTES PROCEEDINGS

Applicant, UGI HVAC Enterprises, Inc. ("UGI") or ("Applicant") and Opposer, The ServiceMaster Company ("ServiceMaster") or ("Opposer"), through their respective counsel, and under the provisions of TBMP § 511, hereby stipulate and agree, the Honorable Trademark Trial and Appeal Board consenting, to consolidate the presently pending Opposition Nos. 152,104 and 125,743, and Cancellation Proceeding No. 41,147. In support thereof, Applicant submits the following:

1. On November 16, 2000, Applicant applied for registration of its mark SERVICEMARK (Serial No. 76/166,568) for distributorship featuring heating, ventilation, cooling and appliances, and plumbing and related equipment in International Class 35, and for installation, repair, and maintenance of heating, ventilation and cooling equipment and appliances; installation, repair, and maintenance of plumbing and related equipment in

International Class 37. See Exhibit A. The application was published in the Official Gazette on December 25, 2001.

2. On April 6, 2001, Applicant applied for registration of its mark **SERVICEMARK HEATING COOLING AND PLUMBING** (Serial No. 76/237,328) for Retail services featuring heating, ventilation, cooling and appliances, and plumbing and related equipment in International Class 35, and for installation, repair, and maintenance of heating, ventilation and cooling equipment and appliances; installation, repair, and maintenance of plumbing and related equipment in International Class 37. See Exhibit B. The application was published in the Official Gazette on July 2, 2002.

3. On July 9, 2002, Applicant's mark **SERVICEMARK HEATING COOLING PLUMBING**, and Design was registered with the United States Patent and Trademark Office (Registration No. 2,591,190) for retail services featuring heating, ventilating, cooling and appliances, and plumbing and related equipment in International Class 35, and for installation, repair, and maintenance of heating, ventilation and cooling equipment and appliances; installation, repair, and maintenance of plumbing and related equipment in International Class 37. See Exhibit C.

4. On July 9, 2002, The ServiceMaster Company, ("Opposer") filed a Notice of Opposition against Applicant's application to register its mark **SERVICEMARK HEATING COOLING AND PLUMBING** (Serial No. 76/237,328). The Trademark Trial and Appeal Board ("Board") assigned the proceeding Opposition No. 125,743. See Exhibit D.

5. On July 17, 2002, after the entry of many stipulated extensions of time to oppose, The Servicemaster Company, ("Opposer") filed a Notice of Opposition against Applicant's application to register its mark **SERVICEMARK** (Serial No. 76/166,568). The

Trademark Trial and Appeal Board ("Board") assigned the proceeding Opposition No. 152,104. See Exhibit E.

6. On September 16, 2002, The Servicemaster Company (Opposer) filed a Cancellation of Registration of Applicant's mark **SERVICEMARK HEATING COOLING PLUMBING**, and Design (Registration No. 2,591,190). The Trademark Trial and Appeal Board instituted the proceeding on November 12, 2002, and assigned the cancellation proceeding Proceeding No. 41,147. See Exhibit F.

7. With the exception of the serial numbers and the trademarks themselves and an allegation challenging the bona fides of Applicant's intent-to-use in Paragraph 10 of Opposer's Notice of Opposition No. 152,104, Opposer's alleged grounds for the oppositions and cancellation as set forth in the Notices of Opposition and Cancellation are substantially identical, each alleging the same conduct by Applicant.

8. In response, Applicant has filed substantially identical Answers to Opposer's Notices of Opposition and Notice of Cancellation, which differ only in the assigned opposition/cancellation numbers, the trademarks at issue, and the response to Paragraph 10 of Opposer's Notice of Opposition No. 152,104.

9. The Trademark Trial and Appeal Board may, upon stipulation of the parties, approve the consolidation of cases. TBMP § 511.

10. In light of the substantially identical grounds for opposition and cancellation alleged by the Opposer in both proceedings, common questions of law or fact permeate the oppositions and cancellation proceeding.

11. Given that the essence of Opposer's arguments, as well as the Applicant's defenses, are duplicative in all three proceedings, and that the procedural posture of the actions

are similar, Applicant and Opposer agree that the parties will not suffer any prejudice or harm from consolidating the oppositions and cancellation proceeding.

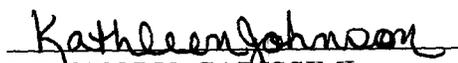
12. Consolidation of the above-captioned oppositions and cancellation proceeding will promote efficiency, conserve administrative resources, reduce the time of resolving the actions, and reduce the expense of trying the actions separately.

WHEREFORE, Applicant, UGI HVAC Enterprises, Inc. and Opposer, The ServiceMaster Company respectfully request that the above-captioned actions be ordered consolidated.

SO STIPULATED:



P. JAY HINES
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
755 Jefferson Davis Highway, Fourth Floor
Arlington, Virginia 22202
Counsel for Opposer



VINCENT V. CARISSIMI
BARBARA L. DELANEY
KATHLEEN A. JOHNSON
Pepper Hamilton LLP
3000 Two Logan Square
Eighteenth and Arch Streets
Philadelphia, PA 19103-2799
(215) 981-4194
Counsel for Applicant

Date: May 5, 2003

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **STIPULATION TO CONSOLIDATE PENDING INTER PARTES PROCEEDINGS** was served on counsel for Applicant, this *22nd* day of May, 2003, by sending same via First Class mail, postage prepaid, to:

Vincent V. Carissimi
Barbara L. Delaney
Kathleen A. Johnson
PEPPER HAMILTON LLP
3000 Two Logan Square
Eighteenth and Arch Streets
Philadelphia, Pennsylvania 19103-2799

Vincent Carissimi
