

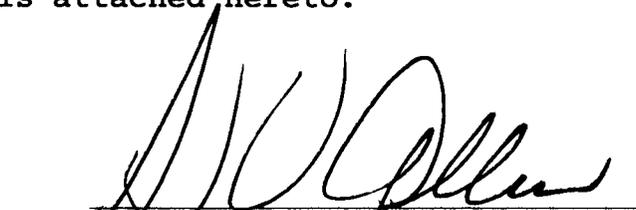
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AS HOLDINGS, INC.,)	
)	
Opposer,)	
)	Opposition No. 91182064
-vs-)	
)	Serial No. 76/461,157
H&C MILCOR, INC., f/k/a/)	Mark: Miscellaneous Design
AQUATICO OF TEXAS, INC.,)	(Pipe Boot Product Design)
)	
Applicant.)	

NOTICE OF FILING

TO: Terence J. Linn, Esq.
Van Dyke, Gardner, Linn & Burkhardt, LLP
2852 Charlevoix Drive SE, Suite 207
Grand Rapids, MI 49588-8695

PLEASE TAKE NOTICE that on the 17th day of December, 2009, we filed with the United States Trademark Trial and Appeal Board, Attention: George C. Pologeorgis, Interlocutory Attorney, APPLICANT, H&C MILCOR, INC.'S OPPOSITION TO OPPOSER'S MOTION TO STRIKE EXHIBITS AND TESTIMONY FOR IMPROPER DISCLOSURE AND FAILURE TO DISCLOSE with accompanying APPENDIX, a copy of which is attached hereto.



Billis V. Allen
Attorney for Applicant
Reg. No. 22,460



12-17-2009

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

AS HOLDINGS, INC.)
)
) Opposer,)
) Opposition No. 91182064
 -vs-)
) Serial No. 76/461,157
 H&C MILCOR, INC. f/k/a) Mark: Miscellaneous Design
 AQUATICO OF TEXAS, INC.,) (Pipe Boot Product Design)
)
 Applicant.)

*APPLICANT, H&C MILCOR, INC.'S OPPOSITION TO OPPOSER'S
MOTION TO STRIKE EXHIBITS AND TESTIMONY FOR IMPROPER
DISCLOSURE AND FAILURE TO DISCLOSE*

I. INTRODUCTION

This case is in part about the Opposer's pirating the Applicant's pipe boot, millimeter by millimeter, when it contracted for its tooling without a single engineering drawing generated by the Opposer. The Opposer sent one of Applicant's pipe boots to its tooling sub-contractor for copying. Opposer has known Applicant's position on this issue since Applicant's discovery depositions of Opposer's employees on November 12 and 13, 2008.

The Opposer attempts to strike Applicant, H&C MILCOR, INC.'S Exhibits 16 to 22, introduced and disclosed for the first time at trial on the ground that Rule 37 CFR 2.121(e) requires them to be specifically described or produced in Applicant's pre-trial disclosures.

Rule 2.121(e) requires only "a general summary of the types of documents" that may be introduced at trial; there is no requirement for specificity. Applicant's pre-trial disclosures stated that Mr. Steimle would testify about "the origination of the Firestone -- pipe boots" and that the exhibits produced at trial may "be contemporaneously provided as the testimony of the individual witnesses progresses".

The Opposer is myopically confusing the Rule 2.121(e) requirement for a specific identification of witnesses, with its much looser and broader requirement for a "general" summary of documentary exhibits.

Opposer states that it asked for third party use documents in its Request 21, but Applicant firstly agreed to produce them and in fact did, but Opposer never sent a Rule 37(a)(1) letter or Motion to Compel. In any event, Exhibits 16 to 22 are not produced to show third party use of the mark, but only to show that Applicant was the manufacturer of the Firestone pipe boot identified as Applicant's Exhibit 4 in this case.

Opposer also argues that during the first Steimle deposition Applicant refused to produce the Firestone sales documents. That statement is completely false.

The documents representing Exhibits 16 to 22 are not in any way prejudicial to Opposer, AS HOLDINGS, INC.

The *Jurgensen/Rhapsody v. Baumberger* case, 91 USPQ2d 1443(TTAB 2009) relied on by Opposer supports Applicant's position more than Opposer's. *Baumberger* merely held that Mr. Clayman, Petitioner's(Opposer's) trial witness, should have been disclosed in Petitioner's pre-trial disclosures. Applicant does not argue with that holding. And in fact, the *Baumberger* Board left in evidence Exhibits presented at trial that were identified by Petitioner after the pre-trial disclosure date had passed.

And how is Opposer's prejudiced? Does it deny that Portals Plus' manufactured pipe boots for Firestone, does it deny that the pipe boot Opposer copied in making its tooling(Firestone Exhibit 4) was in fact made by Portals Plus? If it does, which Applicant does not believe, let Opposer bring evidence in its yet presented Rebuttal testimony to prove otherwise.

II. RULE 2.121(e) DOES NOT REQUIRE THAT EXHIBITS BE DEFINED WITH ANY SPECIFICITY

Rule 2.121(e) provides:

"However, no later than fifteen days prior to the opening of each testimony period, or on such alternate schedule as may be provided by order of the Board, the party scheduled to present evidence must disclose the name and, if not previously provided, the telephone number and address of each witness from whom it intends to take testimony, or may take testimony if the need arises, general identifying information about the witness, such as relationship to any party, including job

title if employed by a party, or, if neither a party nor related to a party, occupation and job title, a general summary or list of subjects on which the witness is expected to testify, and a general summary or list of the types of documents and things which may be introduced as exhibits during the testimony of the witness."(emphasis added)

When Opposer's counsel cites this Rule on page 3 of its Brief, he states or implies that Exhibits must be specifically listed by underlining the word "must". But the must in Rule 2.121(e) applies to the identification of the witnesses, not the evidence or exhibits.

All of the Exhibits 16 to 22(App.p.2-36) introduced by Applicant at trial, with the exception of Exhibit 22, relate to the Firestone pipe boot which is depicted in Exhibit 4(App.p.1) to which the Opposer has not objected.

Applicant was the manufacturer of the Firestone Exhibit 4 pipe boot, and Exhibits 16 to 21 simply are introduced to prove that point.

Applicant's Pre-trial Disclosures state with respect to both Mr. Steimle and Mr. Devitt that they will testify about "the origination of the Firestone --- pipe boots". This statement alone is believed to support the introduction of evidence relating to Portals Plus'(Applicant's) manufacture of the Firestone Exhibit 4 pipe boot.

Exhibit 16(App.p.2-3) is two photographs of the tool owned by Portals Plus(Applicant) used to make the lettering "BFDP EPDM" on the Exhibit 4 Firestone pipe boot.

Exhibit 17(App.p.4-5) is two photographs of the lettering on Exhibit 4 already in evidence. How can the Opposer object to that?

Exhibit 18(App.p.6-21) is 15 invoices from Portals Plus to Firestone for the Exhibit 4 type pipe boot shipped from Portals Plus to Firestone in 2005, the time frame Exhibit 4 was manufactured.

Exhibit 19(App.p.22) is a copy of a Portals Plus pipe boot specification that is already a part of Defendant's Exhibit 12(ALP00476,ALP00477) to which the Opposer does not object.

Exhibit 20(App.p.23-25) is a Firestone specification of the Exhibit 4 pipe boot with related Portals Plus correspondence almost identical in substance with Defendant's Exhibit 14.

Exhibit 21(App.p.26-35) is a Firestone specification generated in part by Portals Plus also contained in Defendant's Exhibit 14.

Exhibit 22(App.p.36a) is a hand drawn pipe boot which is nothing more than Exhibit 9 to which Opposer does not object, with a short vertical line 24 added thereto.

How can Opposer be prejudiced by the introduction of Exhibits 16 to 22?

Not only does Applicant's Pre-trial Disclosures (App.p.37-41) tell the Opposer that the witnesses would testify as to the "origination of the Firestone" pipe boot, but during the depositions of AS Holdings employees David V. Smith, Jr., Christopher C. Kintzele, Joseph V. Merryman, David V. Smith, III, and Michael J. Hubbard on November 12 and 13, 2008, the attorney for Applicant, Dillis V. Allen, repeatedly asked these witnesses, in the presence of Opposer's counsel, Terence Linn, questions about who manufactured the Exhibit 4 pipe boot. So Opposer is hardly surprised by these Exhibits 16-22.

III. OPPOSER SUGGESTS FALSELY THAT APPLICANT SHOULD HAVE PRODUCED THE EXHIBIT 18 INVOICES IN DISCOVERY

Opposer suggests on page 4 of its Brief that Applicant should have produced Exhibits 16 to 22 during discovery. Firstly, Exhibits 17, 19, part of Exhibit 20 and 99% of Exhibit 22 were generated during discovery.

The simple answer is that Opposer did not ask for them except Request 21(App.p.42-43), which reads as follows:

Opposer's Request 21: All documents and things referring or relating to third party use of the Applicant's Mark.

Applicant's Response: Subject to classification under the Protective Order and the August 231, 2007 changes to 37 CFR 2.116(g), and the overbroad nature of the request, these documents will be produced.

Applicant has provided exemplary invoices to Opposer of its private label customers. Opposer never objected to the completeness of Applicant's production under FRCP Rule 37(a)(1) and never brought a Motion to Compel. Discovery is now over in this case.

Opposer further states falsely on page 5 of its Brief that Applicant refused to produce additional documents during the Steimle discovery deposition -- "Counsel for Applicant represented that Applicant would not produce more documents that had not been previously produced and attempt to use those documents at trial. (Steimle deposition October 3, 2008 pp.73-74)."

The colloquy at pages 73 and 74 of the first Steimle deposition related to gross sales figures. Exhibit 18 is not introduced to show Portals Plus' gross sales, but was introduced only to show that Portals Plus made and shipped the Exhibit 4 Firestone pipe boot to Firestone during a period in 2005 when AS Holdings got the Exhibit 4 pipe boot from Firestone for the purpose of copying the design and making tooling.

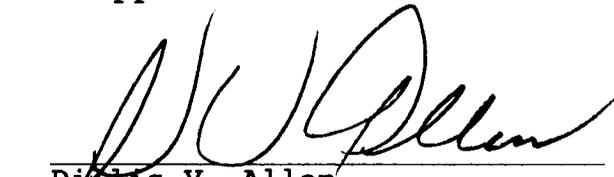
IV. THE JULES JURGENSEN/RHAPSODY V. BAUMBERGER CASE DOES NOT SUPPORT THE OPPOSER'S POSITION HERE

In *Jules Jurgensen/Rhapsody, Inc. v. Peter Baumberger*, 91 USPQ2d 1443 (TTAB 2009) the Board held that a Mr. Clayman, an employee of the Opposer, could not testify at trial because he was not identified in the Opposer's pre-trial disclosures. It should be noted in the *Jules Jurgensen* case that the Opposer, on March 11, 2009 served the Applicant with a list of Exhibits it was going to use at trial -- almost a month after the Opposer's pre-trial disclosures were due on February 16, 2009 (p.1446). The Trademark Trial and Appeal Board failed to strike those Exhibits under Rule 2.121(e).

Thus, the *Jules Jurgensen* case supports Applicant's position here more than the Opposer's. This Motion should be denied.

V. CONCLUSION

In conclusion, Opposer's Motion to Strike Exhibits 16 to 22 should be denied in its entirety because they have been adequately identified in Applicant's Pre-trial Disclosures.

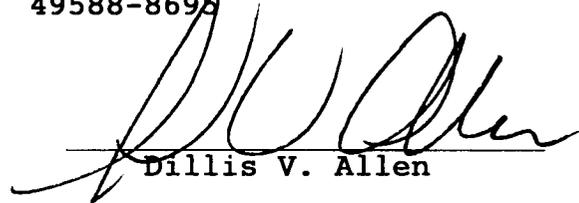

Dillis V. Allen
Reg. No. 22,460
Attorney for H&C MILCOR, INC.

DATED: December 16, 2009

CERTIFICATE OF SERVICE

This is to certify that on December 16, 2009, Applicant, H&C Milcor's Opposition to Opposer's Motion to Strike Exhibits and Testimony for Improper Disclosure and Failure to Disclose with accompanying Appendix was sent via Federal Express to the Trademark Trial and Appeal Board and a true and correct copy of said Opposition with accompanying Appendix was sent via Federal Express on December 16, 2009 to Plaintiff's counsel as follows:

Terence J. Linn, Esq.
Van Dyke, Gardner, Linn & Burkhardt, LLP
2851 Charlevoix Drive SE, Suite 207
Grand Rapids, MI 49588-8698



Dillis V. Allen

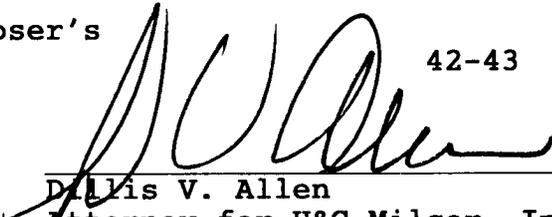
Dillis V. Allen, Esq.
105 S. Roselle Road
Suite 101
Schaumburg, IL 60193
847/895-9100

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

AS HOLDINGS, INC.)	
)	
Opposer,)	
)	Opposition No. 91182064
-vs-)	
)	Serial No. 76/461,157
H&C MILCOR, INC. f/k/a)	Mark: Miscellaneous Design
AQUATICO OF TEXAS, INC.,)	(Pipe Boot Product Design)
)	
Applicant.)	

APPENDIX TO APPLICANT, H&C MILCOR, INC.'S
OPPOSITION TO OPPOSER'S MOTION TO STRIKE EXHIBITS AND
TESTIMONY FOR IMPROPER DISCLOSURE AND FAILURE TO DISCLOSE

	PAGE NO.
Exhibit 4	1
Exhibit 16	2-3
Exhibit 17	4-5
Exhibit 18	6-21
Exhibit 19	22
Exhibit 20	23-25
Exhibit 21	26-36
Exhibit 22	36a
Applicant's Pretrial Disclosures	37-41
Applicant's Response to Opposer's Production Request No. 21	42-43

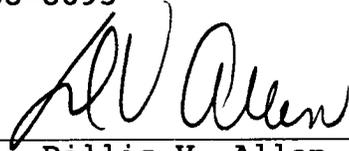


 Dallas V. Allen
 Attorney for H&C Milcor, Inc.
 f/k/a Aquatico of Texas, Inc.
 Reg. No. 22,460

CERTIFICATE OF SERVICE

This is to certify that on December 16, 2009, Applicant, H&C Milcor's Opposition to Opposer's Motion to Strike Exhibits and Testimony for Improper Disclosure and Failure to Disclose with accompanying Appendix was sent via Federal Express to the Trademark Trial and Appeal Board and a true and correct copy of said Opposition and accompanying Appendix was sent via Federal Express on December 16, 2009 to Plaintiff's counsel as follows:

Terence J. Linn, Esq.
Van Dyke, Gardner, Linn & Burkhart, LLP
2851 Charlevoix Drive SE, Suite 207
Grand Rapids, MI 49588-8695



Dillis V. Allen

Dillis V. Allen, Esq.
105 S. Roselle Road
Suite 101
Schaumburg, IL 60193
847/895-9100

AS HOW TO...
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A.S. HOLDINGS V H&C MILCOR
NO. 91182064
DEFENDANT'S EXHIBIT 16

APP. 2

APP. 3

A.S. HOLDINGS V H&C MILCOR
NO. 91182064
DEFENDANT'S EXHIBIT 17

APP. 4



APP. 5

INVOICE

PORTALS PLUS

484 N. PENNSYLVANIA

BENSEN

(800) 822-8671

REMIT TO

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D ATTN: ACCTS. PAYABLE
T FIRESTONE BUILDING PRODUCTS CO
INDIANAPOLIS IN 46203

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D FIRESTONE BUILDING PRODUCTS
T 2022 S. ARLINGTON AVENUE
INDIANAPOLIS IN 46203

TOTAL DUE

PORTALS PLUS BENSEN WILLIS IL 801061

A.S. HOLDINGS V H&C MILCOR
NO. 91182064
DEFENDANTS EXHIBIT 18

APP. 6

INVOICE



PORTALS PLUS, INC.

639 N. THOMAS DRIVE
 BENSENVILLE, IL 60106
 (630) 766-5240 • FAX (630) 595-7868

REMIT TO: P. O. BOX 6500
 CHICAGO, IL 60680-6500

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 ATTN: ACCTS. PAYABLE
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 810 E. 95TH STREET
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 13525 S. ARLINGTON AVENUE
 PATTN: TOM WREN 317-781-4166
 INDIANAPOLIS IN 46203
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LD	DH	01/05/04		6555	12/06/03	12/05/03	000005
TERMS DESCRIPTION		QUANTITY TO ORDER		ORDER NO		SHIP TO	
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ITEM ID	QUANTITY	UNIT PRICE	EXTENSIO				
42910							
MEDIUM 1" - 6" PIPE BOOT CLAMP BLACK EPDM W/BFDP NAME (W56-358-1063)							
42150	01 EA	480.0000	480.0000				
SMALL 1/2" - 2 1/2" PIPE BOOT W/TAPE AND CLAMPS BLACK EPDM W/FBPCO NAME CONDUIT FLASHING (W56-358-1070)							
Thank you for your order.							Subtotal :
TAXABLE	NON-TAXABLE	SALES TAX	MISC CHARGE	TOTAL			
.00							

APP. 8

INVOICE



PORTALS PLUS, INC.
 639 N. THOMAS DRIVE
 BENSENVILLE, IL 60106
 (630) 766-5240 • FAX (630) 595-7868

REMIT TO: P. O. BOX 6500
 CHICAGO, IL 60680-6500

INVOICE NO.	INVOICE DATE	PAGE
25164	09/09/05	1

ATTN: ACCTS. PAYABLE
 FIRESTONE BUILDING PRODUCTS CO
 310 E. 96TH STREET
 INDIANAPOLIS IN 46240

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 FIRESTONE BUILDING PRODUCTS
 11406 HIGHWAY 371 NORTH
 ATTN: RCVG. DEPT. 870-887-2673
 PRESCOTT AR 71857

TOTAL DUE

SLS1	SLS2	DUPLICATE	DISC DUE DATE	ORDER NO	ORDER DATE	SHIP DATE	SHIP TO
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42999	01	240.0000	240.0000				
Q86 POURABLE SEALER POCKET KIT BLACK EPDM TAPED W/NO NAME (W56-RAC-Q806)							
				Subtotal			
TAXABLE	NON-TAXABLE	TOTAL	TOTAL TAX	SALES TAX	DISC CHARGE	TOTAL	
.00							

Thank you for your order.

APP. 9



PORTALS PLUS, INC.

639 N. THOMAS DRIVE
BENSENVILLE, IL 60106
(630) 766-5240 • FAX (630) 595-7868

REMIT TO: P. O. BOX 6500
CHICAGO, IL 60680-6500

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 SATTN: ACCTS. PAYABLE
 FIRESTONE BUILDING PRODUCTS CO
 9510 E. 96TH STREET
 MINNEAPOLIS MN 55424

000001
 FIRESTONE BUILDING PRODUCTS
 1731 MARTHA AVENUE
 PATTN: LANE FLICK 717-295-2330
 LANCASTER PA 17601

TOTAL DUE

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66841			3" ALUMINUM BOOT DRAIN W/RUBBER SEAL, 18" LONG PIPE, 8" DIAM. FLANGE AST ALUMINUM DOME RED (W56-RAC-2713)	01 EA	4320.0000	4320.0000	
42910			MEDIUM 1" - 6" PIPE BOOT W/TAPE AND CLAMP BLACK EPDM W/EPDM NAME (W56-358-1063)	01 EA	960.0000	960.0000	
42999			Q86 POURABLE SEALER POCKET KIT BLACK EPDM TAPED W/NO NAME W56-RAC-Q806	01 EA	960.0000	960.0000	
				Subtotal:			
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				NON-TAXABLE			

Thank you for your order.

Subtotal:

APP. 10

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PORTALS PLUS, INC.

639 N. THOMAS DRIVE
 BENSenville, IL 60106
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 CHICAGO, IL 60680-6500

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 FIRESTONE BUILDING PRODUCTS CO.
 310 E. 96TH STREET
 INDIANAPOLIS IN 46240

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 S FIRESTONE BUILDING PRODUCTS
 H 13525 S. ARLINGTON AVENUE
 PATN: TOM WREN 317-781-4166
 T INDIANAPOLIS IN 46203

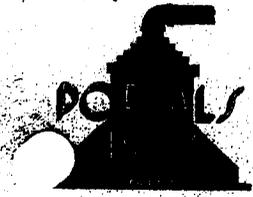
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42150 SMALL 1/2" - 2 1/2" PIPE BOOT W/TAPE AND CLAMPS BLACK EPDM W/FBPCO NAME CONDUIT FLASHING (W56-358-1070)	01 EA	240.0000	240.0000			
42999 Q86 POURABLE SHALLER POCKET KIT BLACK EPDM TAPED W/NO NAME W56-RAC-Q806	01 EA	240.0000	240.0000			
			Subtotal			
TAXABLE	NON-TAXABLE	TOTAL	TOTAL			

Thank you for your order.

APP. 11

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PORTALS PLUS
484 N. THOMAS DRIVE
BENSENVILLE, IL 60106
(800) 624-8642 • FAX (800) 624-8643

REMIT TO: P. O. BOX 1000
CHICAGO, IL 60680-1000



S FIRBUI
O ATTN: ACCTS. PAYABLE
L FIRESTONE BUILDING PRODUCTS CO
D 310 E. 96TH STREET
T INDIANAPOLIS IN 46240

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H FIRESTONE BUILDING PRODUCTS
P 731 MARKET AVENUE
T ATTN: LANE FLICK 717-295-2330
O LANCASTER PA 17501

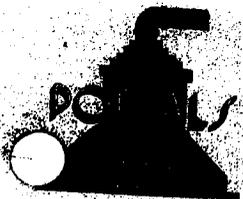
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APP. 12

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PORTALS PLUS
BENSENVILLE, IN 46035
(800) 624-6642

REMIT TO:

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L ATTN: ACCTS. PAYABLE
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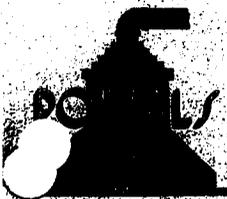
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APP. 13

INVOICE



PORTALS PLUS
484 N. THOMAS ST.
BENSENVILLE, IL 60015
(800) 621-8812

REMIT TO:

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FIRESTONE BUILDING PRODUCTS
310 E. 36TH STREET
INDIANAPOLIS IN 46240

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PORTALS PLUS BENSENVILLE, IL 60015

APP. 14



PORTALS PLUS
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BENSENVILLE, IL 60106
(800) 624-8642 • FAX (866) 466-9335

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REMIT TO: P. O. BOX 6500
CHICAGO, IL 60680-6500

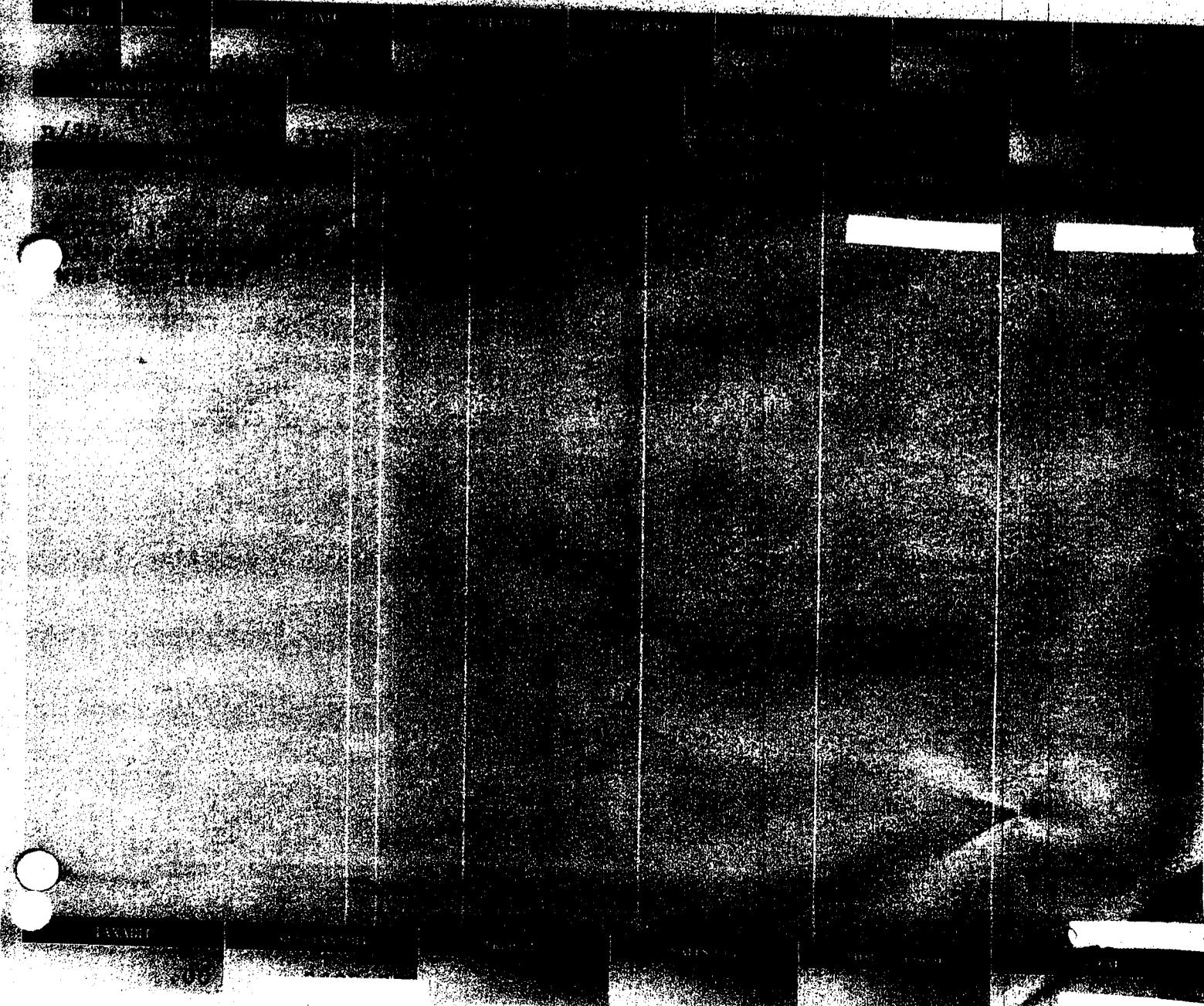


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T 310 E. 96TH STREET
O INDIANAPOLIS IN 46240

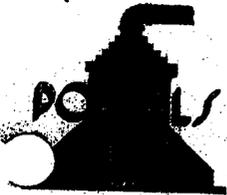
S 000003
H FIRESTONE BUILDING PRODUCTS
P 3525 S. ARLINGTON AVENUE
T ATTN: TOM WREN 317-781-4166
O INDIANAPOLIS IN 46203

TOTAL DUE

PORTALS PLUS BENSENVILLE, IL 60106



APP. 15



PORTALS PLUS
 484 N. THOMAS DRIVE
 BENSENVILLE, IL 60106
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REMIT TO: P. O. BOX 5500
 CHICAGO, IL 60680-6500

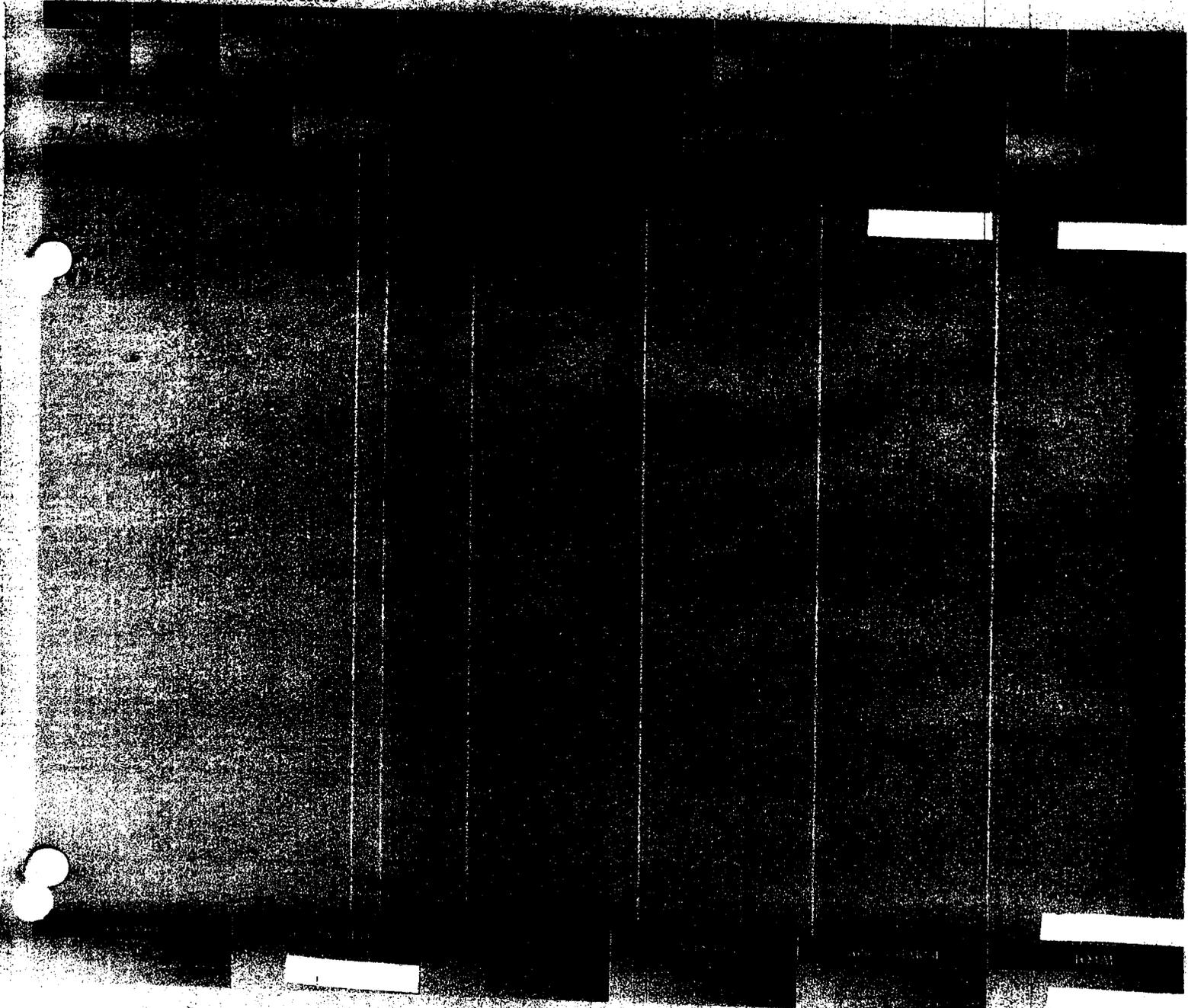


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 D 310 E. 96TH STREET
 T INDIANAPOLIS IN 46240
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S 000001
 H FIRESTONE BUILDING PRODUCTS
 I 731 MARTHA AVENUE
 P ATTN: LANE FLICK
 T LANCASTER PA 17601
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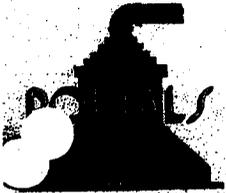
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PORTALS PLUS BENSENVILLE, IL 60106



APP. 16

INVOICE



PORTALS PLUS
484 N. THOMAS DRIVE
BENSENVILLE, IL 60106
(800) 624-8642 • FAX (618) 298-1100

REMIT TO: P. O. BOX 100
CHICAGO, IL 60680-0100

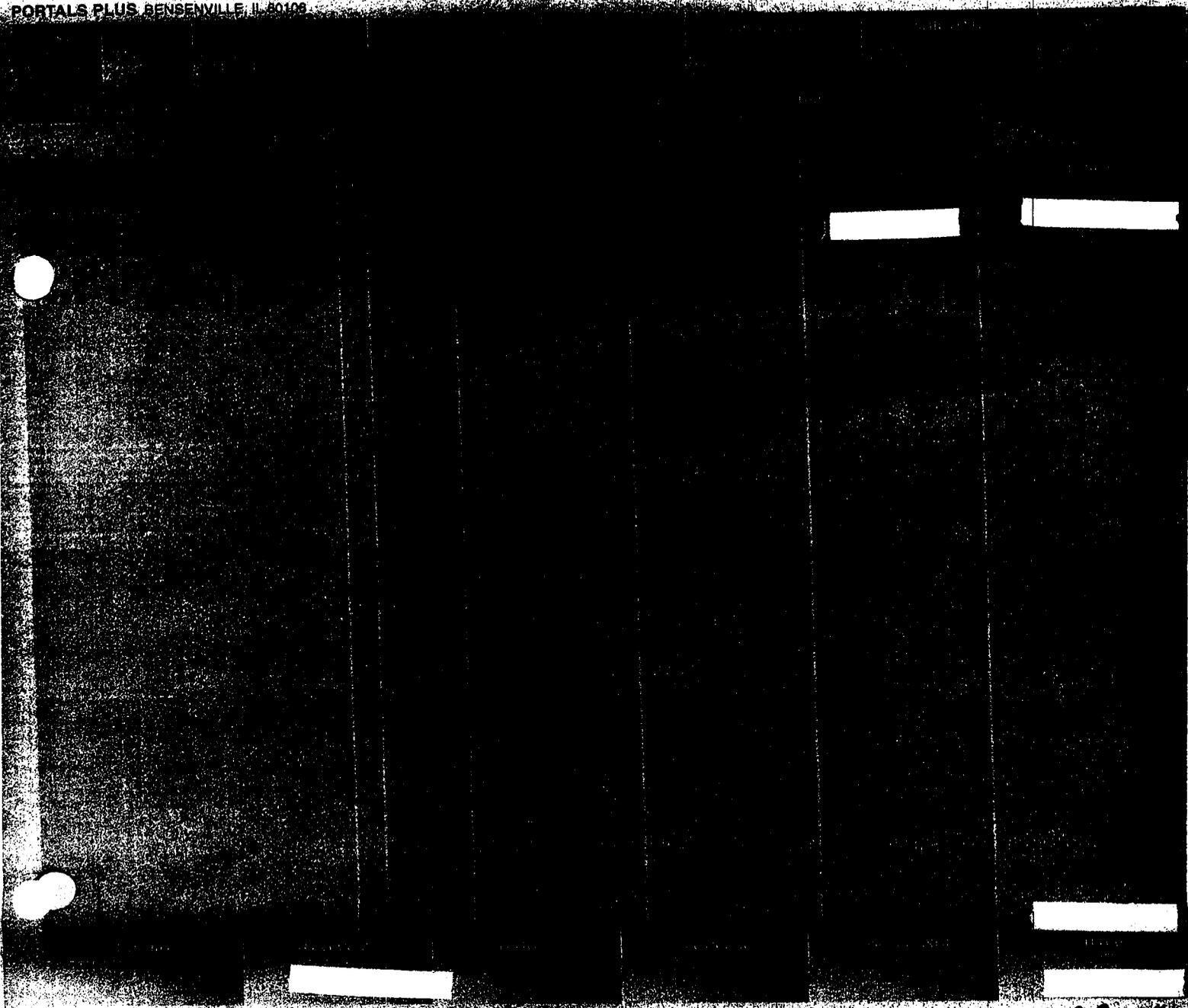


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O L ATTN: ACCTS. PAYABLE
D FIRESTONE BUILDING PRODUCTS CO
T 310 E. 96TH STREET
O INDIANAPOLIS IN 46240

S 000002
H FIRESTONE BUILDING PRODUCTS
P 1525 S. ASHLINGTON AVENUE
T ATTN: TOM WREN 317-781-4166
O INDIANAPOLIS IN 46203

TOTAL DUE . . .

PORTALS PLUS, BENSENVILLE, IL 60106



APP. 17

INVOICE



PORTALS PLUS, INC.

639 N. THOMAS DRIVE
 BENSENVILLE, IL 60106
 (630) 766-5240 • FAX (630) 595-7868

REMIT TO: P. O. BOX 6500
 CHICAGO, IL 60680-6500

INVOICE NO.	INVOICE DATE	PAGE
2680	10/27/05	1

S FIREST
 O ATTN: ACCTS. PAYABLE
 L FIRESTONE BUILDING PRODUCTS CO.
 D 310 E. 96TH STREET
 T INDIANAPOLIS IN 46240
 O

S 000001
 H FIRESTONE BUILDING PRODUCTS
 I C/O STOCKTON WAREHOUSE
 P 555 ZEPHYR STREET
 T 209-234-8615
 O STOCKTON CA 95206

TOTAL DUE

SLS1	SLS2	DUF DATE	DISC DUE DATE	ORDER NO	ORDER DATE	SHIP DATE	SHIP TO
LD	DH	11/26/05		64992	10/27/05	10/27/05	000001

TERMS DESCRIPTION	CUSTOMER NUMBER	PRODUCT
n/30	1V5472-00	YELLOW FRENCH

42910 01
 MEDIUM 1" - 6" PIPE BOOT W/EPDM AND
 LAMP BLACK EPDM W/BFDP NAME
 (W56-358-1063)

Thank you for your order.

AMOUNT	TAXABLE	TOTAL	SALES TAX	FIN CHARGE	DISC
00					

APP. 19

INVOICE



PORTALS PLUS, INC.

639 N. THOMAS DRIVE
 BENSENVILLE, IL 60106
 (630) 766-5240 • FAX (630) 595-7868

REMIT TO: P. O. BOX 6500
 CHICAGO, IL 60680-6500

INVOICE NO.	INVOICE DATE	PAGE
2	12/01/05	1

FIREST
 S OATTN: ACCTS. PAYABLE
 LE FIRESTONE BUILDING PRODUCTS CO.
 D 310 E. 96TH STREET
 T INDIANAPOLIS IN 46240
 O

000002
 S H FIRESTONE BUILDING PRODUCTS
 I 1457 EASTLAND AVENUE
 P ATTN: RCVG. DEPT. 800-865-5040
 T KINGSTREE SC 29556
 O

TOTAL DUE

SLS1	SLS2	DUPLICATE	INVOICE DATE	ORDER NO.	ORDER DATE	SHIP DATE	SHIP TO
LD	DN		12/31/05	6550	12/01/05	12/01/05	000002
TERMS DESCRIPTION		CUSTOMER ORDER NO.		ITEM NO.		EXTENSION	
n/30		1V5876-00		YELLOW FR			
ITEM NO.	DESCRIPTION	UNIT PRICE	EXTENSION				
42910	MEDIUM 1" - 6" PIPE BOOT (W/EPDM GASKET AND LAMP BLACK EPDM W/EPDM GASKET (W56-358-1063)						
Thank you for your order.							
PAYABLE	NONPAYABLE	DISCOUNT	SALES TAX	MINI CHARGE	TOTAL		

APP. 20

INVOICE



PORTALS PLUS
484 N. THOMAS DRIVE
BENSENVILLE, IL 60106
(800) 624-8642 • FAX (886) 466-9335

REMIT TO: P. O. BOX 2500
CHICAGO, IL 60680-6500

S FIRBUI
O
L ATTN: ACCTS. PAYABLE
D FIRESTONE BUILDING PRODUCTS CO
T 310 E. 96TH STREET
O INDIANAPOLIS IN 46240

S 000001
H
I FIRESTONE BUILDING PRODUCTS
P 1457 EASTLAND AVENUE
T ATTN: RCVG. DEPT. 800-865-5040
O KINGSTREE SC 29556

TOTAL DUE

PORTALS PLUS BENSENVILLE, IL 60106

APP. 21

FAX TRANSMISSION

PORTALS PLUS, INC.
639 THOMAS DRIVE
BENSENVILLE, IL 60106

PHONE: 630-766-5240
FAX: 630-595-7868

To: Kevin Mannix
Firestone

Date: August 20, 1999

Fax #: 317-575-7100

Pages: 2, including this cover sheet.

From: Ron Resech

Subject: EPDM Pipe Boot

COMMENTS:

Kevin, attached please find the information which you requested. If you have any questions please feel free to call. Thank you for the opportunity.

A.S.HOLDINGS V H&C MILCOR
NO. 91182064
DEFENDANT'S EXHIBIT 20

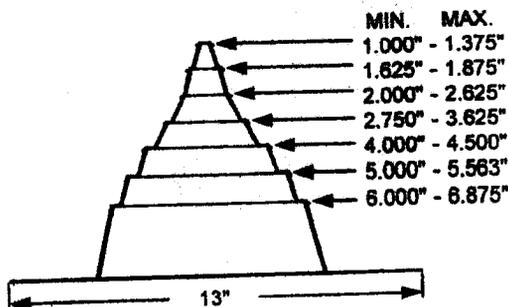
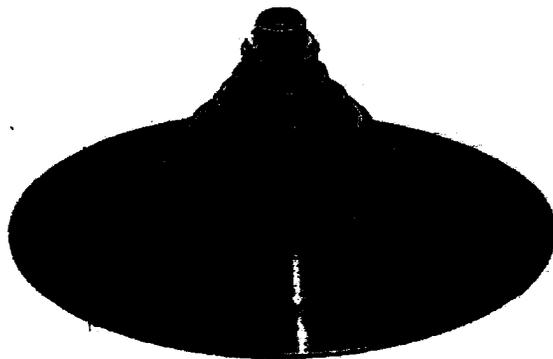
APP-23



Firestone

Building Products Company

EPDM Pipe Boot



AVAILABLE IN BLACK AND WHITE
WITH OR WITHOUT QUICKSEAM TAPE

Portals Plus, Inc. 639 N. Thomas Drive, Bensenville, IL 60106
TEL: 630-786-5240 FAX: 630-595-7868



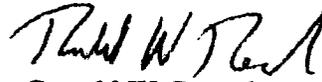
May 7, 2003

Mr. Paul Alvarez
Chicago Building Products
225 Congressional Blvd.
Chicago, IL 60612

Dear Paul:

Enclosed please find the samples per your request. After you have had an opportunity to review them please give me a call at 1-800-PPI-5240.

Sincerely,



Ronald W. Resch
Portals Plus, Inc.

EcoWhite™ EPDM QuickSeam™ Pipe Flashings

Product Number(s): W56358106A

Prepared By: Joe Kalwara

Date: 9/4/2007

Joe Kalwara, Engineer

Reviewed By: Jim Jannasch

Date: 9/27/2007

Jim Jannasch, EPDM Product Manager

Reviewed By: John Fieldhouse

Date: 10/5/2007

John Fieldhouse, PhD, Director of Adhesives

Reviewed By: Stephanie Riner

Date: 10/11/2007

Stephanie Riner, Purchasing

Reviewed By: Larry Devitt, Portals Plus

Date: 11/1/2007

Vendor

**A.S.HOLDINGS V H&C MILCOR
NO. 91182064
DEFENDANT'S EXHIBIT 21**

Product Specification for EcoFlexWhite QuickSeam Pipe Flashing_S733 TEC-XXX_12/7/2007

THIS REVISION SUPERSEDES ALL PREVIOUS ISSUES

APP. 26

1. Scope

This specification is for the Firestone EcoWhite™ EPDM QuickSeam™ Pipe Flashing, hereafter referred to as EcoWhite QuickSeam Pipe Flashing, is to be used in conjunction with Firestone EcoWhite Roofing Systems. The Firestone EcoWhite QuickSeam Pipe Flashing is a pre-fabricated pipe Flashing with a tape adhesive laminated to the bottom flange of the Flashing. They are to be used to flash pipes, rods or other similar penetrations on roofs. This specification covers a EcoWhite QuickSeam Pipe Flashing that can be used to flash a variety of pipe sizes from 1" O.D. to 6.875" O.D.

2. Applicable Documents

- 2.1 The EcoWhite QuickSeam Pipe Flashing shall pass the Dead Load Shear Test when tested in accordance with Firestone Test Specification W56-358-1002
- 2.2 Appendix 1: EPDM Material Specifications (attached)
- 2.3 Firestone Building Products "Quality System Manual" issued 7 Sept 2004
- 2.4 Label Specification for Firestone Accessories S733-TEC-204
- 2.5 Package Specification for QuickSeam Products S733-TEC-211

3. Physical and Performance Requirements

- 3.1 **QuickSeam Tape Material** – The tape adhesive shall be SP-610 from AEC DO, white in color, or an alternate approved by Firestone.
- 3.2 **Dimensions:**
 - 3.2.1 The EcoWhite QuickSeam Pipe Flashing shall conform dimensionally to Figure 1 of this specification.
 - 3.2.2 The QuickSeam tape thickness shall be .030"-.040".
 - 3.2.3 The QuickSeam tape shall extend 1/16" to 1/8" beyond the flange of the EcoWhite QuickSeam Pipe Flashing.

4. Qualification Testing

Firestone shall conduct a series of qualification tests on each vendor's product. Successful passing of these tests shall qualify a vendor's product for use by Firestone. In addition, Firestone shall conduct such qualification tests in-house, as required, to assure that a vendor's product continues to perform satisfactorily.

	Specification Value
Tensile strength performed at room temperature	1000 psi (minimum)
Elongation performed at room temperature	300% (minimum)
Die C tear performed at room temperature	100 lbf/in (minimum)
Shore A Durometer Hardness	55-70 (reading at 3 seconds)
Tensile strength after heat aging*	750 psi (minimum)

	Specification Value
Elongation after heat aging*	225% (minimum)
Die C tear after heat aging*	150 lbf/in (minimum)
Shore A Durometer after heat aging**	75 Shore A, maximum
Color	White

*Heat aging: 28 days at 240°F

**Testing and performance may be certified by an outside laboratory.

5. Inspection/Certification

- 5.1 Vendor shall inspect finished EcoWhite QuickSeam Pipe Flashing at a frequency that will ensure Firestone receives only kits that meet this specification. A written certification that kits shipped to Firestone meet this specification shall be required with each shipment. Certification forms shall be sent to the attention of the Purchasing Agent.
- 5.2 Firestone may inspect samples of incoming material to ensure that the product meets the requirements of this specification.

6. Packaging and Marking

- 6.1 Packaged 10 boots per carton. Refer to Firestone Package Specification for QuickSeam Tape Products (S733-TEC-211). Package contents include clamps and Application Instructions.
- 6.2 Refer to Firestone Label Specification for Accessories (S733-TEC-204).
Template: #1005 (8 1/2" x 5 1/2"); Elements: A, B, C, D, E, F, G, J; Template: #1007
- 6.3 A date code (month and year) shall be molded on the top surface of the EcoWhite QuickSeam Pipe Flashing.

7. Warranty

Supplier shall warrant the workmanship and the integrity of the EcoWhite QuickSeam Pipe Flashing for a period of 20 years to perform as intended when installed in accordance with Firestone specifications.

8. Changes in Process or Product

Vendor shall be required to report to Firestone Purchasing Department 30 days prior to producing and shipping any material when making a change in a purchased raw material, manufacturing process, manufacturing location, sources, or the product. Firestone will review all changes and shall reserve the right to require re-qualification of the subject material or equipment. Firestone reserves the right to approve or reject any proposed changes.

EcoWhite QuickSeam Pipe Flashing Certification Form

Supplier:	_____	Material:	_____
Date Assembled:	_____	By:	_____
Lot #:	_____	Lot #:	_____
Certified By:	_____		

Inspection Results for EcoWhite QuickSeam Pipe Flashing

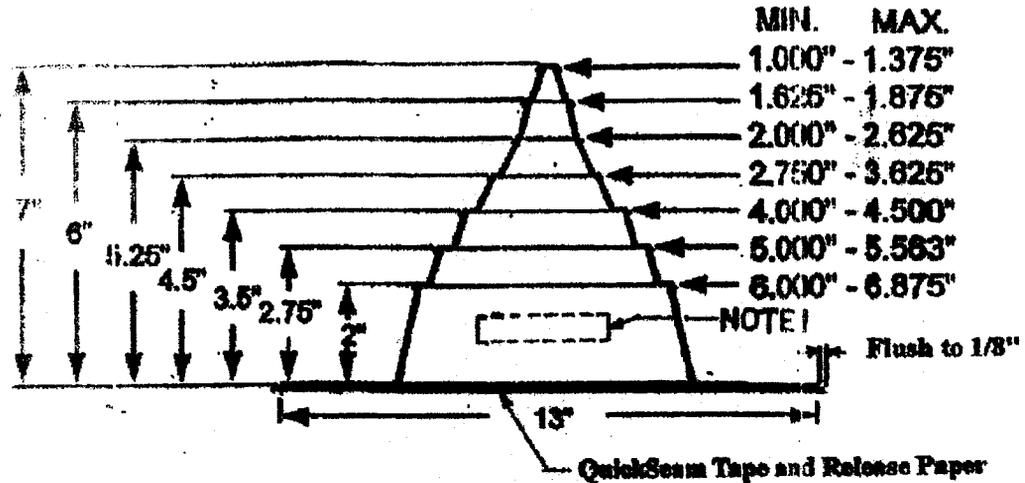
Property	Specification Value
Base Polymer	100% EPDM
Color	White
Shore A Hardness (reading at 3 seconds)	55-70
Dimensions (See Figure 1)	
Thickness of flange and wall	0.055" - 0.075"
Flange OD	13"
Legibility of date code and all printing on parts	Note 1 in Figure 1
Voids, air traps, splits, pitting, cured in flash, or surface blemishes or blisters	Note
Tensile strength, room temperature	1000 psi, minimum
Elongation, room temperature	300%, minimum
Die C tear, room temperature	100 lbf/in, minimum

Property	Test Method	Specification Value
Tensile strength, after heat aging*		750 psi, minimum
Elongation, after heat aging*		225%, minimum
Die C tear, after heat aging*		75 lb./in., minimum
Durometer, after heat aging*		80 Shore A, maximum
QuickSeam Deac Load Shear Test		less than 0.125" slippage
QuickSeam tape thickness		.010"-.040"
QuickSeam tape beyond flange		1/3" to 1/8"

* Heat aging: 28 days at 240°F

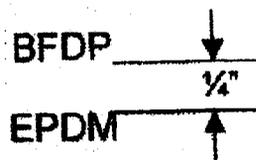
List below any items from note callouts on drawing in Figure 1 that do not meet specified values:

FIGURE 1: EcoWhite QuickSeam Pipe Flashing Dimensions



NOTES:

1. "BFDP" and "EPDM" to be molded and spaced as shown by Detail "A".
2. Tolerance on dimensions shown is ± 0.06 " unless otherwise noted.



Detail "A"

Appendix 1: EPDM Material Specifications B-1000

Property	Test Method	Performance
Specific Gravity	ASTM D-297	1.13 ± .03
Elongation	ASTM D-412 (Die C)	300% minimum (9.6 MPa)
Tensile Strength	ASTM D-412 (Die C)	1000 psi (9.6 MPa) minimum
Tear Resistance	ASTM D-624 (Die C)	100 lbf/in minimum (33.3 N/mm)
Shore A Durometer	ASTM D-2240	55 - 70
Ozone Resistance: 7 days @ 100pphm @ 100°F with 50% extension	ASTM D-1149	No Cracks
Heat Aging 28 days @ 240°F	ASTM D-573	
Tensile Strength, after Heat Aging	ASTM D-412	750 psi minimum (8.9 MPa)
Elongation, after Heat Aging	ASTM D-412 (Die C)	225% minimum
Tear Resistance, after Heat Aging	ASTM D-624 (Die C)	75 lbf/in minimum (26.3 N/mm)
Shore A Durometer, after Heat Aging	ASTM D-2240	80 maximum
Brittleness Temperature	ASTM D-2137	-49°F (-45°C)
Resistance to Water change in weight after immersion 7 days @ 158°F, maximum, %	ASTM D-471	+8, -2
Water Vapor Permeability max., perm mils	ASTM E-96	2.0
Tolerance on Nominal Thickness, %	ASTM D-751	± 10
Penetration pocket Composition: Weight percent of Polymer that is EPDM, % Weight percent of material that is EPDM Polymer, %	ASTM D-297	100 30 minimum

*Heat aging is: 28 days at 240°F per ASTM D-573

Devitt, Larry

From: Kalwara, Joe [KalwaraJoe@firestonebp.com]
Sent: Friday, December 07, 2007 11:09 AM
To: Devitt, Larry
Cc: Weaver, Vicki J
Subject: RE: White pipe boot

... will forward shortly for your review.

From: Devitt, Larry [mailto:Larry.Devitt@hartcool.com]
Sent: Friday, December 07, 2007 11:11 AM
To: Kalwara, Joe
Subject: FW: White pipe boot
Importance: High

Joe, are you OK with our published test results on the White EPDM boots NOT complying with the Purchase Spec that I received?

Based on Scott's note on delivery needs, we need to resolve that quickly.

Thanks,
Larry Devitt

From: Hettmansperger, Scott [mailto:HettmanspergerScott@firestonebp.com]
Sent: Friday, December 07, 2007 10:02 AM
To: Devitt, Larry
Cc: Victor, Max J
Subject: RE: White pipe boot

We will be adding this part to VMI you should see these orders show up very soon. We will be running ... that we can add the BFDP logo. We will want these in our whse's by 1/7/08.

Regards,

Scott Hettmansperger
Purchasing Manager- TPO Raw Materials and Accessories

Firestone Tire & Rubber Co., LLC
10 E. 96th Street
Indianapolis, IN 46240
PH# 317.575.7050

APP. 33

Fax# 317-816-3838

CONFIDENTIALITY NOTICE: If you received this email in error, please immediately notify the sender by email at the address shown. This email transmission may contain confidential information. This information is intended only for the use of the individual(s) or entity to whom it is intended even if addressed incorrectly. Please delete it from your files if you are not the intended recipient. Thank you for your compliance.

From: Devitt, Larry [mailto:Larry.Devitt@hartcool.com]
Sent: Friday, November 02, 2007 9:30 AM
To: Hettmansperger, Scott
Subject: RE: White pipe boot

Good morning, Scott,

Yes, with at least 1000 pieces your cost would drop to only \$1.00 each.

From: Hettmansperger, Scott [mailto:HettmanspergerScott@firestonebp.com]
Sent: Friday, November 02, 2007 7:35 AM
To: Devitt, Larry
Subject: RE: White pipe boot

How many boots to run 1000 tons with logo will there be a price break and if so what is it?

Scott Hettmansperger
Purchasing Manager- TPO Raw Materials and Accessories
Firestone Performance Products, LLC
310 E. 46th Street
Indianapolis, IN 46240
PH# 317-575-7050
Fax# 317-816-3838

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From: Devitt, Larry [mailto:Larry.Devitt@hartcool.com]
Sent: Thursday, November 01, 2007 5:14 PM
To: Hettmansperger, Scott
Cc: Kaiwara, Joe
Subject: RE: White pipe boot

APP. 34

Attached is your cost for the Taped White EPDM Pipe Boots. Please note that we have two "concerns".

1. The purchase spec differs from our published test results for white EPDM (copy attached). If Joe has tested one of the samples that I sent and it conforms to the purchase spec requirements, then the "concern" disappears.
2. Based on the small quantities of White Boots currently anticipated, the costs are based on "NO LOGO" boots (Firestone label and packaging, of course). If the white EPDM system sees increased volume, we will be able to mold with the BFDP/EPDM logo as requested. Logoed boots would require orders of at least [redacted] boots (boxes).

Please call if you have any questions. Thank you for the opportunity.

Larry

From: Hettmansperger, Scott [mailto:HettmanspergerScott@firestonebp.com]

Sent: Tuesday, October 30, 2007 7:53 AM

To: Devitt, Larry

Cc: Kalwara, Joe

Subject: White pipe boot

Larry,

Specification for white pipe boot is attached. Please review. Also, will need a quote based on a volume of approx [redacted] artons.

Regards,

Scott Hettmansperger
 Purchasing Manager- TPO Raw Materials and Accessories
 Firestone Tire & Rubber Company, LLC
 810 E. 96th Street
 Indianapolis, IN 46240
 PH# 317-575-7050
 Fax# 317-816-3838

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APP. 35

Portals Plus, Inc. 639 N. Thomas Drive, Bensenville, IL 60106
TEL: 630-766-5240 FAX: 630-595-7864



May 1, 2003

Mr. Paul Oliveira
Firestone Building Products
525 Congressional Blvd.
Carmel, IN 46032

Dear Paul:

As per your request enclosed please find a distributor binder. If you have any questions please do not hesitate to call.

Sincerely,

Ronald W. Resoch
Ronald W. Resoch
Portals Plus, Inc.

Row

As SEND me samples of -

- Small pipe BOOT - EPDM
- LARGE pipe BOOT - EPDM
- OUTSIDE CORNER - EPDM
- INSIDE CORNER - EPDM

TRAD

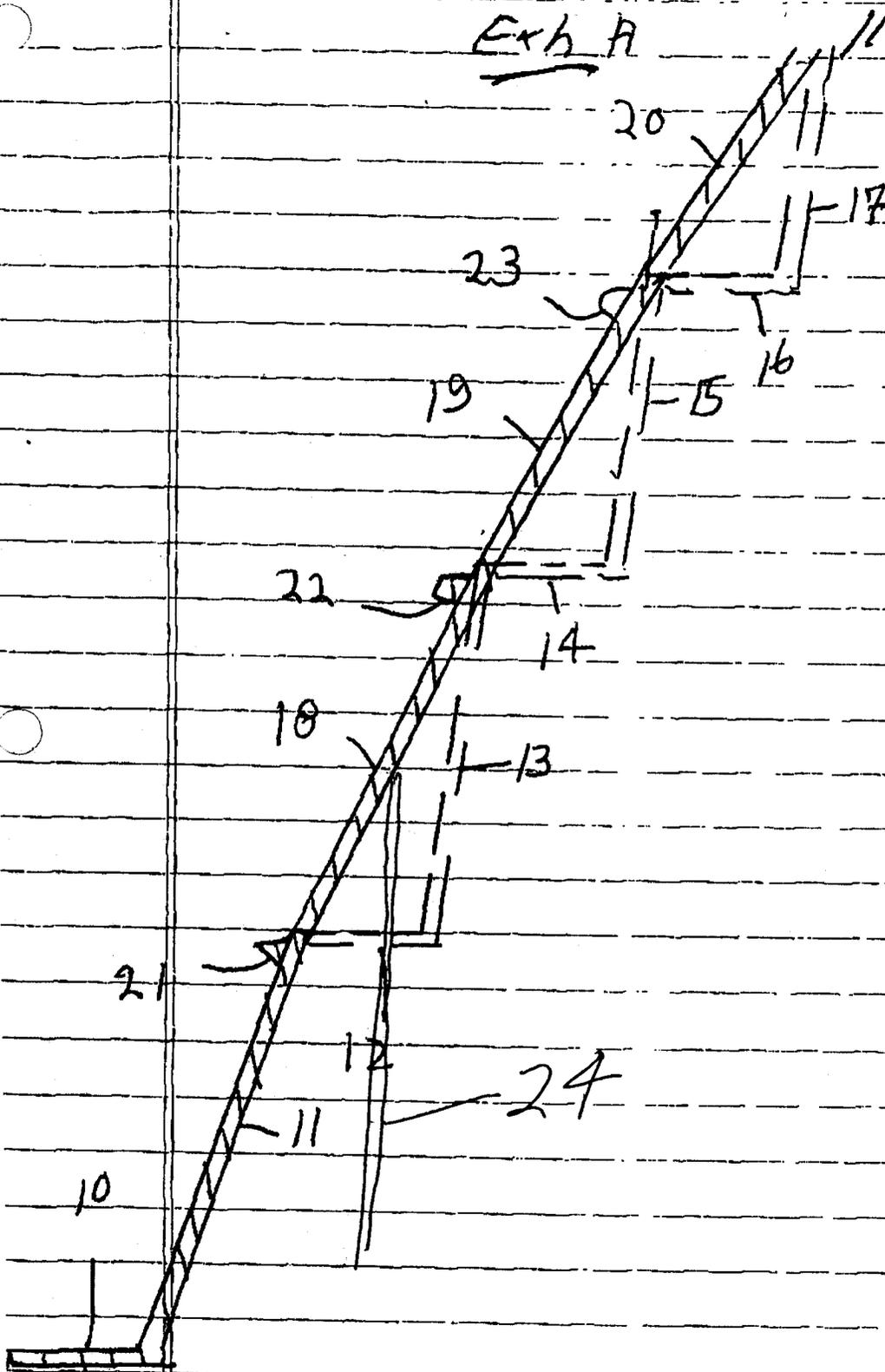
Paul

APP. 36

Exh A

11.12.08

E 171/2010



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

AS HOLDINGS, INC.,)
)
) Opposer,)
) Opposition No. 91182064
)
) -vs-)
) Serial No. 76/461,157
) H&C MILCOR, INC. f/k/a) Mark: Miscellaneous Design
) AQUATICO OF TEXAS, INC.,) (Pipe Boot Product Design)
)
) Applicant.)

*APPLICANT, H&C MILCOR, INC. f/k/a AQUATICO OF TEXAS, INC.'S
PRETRIAL DISCLOSURES*

Pursuant to Rule 2.121(c), 37 C.F.R. Section 2.121(d),
Applicant, H&C Milcor, Inc. f/k/a Aquatico of Texas, Inc.,
makes the following pretrial disclosures:

WITNESSES

Applicant intends to take testimony or may take the
testimony if the need arises, from the following witnesses:

1. Tom Mollen, Field Supervisor/Installer of Winward Roofing, 919 S. Sacramento, Chicago, IL 60611, Telephone: 773/638-6580. Mr. Mollen may testify regarding Applicant's products, Opposer's activities regarding pipe boots, the functional aspects of the industry and Portals Plus Pipe Boots, the origination of the Firestone and other manufacturers' pipe boots, the installation of pipe boots, the marketing of industry and Portals Plus pipe boots, materials and specifications thereof used in the manufacture of pipe boots, the testing of pipe boots, the recognition of the Portals Plus pipe boot in the trade and industry, the file history of Serial No. 76/461,157, patents relating to pipe boots, and industry practices.

2. John Cirachi, Controller of Winward Roofing,, 919 S. Sacramento, Chicago, IL 60611, Telephone: 773/638-6580. Mr. Cirachi may testify regarding Applicant's products, Opposer's activities regarding pipe boots, the functional aspects of the industry and Portals Plus Pipe Boots, the origination of the Firestone and other manufacturers' pipe boots, the installation of pipe boots, the marketing of industry and Portals Plus pipe boots, materials and specifications thereof used in the manufacture of pipe boots, the testing of pipe boots, the recognition of the Portals Plus pipe boot in the trade and industry, the file history of Serial No. 76/461,157, patents relating to pipe boots, and industry practices.

3. Larry Kozak, Engineering Manager of Hart & Cooley, 815 Kimberly Drive, Carol Stream, IL 60188, Telephone: 630/588-2544. Mr. Kozak may testify regarding Applicant's products, Opposer's activities regarding pipe boots, the functional aspects of the industry and Portals Plus Pipe Boots, the origination of the Firestone and other manufacturers' pipe boots, the installation of pipe boots, the marketing of industry and Portals Plus pipe boots, materials and specifications thereof used in the manufacture of pipe boots, the testing of pipe boots, the recognition of the Portals Plus pipe boot in the trade and industry, the file history of Serial No. 76/461,157, patents relating to pipe boots, and industry practices.

4. Larry Devitt, Marketing Manager/Architect of Hart & Cooley, 815 Kimberly Drive, Carol Stream, IL 60188, Telephone: 630/588-2514. Mr. Devitt may testify regarding Applicant's products, Opposer's activities regarding pipe boots, the functional aspects of the industry and Portals Plus Pipe Boots, the origination of the Firestone and other manufacturers' pipe boots, the installation of pipe boots, the marketing of industry and Portals Plus pipe boots, materials and specifications thereof used in the manufacture of pipe boots, the testing of pipe boots, the recognition of the Portals Plus pipe boot in the trade and industry, the file history of Serial No. 76/461,157, patents relating to pipe boots, and industry practices.

5. Sean Steimle, Vice President of Hart & Cooley, 815 Kimberly Drive, Carol Stream, IL 60188, Telephone: 630/588-2510. Mr. Steimle may testify regarding Applicant's products, Opposer's activities regarding pipe boots, the

functional aspects of the industry and Portals Plus Pipe Boots, the origination of the Firestone and other manufacturers' pipe boots, the installation of pipe boots, the marketing of industry and Portals Plus pipe boots, materials and specifications thereof used in the manufacture of pipe boots, the testing of pipe boots, the recognition of the Portals Plus pipe boot in the trade and industry, the file history of Serial No. 76/461,157, patents relating to pipe boots, and industry practices.

6. Russ Verbrugge, Engineer of Hart & Cooley, 5030 Corporate Exchange Boulevard SE, Grand Rapids, MI 49512, Telephone: 616/656-8200. Mr. Verbrugge may testify regarding Applicant's products, Opposer's activities regarding pipe boots, the functional aspects of the industry and Portals Plus Pipe Boots, the origination of the Firestone and other manufacturers' pipe boots, the installation of pipe boots, the marketing of industry and Portals Plus pipe boots, materials and specifications thereof used in the manufacture of pipe boots, the testing of pipe boots, the recognition of the Portals Plus pipe boot in the trade and industry, the file history of Serial No. 76/461,157, patents relating to pipe boots, and industry practices.

7. Tom Kelly, Owner/Roofing Manager of 2001 Company, 325 Thomaston Avenue, Waterbury, CT 06702, Telephone: 800/537-7663. Mr. Kelly may testify regarding Applicant's products, Opposer's activities regarding pipe boots, the functional aspects of the industry and Portals Plus Pipe Boots, the origination of the Firestone and other manufacturers' pipe boots, the installation of pipe boots, the marketing of industry and Portals Plus pipe boots, materials and specifications thereof used in the manufacture of pipe boots, the testing of pipe boots, the recognition of the Portals Plus pipe boot in the trade and industry, the file history of Serial No. 76/461,157, patents relating to pipe boots, and industry practices.

8. George Criel, President of Century Roofing Consulting, 1645 Hicks Road, Rolling Meadows, IL 60008, Telephone: 847/202-8500. Mr. Criel may testify regarding Applicant's products, Opposer's activities regarding pipe boots, the functional aspects of the industry and Portals Plus Pipe Boots, the origination of the Firestone and other manufacturers' pipe boots, the installation of pipe boots, the marketing of industry and Portals Plus pipe boots, materials

and specifications thereof used in the manufacture of pipe boots, the testing of pipe boots, the recognition of the Portals Plus pipe boot in the trade and industry, the file history of Serial No. 76/461,157, patents relating to pipe boots, and industry practices.

9. Mitch Rabin, Owner of A1 Roofing, 1425 Chase Avenue, Elk Grove Village, IL 60007, Telephone: 847/952-3600. Mr. Rabin may testify regarding Applicant's products, Opposer's activities regarding pipe boots, the functional aspects of the industry and Portals Plus Pipe Boots, the origination of the Firestone and other manufacturers' pipe boots, the installation of pipe boots, the marketing of industry and Portals Plus pipe boots, materials and specifications thereof used in the manufacture of pipe boots, the testing of pipe boots, the recognition of the Portals Plus pipe boot in the trade and industry, the file history of Serial No. 76/461,157, patents relating to pipe boots, and industry practices.

10. David Rabin, Owner of A1 Roofing, 1425 Chase Avenue, Elk Grove Village, IL 60007, Telephone: 847/952-3600. Mr. Rabin may testify regarding Applicant's products, Opposer's activities regarding pipe boots, the functional aspects of the industry and Portals Plus Pipe Boots, the origination of the Firestone and other manufacturers' pipe boots, the installation of pipe boots, the marketing of industry and Portals Plus pipe boots, materials and specifications thereof used in the manufacture of pipe boots, the testing of pipe boots, the recognition of the Portals Plus pipe boot in the trade and industry, the file history of Serial No. 76/461,157, patents relating to pipe boots, and industry practices.

EXHIBITS

Applicant intends to rely on or may rely on the Exhibits listed in the Opposer, AS HOLDINGS, INC.'s Pretrial Disclosures, and additionally may rely on the deposition witnesses and exhibits also listed in Opposer, AS HOLDINGS, INC.'S Pretrial Disclosures, and also may rely on further

Exhibits that may be produced at trial. These latter Exhibits will be provided to Opposer's attorney either in advance of the testimony of the individual witnesses or may be contemporaneously provided as the testimony of the individual witnesses progresses.

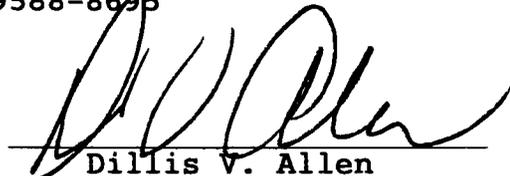

Dillis V. Allen
Attorney for H&C Milcor, Inc.
f/k/a Aquatico of Texas, Inc.
Reg. No. 22,460

Dated: October 16, 2009

CERTIFICATE OF SERVICE

This is to certify that a copy of **APPLICANT, H&C MILCOR, INC. f/k/a AQUATICO OF TEXAS, INC.'S PRETRIAL DISCLOSURES** was sent via Federal Express to the Trademark Trial and Appeal Board on October 16, 2009, and a true and correct copy of same was sent on October 16, 2009, via first-class mail, postage prepaid, to Opposer's counsel as follows:

Terence J. Linn, Esq.
Van Dyke, Gardner, Linn & Burkhardt, LLP
2851 Charlevoix Drive SE, Suite 207
Grand Rapids, MI 49588-8695


Dillis V. Allen

Dillis V. Allen, Esq.
105 S. Roselle Road
Suite 101
Schaumburg, IL 60193
847/895-9100

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

ALPHA SYSTEMS, INC.,)
)
 Plaintiff,)
) Opposition No. 91182064
 -vs-)
) Serial No. 76/461,157
 H&C MILCOR, INC. f/k/a) Mark: Miscellaneous Design
 AQUATICO OF TEXAS, INC.,) (Pipe Boot Product Design)
)
 Defendant.)

***H&C MILCOR, INC.'S RESPONSES TO OPPOSER'S FIRST SET
OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS***

Defendant, H&C MILCOR, INC. f/k/a AQUATICO OF TEXAS,
INC., by its attorney, Dillis V. Allen, pursuant to Rule 34
of the Federal Rules of Civil Procedure, hereby responds to
Plaintiff, ALPHA SYSTEMS, INC.'S, FIRST SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS AND THINGS, as follows:

RESPONSE: Subject to classification under the Protective Order and the August 31, 2007 changes to 37 CFR 2.116(g), and the overbroad nature of the request, these documents will be produced.

20. Documents and things sufficient to establish the class or type of customers to which Applicant distributes or intends to distribute goods and services in association with Applicant's Mark.

RESPONSE: Subject to classification under the Protective Order and the August 31, 2007 changes to 37 CFR 2.116(g), and the overbroad nature of the request, these documents will be produced.

21. All documents and things referring or relating to third-party use of the Applicant's Mark.

RESPONSE: Subject to classification under the Protective Order and the August 31, 2007 changes to 37 CFR 2.116(g), and the overbroad nature of the request, these documents will be produced.

22. All documents and things referring or relating to instances of actual confusion regarding Applicant, Applicant's Mark, and/or goods or services of Applicant distributed in association with Applicant's Mark.

RESPONSE: None