

Denise D. Riemann, Esq.
USPTO Reg. No. 48,779
Edward R. Williams, Jr., Esq.
USPTO Reg. No. 36,057
APOGENT TECHNOLOGIES INC.
30 Penhallow Street, Ste. 300
Portsmouth, NH 03801
Tel: (603) 433-6131
Fax: (603) 436-5076

Attorney for the Applicant, Barnstead Thermolyne Corporation

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

IN THE MATTER OF:

Registration No.: 1,991,388
Mark: STI CHEM-CLAV
Int'l Class: 11
Filing Date: August 23, 1995
Registration Date: August 6, 1996

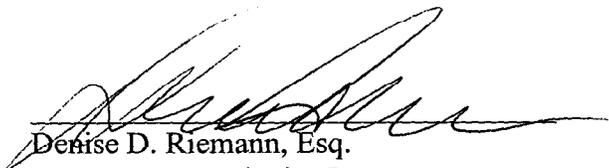
Barnstead Thermolyne Corporation)
)
Petitioner)
)
v.)
)
Sterile Technology Industries, Inc.)
)
Respondent)

Cancellation No. 92040052

**CERTIFICATION OF
PETITIONER'S ATTORNEY**

I, Denise Riemann, do hereby certify that I am the attorney of record for the Petitioner, Barnstead Thermolyne Corporation, and that I have served upon George A. Smith, Jr., Esq., of Howson & Howson, 321 Norristown Road, P.O. Box 457, Spring House, PA 19477, being the attorney of record for the Respondent, Sterile Technology Industries, Inc., in the above-entitled matter, Petitioner's First Set of Form Interrogatories and Petitioner's First Request for Production of Documents.

Dated: May 8, 2002



Denise D. Riemann, Esq.
Apogent Technologies Inc.
30 Penhallow Street, Ste. 300
Portsmouth, NH 03801
(603) 433-6131, Ext. 728
(603) 436-5076 (fax)

Attorney for Petitioner, BARNSTEAD
THERMOLYNE CORPORATION
Attorney Docket No.: 01-70502



TTAB

05-13-2002

U.S. Patent & TMO/ TM Mail Rcpt Dt. #76

TRADEMARK

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

Barnstead Thermolyne Corporation)
)
Petitioner)
)
v.)
)
Sterile Technology Industries, Inc.)
)
Respondent)

Cancellation No. 92040052

02 MAY 21 AM 8:23
TRADEMARK TRIAL AND
APPEAL BOARD

Box TTAB
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Attn: Trademark Trial and Appeal Board

TRANSMITTAL LETTER

Transmitted herewith for filing in the above-captioned Cancellation is the
following:

CERTIFICATION OF PETITIONER'S ATTORNEY

MB

Denise D. Riemann, Esq.
USPTO Reg. No. 48,779
Edward R. Williams, Jr., Esq.
USPTO Reg. No. 36,057
APOGENT TECHNOLOGIES INC.
30 Penhallow Street, Ste. 300
Portsmouth, NH 03801
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Attorney for the Applicant, Barnstead Thermolyne Corporation

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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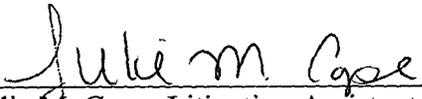
Cancellation No. 92040052

**PETITIONER'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS
PURSUANT TO FEDERAL RULES OF
CIVIL PROCEDURE 34**

PROPOUNDING PARTY: BARNSTEAD THERMOLYNE CORPORATION
RESPONDING PARTY: STERILE TECHNOLOGY INDUSTRIES, INC.
SET NUMBER: ONE (1)

CERTIFICATE OF SERVICE

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: George A. Smith, Jr., Esq., of Howson & Howson, 321 Norristown Road, P.O. Box 457, Spring House, PA 19477, Attorney for Sterile Technology Industries, Inc. on this 8th day of May, 2002.



Julie M. Cope, Litigation Assistant

Denise D. Riemann, Esq.
USPTO Reg. No. 48,779
Edward R. Williams, Jr., Esq.
USPTO Reg. No. 36,057
APOGENT TECHNOLOGIES INC.
30 Penhallow Street, Ste. 300
Portsmouth, NH 03801
Tel: (603) 433-6131
Fax: (603) 436-5076

Attorney for the Applicant, Barnstead Thermolyne Corporation

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

IN THE MATTER OF:

Registration No.: 1,991,388
Mark: STI CHEM-CLAV
Int'l Class: 11
Filing Date: August 23, 1995
Registration Date: August 6, 1996

Barnstead Thermolyne Corporation)
)
 Petitioner)
)
 v.)
)
 Sterile Technology Industries, Inc.)
)
 Respondent)

Cancellation No. 92040052

**PETITIONER'S FIRST SET OF
FORM INTERROGATORIES TO
RESPONDENT WITH
SIMULTANEOUS REQUESTS FOR
PRODUCTION OF DOCUMENTS**

PROPOUNDING PARTY: BARNSTEAD THERMOLYNE CORPORATION
RESPONDING PARTY: STERILE TECHNOLOGY INDUSTRIES, INC.
SET NUMBER: ONE (1)

**PETITIONER'S INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS**

Pursuant to Rule 2.120 of the Trademark Rules of Practice of the Patent and Trademark Office and Rules 33 and 34 of the Federal Rules of Civil Procedure, Petitioner, Barnstead Thermolyne Corporation, hereby requests that Respondent, Sterile Technology Industries, Inc., answer the following interrogatories under oath and forward copies of the documents demanded to Petitioner.

INTRODUCTION AND DEFINITIONS

A. These interrogatories shall be deemed to seek answers as of the date hereof, but shall be deemed to be continuing so that any additional information relating in any way to these interrogatories which Respondent acquires or which becomes known to Respondent up to and including the time of trial shall be furnished to Petitioner immediately after such information is acquired or becomes known.

B. As used herein, the term "document" is used in its customary broad sense as described in Rule 34 of the Federal Rules of Civil Procedure.

C. As used herein, "identify," or "give the identity of", means, in general, to give the fullest description, and specifically:

i. In the case of a natural person, to state:

a. Name;

b. Last known address

c. Employer or business affiliation;

d. Occupation and business position held and length of time in such position;

ii. In the case of a company or other business organization, to state:

- a. Name;
 - b. Place of incorporation;
 - c. Principal place of and nature of business;
 - d. Identity of persons having knowledge of the matter with respect to which the company is named;
 - e. Executive officer or officers of the company;
 - f. Its relation, if any, to petitioner or to applicant's goods or products.
- iii. In the case of a document, to state:
- a. Identity of the persons preparing it and of the sender;
 - b. Its title or description of the general nature of its subject matter;
 - c. The identity of the addressees, if any;
 - d. Its date of preparation;
 - e. Its dates and manner of distribution and publication, if any;
 - f. Location of each copy and identity of present custodian;
 - g. Identity of persons who can identify it;
 - h. If privilege is claimed, the specific basis therefore;
- iv. In the case of a trademark or trademark application or registration, to state:
- a. Its country or state, registration number, and application number;
 - b. Its date of first use in that country or state and the goods on which used;
 - c. Identity of trademark owner;
 - d. Identity of any U.S. counterpart application of registration;
 - e. Date of first use in the U.S. and the goods on which used.

v. In the case of a product, device or goods, to state the catalog, stock or like number, the trademark, name, type, grade, and any other designation customarily used by the party concerned and the trade to designate such product, device or goods and to distinguish it from others made or sold by the same or a different producer or vendor.

D. As used herein, "person" shall mean both natural persons and corporate or other business entities, whether or not in the employ of petitioner unless otherwise specified.

E. As used herein, "Respondent" means not only Respondent, but also its predecessors, if any, persons controlling or controlled by Respondent, and its and their officers, directors, employees, agents, representatives and attorneys, to the fullest extent the context permits.

INTERROGATORIES

INTERROGATORY NO. 1:

Please identify each officer and managing agent of the "Respondent" giving each officer's and managing agent's name, address, title and duties with respect to "Respondent".

INTERROGATORY NO. 2:

Indicate each state, country or city in the United States, its territories and possessions, in which "Respondent":

A. Is organized as a corporation.

B. Is qualified under applicable law to do business as a foreign corporation.

C. Where corporate headquarters are maintained (please include exact street address of Respondent's main office).

D. Where Respondent maintains, owns or leases office space.

E. "Identify" each "person" for which an answer is supplied in parts (A) – (E) hereof.

INTERROGATORY NO. 3:

A. Please indicate each state, county or city in the United States, its territories and possessions in which "Respondent" has distributed any product under the designation "**STI CHEM-CLAVE**" or any colorable variation thereof.

B. With respect to each area identified in paragraph (A) hereof, please set forth the following:

- i. "Identify" each "person" by which distribution has been made;
- ii. Specify each such product;
- iii. "Identify" in its entirety, each designation, term or mark used in connection with each such product; and
- iv. State the dates during which each such product was distributed or furnished under each such designation, term or mark by each such "person".

INTERROGATORY NO. 4:

With respect to the mark "**STI CHEM-CLAVE**":

A. "Identify" all "persons" known to "Respondent" who took part in or who were responsible for its:

- i. Creation;
- ii. Earliest selection for use;
- iii. Earliest adoption for use;
- iv. Earliest use.

B. Set forth all facts known to "Respondent" and "identify" all "documents" relating or referring to its:

- i. Creation;
- ii. Earliest selection for use;
- iii. Earliest adoption for use;
- iv. Earliest use.

C. Produce each document which embodies, describes, refers or relates to each fact set forth in your answer to paragraphs (A) and (B) above.

INTERROGATORY NO. 5:

"Identify" each owner or each "person" having or having had any right to use the mark "*STI CHEM-CLAVE*" and under which "Respondent" claims any rights in any such mark in this proceeding.

INTERROGATORY NO. 6:

For each owner or "person" identified in the response to Interrogatory No.5:

- A. State the earliest date of offer for sale and sale of products under each such mark.
- B. "Identify" the first such products offered for sale.
- C. Set forth all facts including but not limited to date, place and offeree, referring or relating to the first three offers for sale of such products.
- D. "Identify" all "documents" evidencing, referring to, leading up to, or otherwise relating to, the offers for sale identified in answer to part (C) herein.
- E. "Identify" the first such products sold.

F. Set forth all facts including but not limited to, date, place and customer, referring or relating to the first ten sales of such products.

F. "Produce" all "documents" evidencing, referring to, leading up to or otherwise relating to the sales identified in answer to part (F) hereof.

INTERROGATORY NO. 7:

A. "Identify" and "produce" each different label, tag, wrapper, container, advertisement, brochure, and the like, known to "Respondent" which contains or bears the mark "*STI CHEM-CLAVE*" in any manner or form and which has been used at any time in connection with the sale or offer for sale in or with the United States of goods manufactured or distributed by or for "Respondent."

B. Answer part (A) above with respect to the sale or offer for sale of goods manufactured or distributed by each owner or "person" identified in the response to Interrogatory No.6, and "identify" all "persons" known to "Applicant" having knowledge thereof.

INTERROGATORY NO. 8:

A. With respect to the mark "*STI CHEM-CLAVE*":

i. "Identify" and describe in detail each product on or in connection with which "Respondent" has at any time used each such mark in commerce in or with the United States;

ii. State the date of first use of each such mark on each such product and describe the circumstances of each such first use including the manner of use and the details of any sale involved;

iii. For each product identified in the answer to part (i) above, state whether the

use has continued to the present date or state the date upon which use of the mark was discontinued;

iv. "Identify" and "produce" all "documents," articles and things which evidence, refer to, or otherwise relate to the items and matters set forth in (i) to (iii) of this interrogatory.

B. Answer part (A) above with respect to use of such marks by each of the owners or "persons" identified in the answer to Interrogatory No.8, and "identify" all "persons" known to "Respondent" having knowledge thereof.

INTERROGATORY NO. 9:

A. Describe in detail the manner by which goods bearing any of the designations of "*STI CHEM-CLAVE*" are or have been offered for sale, distributed and sold in the United States by or for "Respondent".

B. "Identify" and "produce" all "documents" evidencing, referring or relating to the offers for sale, distribution and sale referred to in part (A).

C. Answer parts (A) and (B) above with respect to each of the owners or "persons" identified in the answer to Interrogatory No.8, and "identify" all "persons" known to "Applicant" having knowledge thereof.

INTERROGATORY NO. 10:

A. "Identify" each item of sales literature produced by or for "Applicant" for distribution in the United States in which the designation of "*STI CHEM-CLAVE*" is referred to or appears, and as to each:

i. State the number of each item produced and the number distributed;

- ii. State the categories of persons and organizations to whom copies of each item were distributed;
- iii. State the dates of such production and distribution of each item;
- iv. "Identify" the "persons" and/or organizations responsible for the creation; layout, preparation of copy, design and printing of each such item of sales literature;
- v. "Identify" ten specific recipients of each item of such sales literature;
- vi. "Identify" all "documents" (including but not limited to purchase orders; invoices, correspondence, dummies and other materials) concerning the creation of copy and layout for each item of such sales literature, and concerning the printing of each such item.

INTERROGATORY NO. 11:

State whether a trademark or a trade name search was conducted by or on behalf of "Respondent" concerning the use of the mark "*STI CHEM-CLAVE*". If the answer to this interrogatory is other than a categorical unqualified negative:

- A. "Identify" the "person" responsible for initiating each search.
- B. "Identify" the "person" who conducted each search.
- C. "Identify" classes, the date of the search, and all registered and common law trademarks, trade names and corporate names uncovered in each such search. .
- D. "Identify" and "produce" all "documents" relating to each such search.

INTERROGATORY NO. 12:

Has "Respondent" requested or received or does "Respondent" have knowledge of any opinions, legal or otherwise, of any type regarding the right to use the mark "*STI CHEM-CLAVE*"? If the answer to this interrogatory is other than a categorical unqualified negative:

- A. "Identify" the "person" or "persons" requesting each such opinion.
- B. "Identify" each such opinion.
- C. "Identify" the "person" rendering each such opinion.
- D. "Identify" and "produce" all "documents" relating or referring to each such opinion.

INTERROGATORY NO. 13:

A. Has "Respondent" or any of its officers or any of the owners or "persons" identified in the answer to Interrogatory No.8 ever considered or attempted to initiate or ever been party to a lawsuit, Patent and Trademark Office opposition or cancellation proceeding (other than the present proceeding) in the United States involving or relating to the use or registration of the mark "*STI CHEM-CLAVE*"?"

B. If the answer to Interrogatory part (A) hereof is affirmative, set forth the following concerning each such litigation or proceeding:

- i. "Identify" each actual or potential adversary and the trademarks involved~ ii. State its case docket number and filing date, and "identify" the tribunal involved;
- iii. State its outcome;
- iv. "Identify" all "documents" referring or relating to such litigation or proceeding and ensuing negotiations, if any.

INTERROGATORY NO.14:

"Identify" each trademark for which application to register has been made and/or registration obtained, whether State or Federal, of "Respondent" for any mark containing or comprising the word(s) *STI CHEM-CLAVE*, *CLAVE*, or *CHEMICLAVE*, including:

- A. The application's serial number and date filed.
- B. The registration number, class of goods or services and date issued.

C. The precise goods or services to which the mark has been applied and the date of first use and first use in commerce in connection with such goods or services.

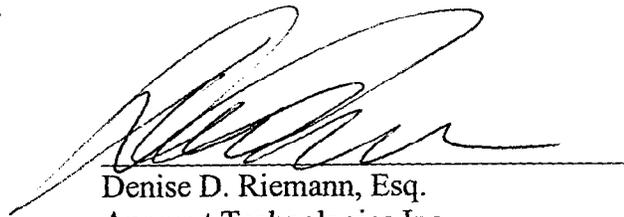
D. Whether "Applicant" acquired the right to use such mark from another "person" or company, and if so, "identify" such "person" or company and the date of acquisition of such rights.

E. "Identify" each "document" referring or relating in any way to any such application, registration or acquisition.

INTERROGATORY NO.15:

Identify all persons who participated in any way in the preparation of the answers or responses to these interrogatories and state specifically, with reference to interrogatory numbers, the area of participation of each such person.

Dated: May 8, 2002



Denise D. Riemann, Esq.
Apogent Technologies Inc.
30 Penhallow Street, Ste. 300
Portsmouth, NH 03801
(603) 433-6131, Ext. 728
(603) 436-5076 (fax)

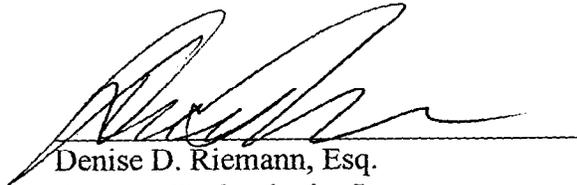
Attorney for Petitioner, BARNSTEAD
THERMOLYNE CORPORATION
Attorney Docket No.: 01-70502

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the Petitioner's *First Set of Form Interrogatories to Respondent with Simultaneous Requests for Production of Documents* was served upon the Respondent via facsimile and by depositing a copy thereof in the mail, postage prepaid, addressed to:

George A. Smith, Jr., Esq.
Howson & Howson
Box 457
Spring House, PA 19477

Dated: May 8, 2002



Denise D. Riemann, Esq.
Apogent Technologies Inc.
30 Penhallow Street, Ste. 300
Portsmouth, NH 03801
(603) 433-6131, Ext. 728
(603) 436-5076 (fax)

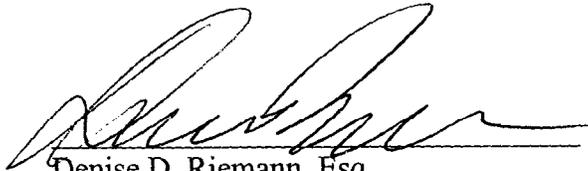
Attorney for Petitioner, BARNSTEAD
THERMOLYNE CORPORATION

**PETITIONER'S REQUEST FOR PRODUCTION
OF DOCUMENTS**

Petitioner hereby requests, in accordance with Rule 34 of the Federal Rules of Civil Procedure, that Respondent, Sterile Technology Industries, Inc., produce for inspection and copying at the offices of Denise D. Riemann, Esq., Apogent Technologies Inc., 30 Penhallow Street, Ste. 300, Portsmouth, New Hampshire 03801, the following:

All documents identified in Respondent's *ANSWERS TO PETITIONER'S FIRST SET OF INTERROGATORIES (NOS. 1-15)*.

Dated: May 8, 2002



Denise D. Riemann, Esq.
Apogent Technologies Inc.
30 Penhallow Street, Ste. 300
Portsmouth, NH 03801
(603) 433-6131, Ext. 728
(603) 436-5076 (fax)

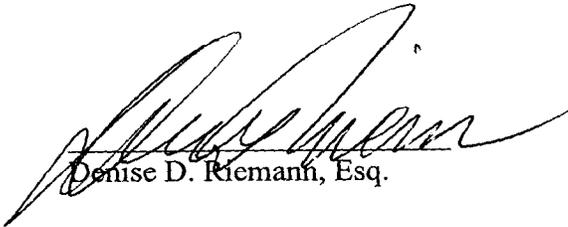
Attorney for Petitioner, BARNSTEAD
THERMOLYNE CORPORATION
Attorney Docket No.: 01-70502

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the Petitioner's *First Request for Production of Documents Pursuant to Federal Rules of Civil Procedure 34* was served upon the Respondent via facsimile and by depositing a copy thereof in the mail, postage prepaid, addressed to:

George A. Smith, Jr., Esq.
Howson & Howson
Box 457
Spring House, PA 19477

this 8th day of May, 2002.



Denise D. Riemann, Esq.

MESSAGE CONFIRMATION

MAY-08-2002 11:54AM WED

FAX NUMBER: 603 436 5076
NAME : APOGENT LEGAL DEPT

NAME/NUMBER : 912155405818
PAGE : 017
START TIME : MAY-08-2002 11:52AM WED
ELAPSED TIME : 02' 03"
MODE : G3 STD ECM
RESULTS : [O.K]

Denise Riemann, Intellectual Property Counsel
Apogent Technologies
30 Penhallow Street, Suite 300
Portsmouth, NH 03801
(800) 327-9970 Ext. 728
Fax: (603) 436-5076



Fax

To: George A. Smith, Jr., Esq. From: Denise Riemann
Fax: (215) 540-5818 Date: 5/8/2002
Re: Bamstead Thermolyne / Sterile Pages: 17 (Including cover sheet)

Urgent For Review Please Comment Please Reply Please Recycle

• Comments:

Please see attached

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Apogent Technologies Inc.

Reaching Every Lab. Everyday.



05-13-2002

U.S. Patent & TMOfr/TM Mail Rcpt Dt. #76

DIRECT DIAL (800) 773-4230 EXT. 728
FAX (603) 436-5076
E-MAIL DRIEMANN@APOGENT.COM

May 8, 2002

VIA FACSIMILE & OVERNIGHT MAIL

George A. Smith, Jr., Esq.
Howson & Howson
321 Norristown Road
P.O. Box 457
Spring House, PA 19477

RE: Barnstead Thermolyne Corporation v. Sterile Technology Industries, Inc.

Dear George:

Enclosed please find the following documents relative to the above-entitled matter:

- 1) Petitioner's First Set of Form Interrogatories to Respondent With Simultaneous Requests for Production of Documents; and
- 2) Petitioner's First Request for Production of Documents Pursuant to Federal Rules of Civil Procedure 34.

Sincerely yours,

Denise Riemann, Ph.D., Esq.
Intellectual Property Counsel

DR/jmc
Enclosures