

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

Jani-King International, Inc.,

Opposer,

OPPOSITION NO. _____

vs.

Cliff H. Rockwood,

Application Serial No. 78/213,796

Class: 37

Applicant.

NOTICE OF OPPOSITION



Commissioner for Trademarks
BOX TTAB FEE
2900 Crystal Drive
Arlington, VA 22202-3513

05-24-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

Sir:

In the matter of an application for registration, Serial No. 78/213,796, filed February 12, 2003, by Cliff H. Rockwood ("Applicant"), which application was published on page TM 236 of the *Official Gazette* of the United States Patent and Trademark Office on March 30, 2004, an extension of time for filing this Notice having been timely filed; Jani-King International, Inc., a Texas corporation, having a principal office or place of business at 16885 Dallas Parkway, Addison, Texas 75001 ("Opposer), believes that it would be damaged by the grant of registration of the mark, JANI-SOLUTIONS, of such application ("Opposed Mark"), and hereby opposes the registration of such mark.

As grounds for such opposition, it is alleged that:

05/28/2004 EPINA1 00000071 78213796

01 FC:6402 1. Commencing long prior to any date upon which Applicant can rely, and

continuing without interruption to the present time, Opposer has used and promoted the JANI-

05/27/2004 EPINA1 00000038 78213796

01 FC:6403 300.00 DP 1

Adjustment date: 05/28/2004 EPINA1
05/27/2004 EPINA1 00000038 78213796

01 FC:6403 -300.00 DP

KING mark and its companion JANI logo ("JANI") throughout the United States and in foreign commerce, in connection with, *inter alia*, the rendering of commercial building cleaning and janitorial services, and the franchising of such services.

2. Opposer's JANI-KING and JANI marks have been so extensively used and advertised by Opposer in the United States and foreign commerce that they have come to indicate to the relevant trade and consumers, commercial building cleaning and janitorial services having their source of origin in, or connected with, the Opposer.

3. Opposer's JANI-KING and JANI marks have not now nor have they ever been abandoned.

4. Opposer is the owner of valid and subsisting registrations, including United States Registration No. 1,472,588 for JANI-KING, and United States Registration No. 1,399,797 for JANI.

5. Upon information and belief, and according to the records of the United States Patent and Trademark Office, Applicant is the owner of Application Serial No. 78/213,796 and of the Opposed Mark.

6. Upon information and belief, the Opposed Mark has not been used by Applicant in connection with the services in Class 37 prior to 2003.

7. The mark sought to be registered by Applicant in Application Serial No. 78/213,796 consists of a mark, JANI-SOLUTIONS, which is so similar to Opposer's JANI-KING and JANI marks, previously used and registered by Opposer, as to be likely, when applied to the services of Applicant, to cause confusion, to cause mistake or to deceive, thereby to Opposer's damage.

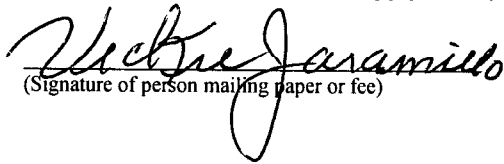
WHEREFORE, Opposer prays that Applicant be required to answer this Notice of Opposition; that the mark made the subject of Application Serial No. 78/213,796 be refused registration; and that Opposer be awarded such other and further relief as may be deemed to be just and proper.

Certificate of Mailing Under 37 C.F.R. 1.8

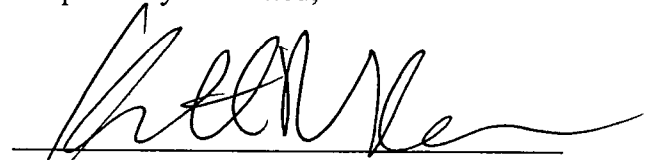
Date of Deposit May 20, 2004

I hereby certify that the papers enclosed herein are being deposited with the United States Postal Service as first class mail on the date indicated above in an envelope and addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.

Vickie Jaramillo
(Typed or printed name of person mailing paper or fee)


(Signature of person mailing paper or fee)

Respectfully submitted,



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May 20, 2004

Commissioner for Trademarks
BOX TTAB – NO FEE
2900 Crystal Drive
Arlington, Virginia 22202-3513

Re: Trademark Application for JANI-SOLUTIONS
Applicant: Cliff H. Rockwood
Serial No.: 78/213,796
Opposer: Jani-King International, Inc.
Our File: 125428-5005

Dear Sir or Madam:

Enclosed for filing with the Trademark Office are the following documents:

1. Notice of Opposition;
2. Filing Fee - \$300 in Class 37; and
3. Return postcard.

It is believed that no additional fee is due with this filing. If this is incorrect, the Commissioner is hereby authorized to charge any fee which may be required to Deposit Account 07-0153.

Respectfully submitted,

GARDERE WYNNE SEWELL LLP

Kenneth R. Glaser

KRG/vjj

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