

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

UNITED STATES OF AMERICA,  
Plaintiff,  
  
v.  
  
INTERMATIC INCORPORATED,  
a corporation,  
Defendant.

RECEIVED

MAY 23 2000  
Civil Action No. 00C50178  
MICHAEL W. DOBBINS -  
CLERK, U. S. DISTRICT COURT

COMPLAINT FOR CIVIL PENALTIES,  
INJUNCTIVE AND OTHER RELIEF

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission ("Commission"), for its complaint alleges that:

1. Plaintiff brings this action under Sections 5(l), 9, 13(b) and 16(a) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(l), 49, 53(b) and 56(a), to obtain monetary civil penalties, injunctive and other relief from defendant for its violations of a final order to cease and desist issued by the Commission, and for defendant's unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

JURISDICTION AND VENUE

- 2. This court has jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355 and under 15 U.S.C. §§ 45(l), 49, 53(b) and 56(a).
- 3. Venue in the United States District Court for the Northern District of Illinois is proper under 15 U.S.C. § 53(b) and under 28 U.S.C. §§ 1391(b-c) and 1395(a).

DEFENDANT

4. Defendant Intermatic Incorporated ("Intermatic") is a Delaware corporation with its office and principal place of business located within the Northern District of Illinois at Intermatic Plaza, Spring Grove, Illinois 60081. Intermatic is engaged in the manufacturing, advertising, marketing and sale of consumer and industrial energy control products. Its major product lines include consumer timers, low-voltage outdoor lighting, industrial grade timers, and photo controls.

1 Intermatic products are widely distributed.

2 **PRIOR COMMISSION PROCEEDING**

3 5. In a Commission proceeding bearing Docket No. C-2961, in which Intermatic was  
4 charged by the Commission with violating Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1), the  
5 Commission on April 25, 1979, issued a final order against Intermatic to cease and desist certain  
6 advertising practices. Intermatic, Inc., 93 F.T.C. 537 (April 25, 1979) ("Commission's order").

7 6. The Commission's order was served upon Intermatic on May 1, 1979, and by operation  
8 of law became final and enforceable thereafter. The order remained in full force and effect at all  
9 relevant times alleged herein. On May 1, 1999, the order expired pursuant to the Commission's own  
10 policy statement, which dictates the expiration of such orders upon their 20<sup>th</sup> anniversary. (A copy of  
11 the Commission's complaint and order is attached to this Complaint as Exhibit A.)

12 7. The Commission's order includes the following provisions:

13 ORDER

14 \* \* \*

15 I. *It is ordered*, That Intermatic cease and desist from representing, directly or  
16 by implication, that:

17 \* \* \*

18 C. Any energy or cost savings can be realized by any electric  
19 appliance or device unless Intermatic has a reasonable basis in valid  
20 scientific studies or tests from which to conclude that typical  
21 consumers, in the areas in which the representations are disseminated,  
22 will achieve those savings under expectable and usual consumer usage.

23 \* \* \*

24 II. *It is further ordered*, That Intermatic make the following affirmative disclosures in  
25 any advertisement or promotional, labeling, or packaging material for its water heater timer:

26 \* \* \*

27 B. That dishwashers should be used during certain periods of the

timer's cycle in order to operate properly.

The above affirmative disclosures shall be made clearly and conspicuously. The disclosure required in subparagraph II.A. shall be in close conjunction with and in type size at least as large as any reference to cost savings. In the case of packaging materials these disclosures need be made only once; the disclosure required in subparagraph II.A. shall be on the most prominent face of each packaging material.

\* \* \*

III. *It is further ordered*, That Intermatic's instructions or directions for use of its water heater timer contain the following information in clear lay language:

\* \* \*

C. A method for using a dishwasher in order to have hot water available at the maximum temperature.

\* \* \*

### DEFENDANT'S COURSE OF CONDUCT

8. At all times mentioned herein, Intermatic has been engaged in the manufacturing, advertising, packaging, labeling, promotion, offering for sale, sale or distribution of water-heater timers in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

9. Since at least January 1, 1994, Intermatic disseminated or caused the dissemination of promotional materials (such as packaging, in-store brochures, point-of-sale displays, product catalogs, and an Internet website) to promote, directly or indirectly, its water-heater timers, including but not limited to "The Little Gray Box" water-heater timer package attached as Exhibit B. Defendant's packaging for "The Little Gray Box" water-heater timer contains the following statements:

- A. "Save up to 26% On Water Heating Costs"
- B. "Savings estimates based on actual testing performed May 1992 by Illinois Institute of Technology"

1 C. "Stop spending money on heating water you don't use. Save up to 26% on  
2 your water heating dollars."

3 10. Since at least January 1, 1989, Intermatic disseminated or caused the dissemination of  
4 instructions or directions for use for "The Little Gray Box," including but not limited to the set of  
5 instructions attached as Exhibit C.

6 **INTERMATIC'S VIOLATIONS OF THE COMMISSION'S ORDER**

7 **FIRST CAUSE OF ACTION**

8 11. Through the means described in Paragraph 9 in connection with the advertising,  
9 displaying, offering for sale, sale or distribution of "The Little Gray Box" timer, Intermatic has  
10 represented, directly or by implication, that the timer's use will result in substantial savings on hot  
11 water heating bills, without Intermatic having a reasonable basis in valid scientific studies or tests  
12 from which to conclude that typical consumers, in the areas in which the representations are  
13 disseminated, will achieve those savings under expectable and usual consumer usage, thereby  
14 violating Part I.C. of the Commission's order.

15 **SECOND CAUSE OF ACTION**

16 12. Through the means described in Paragraph 9 in connection with the advertising,  
17 displaying, offering for sale, sale or distribution of "The Little Gray Box," Intermatic has represented  
18 that the timer's use would result in substantial savings on hot water heating bills, but omitted a  
19 disclosure required by Part II.B. of the Commission's order, that dishwashers should be used during  
20 certain periods of the timer's cycle in order to operate properly, thereby violating Part II.B. of the  
21 Commission's order.

22 **THIRD CAUSE OF ACTION**

23 13. Through the means described in Paragraph 10 in connection with the advertising,  
24 displaying, offering for sale, sale or distribution of "The Little Gray Box" timer, Intermatic  
25 disseminated or caused the dissemination of instructions or directions for use for its water-heater  
26 timers, which in numerous instances failed to state the information required by Part III.C. of the  
27 Commission's order (i.e., a method for using a dishwasher in order to have hot water available at the  
28

1 maximum temperature), thereby violating Part III.C. of the Commission's order.

2 **INTERMATIC'S VIOLATIONS OF SECTION 5 OF THE FTC ACT**

3 14. As set forth below, in connection with the advertising, displaying, offering for sale,  
4 sale or distribution of "The Little Gray Box" timer, Intermatic has misrepresented material facts or  
5 made representations without having a reasonable basis for such representations at the time they  
6 were made, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

7 **FOURTH CAUSE OF ACTION**

8 15. Through the means described in Paragraph 9, Intermatic has represented, expressly or  
9 by implication, that the timer's use will result in saving up to 26% on hot water heating bills.

10 16. In truth and in fact, the timer's use will not result in savings up to 26% on hot water  
11 heating bills without also reducing the temperature and/or quantity of hot water available. This is  
12 because modern water heaters are highly energy efficient and use minimal energy heating water that  
13 is not used. Therefore, the representation set forth in Paragraph 15 was, and is, false or misleading  
14 and constitutes an unfair or deceptive act or practice in violation of Section 5(a) of the FTC Act, 15  
15 U.S.C. § 45(a).

16 **FIFTH CAUSE OF ACTION**

17 17. Through the means described in Paragraph 9, Intermatic has represented, expressly or  
18 by implication, that the timer's use will result in saving up to 26% on hot water heating bills.

19 18. Through the means described in Paragraph 9, Intermatic has represented, expressly or  
20 by implication, that it possessed and relied upon a reasonable basis that substantiated the  
21 representation set forth in Paragraph 17, at the time the representation was made.

22 19. In truth and in fact, Intermatic did not possess and rely upon a reasonable basis that  
23 substantiated the representation set forth in Paragraph 17, at the time the representation was made.  
24 Therefore, the representation set forth in Paragraph 18 was, and is, false or misleading and  
25 constitutes an unfair or deceptive act or practice in violation of Section 5(a) of the FTC Act, 15  
26 U.S.C. § 45(a).

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**SIXTH CAUSE OF ACTION**

20. Through the means described in Paragraph 9, Intermatic has represented, expressly or by implication, that scientific tests prove that the timer's use will result in saving up to 26% on hot water heating bills.

21. In truth and in fact, scientific tests do not prove that the timer's use will result in saving up to 26% on hot water heating bills.

22. Therefore, Intermatic's representation as set forth in Paragraph 20 was, and is, false or misleading and constitutes an unfair or deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

**CONSUMER INJURY**

23. Consumers have suffered substantial monetary loss as a result of Intermatic's unlawful acts or practices. Absent injunctive relief by this Court, Intermatic is likely to continue to injure consumers and harm the public interest.

**CIVIL PENALTIES AND EQUITABLE RELIEF**

24. Each dissemination of a representation in violation of Part I of the Commission's order, and each failure by Intermatic to make the required disclosures, and/or to state the required information, pursuant to Parts II and III of the Commission's order, as set forth in Paragraphs 11, 12 and 13 above, constitutes a separate violation of the Commission's order for which plaintiff seeks monetary civil penalties.

25. Section 5(l) of the FTC Act, 15 U.S.C. § 45(l), authorizes the Court to award monetary civil penalties of not more than \$10,000 for each such violation of the Commission's order that occurred prior to November 20, 1996. Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended, authorizes the Court to award monetary civil penalties of not more than \$11,000 for each such violation of the Commission's order that occurs on or after November 20, 1996.

26. Under Sections 5(l) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(l) and 53(b), this Court is authorized to grant injunctive and other ancillary relief, including consumer redress,



Order 93 FTC

Angeles County Medical Association  
District 14 - Pomona  
North Garey Avenue  
Pomona, CA 91767

Angeles County Medical Association  
District 16 - Antelope Valley  
P.O. Box 2469  
Lester, CA 93534

Complaint

IN THE MATTER OF  
INTERMATIC INCORPORATED

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
THE FEDERAL TRADE COMMISSION ACT

*Docket C-2961, Complaint, April 25, 1979 — Decision, April 25, 1979*

This consent order, among other things, requires a Spring Grove, Ill. manufacturer and distributor of electrical devices to cease misrepresenting energy or cost savings that may be realized through the use of its water heater timer without disclosing that use of the timer would decrease the quantity and temperature of hot water used and adversely affect dishwasher operations. The firm would be required to make relevant disclosure statements in product advertising, labeling and instructions; and recall all previously disseminated material which fails to conform with the terms of the order. Additionally, the firm would be required to continue its existing refund policy and maintain specified records for designated time periods.

*Appearances.*

For the Commission: *Randall H. Brook and Michael E. Kipling.*

For the respondent: *Ann Ray Heitland and Richard J. Hoskins. Schiff, Hardin & Waite, Chicago, Ill.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Intermatic Incorporated, a corporation, has violated Section 5 of the Federal Trade Commission Act, as amended, and that a proceeding in that respect is in the public interest, issues this complaint.

PARAGRAPH 1. Respondent Intermatic Incorporated ("Intermatic") is a Delaware corporation with its principal office and place of business at Intermatic Plaza, Spring Grove, Illinois.

Allegations below stated in the present tense include the past tense.

PAR. 2. Intermatic is engaged in the manufacture, advertising, offering for sale, sale and distribution of a variety of electric appliances (primarily electric timing and switching devices) for home and business usage.

PAR. 3. In the conduct of its business, Intermatic ships electric appliances and devices to wholesale purchasers throughout the United States. Intermatic prepares advertising, promotional and labeling materials for its products in Spring Grove, Illinois and disseminates these materials throughout the country. Intermatic, therefore, maintains a substantial course of advertising and trade in

electric appliances and devices in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended.

PAR. 4. In the course of its business, Intermatic has advertised and sold an "electric water heater timer," and electric appliance or device designed for permanent installation in electrical circuits supplying home water heaters. The timer is identical in function to standard electric 24-hour clock timers (*i.e.*, those not designated as "water heater timers"). The timer can be set to turn on and off the power supplied to the water heater at various preset times during each 24-hour period.

PAR. 5. Intermatic's advertising for its electric water heater timer suggests using it to turn on the heater for a one-hour period in the morning and for a two-hour period in the evening during "periods of major hot water usage."

PAR. 6. Intermatic represents, directly or by implication, that:

A. Use of the timer will result in substantial savings on water heating bills without significant reduction in hot water usage or change in lifestyle. Expected annual savings range in amount from \$48 to \$120. Electric water heating costs are expected to diminish by an average of 35 percent because of the timer.

B. Cost savings are attributable to saving energy which is used by a water heater during periods when no hot water is being drawn off.

C. Intermatic has a reasonable basis in valid scientific studies or tests from which to conclude that substantial or specific cost savings will be realized by typical consumers using its timer without significant reduction in hot water usage.

PAR. 7. Contrary to these representations:

A. The use of a water heater timer will not result in substantial savings on water heating bills, nor in the specific dollar or percentage savings claimed by Intermatic, without a significant reduction in both the quantity and temperature of hot water used.

B. Any savings actually attributable to "off" periods will be negligible, since any heat lost during "off" periods must be made up by additional energy consumption during "on" periods. The only substantial savings occur from consumer acceptance of lower temperature and quantity of hot water.

C. Intermatic did not have a reasonable basis in valid scientific studies or tests from which to conclude that its representations were true.

PAR. 8. In actual use as suggested by Intermatic's instructions, hot

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water temperature may drop thirty to forty degrees or more. Consumers may be unaware that water temperature is inadequate for some uses, particularly to meet recommended minimum temperatures for dishwashers.

PAR. 9. The misrepresentations by Intermatic have the tendency and capacity to induce consumers to purchase the water heater timer based on the incorrect belief that substantial savings may be realized without reduction in hot water usage.

PAR. 10. The fact that the temperature of hot water available to consumers is much lower when the water heater timer is used and the fact that consumers who use the timer may be forced to schedule certain activities (e.g. dishwashing) at specific times of the day when adequate hot water is available are facts material in light of consumers' understanding of the function and use of the timer. Failure to disclose these material facts has the tendency and capacity to mislead consumers to purchase the timer based on the incorrect belief that substantial savings may be realized without reduction in hot water usage and that substantial savings may be realized without changing one's lifestyle.

PAR. 11. Many of the purchasers of Intermatic's water heater timer may incur additional, often greater, expense in paying for installation of the device by a licensed electrician. Consumers could realize savings equal to or greater than those claimed by simply turning down water heater thermostats and/or reducing hot water usage. PAR. 12. The use of the water heater timer could be of harm to some electrical generation programs by public and private utilities. By maximizing water heater usage during peak energy consumption periods of the day, as directed by Intermatic, additional strains will be put on some power generating facilities at the hours when they are already most heavily taxed. The result of increased peak hour load usage is that utilities will have to rely on their oldest or most expensive back-up generation systems to meet the peaks. This will increase costs to the consumers and the public as a whole. On a long range basis, it may further increase public costs by contributing to the need for new generator facilities.

The promotion and sale of the water heater timer to be used as directed is contrary to public policy and therefore unfair.

PAR. 13. For the reasons stated above, and because sale of the timers may divert consumer expenditures away from valid energy saving methods, including insulating water heaters and pipes, the acts and practices of Intermatic are to the prejudice and injury of the public and constitute false, misleading, deceptive and unfair acts or

practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, as amended.

#### DECISION AND ORDER

The Federal Trade Commission has initiated an investigation of certain acts and practices of respondent Intermatic Incorporated. The respondent has been furnished with a copy of a draft complaint which the Seattle Regional Office proposed to present to the Commission for its consideration. If issued by the Commission, this complaint would charge respondent with violation of the Federal Trade Commission Act.

Respondent, its attorney, and counsel for the Commission have executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts in the complaint, and a statement that the signing of the agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the complaint. The agreement also includes waivers and other provisions as required by the Commission's Rules.

The Commission has considered the matter and has determined that it has reason to believe that the respondent has violated the Federal Trade Commission Act, and that the complaint should issue. The Commission has therefore accepted the executed consent agreement and placed the agreement on the public record for a period of sixty (60) days. Now, in conformance with Section 2.34 of its Rules, the Commission issues the complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Intermatic Incorporated is a Delaware corporation with its office and principal place of business at Intermatic Plaza, Spring Grove, Illinois.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

#### ORDER

This order applies to respondent Intermatic Incorporated ("Intermatic"), its successors, assigns, officers, agents and employees, whether acting directly or through any corporation, subsidiary, division or other device. Order provisions apply to any acts taken in connection with Intermatic's advertising, displaying, offering for sale, sale or distribution of electric water heater timers except that paragraphs I.C., X., XI., and XII. also apply to any other electric

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appliance or device which is promoted, displayed, offered for sale or distributed directly or indirectly to consumers, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended.

I. *It is ordered.* That Intermatic cease and desist from representing, directly or by implication, that:

A. Use of Intermatic's water heater timers will result in substantial savings on hot water heating bills without significant reduction in the temperature or quantity of hot water used, except where the savings would be attributable to the consumer's use of the timer to take advantage of utilities' discount or time-of-day rates.

B. Significant cost savings from the use of the water heater timer are attributable to saving energy used by water heaters during periods when no hot water is being drawn off. This subparagraph does not prohibit respondent from making any representation that meets the requirements of subparagraph I.C., below.

C. Any energy or cost savings can be realized by any electric appliance or device unless Intermatic has a reasonable basis in valid scientific studies or tests from which to conclude that typical consumers, in the areas in which the representations are disseminated, will achieve those savings under expectable and usual consumer usage.

II. *It is further ordered.* That Intermatic make the following affirmative disclosures in any advertisement or promotional, labeling, or packaging material for its water heater timer:

A. That cost savings are accompanied by a decrease in the quantity and temperature of hot water available.

B. That dishwashers should be used during certain periods of the timer's cycle in order to operate properly.

The above affirmative disclosures shall be made clearly and conspicuously. The disclosure required in subparagraph II.A. shall be in close conjunction with and in type size at least as large as any reference to cost savings. In the case of packaging materials these disclosures need be made only once; the disclosure required in subparagraph II.A shall be on the most prominent face of each packaging material.

The above affirmative disclosure need not be made in any advertisement: (1) which is disseminated only in areas where some form of discount or time-of-day rates are offered by local utilities or where such rates are reasonably foreseeable; and (2) where no cost savings

FEDERAL TRADE

Decisions

DECISIONS

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The affirmative disclosure contained in the advertising prepared by customer which respondent pays only part of the advertising appears as part of a multi-paragraph advertisement relating to a water heater timer is no greater than eleven (11) percent of which is only to make the available outlet known.

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is further ordered. That International's water heater timer contains for use of its water heater timer in clear lay language.

matic's or conta

affirmative disclosures in paragraph II above that when the timer is on, the temperature of water drawn from the hot water tank will decline. An explanation that if the temperature of water drawn from the hot water tank is adjusted during the "off" periods of the timer, the water drawn during the "off" periods will be decreased.

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such as by adjusting the hot water tank temperature during the "off" periods of the timer, the water drawn during the "off" periods will be decreased. A dishwasher in order to have hot water available during the "off" periods of the timer, the utility should be contacted to advise the utility of the water heaters to avoid or minimize the utility.

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in the event that the electrical utility offers lower rates for "off peak" electrical service, the utility should be contacted to advise the utility of the water heaters to avoid or minimize the utility.

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INTERMATIC INC  
Decision and Order

337

remaining stocks of the Intermatic water heater timer on hand, replacement packaging materials and instructions to conform with the terms of this order. Intermatic shall ask its customers to replace the packaging materials and instructions with the new ones provided, prior to making a further sale of the Intermatic water heater timer. In lieu of replacing the packaging materials Intermatic may provide its customers with self-adhesive labels to cover existing packaging materials.

VI. *It is further ordered.* That Intermatic distribute a copy of this order to each of its customers to which it has shipped five or more water heater timers at any time since January 1, 1977.

VII. *It is further ordered.* That Intermatic continue its present policy of refunding the purchase price and installation cost for the Intermatic water heater timer.

VIII. *It is further ordered.* That Intermatic prepare a point-of-sale display, in a form to be approved by authorized representatives of the FTC, which clearly and conspicuously (1) refers to the Intermatic "Little Gray Box" water heater timer; (2) contains the affirmative disclosures in paragraph II above; and (3) contains a statement of the refund policy required by paragraph VII above. Intermatic shall provide copies of the display, directly or through its distributors, to all retail stores which have sold the Intermatic water heater timer at any time since January 1, 1977, and request that the stores post the display for at least 30 days.

IX. *It is further ordered.* That respondent maintain complete business records relative to the manner and form of its compliance with this order. Respondent shall retain each record for at least three years, and shall retain substantiation and other documentation at least two years beyond the last dissemination of any representation contingent thereon under the provisions of this order. Upon reasonable notice, respondent shall make any and all the records available for inspection and photocopying by authorized representatives of the Federal Trade Commission.

X. *It is further ordered.* That respondent forthwith deliver a copy of this order to each operating division and affiliated business, to all agents now or hereafter engaged in the sale or offering for sale of respondent's products or in any aspect of the preparation, creation or placing of advertising on behalf of respondent; and that respondent secure from each such person a signed statement acknowledging

ing receipt of this order. In the case of persons or entities not involved with respondent's water heater timers, this paragraph shall be satisfied by delivery of a statement including, verbatim, the order preamble and paragraph I.C., above.

XI. *It is further ordered.* That respondent notify the Commission at least thirty days prior to any proposed change in a corporate respondent in which the respondent is not a surviving entity, such as dissolution, assignment or sale resulting in the emergence of any successor corporation or corporations, or any other change in said corporations which may affect compliance obligations arising out of the order.

XII. *It is further ordered.* That respondent shall, within sixty days after service upon it of this order, file with the Commission a report setting forth in detail the manner and form in which it has complied with this order.

INTERMATIC

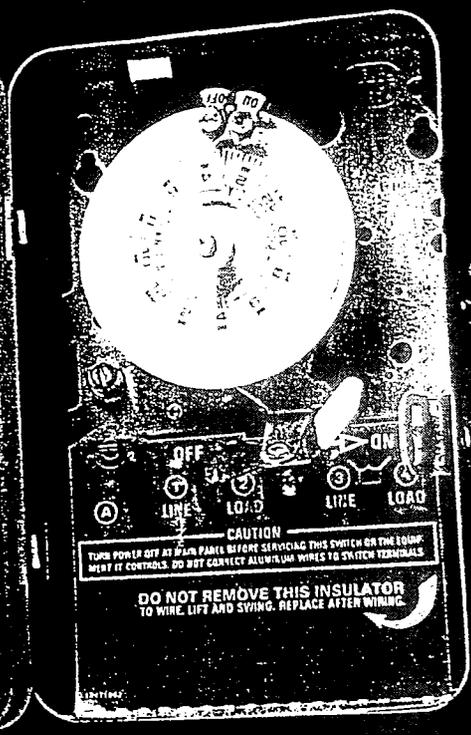
# The Little Gray Box

## ELECTRIC WATER HEATER TIMER



Save Up To **26%** On Water Heating Costs

- Easy To Install
- Easy To Program
- External Override Switch



### ANNUAL SAVINGS GUIDE

Kilowatt Hour Rate	Annual Operating Cost*	Estimated Annual Savings*
6¢	\$306	\$ 80
8¢	\$408	\$106
10¢	\$511	\$133
12¢	\$613	\$159
14¢	\$715	\$186

\*Annual operating costs based on data published by Gas Appliance Manufacturers Assoc. (GAMA). Savings estimates based on actual testing performed May 1992 by Illinois Institute of Technology (IIT) using a 52 gal. water heater with a .86 efficiency factor. Savings will vary depending on water usage, water temperature setting, and local utility rate.



INTERMATIC

# The Little Gray Box

ELECTRIC WATER HEATER TIMER

UP TO

SAVINGS\*

WH40

Capacity  
10,000 Watts, 40 amps  
250 volts, 60Hz



0 78275 00740 6

EXHIBIT B PAGE 2



### ELECTRIC WATER HEATER TIMERS

## Supply Hot Water Only When You Need It!

- Stop spending money on heating water you don't use.
- Save up to 26% on your water heating dollars.
- Easy to program timers.
- Match hot water supply to your heavy use periods (morning showers, evening dishes, etc.)
- Conserve valuable energy.

### EASY TO INSTALL AND PROGRAM

**STEP 1:** Cut off power. Remove mechanism from case and mount case to wall.

**STEP 2:** Disconnect cable from water heater and connect to time switch case.

**STEP 3:** Replace time switch mechanism in case and connect cable to terminals.

**STEP 4:** Set trippers at desired "ON" and "OFF" times and set current time of day.



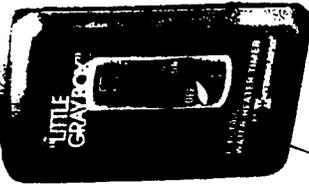
### FEATURES

- 1 hour Minimum Off Time
- Steel Enclosure
- Lockable
- External Manual Override
- 10,000 Watts at 250 Volts
- 40 Amps Per Pole
- Switch (DPST)
- Double Pole Single Throw

# THE LITTLE LITTL' GRAY BOX<sup>®</sup>

## ELECTRIC WATER HEATER TIME SWITCH

BY THE MAKERS OF INTERMATIC TIME CONTROL



- DESIGNED FOR ENERGY CONSERVATION
- ACCOMMODATES DAILY PEAK DEMANDS OF HOT WATER
- SHUTS OFF WATER HEATER WHILE YOU ARE ASLEEP AND/OR NORMALLY NOT AT HOME
- HAS MANUAL OVER-RIDE SWITCH
- EASY TO INSTALL

**STEP 1**

**A. CHECKING:**

- Make sure the Time Switch and the water heater VOLTAGES are the same
- Make sure your water heater rating in WATTS is over the maximum capacity of this Time Switch
- Make sure your water heater is wired with COPPER wires. Do not connect ALUMINUM wires to the terminals of this Time Switch. You may wish to consult an electrician if your existing wires are ALUMINUM

**CAUTION** - Disconnect electricity before you attempt to remove or expose any wiring

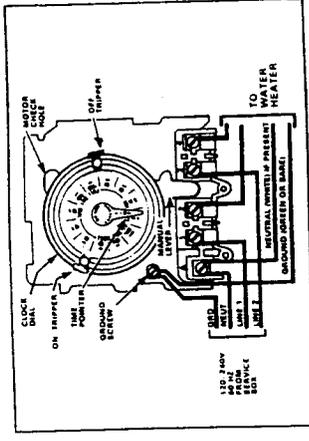
**NOTE:** The manual lever is inoperative for 15 minutes immediately after the automatic operation.

**TO SET PROGRAM** - First mount silver finished "ON" trippers at times you wish electric water heater to start operating. Place black "OFF" trippers at times you want to turn water heater off. Fasten trippers securely by turning screws tight against clock dial. **Second**, pull clock dial toward you and turn clock dial in either direction to the correct time-of-day as indicated by pointer. **DO NOT MOVE POINTER.** Close the time switch cover. Make sure it is latched and locked, if needed.

**AFTER POWER FAILURE** (or, if water heater was disconnected at the main panel) - you must reset the clock dial to the correct time-of-day.

**TO SUSPEND AUTOMATIC OPERATION** - remove trippers from dial. Set manual lever as desired.

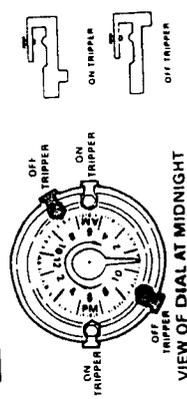
**CAUTION** Always disconnect power at main panel before servicing this switch or the water heater.



**INTERMATIC INCORPORATED**  
 SPRING GROVE, ILLINOIS 60061

15815556 Page 8 MADE AND PRINTED IN U.S.A.

DAYS OF WEEK	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	
MONDAY																							
TUESDAY																							
WEDNESDAY																							
THURSDAY																							
FRIDAY																							
SATURDAY																							
SUNDAY																							



**STEP 10**

Check wiring, time setting (AM/PM) and program. If hard wired, also close Water Heater Terminal Box Restore electric service (the reverse of STEP 2). By looking through the oval motor check hole, you should be able to observe time switch clock motor gears in motion. Close time switch cover. Make sure it is latched and locked, if needed.

**OPERATING INSTRUCTIONS**

This Time Switch will repeat a preset schedule daily. It may also have an **EXTERNAL MANUAL LEVER** to override the automatic program. The diagram on the right shows the mechanism and typical wiring.

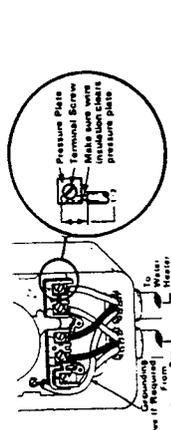
**THE CLOCK DIAL** - Turns in a clockwise direction once a day and has a 24-hour face.

**THE TIME POINTER** - is used to time up the correct time-of-day on the dial.

**THE TRIPPERS** - are attached to the dial, turn the water heater ON and OFF at times indicated by their respective position on the dial.

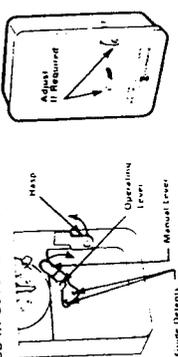
**THE MANUAL LEVER** - permits the user to turn the water heater ON and OFF ahead of schedule. The time Switch will resume the preset program by the next scheduled ON or OFF operation.

Page 7



**STEP 8**

Using pliers, grip folded down hasp on side of case and rotate it upward as shown. Also, if your Time Switch has an **EXTERNAL MANUAL LEVER**, pivot Override Lever in direction shown until detents snap into position. Close cover to make sure the holes in cover line up. Adjust, if required.



**STEP 9**

Set your daily program - See operating instructions on page 7. Each individual household should determine a schedule to suit their own needs. Adjustments should be made for family size, hot water needs, appliances, etc. In areas where time-of-day rates are in effect, consult your electric utility company to find when the lowest rates apply. Then set your time switch to operate your water heater when your electric rates are lowest and adjust your schedule accordingly.

In setting your schedule, you must consider the facts that the temperature and quantity of hot water will decline during the "OFF" periods depending on amount used and length of "OFF" time. A typical schedule could be "ON" at 6 AM, "OFF" at 9 AM for your morning use, and "ON" again at 5 PM and "OFF" again at 10 PM.

Page 5

**B. PLANNING AND MEASURING:**  
Here is how your water heater is wired now.  
**BEFORE** the installation of this Time Switch:

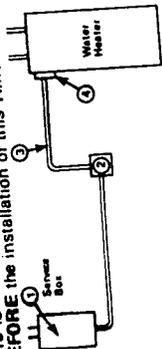


FIGURE 1

- ① **SERVICE BOX** - Your water heater should have its own (separate) fuse or circuit breaker in the electrical panel.
- ② **JUNCTION BOX** - You may or may not have this convenience box. It may contain a disconnect switch and/or receptacle if water heater is cord connected.
- ③ **WATER HEATER CONNECTION** - This is a rigid or flexible (metallic or plastic) cable containing 2, 3, or 4 insulated wires of different colors.
- ④ **WATER HEATER TERMINAL BOX** - This is part of the water heater where the power supply wires are connected.

Here is your modified wiring. **AFTER** the Time Switch is installed:

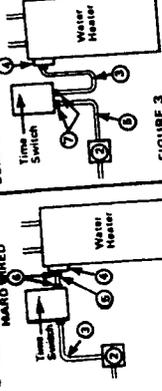


FIGURE 2

FIGURE 3

- Plan a convenient location for the Time Switch, preferably eye level (also out of reach of small children), and such that existing cable (Fig. 2, or Fig. 3) may be utilized.
- Measure the distance ① from the Time Switch to Water Heater Terminal Box ④. Also measure distance ② from Time Switch to Junction Box if exist-

ing cable (Fig. 2, Item ②) is too short. Allow for slack and 6 inches of hook-up leads at each end to facilitate wiring connections.

**C. MATERIALS YOU NEED**

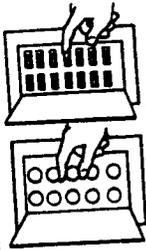
1. Obtain a piece of cable, the SAME TYPE (that is, metallic or plastic) and SAME GAUGE with COPPER conductors to make Item ② connection (and Item ③, if needed) as shown. See also gauge selection chart below.
2. Obtain 2 cable connectors (Item ④) to fit the cable above.

If your water heater is CORD and PLUG connected: (See Fig. 3)

1. Obtain the SAME TYPE and GAUGE cordset with plug as the presently used on (Item ③) and 2 strain relief grommets (Item ⑤) to fit THIS cordset.
2. **TOOLS YOU NEED**  
Wire Cutter and Stripper, Hammer, Drill, Pliers, 1/4 wide Screw Driver, Hammer, Drill, Pliers, 1/4 wide Screw Driver and Stripper.

CIRCUIT BREAKER OR FUSE SIZE	125 VOLTS		250 VOLTS	
	AMP	A.W.G.	AMP	WATTS
15	14	15	1875	3750
20	12	20	2500	5000
30	10	30	3750	7500
40	8	40	5000	10000

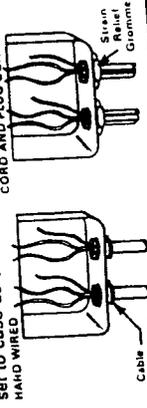
**STEP 2**  
Disconnect electricity to water heater. Pull plug, if cord connected; remove fuse or open circuit breaker if hard wired. **CAUTION:** You may have to remove TWO fuses or switch TWO circuit breakers to the OFF position. If you are not sure which circuit(s) are for the water heater, use a tester or consult an electrician.



Page 3

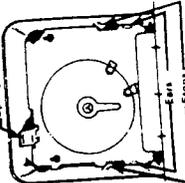
If your water heater is CORD and PLUG connected:

Remove plug at end of water heater cord (Fig. 1, Item ④). Split cord about 6 inches and strip wire ends 1/2 inch. Remove the most convenient knockout of the time switch case. Install strain relief grommet (Fig. 3, Item ⑤) and attach cord to case as shown. Next, install strain relief grommet to the other cordset (Fig. 3, Item ⑤) and attach cord set to case as shown.



STEP 6

Now, replace time switch mechanism in case. Slide it from above so plate goes between "ears" on either side of case. When in position, press top of plate until spring holder snaps in place over plate. Remove screw at center of front insulator cover and move insulator out of the way.



STEP 7

Connect the wires coming from the service box and from the water heater to the terminals of the time switch mechanism. For specific wiring connections regarding your model, refer to diagram inside the time switch door. Attach wire ends to time switch terminals as shown in wiring diagram. Insert only the stripped copper ends of wires as shown. Use 3/16 or larger screwdriver to tighten screws **FIRMLY** (.25 to .35 lb. inches). **CAUTION:** Failure may occur if screws are loose. Now re-place front insulator cover and secure it with screw furnished.

Page 6

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF ILLINOIS

3  
4 UNITED STATES OF AMERICA,  
Plaintiff,

5 v.

6 INTERMATIC INCORPORATED,  
7 a corporation,  
8 Defendant.

Civil Action No.

9  
10 **CONSENT DECREE**

11 WHEREAS: Plaintiff, the United States of America, has commenced this action by filing the  
12 Complaint herein; defendant Intermatic Incorporated ("Intermatic") has waived service of the  
13 Summons and Complaint; the parties have been represented by the attorneys whose names appear  
14 hereafter; and the parties have agreed to settlement of this action upon the following terms and  
15 conditions, without adjudication of any issue of fact or law and without Intermatic admitting liability  
16 for any of the matters alleged in the Complaint;

17 THEREFORE, on the joint motion of plaintiff and defendant, it is hereby ORDERED,  
18 ADJUDGED, and DECREED as follows:

19 **FINDINGS**

- 20 1. This Court has jurisdiction over the subject matter and the parties.
- 21 2. The Complaint states a claim upon which relief may be granted against Intermatic  
22 under Sections 5(a), 5(l), 9, 13(b) and 16(a) of the Federal Trade Commission Act ("FTC Act"), 15  
23 U.S.C. §§ 45(a), 45(l), 49, 53(b) and 56(a).
- 24 3. Venue is proper as to all parties in the Northern District of Illinois;
- 25 4. Defendant's activities are in or affecting commerce, as defined in the FTC Act, 15  
26 U.S.C. § 44; and
- 27 5. Defendant has waived all rights that may arise under the Equal Access to Justice Act,  
28 28 U.S.C. § 2412, amended by Pub. L. 104-121, 110 Stat. 847, 863-64 (1996).

## DEFINITIONS

1  
2 6. "Defendant" means Intermatic, its successors and assigns, and its officers, agents,  
3 servants and employees, and all persons in active concert or participation with it who receive actual  
4 notice of this Consent Decree by personal service or otherwise.

5 7. "Competent and reliable scientific evidence" means tests, analyses, research, studies,  
6 or other evidence based on the expertise of professionals in the relevant area, that has been  
7 conducted and evaluated in an objective manner by persons qualified to do so, using procedures  
8 generally accepted in the profession to yield accurate and reliable results.

## CIVIL PENALTY

9  
10 8. Pursuant to Section 5(l) of the FTC Act, 15 U.S.C. § 45(l), Intermatic, its successors  
11 and assigns, shall pay a monetary civil penalty of \$ 250,000.

12 9. Intermatic, its successors and assigns, shall make the payment required by Paragraph  
13 8 within 5 days after the date of entry of this Consent Decree by electronic fund transfer in  
14 accordance with the instructions provided by: The Office of Consumer Litigation, Civil Division,  
15 U.S. Department of Justice, Washington, D.C. 20530.

16 10. In the event of any default in payment, which default continues for ten (10) days  
17 beyond the due date of payment, the entire unpaid penalty, together with interest as computed  
18 pursuant to 28 U.S.C. § 1961 from the date of default to the date of payment, shall immediately  
19 become due and payable.

## FURNISHING OF TAXPAYER I.D. NUMBER

20  
21 11. Intermatic is hereby required, in accordance with 31 U.S.C. § 7701, to furnish to the  
22 Federal Trade Commission its taxpayer identifying number(s) (e.g., employer identification number),  
23 which shall be used for purposes of collecting and reporting on any delinquent amount arising out of  
24 the company's relationship with the government.

## INJUNCTION

25  
26 12. **IT IS HEREBY ORDERED THAT** Defendant, directly or through any corporation,  
27 subsidiary, division, distributor, or other device, in connection with the advertising, promotion,

1 offering for sale, sale, or distribution of any water-heater timer or any other appliance timing device,  
2 in or affecting commerce, is hereby enjoined from representing in any manner, expressly or by  
3 implication:

4           A. that consumers can save up to 26% or any amount on their water-heating costs  
5 and/or electricity bills through the use of such a product; or

6           B. such product's comparative or absolute efficacy, benefits, mechanism of action,  
7 or performance;

8 unless the representation is true and, at the time it is made, Defendant possesses and relies upon  
9 competent and reliable scientific evidence that substantiates the representation.

10           13. **IT IS FURTHER ORDERED THAT** Defendant, directly or through any  
11 corporation, subsidiary, division, distributor, or other device, in connection with the advertising,  
12 promotion, offering for sale, sale, or distribution of any water-heater timer or any other appliance  
13 timer device, in or affecting commerce, is hereby enjoined from misrepresenting, in any manner,  
14 expressly or by implication, the existence, contents, validity, results, conclusions, or interpretations  
15 of any test, study, or research.

16                                   **ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT**

17           14. Within five (5) business days after receipt by Defendant of this Consent Decree as  
18 entered by the Court, Defendant shall submit to the Commission a truthful sworn statement, in the  
19 form shown on Appendix A, that shall acknowledge receipt of this Consent Decree.

20                                   **NOTIFICATION OF CHANGES IN BUSINESS STRUCTURE**

21           15. Intermatic, and its successors and assigns, shall notify the Commission at least 30  
22 days prior to any change in the corporation that may affect compliance obligations arising under this  
23 Consent Decree, including, but not limited to, a dissolution, assignment, sale, merger, or other action  
24 that would result in the emergence of a successor corporation; the creation or dissolution of a  
25 subsidiary, parent, or affiliate that engages in any acts or practices subject to this Consent Decree; the  
26 proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided,  
27 however, that, with respect to any proposed change in the corporation about which Defendant learns

1 less than thirty (30) days prior to the date such action is to take place, Defendant shall notify the  
2 Commission as soon as is practicable after obtaining such knowledge. All notices required by this  
3 Paragraph shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau  
4 of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington,  
5 D.C. 20580.

### 6 **COMPLIANCE REPORTING BY DEFENDANT**

7 16. One hundred eighty (180) days after the date of entry of this Consent Decree,  
8 Defendant shall provide a written report to the FTC, sworn to under penalty of perjury, setting forth  
9 in detail the manner and form in which Defendant has complied and is complying with this Consent  
10 Decree. This report shall include but not be limited to:

11 A. A copy of each acknowledgment of receipt of this Consent Decree obtained by  
12 Defendant pursuant to Paragraph 18; and

13 B. A statement describing the manner in which Defendant has complied and are  
14 complying with Paragraphs 12 through 13 of this Consent Decree.

15 Upon written request by a representative of the Commission, Defendant shall submit  
16 additional written reports (under oath, if requested) and produce documents on fifteen (15) days'  
17 notice with respect to any conduct subject to this Consent Decree.

18 For purposes of the compliance reporting required by this Paragraph, the Commission is  
19 authorized to communicate directly with Defendant.

### 20 **ALLEGATIONS IN THE COMPLAINT**

21 17. Without Intermatic admitting liability for any of the matters alleged in the Complaint  
22 filed with this Consent Decree, the facts as alleged therein shall be taken as true solely for the  
23 purpose of any subsequent litigation filed by the FTC to enforce its rights under this Consent Decree,  
24 including its claim for monetary relief.

### 25 **ORDER DISTRIBUTION**

26 18. Intermatic shall provide a copy of this Consent Decree to all current and future  
27 principals, officers, directors, and managers and to all current and future agents, employees,

1 distributors, and independent contractors having responsibility with respect to this Consent Decree's  
2 subject matter, and shall secure from each such person a signed statement acknowledging receipt of  
3 the Consent Decree. Intermatic shall deliver this Consent Decree to current personnel within thirty  
4 (30) days of the entry of this Consent Decree, and to future personnel within thirty (30) days after the  
5 person assumes such position or responsibilities. Within ten (10) days of complying with this  
6 Paragraph, Intermatic shall provide the Associate Director for Enforcement, Bureau of Consumer  
7 Protection, Federal Trade Commission, Washington, D.C. 20580, an affidavit setting forth the fact  
8 and manner of its compliance, including the name and title of each person to whom a copy of this  
9 Consent Decree has been provided, and a copy of their acknowledgment.

#### 10 RECORDKEEPING

11 19. For a period of five (5) years from the date of entry of this Consent Decree, Defendant  
12 shall maintain and, upon request, make available to the Commission, copies of all business records  
13 demonstrating compliance with the terms and provisions of this Consent Decree, including but not  
14 limited to:

15 A. All advertisements and promotional materials for any electric-water-heater  
16 timer offered for sale by Defendant;

17 B. All materials that were relied upon in disseminating any representation  
18 covered by this Consent Decree;

19 C. All tests, reports, studies, surveys, demonstrations, or other evidence in  
20 Defendant's possession or control that contradict, qualify, or call into question any representation  
21 covered by this Consent Decree, or the basis relied upon for the representation, including complaints  
22 and other communications with consumers or with governmental or consumer protection  
23 organizations;

24 D. A record of each written consumer complaint (including complaints referred  
25 from any third party, such as any office of the Better Business Bureau or any State Attorney  
26 General), and each refund request received by Defendant, including:

27 (1) The consumer's name, address, telephone number and the dollar  
28

1 amount paid by the consumer;

2 (2) The consumer's written complaint or refund request and the date the  
3 complaint or refund request was received;

4 (3) The basis of the complaint or refund request, if known, and the nature  
5 and result of any investigation conducted as to the complaint;

6 (4) The response to the complaint or refund request and the date of the  
7 response; and

8 (5) The final resolution, the date of the resolution, and, in the event of a  
9 denial of a refund request, the reason for the denial; and

10 E. With regard to complaints or refund requests received by telephone,  
11 Defendant shall develop and maintain a program to create and maintain the same information as  
12 identified in Parts D.(1) through D.(5) of this Paragraph above.

13 **NOTICES**

14 20. All notifications required of Intermatic, its successors and assigns, by this Consent  
15 Decree, or concerning this Consent Decree, shall be sent to the following address:

16 Associate Director  
17 Division of Enforcement  
18 Federal Trade Commission  
19 600 Pennsylvania Avenue, N.W.  
20 Washington, D.C. 20580

21 **CONTINUING JURISDICTION**

22 21. This Court shall retain jurisdiction of this matter for the purpose of enabling any of  
23 the parties to this Consent Decree to apply to the Court at any time for such further orders or  
24 directives as may be necessary or appropriate for the interpretation or modification of this Consent  
25 Decree, for the enforcement of compliance therewith, for the redress of any violations thereof, or

26 ///  
27 ///  
28 ///

1 for the punishment of any violations thereof.

2

3 Consent Decree IS THEREFORE ENTERED in favor of plaintiff and against defendant,  
4 pursuant to all the terms and conditions recited above.

5

6 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

7

8

\_\_\_\_\_  
United States District Judge

9

10

FOR THE UNITED STATES OF AMERICA:

11

DAVID W. OGDEN  
Acting Assistant Attorney General  
Civil Division  
United States Department of Justice

12

13

14

United States Attorney  
Northern District of Illinois

15

16

By: \_\_\_\_\_  
Assistant United States Attorney

17

18

19

EUGENE M. THIROLF  
Director  
Office of Consumer Litigation

20

21

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\_\_\_\_\_  
Attorney  
Office of Consumer Litigation  
Civil Division  
U.S. Department of Justice  
Washington, D.C. 20530  
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Elaine D. Kolish  
Associate Director  
for Enforcement

FOR THE FEDERAL TRADE COMMISSION:  
ELAINE D. KOLISH  
Associate Director for Enforcement

MARY K. ENGLE  
Assistant Director for Enforcement

Mary K. Engle  
Assistant Director  
for Enforcement

Pablo M. Zylberglait  
Attorney  
Division of Enforcement  
Bureau of Consumer Protection  
Federal Trade Commission  
(202) 326-3260

FOR THE DEFENDANT:  
INTERMATIC INCORPORATED

By: Leon E. Vinyard  
Leon E. Vinyard  
President and Chief Executive Officer of  
Intermatic Incorporated

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A Member of the Firm