

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

Georgia Gulf Corporation	)	Trademark Application
	)	Serial No.76/511,130
Opposer,	)	
	)	Filed: May 2, 2003
v.	)	
	)	Mark: PROTOTHERM
DSM Desotech, Inc.	)	
	)	Published: March 16, 2004
Applicant	)	

Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3514

NOTICE OF OPPOSITION

Georgia Gulf Corporation, 400 Perimeter Center Terrace, Suite 595 Atlanta, Georgia 30348, by and through its undersigned attorneys, believes that it will be damaged by the registration of U.S. Trademark Application Serial No. 76/511,130 for the mark PROTOTHERM in International Class 001 and hereby opposes the same.

The grounds for opposition are as follows:

1. Upon information and belief, Applicant DSM Desotech, Inc. (hereinafter "Applicant"), is a Delaware corporation with an address of 1122 St. Charles Street, Elgin, Illinois 60120.
2. Upon information and belief, Applicant seeks to register the mark PROTOTHERM for goods identified as "unprocessed resin compositions, namely coated and uncoated

- powders, organic and inorganic powders, meltable polymers for extrusion deposition, liquid photo-polymers and combinations thereof all for use in solid imaging, stereolithography and rapid prototyping that can utilize liquid stereolithography composition in the manufacturing and prototyping industries” in International Class 001.
3. Upon information and belief, Applicant’s application was filed on May 2, 2003 and was published for opposition in the Official Gazette on March 16, 2004.
  4. Opposer Georgia Gulf Corporation (hereinafter “Opposer”) is a Delaware corporation having a principal place of business at 400 Perimeter Center Terrace, Suite 595, Atlanta, Georgia 30348.
  5. Opposer adopted the trademark PROTHERM well prior to Applicant’s filing date. Opposer is using and has continued to use the mark PROTHERM in connection with the advertising, promotion, and offering of Opposers’ chlorinated polyvinyl chloride compounds in interstate commerce.
  6. Opposer is a well-known and respected manufacturer and marketer of two highly integrated product lines, chlorinated vinyl chemicals (“chlorovinyls”) and aromatic chemicals. Opposer’s primary products include vinyl resins and vinyl compounds.
  7. Opposer has expended much time, money, and effort in advertising its PROTHERM chlorovinyls and building goodwill in the PROTHERM mark. As a result, Opposer is the

third largest North American producer of vinyl chloride monomer (VCM), the third largest North American producer of vinyl suspension resins, and the second largest North American producer of vinyl compounds. Furthermore, Opposer's products are used globally in a wide variety of end-use applications, including construction and renovation, engineered plastics, pulp and paper production, chemical intermediates, pharmaceuticals and consumer products.

8. As a result of Opposer's use and promotion of its PROTHERM mark, a valuable and inestimable goodwill has been created in the PROTHERM mark.
9. Opposer filed a federal trademark application for the mark PROTHERM on January 31, 1994 and received a federal registration for said mark in International Class 001 on December 27, 1994 (U.S. Trademark Reg. No. 1,869,151) for "chlorinated polyvinyl chloride compounds used for injection molding and extrusion processing of various products, including pipes, pipe fittings, and sprinkler head and pipe applications; custom injection molding; and other extrusion profile manufacturing purposes."
10. Opposer filed a federal trademark application for the mark PROTHERM (and design) on October 13, 1995 and received a federal registration for said mark in International Class 001 on November 11, 1997 (U.S. Trademark Reg. No. 2,111,568) for "chlorinated polyvinyl chloride compounds used for injection molding and extrusion processing of various products, including pipes, pipe fittings, and sprinkler head and pipe applications; custom injection molding; and other extrusion profile manufacturing purposes."

11. Opposer's PROTHERM trademarks are of significant value to Opposer as an identification of source in connection with the promotion and offering of its goods and in connection with its business.
12. When used in connection with the Applicant's goods, Applicant's proposed mark PROTOTHERM so nearly resembles Opposer's mark PROTHERM as to result in confusion, mistake, and/or deception in that the public will wrongly assume that Opposer has approved of Applicant, is affiliated with Applicant, or otherwise sanctioned or sponsored the goods of Applicant in violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).
13. Applicant's use of the mark PROTOTHERM in connection with unprocessed resin compositions is likely to cause confusion with Opposer's PROTHERM mark as used in connection with chlorinated polyvinyl chloride compounds.
14. Opposer would be damaged by the registration of the mark PROTOTHERM by Applicant as the registration will result in confusion, mistake, and/or deception, and Applicant will be able to trade on Opposer's goodwill and reputation.

WHEREFORE, Opposer requests that this opposition be sustained and that Applicant's application for the mark PROTOTHERM be denied.

The opposition fee in the amount of \$300.00 in one class is included herewith. This Notice of Opposition is filed in duplicate.

Respectfully submitted,  
GEORGIA GULF CORPORATION



Dana E. Stano  
Attorney for Opposer

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<b>CONFIRMATION:</b>	<b>PAGES TO FOLLOW:</b> 6
<b>FAX NUMBER:</b> 703/308-9333	

<b>FROM:</b> Morris, Manning & Martin, LLP	<b>CHARGE TO:</b>						
<b>NAME:</b> Dana E. Stano	<b>CLIENT/MATTER:</b> 5384-43693						
<b>PHONE:</b> (404) 233-7000	<b>CONFIRMATION TIME:</b>						
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HR	MIN	SEC					

**COMMENTS:**

Ms. Johnson:

Per our telephone discussion, attached please find a copy of the Notice of Opposition that was sent on April 7, 2004.

Thanks,

Dana E. Stano

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**Enclosures: NOTICE OF OPPOSITION- 5 pages; DUPLICATE NOTICE OF OPPOSITION; CHECK \$300; AND POSTCARD.**

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TM Mail Rpt 05/07/04

**MORRIS, MANNING & MARTIN, L.L.P.**

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Invoice Totals:						\$300.00	\$300.00