

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

Application Serial No. 78/134,836 for the mark: CRYO-SHIELD
Published in the Official Gazette of December 3, 2002 in Int. Class 11 at TM 442
and filed on June 11, 2002

PRAXAIR, INC.,
and PRAXAIR TECHNOLOGY, INC.,)
)
Opposers,)
)
v.)
)
MG INDUSTRIES,)
)
Applicant.)

Opposition No. _____

NOTICE OF OPPOSITION

Praxair, Inc., a Delaware corporation, located at 39 Old Ridgebury Road, Danbury, Connecticut 06810, and its wholly-owned subsidiary, Praxair Technology, Inc., a Delaware corporation, located at 55 Old Ridgebury Road, Danbury, Connecticut 06810, believe they will be damaged by the registration of the mark shown in Serial No. 78-134,836, and hereby oppose the same.

As grounds for opposition, it is alleged that:

1. For many years, Praxair, Inc. and its predecessors have manufactured, advertised, promoted, and sold a wide variety of gases and cryogenic equipment to a range of industries.
2. For many years, Praxair, Inc. and its predecessors have manufactured, advertised, promoted, leased, and sold a variety of freezing and chilling apparatuses and related goods and services.

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Certificate of Mailing
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514 on July 19, 2004.
Sandra Sese

3. Praxair Technology, Inc., which owns the names and marks that Praxair, Inc., uses under license, is a holding company and wholly owned subsidiary of Praxair, Inc.

4. Praxair Technology, Inc., owns the mark CRYOSHIELD for use in a variety of formats including CRYOSHIELD, CRYO-SHIELD and CRYO SHIELD CO₂ ("CRYOSHIELD mark") in the United States in connection with the manufacture, advertisement, promotion, lease, and sale of the aforesaid freezing and chilling apparatuses.

5. Since well prior to the filing date of the application opposed herein, Praxair, Inc.'s predecessor and Praxair, Inc., under a license from Praxair Technology, Inc., have used the CRYOSHIELD mark in the United States in connection with the manufacture, advertisement, promotion, lease, and sale of the aforesaid freezing and chilling apparatuses.

6. Since well prior to the filing date of the application opposed herein, Praxair, Inc. also has provided security enclosures for use in connection with the aforesaid goods sold under the CRYOSHIELD mark.

7. Since well prior to the filing date of the application opposed herein, Praxair Technology, Inc.'s predecessor obtained a registration for the CRYOSHIELD mark in the form of CRYO SHIELD CO₂ and Design in the United States Patent and Trademark Office, at Registration Number 1,183,652, for "carbon dioxide food freezing units." This registration is owned by Praxair Technology, Inc., and is valid, subsisting, and incontestable pursuant to 15 U.S.C. §§ 1065 and 1115(b).

8. Praxair, Inc., and its predecessor have sold substantial quantities in the United States of its aforesaid goods in connection with which the CRYOSHIELD mark has been used.

9. Praxair, Inc. and its predecessor have expended substantial sums in promoting and advertising its aforesaid goods throughout the United States in connection with which the CRYOSHIELD mark has been used.

10. By virtue of Praxair, Inc.'s and its predecessor's aforesaid sales, advertising and promotion, the CRYOSHIELD mark has become well and favorably known and represents a most valuable goodwill owned by Praxair Technology, Inc.

11. Applicant's proposed use of the mark CRYO-SHIELD for "security enclosures for fill lines in cryogenic storage systems, for prevention of tampering," for which registration is sought in the application opposed herein, is likely to cause confusion, mistake or deception with Opposers or the goods advertised, promoted and sold under the CRYOSHIELD mark, or the mistaken belief that applicant or its aforesaid goods are in some way legitimately connected with, sponsored, licensed or approved by Opposers.

12. Upon information and belief, neither applicant nor any predecessor or related company of applicant has made use of the mark CRYO-SHIELD for "security enclosures for fill lines in cryogenic storage systems, for prevention of tampering" prior to June 11, 2002, the date applicant filed the application opposed herein.

13. Applicant's proposed use of the mark CRYO-SHIELD, for which registration is sought in the application opposed herein, is without Opposers' consent or permission.

WHEREFORE, registration by applicant of the aforesaid mark, CRYO-SHIELD, would be damaging to Opposers.

Opposers submit herewith the requisite filing fee in the amount of \$600. If any additional fees are required, please deduct them from deposit account number 16-0650.

Please address all correspondence to Jonathan S. Jennings, Esq., Pattishall, McAuliffe, Newbury, Hilliard & Geraldson, 311 South Wacker Drive, Suite 5000, Chicago, Illinois 60606, telephone: 312-554-8000.

Dated: July 18, 2004

Respectfully submitted,

**PATTISHALL, McAULIFFE, NEWBURY,
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July 19, 2004

Commissioner for Trademarks
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Arlington, Virginia 22202-3513

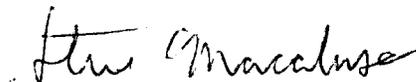
Re: Praxair, Inc. and Praxair Technology, Inc. v. MG Industries
Mark: CRYO-SHIELD
Serial No.: 78/134,836

Dear Sirs:

Enclosed are:

1. A Notice of Opposition against the above application to register and two copies;
2. A check for \$600.00 covering the filing fee; and
3. A self-addressed stamped post-card that we ask that you stamp with the serial number in this opposition proceeding and return to us.

Respectfully Submitted,



SPM/sms
Enclosure



07-22-2004

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