

ESTTA Tracking number: **ESTTA344301**

Filing date: **04/27/2010**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Ductmate Industries, Inc.		
Entity	Corporation	Citizenship	Pennsylvania
Address	210 Fifth Street Charleroi, PA 15022 UNITED STATES		

Attorney information	Michael L. Dever Buchanan Ingersoll & Rooney PC One Oxford Centre, 20th Floor 301 Grant Street Pittsburgh, PA 15219 UNITED STATES michael.dever@bipc.com, louanne.guerra@bipc.com, vicki.cremonese@bipc.com Phone:412-562-1637
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Applicant Information

Application No	77835455	Publication date	04/27/2010
Opposition Filing Date	04/27/2010	Opposition Period Ends	05/27/2010
Applicant	Gray Metal South, Inc. P.O. Box 1126 Dunn, NC 28335 UNITED STATES		

Goods/Services Affected by Opposition

Class 006. All goods and services in the class are opposed, namely: Ventilating ducts of metal

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	77914428	Application Date	01/19/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	EZ-SEAL		

Design Mark	EZ-SEAL
Description of Mark	NONE
Goods/Services	Class 017. First use: First Use: 2002/00/00 First Use In Commerce: 2002/00/00 adhesive sealant for ductwork

Attachments	77914428#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (4 pages)(24060 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Michael L Dever/
Name	Michael L. Dever
Date	04/27/2010

Ductmate is a manufacturer of an array of products for HVAC applications including, but not limited to, connectors, doors, sealants, adhesives, hangers and supports. It also offers expert technical advice on and solutions for HVAC issues.

3. Among the products manufactured and supplied by Opposer is an adhesive sealant for ductwork sold under the mark "EZ-SEAL". Opposer began using this mark in 2002 for its adhesive sealant.

4. Opposer's sealant is used to join metal ventilating ducts and to connect duct sections to one another and to connectors and duct fixtures. Opposer's sealant is likely to be used on many job sties in which Applicant's ventilating ducts of metal are being installed. Opposer's sealant is likely to be used to connect Applicant's ducts to one another and to other connectors and duct fixtures.

5. On January 19, 2010, Opposer filed with the United States Trademark Office a trademark application for the EZ-SEAL mark which bears Serial No. 77/914,428. That application was reviewed by the United States Trademark Office which issued a suspension letter on March 4,2010. The sole basis for that suspension letter was a possible likelihood of confusion with Application Serial No. 77/835,455, the subject application of this Notice of Opposition.

6. Opposer has expended great effort and substantial amounts of money and resources in advertising and promoting the EZ-SEAL mark.

7. By virtue of Opposer's aforesaid continuous, extensive and prolonged use, advertising, promotion and sales, its EZ-SEAL mark has acquired substantial and valuable goodwill throughout the United States, which goodwill is owned by Opposer.

8. By virtue of Opposer's aforesaid continuous, extensive and prolonged use, advertising, promotion and sales, the EZ-SEAL mark has become well-known.

9. As a result of the foregoing, products, including without limitation adhesive sealants for ductwork, provided by Opposer under the EZ-SEAL mark are well and favorably known to the trade and to the public in the several states of the United States and such goods are understood as originating with Opposer.

10. The "EZ SEAL" trademark sought to be registered by Applicant is substantially similar in appearance, sound and commercial impression to Opposer's EZ-SEAL mark.

11. Opposer's use of the EZ-SEAL mark in the United States predates Applicant's September 25, 2009 filing date of its intent to use application.

12. Based upon the foregoing, registration of Application Serial No. 77/835,455 on the Principal Register of the United States Patent and Trademark Office will cause injury and damage to Opposer.

WHEREFORE, Opposer requests that this Notice of Opposition be sustained and that Applicant be denied registration.

Ductmate Industries, Inc. hereby appoints Lynn J. Alstadt (Registration No. 29,362); Craig G. Cochenour (Registration No. 33,666); Michael L. Dever (Registration No. 32,216); Ralph G. Fischer (Registration No. 55,179); Bryan H. Opalko (Registration No. 40,751); Duane A. Stewart III (Registration No. 54,468); and Carla J. Vrsansky (Registration No. 36,958) of Buchanan Ingersoll & Rooney PC, its attorneys in the matter of the above-identified Opposition, to prosecute the Opposition, to transact all business with the United States Patent and Trademark Office and the United States courts connected with this Opposition and to sign its name to all

papers which may hereafter be filed in connection with the Opposition and to receive the official communications relating to the same.

BUCHANAN INGERSOLL & ROONEY PC

Dated: April 27, 2010

/Michael L Dever/
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