

ESTTA Tracking number: **ESTTA465404**

Filing date: **04/04/2012**

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	PYROK, INC.
Granted to Date of previous extension	04/04/2012
Address	3110 Moon Station Road Suite 120 Kennesaw, GA 30144 UNITED STATES

Correspondence information	Todd Deveau Thomas, Kayden, Horstemeyer, & Risley, LLP 400 Interstate North Parkway SE Suite 1500 Atlanta, GA 30339 UNITED STATES trademarks@tkhr.com, todd.deveau@tkhr.com, amy.kwon@tkhr.com
----------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

**Applicant Information**

Application No	79092488	Publication date	12/06/2011
Opposition Filing Date	04/04/2012	Opposition Period Ends	04/04/2012
International Registration No.	1037475	International Registration Date	04/16/2010
Applicant	C.G.I. International Limited International House Millfield Lane; Haydock Merseyside WA119GA, UNITED KINGDOM		

**Goods/Services Affected by Opposition**

Class 019. All goods and services in the class are opposed, namely: Glazing materials having fire resistant properties, namely, glass and reinforced glass for building
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is merely descriptive	Trademark Act section 2(e)(1)

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	2230574	Application Date	01/21/1998
Registration Date	03/09/1999	Foreign Priority Date	NONE

Word Mark	PYROK
Design Mark	
Description of Mark	NONE
Goods/Services	Class 019. First use: First Use: 1974/00/00 First Use In Commerce: 1981/00/00 vermiculite aggregate with a cement mix and vermiculite aggregate with a gypsum plaster mix

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	PYROK		
Goods/Services	vermiculite aggregate with a cement mix and vermiculite aggregate with a gypsum plaster mix; acoustical insulation for buildings, namely, spray applied cellulose fiber acoustical decorative surfacing material for acoustical insulating purposes, adhesives for acoustical panels, acoustical panels for buildings, and acoustical plasters, finish plasters, and base coat plasters for building interiors		

Attachments	01586520.PDF ( 3 pages )(148623 bytes ) 01586498.PDF ( 1 page )(61765 bytes )
-------------	----------------------------------------------------------------------------------

### 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	/Todd Deveau/
Name	Todd Deveau
Date	04/04/2012



January 21, 1998 and a Registration was granted on March 9, 1999 under Registration No. 2,230,574 for the Opposer's Mark, which registration is now incontestable.

4. Prior to December 21, 2010, in addition to the aforementioned goods, Opposer also has adopted and continuously used Opposer's Mark in connection with goods such as acoustical insulation for buildings, namely, spray applied cellulose fiber acoustical decorative surfacing material for acoustical insulating purposes, adhesives for acoustical panels, acoustical panels for buildings, and acoustical plasters, finish plasters, and base coat plasters for building interiors, and is still using Opposer's Mark in connection with said goods (said goods and Opposer's previously mentioned goods sometimes referred to herein collectively as "Opposer's Goods").

5. Applicant has applied to register the trademark "PYROGUARD" (hereinafter sometimes "Applicant's Mark") for use in connection with "glazing materials having fire resistant properties, namely glass and reinforced glass for building" (hereinafter sometimes "Applicant's Goods") in International Class 19.

6. Opposer's goods are made, sold and used as architectural acoustic products, including, for example, architectural acoustic plasters for use as decorative finish, sound absorption, deadening and diffusion, and fire proofing, in building wall and ceiling construction, and has been made, sold and used in the form of building panels such as ceiling panels, door panels, wall panels, roofing panels and floor panels for use in building construction.

7. Upon information and belief, Applicant's goods are made, sold and used as architectural building products for uses including insulation and acoustic control.

8. Upon information and belief, the goods of Opposer and the goods of Applicant, are related goods marketed, offered, and advertised under confusingly similar marks, and are marketed, offered, and advertised in the same or related channels of trade to the same or a related class of customers.

9. Upon information and belief, Applicant's Mark so resembles Opposer's Mark, which is used in the United States, as to be likely, when used on or in connection with Applicant's Goods, to cause confusion, or to cause mistake, or to deceive in violation of Section 2(d) of the Lanham Act, 15 U.S.C §1052(d).

10. Further, upon information and belief, Applicant's mark merely describes a nature, property and/or characteristic of Applicant's Goods in violation of Section 2(e)(1) of the Lanham Act 15 U.S.C. § 1052(e)(1) rendering Applicant's Mark unregistrable on the Principal Register.

11. By reason of all of the foregoing, Opposer believes he will be damaged by registration of the mark PYROGUARD by Applicant.

WHEREFORE, Opposer respectfully requests that this opposition be sustained, said Application Serial No, 79/092,488 for the mark "PYROGUARD" sought by Applicant be refused, and that no registration be issued thereon to Applicant.

The Office is authorized to charge the \$300.00 fee required under 37 C.F.R. §2.6(a)(17) to Deposit Account No. 20-0778.

/Todd Deveau/  
Todd Deveau  
Charles S. Murray, Jr.  
**THOMAS, KAYDEN, HORSTEMEYER**  
**& RISLEY, L.L.P.**  
400 Interstate North Parkway SE  
Suite 1500  
Atlanta, GA 30339  
Telephone: (770) 933-9500  
Facsimile: (770) 951-0933

Attorneys for Opposer Pyrok, Inc.

**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In Re Application of:	)	
	)	
C.G.I. International Limited	)	
	)	
Serial No.: 79/092,488	)	
	)	
Filed: December 21, 2010	)	
	)	
Mark: PYROGUARD	)	Published for Opposition December 6, 2011

Pyrok, Inc.

Opposer,

v.

Opposition No.: \_\_\_\_\_  
(To Be Assigned)

C.G.I. International Limited

Serial No.: 79/092,488

Applicant.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Notice of Opposition has been served by first class mail, postage prepaid, this 4th day of April, 2012 upon Applicant's counsel at the following address:

Nancy Dwyer Chapman  
LACKENBACH SIEGEL LLP  
One Chase Road  
Scarsdale, NY 10583

/Todd Deveau/  
Todd Deveau  
Charles S. Murray, Jr.  
Attorneys for Opposer

**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In Re Application of:	)	
	)	
C.G.I. International Limited	)	
	)	
Serial No.: 79/092,488	)	
	)	
Filed: December 21, 2010	)	
	)	
Mark: PYROGUARD	)	Published for Opposition December 6, 2011

Pyrok, Inc.

Opposer,

v.

Opposition No.: \_\_\_\_\_  
(To Be Assigned)

C.G.I. International Limited

Serial No.: 79/092,488

Applicant.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Notice of Opposition has been served by first class mail, postage prepaid, this 4th day of April, 2012 upon Applicant's counsel at the following address:

Nancy Dwyer Chapman  
LACKENBACH SIEGEL LLP  
One Chase Road  
Scarsdale, NY 10583

/Todd Deveau/  
Todd Deveau  
Charles S. Murray, Jr.  
Attorneys for Opposer