

ESTTA Tracking number: **ESTTA775971**

Filing date: **10/11/2016**

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	Royal Group, Inc.
Granted to Date of previous extension	10/12/2016
Address	1000 Abernathy Road NE, Suite 1200 Atlanta, GA 30328 UNITED STATES
Attorney information	Eric J. Hanson Hunton & Williams LLP 600 Peachtree Street, N.E. Atlanta, GA 30308-2216 UNITED STATES HWATTM@hunton.com Phone:(404) 888-4040

Applicant Information

Application No	86698258	Publication date	06/14/2016
Opposition Filing Date	10/11/2016	Opposition Period Ends	10/12/2016
Applicant	CPG International LLC 888 North Keyser Avenue Scranton, PA 18504 UNITED STATES		

Goods/Services Affected by Opposition

Class 019. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: non-metal exterior siding
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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.	87199329	Application Date	
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		

Goods/Services	
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Attachments	Royal Group v. CPG International - Notice of Opposition Filed 10.11.2016.pdf(3071795 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	/Eric J. Hanson/
Name	Eric J. Hanson
Date	10/11/2016

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

In the matter of Application Serial No. 86/698,258
Published in the *Official Gazette* on June 14, 2016
Mark: GRAVITY LOCK TECHNOLOGY

Royal Group, Inc.,)	
)	
Opposer,)	Opposition No. _____
)	
)	
v.)	
)	
CPG International LLC)	
)	
Applicant.)	
)	

NOTICE OF OPPOSITION

Royal Group, Inc., a corporation organized and existing under the laws of Canada, with an office at 1000 Abernathy Road NE, Suite 1200, Atlanta, GA 30328 (“Opposer”), believes it will be damaged by registration of the mark GRAVITY LOCK TECHNOLOGY as shown in Application Serial No. 86/698,258, and hereby opposes its registration pursuant to 15 U.S.C. §§ 1051 *et seq.*, including specifically 15 U.S.C. § 1063.

This Notice of Opposition has been timely filed following an extension of time to oppose granted by the Trademark Trial & Appeal Board (the “TTAB”) on July 5, 2016. As grounds for its opposition, Opposer alleges as follows:

1. Upon information and belief, applicant CPG International LLC, is a corporation organized under the laws of Delaware, and with a mailing address of 888 North Keyser Avenue, Scranton, Pennsylvania 18504 (“Applicant”).

2. As evidenced in Application Serial No. 86/698,258, Applicant seeks to register the mark GRAVITY LOCK TECHNOLOGY, in connection with “non-metal exterior siding” in International Class 019 (the “Applied-For Mark”).

Opposer’s Prior Rights

3. Opposer, including through its affiliates, has used and continues to use in commerce its distinctive mark GRAVITY LOCK (“Opposer’s Mark”) since at least as early as July 2011 to identify non-metal, cellular composite siding. Opposer has also filed Application Serial No. 87/199,329 for the GRAVITY LOCK mark to identify “non-metal exterior siding” in International Class 019.

4. A true and correct copy of the electronic filing receipt for Application Serial No. 87/199,329 for Opposer’s Mark from the United States Patent and Trademark Office’s (“USPTO”) Trademark Electronic Application System (TEAS) is attached hereto as Exhibit A.

5. True and correct copies of Opposer’s point-of-sale brochure used nationwide in United States interstate commerce since at least as early as July 2011, *see* page 4, and Opposer’s current national and international website at <http://celect.royalbuildingproducts.com/celect/why-celect/performance/> (*capture dated October 11, 2016*) that prominently display Opposer’s GRAVITY LOCK mark, are attached hereto as Exhibit B. Opposer’s GRAVITY LOCK mark identifies Opposer as the source of siding that includes unique seam technology originating only from Opposer.

6. Opposer’s Mark is valid and distinctive.

7. Opposer has expended and continues to expend substantial time, money and effort in advertising and promoting Opposer's Mark to identify itself as the source of its goods and related services, such as in point-of-sale materials, trade shows, distributor materials, online promotion, magazine and print advertising, and video demonstrations. As a result, consumers have come to recognize "GRAVITY LOCK" as symbolizing the goodwill inherent in Opposer's Mark, and further, associate GRAVITY LOCK solely with Opposer and its premium siding products.

8. No issue of priority exists with respect to first use of Opposer's Mark and the Applied-For Mark. Opposer has used, promoted and advertised its goods and services under Opposer's Mark in commerce for over 5 years, since at least as early as July 2011, while Applicant alleges only an intent to use the GRAVITY LOCK TECHNOLOGY mark in commerce. Thus, Opposer has priority over Applicant with respect to the Applied-For Mark.

**Likelihood Of Confusion Between Opposer's Senior Mark
And Applicant's Applied-For Mark**

9. The Applied-For Mark is confusingly similar to Opposer's Mark because they are similar in appearance, sound and commercial impression, pursuant to 15 U.S.C. § 1052(d). The similarities between the marks create a likelihood of consumer confusion. In fact, the marks are identical except for the term "TECHNOLOGY" in the Applied-For-Mark that Applicant has disclaimed as descriptive.

10. The goods and services identified in the application for the Applied-For Mark and by Opposer's Mark are identical, namely "non-metal exterior siding," further exacerbating the likelihood of confusion.

11. Given the goodwill and public recognition arising from the association of Opposer's Mark with Opposer, consumers are likely to believe that Opposer is associated with

Applicant, or that Opposer has licensed, approved, or otherwise authorized Applicant's use of the Applied-For Mark when it has not. Registration of the Applied-For Mark will cause a likelihood of confusion, mistake or deception with respect to the source or origin of Applicant's goods. Consumers will erroneously believe that Applicant's goods are produced by or otherwise associated with Opposer.

12. In fact, Applicant admitted that the Applied-For Mark creates a likelihood of confusion with Opposer's Mark in correspondence to Opposer dated October 19, 2015, in which Applicant threatened infringement claims against Opposer based explicitly on 15 U.S.C. § 1125(a). Such correspondence together with Opposer's response and counter demand based on Opposer's senior rights in "GRAVITY LOCK" are attached as Exhibit C.

13. For the reasons set forth above, Opposer would be damaged by registration of the Applied-For Mark, including at least by creating an obstacle to registration of Opposer's Mark, confusing relevant consumers as to the source of siding that does not originate from Opposer and presenting a threat of Applicant asserting potential claims against Opposer's continued use of Opposer's Mark in spite of Opposer's senior rights.

14. For the reasons set forth above, registration of the Applied-For Mark would be improper and unauthorized in view of the requirements of the Trademark Act of 1946, as amended, including specifically but not limited to, the provisions of 15 U.S.C. §§ 1051, et seq.

WHEREFORE, Opposer prays that this Opposition be sustained, and that registration to Applicant for the mark GRAVITY LOCK TECHNOLOGY as shown in Application Serial No. 86/698,258 for the goods identified in International Class 019 be denied.

Opposer submits this Notice of Opposition via the e-filing procedure of the Trademark Trial and Appeal Board ("the Board"), and hereby advises the Board that it may debit the

Deposit Account No. 083436 of Hunton & Williams LLP for the appropriate filing fee.

Dated: October 11, 2016

Respectfully submitted,

By: /s/ Eric J. Hanson

Eric J. Hanson
Joshua M. Kalb
Hunton & Williams LLP
600 Peachtree Street N.E.
Bank of America Plaza, Suite 4100
Atlanta, GA 30308
Telephone (404) 888-4000

*Attorneys for Opposer,
Royal Group, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing NOTICE OF OPPOSITION and exhibits thereto have been properly served upon the correspondent of record, via U.S. first class mail, postage prepaid, on this 11th day of October, 2016.

Lynn J. Alstadt
Buchanan Ingersoll & Rooney PC
20th Floor
301 Grant Street
Pittsburgh, Pennsylvania 15219-1410

/s/ Eric J. Hanson
Eric J. Hanson

EXHIBIT A

Trademark Electronic Application System (TEAS) filing receipt

1. **YOUR MARK:** GRAVITY LOCK (Standard Characters, mark.jpg)
The literal element of the mark consists of GRAVITY LOCK.
The mark consists of standard characters, without claim to any particular font, style, size, or color.
2. **YOUR SERIAL NUMBER:** We have received your U.S. Trademark Application and assigned serial number '87199329' to your submission. A summary of your application data is provided at the bottom of this message and serves as your official filing receipt. Please keep a copy of this information for your records. All correspondence concerning the application should reference your assigned serial number.

Please read all of the important information below. Not every mark is registrable with the USPTO and we do not refund the application filing fee(s) if a registration does not ultimately issue.

3. **RECEIVING E-MAIL COMMUNICATIONS/FILING DOCUMENTS ON-LINE:** Because you have authorized receipt of correspondence by e-mail, please make sure that your server will accept USPTO e-mail and not treat it as SPAM. If you must submit correspondence to us, please use the Trademark Electronic Application System (TEAS) forms, available at <http://www.uspto.gov/trademarks/teas/index.jsp>. Applicants who filed their application online using the lower-fee TEAS RF application form must (1) continue to submit certain documents online using TEAS, including responses to Office actions (see http://www.uspto.gov/trademarks/teas/required_tegas_filings.jsp for a complete list of these documents); (2) accept correspondence from the USPTO via e-mail throughout the examination process; and (3) maintain a valid e-mail address. TEAS RF applicants who do not meet these three requirements must submit an additional processing fee of \$50 per international class of goods/services. However, in certain situations, authorizing an examiner's amendment by telephone will not incur this additional fee.
4. **KEEP YOUR ADDRESS CURRENT IN USPTO RECORDS:** We do not extend filing deadlines due to a failure to receive USPTO mailings/e-mailings. You must update the correspondence and/or owner's address if a postal address and/or e-mail address changes, using the form(s) available at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.
5. **WARNING ABOUT UNSOLICITED COMMUNICATIONS:** You may receive trademark-related communications from private companies not associated with the USPTO. These communications frequently display customer-specific information, including your USPTO serial number or registration number and owner name, and request fees for trademark-related services, such as monitoring, listings in international publications, and document filing. None of the companies offering these services are affiliated with the USPTO or any other federal agency. All official correspondence will be from the "United States Patent and Trademark Office" in Alexandria, VA, and if by e-mail, specifically from the domain "@uspto.gov." Please consult the

"Warning" page on the Trademarks section of the USPTO's website for further information about unsolicited communications and to view representative examples of them. For general information on filing and maintenance requirements for trademark applications and registrations, including fees required by law, please consult www.uspto.gov, contact the TrademarkAssistanceCenter@uspto.gov or telephone 1-800-786-9199.

6. **LEGAL EXAMINATION PROCESS:** Your application is now pending examination. In approximately 3 months, your application will be assigned to a USPTO examining attorney for review. The application cannot mature into a registration unless all legal requirements are met, and many applications never satisfy these requirements and therefore never register. The overall process can take up to 18 months.
7. **CHECK STATUS AND REVIEW DOCUMENTS OR YOUR APPLICATION MAY BE UNINTENTIONALLY ABANDONED:** You **must** check the status and review all documents associated with your application at least every 3-4 months using Trademark Status and Document Retrieval (TSDR), available at <http://tsdr.uspto.gov/>.

Promptly e-mail the TrademarkAssistanceCenter@uspto.gov or telephone 1-800-786-9199 (select option #1) if an Office action (letter from the USPTO) or notice has issued for your application that you did not receive or do not understand. Failure to respond timely to any Office action or notice may result in the abandonment of your application, requiring you to pay an additional fee to have your application revived even if you did not receive the Office action or notice.

8. **FILING ERRORS:** If you discover an error in the application data, you must file a Voluntary Amendment at <http://www.uspto.gov/trademarks/teas/miscellaneous.jsp>. Do **not** submit any proposed amendment to TEAS@uspto.gov, because the TEAS technical support team may not make any data changes. Please wait approximately 7 days after the filing date of your application to submit a Voluntary Amendment in order to allow for initial upload of your application data into the USPTO database. The assigned examining attorney will determine the acceptability of any Voluntary Amendment during examination. Not all errors may be corrected. For example, if you submitted the wrong mark or if the proposed correction would be considered a material alteration to your original filing, it will not be accepted. In this situation, your only recourse would be to file a new application, with a new fee and no refund of your original filing fee.
9. **REQUEST FOR REFUND AND/OR CANCELLATION:** Since your application has already been assigned a serial number, please do not contact TEAS@uspto.gov to request a refund or to cancel the filing. We will only cancel the filing and refund the filing fee if the application does not meet minimum filing requirements. The fee is a processing fee that the USPTO does not refund, even if your mark does not proceed to registration.

In the limited situation where you inadvertently filed identical applications, one immediately after the other, because no confirmation of the first filing was received, please provide both serial numbers to the technical support team at TEAS@uspto.gov.

10. **SelectUSA:** The United States represents the largest, most dynamic marketplace in the world and is an unparalleled location for business investment, innovation, and commercialization of new technologies. The U.S. offers tremendous resources and advantages for those who invest and manufacture goods here. Through SelectUSA, our nation works to promote and facilitate business investment. SelectUSA provides information assistance to the international investor

community; serves as an ombudsman for existing and potential investors; advocates on behalf of U.S. cities, states, and regions competing for global investment; and counsels U.S. economic development organizations on investment attraction best practices. To learn more about why the United States is the best country in the world to develop technology, manufacture products, deliver services, and grow your business, visit SelectUSA.gov or call +1-202-482-6800.

SUMMARY OF APPLICATION DATA FOLLOWS:

APPLICATION DATA: You have filed a **Trademark/Service Mark Application** for registration on the **Principal Register** using a **TEAS RF** application form.

The applicant, Royal Group, Inc., a corporation of Canada, having an address of
30 Royal Group Crescent
Woodbridge, Ontario L4H1X9
Canada

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 019: Non-metal exterior siding

In International Class 019, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 07/00/2011, and first used in commerce at least as early as 07/00/2011, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) point of sale display.

Specimen-1 [SPE0-1481702412-20161011084510824437_-_GRAVITY_LOCK_specimen.pdf]

The applicant's current Attorney Information:

Eric J. Hanson and Stephen P. Demm, Matthew Nigriny, Joshua M. Kalb, John Gary Maynard, III, and Douglas W. Kenyon of Hunton & Williams LLP

Bank of America Plaza, Suite 4100

600 Peachtree Street, N.E.

Atlanta, Georgia 30308-2216

United States

(404) 888-4040(phone)

(404) 602-8850(fax)

HWATTM@hunton.com (authorized)

The applicant's current Correspondence Information:

Eric J. Hanson

Hunton & Williams LLP

Bank of America Plaza, Suite 4100

600 Peachtree Street, N.E.

Atlanta, Georgia 30308-2216

(404) 888-4040(phone)

(404) 602-8850(fax)

HWATTM@hunton.com (authorized)

E-mail Authorization: I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration Signature

The attached signature image file:

hw_1481702412-130458451_._GRAVITY_LOCK_Executed.pdf

Signatory's Name: Bradley Reynolds

Signatory's Position: VP, General Counsel

Thank you,

The TEAS support team

Tue Oct 11 13:16:00 EDT 2016

STAMP: USPTO/BAS-148.170.241.2-20161011131600297117-87199329-

57097a29b935bc3ba2d4384d8d6cd1f39166f3e40591b158e8b97b345109d9ee9-DA-19344-

20161011130458451050

EXHIBIT B



CELECT

CELLULAR EXTERIORS BY ROYAL

One small change
in technology.

One huge difference
in your home.

Style meets substance.

Every generation or so, there comes along a new preference in home exteriors.

Once, it was wood. Everyone loved the natural look of wood and wood fiber composites. At least, they loved it until they had to paint or stain it. Or until that greenish film of mildew and mold showed up. Or until it dried and cracked and deteriorated under nature's relentless assault.

Then along came cement. Voila! As long as you weren't the one installing it. Or, the one repainting it every five to seven years. Or the one worrying about moisture getting into the frayed, cracked caulk at all those seams.

CELLULAR EXTERIORS

Not long ago, some clever people at Royal developed a way to make a recyclable, dimensionally stable cellular siding that could faithfully render the deep grain appearance of wood. But, it also had the solid heft and confident feel of wood when installed against the side of a home.

It had everything people wanted from wood. And none of the things they didn't. Style and substance had finally hooked up. You were the winner.

And that was just the beginning.

NOW THINGS
WILL NEVER LOOK
THE SAME.



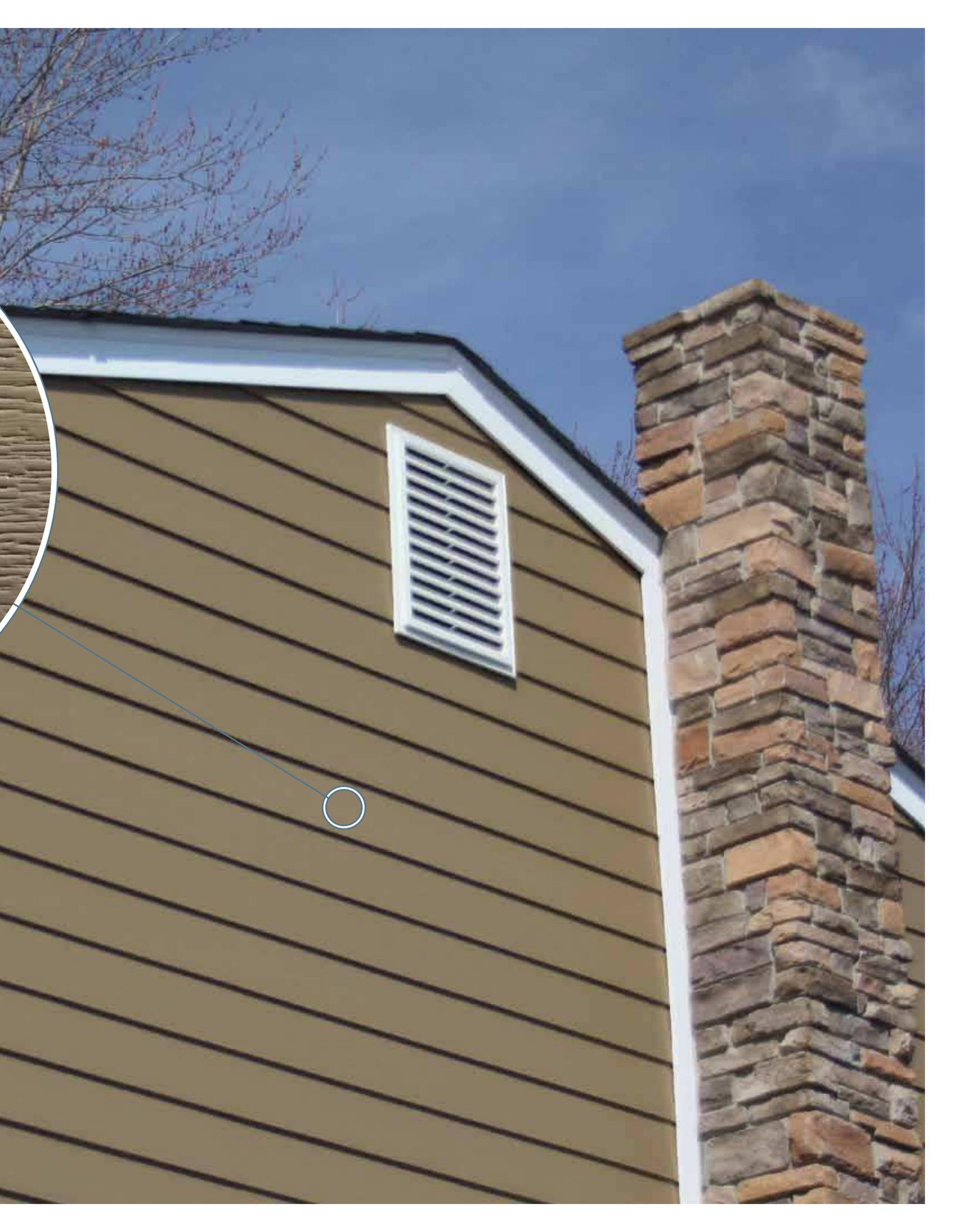
7" Cedar profile gives a realistic deep grain texture with natural shadow line.

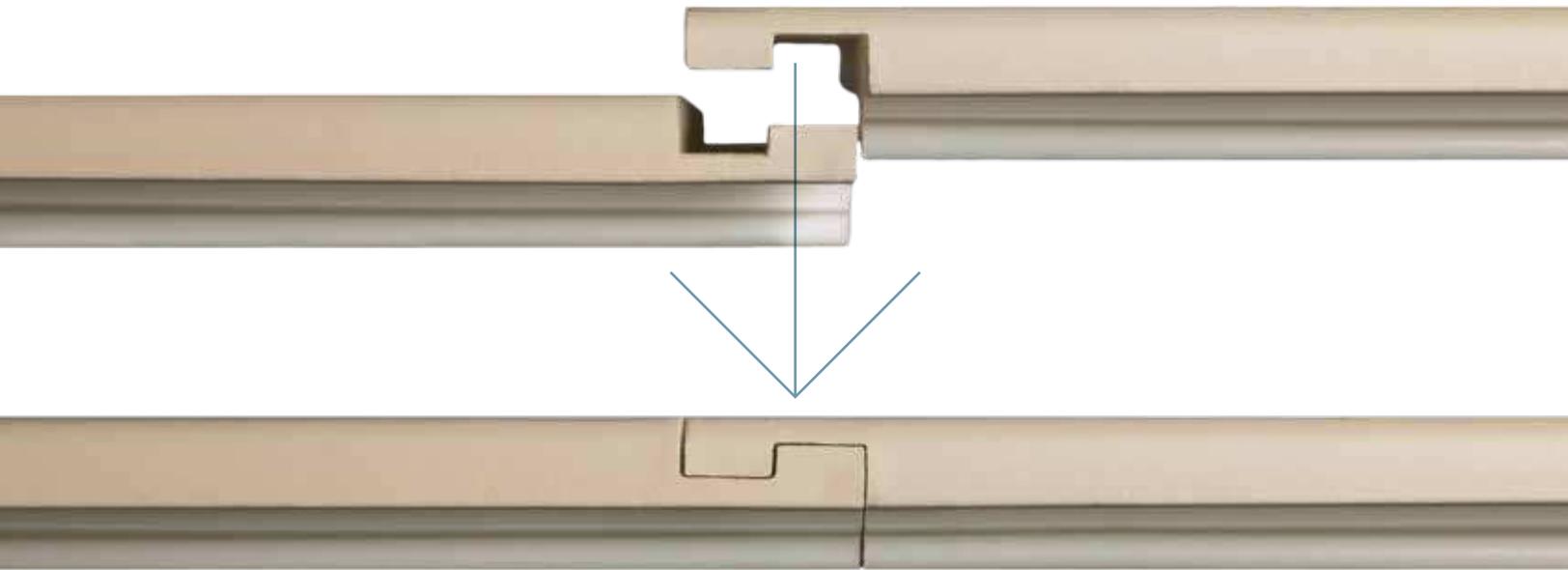
CELECT FACTS: Finish Faster

No special tools required

Light & easy to install

Return to normal faster





Making siding beautiful is our mission.

BUT THE SEAM IS WHAT MAKES IT CELECT.

The issue with exterior siding has always been the seams.

It's not just that they look like, well, seams. It's that the seams become the site of so many other issues. Seams need caulking. Seams expand and contract and pull apart. Seams buckle and split over time. Worst of all, seams let in the moisture that breaks down the siding. Wood, fiber cement, hardboard - makes no difference. They're all permeable by moisture. Once it gets in, let the disintegration begin!

Unless, of course, the siding is Celect.

CELECT FACT:
Gravity Lock
Provides wind resistance
to over 130 mph.

Seams have to breathe a little.

SINCE CELECT ISN'T AFFECTED BY MOISTURE, THEY CAN.

That bears repeating. Moisture, the bane of most other siding products in use today, has no effect on Celect.

But greatness is in the details, always. And what makes Celect Cellular Exteriors a great siding solution is that, instead of butting together, it snaps together with a patent pending interlocking joint system. The seam doesn't get soggy and doesn't break down. There's nothing to caulk, nothing to fail.

Then, Celect goes one step further. The unique gravity-lock design keeps courses locked in tight to each other — sealing out moisture and maintaining structural integrity even under the harshest weather conditions.

Our dual interlock system gives Celect the kind of natural, continuous curb appeal you have been searching for while delivering the kind of long-term, low maintenance terrific appearance that has eluded home exteriors.

Until now.



However you define beauty

CELECT HAS
YOU COVERED.

Suppose you're one of those people who sees beauty in spending moments with your family and friends. As opposed to spending hours on weekends doing repeat home maintenance chores. Here are some ways Celect improves your standard of living.

Celect Cellular Exteriors are finished with a factory-applied Kynar Aquatec® coating originally engineered for tough commercial environments. This coating offers outstanding mildew protection and impact-resistance as well as extreme weatherability. And it shrugs off rain, dust, heat, wind and even pollution.

The finish — a tough formulation derived from a product used to finish roofing — saves you time, money, worry and sanity.

You may want to clean it occasionally. But maybe beauty is the color of money. Consider this. Celect Cellular Exteriors R-value ensures twice the thermal performance of other technologies. Doesn't matter if it goes down to -20°F in the winter, or up to 95°F in the summer: Celect is passively saving you money. Think of it as paying for itself. (We call that lifecycle savings.)

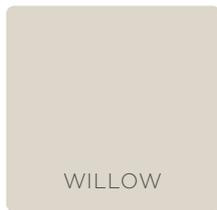
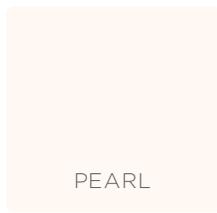
Perhaps it's another green that means beauty to you. Celect reflects Royal's commitment to sustainable development. In other words, it's fully recyclable and manufactured by a company pioneering cradle-to-cradle product lifecycle management.

CELECT FACT: Superior Durability

A factory-applied Kynar Aquatec® coating provides outstanding UV fade resistance and cleans up with nothing more than a garden hose.

Colors, Trim, Warranty.

CELECT HAS IT ALL.



Celect Cellular Siding is made using a process that allows darker, richer colors without fear of fading. But more importantly, our colors were developed with inspiration from classic neighborhoods to arrive at a palette that provides substantial latitude of choice — with the confidence that your taste will be applauded.

Celect Cellular Exteriors also comes with a full complement of trim options that faithfully reproduce the appearance of conventional lumber. Similarly, these employ a factory-finished resin which requires no painting on site and is available in both matching and complementary colors.

Celect comes with a lifetime warranty and 15-year finish warranty that is among the best in the home exteriors business.





The Royal Record

Founded in Woodbridge, Ontario in 1970, Royal Group, Inc. is one of North America's largest manufacturers of vinyl building products and distributor of a wide range of high quality, low maintenance building materials for both remodeling and new construction markets.

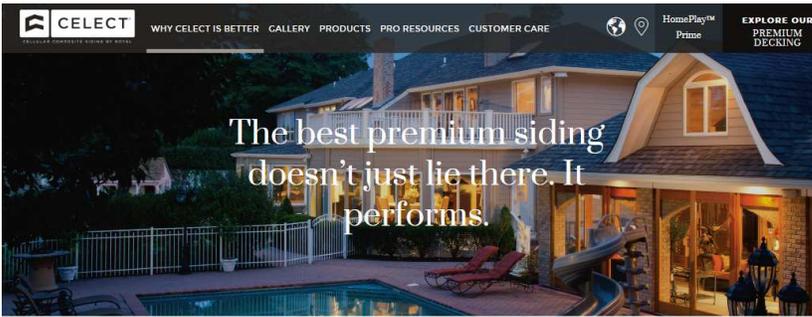
Today Royal Group has 17 facilities and over 3,000 employees across North America.

For more information on our company
or any of our product lines,
visit royalbuildingproducts.com



91 Royal Group Crescent, Woodbridge, Ontario, Canada L4H 1X9
1-800-387-2789
royalbuildingproducts.com

Kynar Aquatec® is a registered trademark of Arkema Inc.



PERFORMANCE

The technology of our premium siding is as beautiful as its envy-inducing curb appeal.

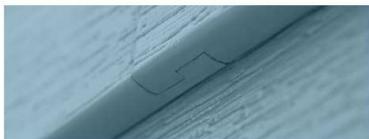
Everything you imagine and work for goes into your home. So you have every reason to expect the premium siding you invest in to perform for you decade after decade.

If you're going to build premium siding with looks as amazing as we have, you better create ways to maintain and protect those looks. So that's exactly how we engineered Celect® Cellular Composite Siding by Royal®.

Patented interlocking joint system

It's what makes seams virtually disappear and our premium siding so easy on the eyes. Plus it's simpler to install than fiber cement. The effect is aesthetically stunning and moisture repelling.

- Keeps boards straight and true through the home's natural expansion and contraction
- Eliminates caulked seams and energy loss
- No gaps, buckling or wavy lines



Gravity lock design

This ensures our premium siding exhibits no warping, buckling or shifting. The siding just sits there looking always magnificent and forever young.

- Unique gravity lock design keeps courses locked tight
- Maintains structural integrity
- Wind resistance to over 130 mph

Kynar Aquatec® coating

You can thank our celebrated coating for a rich, deep palette of colors that are here to stay. It provides superior UV resistance and reflects energy back into the atmosphere—making heating and air conditioning less energy demanding.

- Withstands all weather conditions and climates
- 25-year warranty on the finish
- Kynar Aquatec coating and cool-core technology reflect heat in the summer and contain it in the winter. All of our

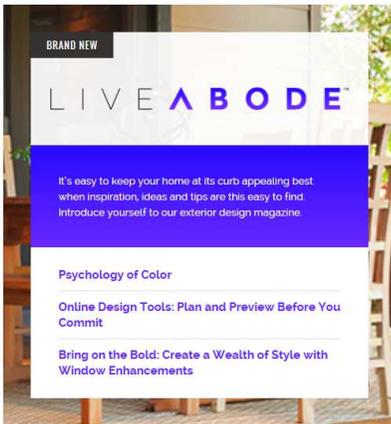


FIND A CELECT DEALER >

QUESTIONS? CONTACT US >



trim, mouldings and mounts can be had in the 18 Kynar Aquatec-coated colors of Celect and are available for complementary mixing and matching



CELLULAR PVC VS FIBER CEMENT
See how Celect compares to leading fiber cement. [Read More](#)

CELLULAR PVC VS WOOD
See how Celect compares to leading wood. [Read More](#)

CUSTOMER CARE
[Warranty Info](#)
[Download the Brochure](#)
[Download Celect Caresheet](#)

[FIND A CELECT DEALER NEAR YOU! >](#)

Royal Building Products is committed to the craft and joy of building. Our customers—both building pros and homeowners—are downright fearless when it comes to achieving home exteriors that make the heart skip a beat. Crazy coincidence: So are we.

STAY CONNECTED

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LIVE A BODE MAGAZINE

Best of houzz 2016 DESIGN

houzz INFLUENCER

houzz 1K SAVES

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EXHIBIT C

Lynn J. Alstadt
412 562 1632
lynn.alstadt@bipc.com

One Oxford Centre
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Pittsburgh, PA 15219-1410
T 412 562 8800
F 412 562 1041
www.buchananingersoll.com

October 19, 2015

By UPS Overnight Delivery

Jesse Hawthorne, Vice President and General Manager
Royal Building Products
30 Royal Group Crescent
Woodbridge, ON L4H 1X9
Canada

Re: GRAVITY LOCK

Mr. Hawthorne:

We represent CPG Building Products LLC. As you probably know, our client makes and sells siding as well as other building products. Our client is the owner of pending U.S. Trademark Application Serial No. 86698258 for GRAVITY LOCK TECHNOLOGY for non-metal exterior siding and is using GRAVITY LOCK TECHNOLOGY for its siding. Information about this application from the United States Patent and Trademark Office website is enclosed.

It has come to our attention that on your website at <http://royalbuildingsolutions.com/en/products/celect/> and possibly elsewhere you are identifying your siding products as “Gravity lock design”. This use of GRAVITY LOCK is likely to cause confusion in that customers or potential customers will believe that your siding having “Gravity lock design” is the same siding as our client sells and offers to sell under the trademark GRAVITY LOCK TECHNOLOGY. Therefore, such use constitutes infringement of our client's GRAVITY LOCK TECHNOLOGY trademark, violates Section 43(a) of the Lanham Act and constitutes unfair competition.

October 19, 2015

Page 2

We therefore demand that you immediately cease and desist from the use of "Gravity lock design" in connection with your products. Please provide your written assurance by November 1, 2015 that you have discontinued the use of "Gravity lock design" and that you will not use GRAVITY LOCK in connection with your siding or other building products. If we have not heard from you by that time, we will take such further action as we consider appropriate to protect our client's trademark rights.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lynn J. Alstadt". The signature is written in a cursive style with a large initial "L".

Lynn J. Alstadt

Enclosure



United States Patent and Trademark Office

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GRAVITY LOCK TECHNOLOGY

Word Mark GRAVITY LOCK TECHNOLOGY
Goods and Services IC 019. US 001 012 033 050. G & S: non-metal exterior siding
Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Serial Number 86698258
Filing Date July 20, 2015
Current Basis 1B
Original Filing Basis 1B
Owner (APPLICANT) CPG International LLC LIMITED LIABILITY COMPANY DELAWARE 888 North Keyser Avenue Scranton PENNSYLVANIA 18504
Attorney of Record Lynn J. Alstadt
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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October 27, 2015

FILE NO: 64480.001000 57912923V1]

Via Federal Express

Mr. Lynn J. Alstadt
Buchanan Ingersoll & Rooney
One Oxford Centre
301 Grant Street, 20th Floor
Pittsburgh, PA 15219-1410

Re: GRAVITY LOCK

Dear Mr. Alstadt:

Our firm is counsel to Royal Group, Inc., including Royal Building Products, in intellectual property matters. We have reviewed your correspondence dated October 19, 2015 on behalf of CPG Building Products LLC (“CPG”), and, in view of our client’s senior rights in the GRAVITY LOCK mark, demand CPG’s immediate written assurance that it will cease and desist from any and all use of GRAVITY LOCK and GRAVITY LOCK TECHNOLOGY.

Your client only recently filed an intent-to-use application on July 20, 2015; however, Royal Group has been using the GRAVITY LOCK mark in interstate commerce throughout the United States and Canada in connection with its SELECT products for many years. We include a copy of one of our client’s advertising brochures that was readily available online since at least as early as February 2012. Page 3 of the brochure confirms prominent use of the GRAVITY LOCK mark to identify our client’s products.

As your client filed an intent-to-use application years after our client’s first use of GRAVITY LOCK, our client’s priority in the mark pre-dates that of CPG. Since your client admits that its use of GRAVITY LOCK is likely to create confusion, we demand your client’s immediate written assurance that it will cease and desist from further misuse of GRAVITY LOCK, including expressly abandoning the pending intent-to-use application for GRAVITY LOCK TECHNOLOGY.



Mr. Lynn J. Alstadt
October 27, 2015
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Our client wishes to resolve this matter amicably, however, in order to do so, it must have your client's written assurance within ten (10) days of the date of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric J. Hanson".

Eric J. Hanson

EJH/jk
Enclosure
cc: Mr. Bradley Reynolds



CELECT

CELLULAR EXTERIORS BY ROYAL

One small change
in technology.

One huge difference
in your home.

Style meets substance.

Every generation or so, there comes along a new preference in home exteriors.

Once, it was wood. Everyone loved the natural look of wood and wood fiber composites. At least, they loved it until they had to paint or stain it. Or until that greenish film of mildew and mold showed up. Or until it dried and cracked and deteriorated under nature's relentless assault.

Then along came cement. Voila! As long as you weren't the one installing it. Or, the one repainting it every five to seven years. Or the one worrying about moisture getting into the frayed, cracked caulk at all those seams.

CELLULAR EXTERIORS

Not long ago, some clever people at Royal developed a way to make a recyclable, dimensionally stable cellular siding that could faithfully render the deep grain appearance of wood. But, it also had the solid heft and confident feel of wood when installed against the side of a home.

It had everything people wanted from wood. And none of the things they didn't. Style and substance had finally hooked up. You were the winner.

And that was just the beginning.

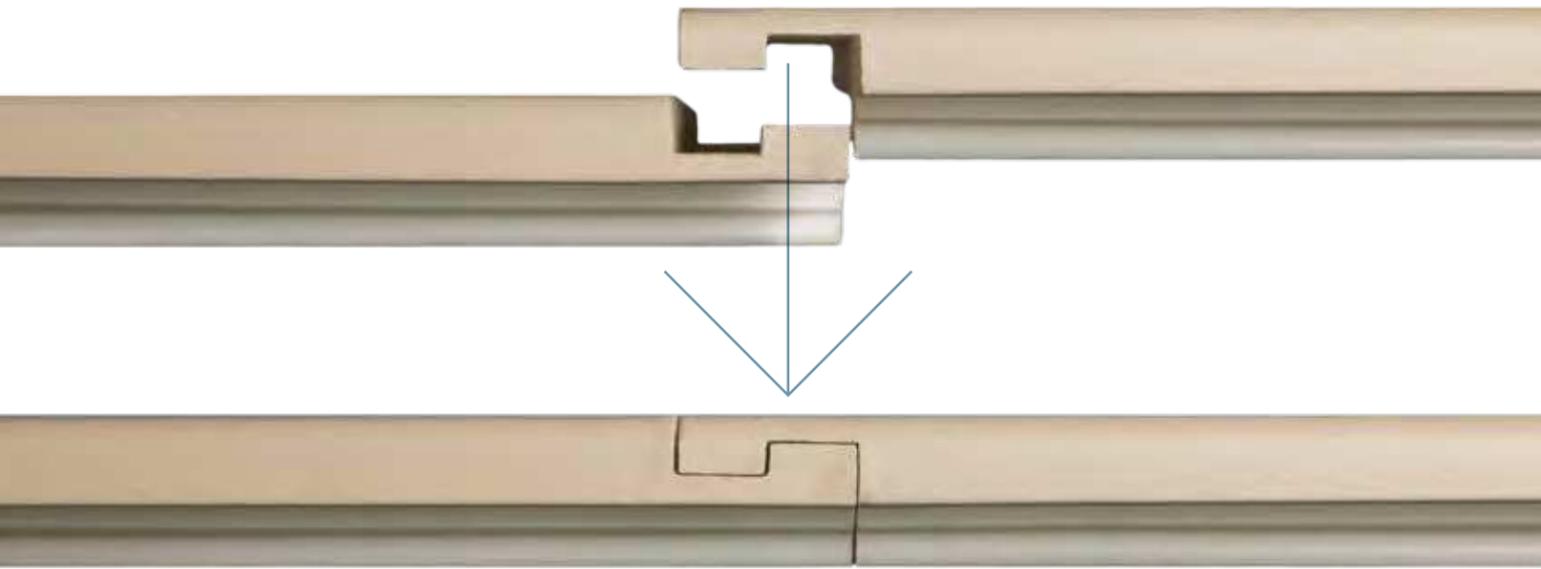
NOW THINGS
WILL NEVER LOOK
THE SAME.



7" Cedar profile gives a realistic deep grain texture with natural shadow line.

CELECT FACTS:
Finish Faster
No special tools required
Light & easy to install
Return to normal faster





Making siding beautiful is our mission.

BUT THE SEAM IS WHAT MAKES IT CELECT.

The issue with exterior siding has always been the seams.

It's not just that they look like, well, seams. It's that the seams become the site of so many other issues. Seams need caulking. Seams expand and contract and pull apart. Seams buckle and split over time. Worst of all, seams let in the moisture that breaks down the siding. Wood, fiber cement, hardboard - makes no difference. They're all permeable by moisture. Once it gets in, let the disintegration begin!

Unless, of course, the siding is Celect.

CELECT FACT:
Gravity Lock
Provides wind resistance
to over 130 mph.

Seams have to breathe a little.

SINCE CELECT ISN'T AFFECTED BY MOISTURE, THEY CAN.

That bears repeating. Moisture, the bane of most other siding products in use today, has no effect on Celect.

But greatness is in the details, always. And what makes Celect Cellular Exteriors a great siding solution is that, instead of butting together, it snaps together with a patent pending interlocking joint system. The seam doesn't get soggy and doesn't break down. There's nothing to caulk, nothing to fail.

Then, Celect goes one step further. The unique gravity-lock design keeps courses locked in tight to each other — sealing out moisture and maintaining structural integrity even under the harshest weather conditions.

Our dual interlock system gives Celect the kind of natural, continuous curb appeal you have been searching for while delivering the kind of long-term, low maintenance terrific appearance that has eluded home exteriors.

Until now.



However you define beauty

CELECT HAS YOU COVERED.

Suppose you're one of those people who sees beauty in spending moments with your family and friends. As opposed to spending hours on weekends doing repeat home maintenance chores. Here are some ways Celect improves your standard of living.

Celect Cellular Exteriors are finished with a factory-applied Kynar Aquatec® coating originally engineered for tough commercial environments. This coating offers outstanding mildew protection and impact-resistance as well as extreme weatherability. And it shrugs off rain, dust, heat, wind and even pollution.

The finish — a tough formulation derived from a product used to finish roofing — saves you time, money, worry and sanity.

You may want to clean it occasionally. But maybe beauty is the color of money. Consider this. Celect Cellular Exteriors R-value ensures twice the thermal performance of other technologies. Doesn't matter if it goes down to -20°F in the winter, or up to 95°F in the summer: Celect is passively saving you money. Think of it as paying for itself. (We call that lifecycle savings.)

Perhaps it's another green that means beauty to you. Celect reflects Royal's commitment to sustainable development. In other words, it's fully recyclable and manufactured by a company pioneering cradle-to-cradle product lifecycle management.

CELECT FACT: Superior Durability

A factory-applied Kynar Aquatec® coating provides outstanding UV fade resistance and cleans up with nothing more than a garden hose.

Colors, Trim, Warranty.

CELECT HAS IT ALL.

Celect Cellular Siding is made using a process that allows darker, richer colors without fear of fading. But more importantly, our colors were developed with inspiration from classic neighborhoods to arrive at a palette that provides substantial latitude of choice — with the confidence that your taste will be applauded.

Celect Cellular Exteriors also comes with a full complement of trim options that faithfully reproduce the appearance of conventional lumber. Similarly, these employ a factory-finished resin which requires no painting on site and is available in both matching and complementary colors.

Celect comes with a lifetime warranty and 15-year finish warranty that is among the best in the home exteriors business.





The Royal Record

Founded in Woodbridge, Ontario in 1970, Royal Group, Inc. is one of North America's largest manufacturers of vinyl building products and distributor of a wide range of high quality, low maintenance building materials for both remodeling and new construction markets.

Today Royal Group has 17 facilities and over 3,000 employees across North America.

For more information on our company
or any of our product lines,
visit royalbuildingproducts.com



91 Royal Group Crescent, Woodbridge, Ontario, Canada L4H 1X9
1-800-387-2789
royalbuildingproducts.com

Kynar Aquatec® is a registered trademark of Arkema Inc.



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December 9, 2015

FILE NO: 64480.004344

Via Federal Express and Email: lynn.alstadt@bipc.com

Mr. Lynn J. Alstadt
Buchanan Ingersoll & Rooney
One Oxford Centre
301 Grant Street, 20th Floor
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Re: GRAVITY LOCK

Dear Mr. Alstadt:

As you know, our firm is counsel to Royal Group, Inc., including Royal Building Products. We have received no response on behalf of CPG Building Products LLC (“CPG”) to our client’s demand dated October 27, 2015, that CPG immediately cease and desist from any and all use of GRAVITY LOCK and GRAVITY LOCK TECHNOLOGY.

CPG expressly admitted in its letter dated October 19, 2015, that its use of GRAVITY LOCK TECHNOLOGY constitutes infringement of our client’s senior rights in the GRAVITY LOCK mark. Our client attempted to resolve this matter amicably, but you and your client ignored the opportunity to do so. CPG continues to use the “GRAVITY LOCK TECHNOLOGY” in connection with admittedly identical products to those identified by our client’s GRAVITY LOCK mark, and an example of such infringement appears online at <http://www.azek.com/siding/> (copy included).

Consequently, CPG’s conduct constitutes trademark infringement and unfair competition and is actionable under §43 of the Lanham Act, 15 U.S.C. § 1125. Under the Lanham Act, when the trademark owner establishes that one has infringed a trademark, the trademark owner is entitled to recover (1) the infringer’s profits, (2) any damages sustained by the trademark owner, and (3) the costs of the action. See 15 U.S.C. § 1117(a). In assessing profits, the trademark owner is required to prove the infringer’s sales only; the infringer must prove all elements of cost or deduction claimed. See *id.* In addition, “[i]n assessing damages, the court may enter judgment according to the circumstances of the case, for any sum above the amount found as actual damages, not exceeding three times such amount.” *Id.* The court may also award reasonable attorney fees to the prevailing party. See *id.* The Lanham Act also

Mr. Lynn J. Alstadt
December 9, 2015
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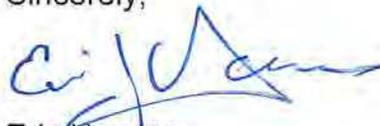
provides that the court has the power to grant injunctive relief to prevent trademark infringement or unfair competition. See 15 U.S.C. § 1116. Therefore, not only is injunctive relief enjoining CPG'S infringement and unfair competition available, but also to damages, lost profits, treble damages, and attorneys' fees.

Royal Group considers CPG's continued intentional infringement of Royal Group's trademark rights to be a serious matter and will take necessary steps to protect its rights. Accordingly, Royal Group demands that CPG immediately:

- 1) cease and desist from the unauthorized use of the GRAVITY LOCK TECHNOLOGY and GRAVITY LOCK marks (including uses by distributors or retailers) or any other of Royal Group's trademarks to identify products or services that are not sourced by Royal Group (including any electronic or hard copy uses);
- 2) expressly abandon pending U.S. Trademark Application Serial No. 86/698,258 for GRAVITY LOCK TECHNOLOGY;
- 3) destroy or relabel all products and/or product labeling and any promotional materials including the GRAVITY LOCK and GRAVITY LOCK TECHNOLOGY trademarks, including confirmation that all CPG products and/or product labeling and any promotional materials including GRAVITY LOCK in distributors' and retailers' possession have been destroyed or relabeled; and
- 4) provide an itemized sales report for any and all CPG and CPG-licensed products that have been sold under the GRAVITY LOCK and GRAVITY LOCK TECHNOLOGY trademarks since CPG began use of such marks.

To avoid further action in this matter, we demand written assurance that CPG has complied with this demand **within ten (10) calendar days of the date of this letter**. In the absence of such written assurance, we will advise Royal Group to take action for damages, injunctive relief, willful infringement and attorneys' fees.

Sincerely,



Eric Hanson

EH/jk
Attachments

Lynn J. Alstadt
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lynn.alstadt@bipc.com

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December 11, 2015

Eric Hanson
Hunton & Williams LLP
Bank of America Plaza
Suite 4100
6100 Peachtree Street, NE
Atlanta, GA 30308-2216

Re: Gravity Lock

Dear Mr. Hanson:

This is in response to your letters of October 27 and December 9 in which you allege that Royal Building Products has senior trademark rights in GRAVITY LOCK as a result of its use of "Gravity lock" in advertising brochures since as early as February 2012. We have reviewed the brochure that you included with your October 27 letter as well as other advertising material on your client's website. In all of these materials "Gravity lock" is used to describe or refer to the interlocking joint system that is in Royal's siding product. "Gravity lock" is not identified as a trademark and is not used as a trademark in any of these materials. Consequently, Royal's use of "Gravity lock" does not create any trademark rights or serve as a designation of origin.

CPG has no objection to the use by Royal of "Gravity lock" to describe its interlocking joint system. However, CPG will object to any use of "Gravity lock" that is not descriptive and is likely to cause confusion with the products that CPG offers under the trademark GRAVITY LOCK TECHNOLOGY.

Because Royal has no trademark rights in "Gravity lock" and because "Gravity lock" is not a designation of origin for Royal, the use by CPG of GRAVITY LOCK TECHNOLOGY does not infringe any trademark rights of Royal or violate Section 43 of the Lanham Act. CPG will continue using GRAVITY LOCK TECHNOLOGY in connection its siding products. CPG also will not abandon its pending application to register GRAVITY LOCK TECHNOLOGY for non-metal exterior siding.

December 11, 2015

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I trust that this response addresses your client's concerns and that we can consider this matter to be closed.

Very truly yours,



Lynn J. Alstadt

cc: Brian Cooper, Esq.



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FILE NO: 64480.004344 [59586116V1]

March 7, 2016

Mr. Lynn J. Alstadt
Buchanan Ingersoll & Rooney
One Oxford Centre
301 Grant Street, 20th Floor
Pittsburgh, PA 15219-1410

Re: GRAVITY LOCK

Dear Mr. Alstadt:

Contrary to your letter of December 11, 2015, which is now opposite the clear admissions of CPG set forth in its demand of October 19, 2015, our client does not consider your client's continued misuse of the term GRAVITY LOCK TECHNOLOGY a "closed" matter.

CPG expressly stated in its letter dated October 19, 2015:

It has come to our attention that on your website at <http://royalbuidlingsolutions.com/en/products/celect/> and possibly elsewhere you are identifying your siding products as "Gravity lock design". This use of GRAVITY LOCK is likely to cause confusion in that customers or potential customers will believe that your siding having "Gravity lock design" is the same siding as our client sells and offers to sell under the trademark GRAVITY LOCK TECHNOLOGY. Therefore, such use constitutes infringement of our client's GRAVITY LOCK TECHNOLOGY trademark, violates Section 43 (a) of the Lanham Act and constitutes unfair competition.

Not surprisingly, after our client provided evidence of its many years of earlier use of the term "GRAVITY LOCK" and demanded that CPG avoid causing a likelihood of confusion among consumers, CPG flip-flopped to now suggest that there is no likelihood of confusion if



Mr. Lynn J. Alstadt
March 7, 2016

CPG continues to use the term “GRAVITY LOCK.” You asserted in no uncertain terms that our client’s uses of GRAVITY LOCK, including the use referenced in your letter of October 19th, created a likelihood of confusion. Our client’s uses have not changed, but CPG’s disingenuous position suddenly has. It is clear that you and your client did not investigate Royal Group’s prior use of the term GRAVITY LOCK before sending a demand to Mr. Hawthorne. Royal Group will not permit its potential customers to be misled by CPG using the term “GRAVITY LOCK” to suggest an association with Royal Group’s products and product features that does not exist.

In this regard, our client’s siding products identified by the phrase “GRAVITY LOCK” are protected by several United States patents. Our client prominently and extensively promotes the “GRAVITY LOCK” patented product and product features which necessarily can only originate from the patentee. This continuous and exclusive advertisement of the term “GRAVITY LOCK” for our client’s siding products has been ongoing for nearly five years, and relevant customers and potential customers exclusively associate “GRAVITY LOCK” siding product features with our client. As a result, and consistent with your client’s admissions, CPG’s use of the term “GRAVITY LOCK TECHNOLOGY” necessarily suggests that CPG’s products are related by source and features to Royal Group’s products. CPG’s continued use of “GRAVITY LOCK TECHNOLOGY” for identical siding products is therefore likely to cause confusion and mistake among relevant consumers.

As you know, §43(a) of the Lanham Act is intended to protect the consuming public from any commercial confusion or mistake arising from any word or term:

*(1) Any person who, on or in connection with any goods or services, or any container for goods, uses in commerce **any word, term**, name, symbol, or device, or any combination thereof, or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which*

(A) is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person, or

(B) in commercial advertising or promotion, misrepresents the nature, characteristics, qualities, or geographic origin of his or her or another person's goods, services, or commercial activities, shall be liable in a civil action



Mr. Lynn J. Alstadt
March 7, 2016

by any person who believes that he or she is or is likely to be damaged by such act.

Your initial demand acknowledged clear applicability of §43(a) to our clients' respective uses of "GRAVITY LOCK," and that concurrent use was not possible given that a likelihood of confusion would arise from the manner in which our clients identify their products with the term "GRAVITY LOCK". Consequently, our client repeats its demand that CPG immediately withdraw its pending application and cease use of "GRAVITY LOCK" and "GRAVITY LOCK TECHNOLOGY."

Our client attempted to resolve this matter amicably; however, in the event your client continues its blatant disregard of our client's rights and protection of consumers' interests in avoiding a likelihood of confusion and mistake between our clients and their products, our client is prepared to take all action necessary to enforce its rights, including opposition, cancellation and litigation.

Very truly yours,

A handwritten signature in black ink, appearing to read "Eric J. Hanson".

Eric J. Hanson

EJH/jk

cc: Mr. Bradley Reynolds