

ESTTA Tracking number: **ESTTA355179**

Filing date: **06/28/2010**

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

### Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

#### Petitioner Information

Name	Hentzen Coatings, Inc.		
Entity	Corporation	Citizenship	Wisconsin
Address	6937 West Mill Road Milwaukee, WI 53218 UNITED STATES		

Attorney information	C. Thomas Sylke Sylke Law Offices, LLC 756 N. Milwaukee Street Suite 210 Milwaukee, WI 53202-3719 UNITED STATES tomsylke@core.com		
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#### Registration Subject to Cancellation

Registration No	3568968	Registration date	02/03/2009
International Registration No.	NONE	International Registration Date	NONE
Registrant	PROTECH CHEMICALS LTD./PROTECH CHIMIE LTEE 7600 OUEST HENRI-BOURASSA SAINT-LAURENT, QUEBEC, H4S1W3 CANADA		

#### Goods/Services Subject to Cancellation

Class 002. All goods and services in the class are cancelled, namely: POWDER COATINGS AND POWDER PAINTS CONSISTING OF RESINS AND PIGMENTS FOR APPLICATION TO METAL SUBSTRATES
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#### Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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#### Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	645332	Application Date	02/29/1956
Registration Date	05/14/1957	Foreign Priority Date	NONE
Word Mark	STERILKOTE		
Design Mark			

Description of Mark	NONE
Goods/Services	Class U016 (International Class 001, 002). First use: First Use: 1934/01/18 First Use In Commerce: 1934/01/18 PAINTS, LACQUERS, AND VINYL RESIN DISPERSIONS KNOWN AS PLASTISOLS OR ORGANOSOLS

U.S. Registration No.	1714873	Application Date	01/13/1992
Registration Date	09/15/1992	Foreign Priority Date	NONE
Word Mark	STERILKOTE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 002. First use: First Use: 1934/01/18 First Use In Commerce: 1934/01/18 coatings containing thermol setting resins and thermol plastic resins used to finish metal products		

U.S. Application No.	78515822	Application Date	11/12/2004
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	STERILKOTE		
Design Mark	 <p style="text-align: center; font-size: 24pt; font-weight: bold;">STERILKOTE</p>		
Description of Mark	NONE		
Goods/Services	Class 001. First use: Coating compositions containing thermosetting resins and thermoplastic resins used to coat metal products		

U.S. Application No.	77840015	Application Date	10/02/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	STERILKOTE		

Design Mark	<b>STERILKOTE</b>
Description of Mark	NONE
Goods/Services	Class 002. First use: First Use: 1934/01/18 First Use In Commerce: 1934/01/18 Coating compositions in the nature of paint containing thermosetting resins and thermoplastic resins used to coat metal products, for industrial applications

Attachments	78515822#TMSN.jpeg ( 1 page )( bytes ) 77840015#TMSN.jpeg ( 1 page )( bytes ) Cancellation Petition AS FILED 2010-06-28 File 0802-a01.pdf ( 16 pages ) (1296655 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	/c. thomas sylke/
Name	C. Thomas Sylke
Date	06/28/2010

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

HENTZEN COATINGS, INC.	)	
	)	Registration No. 3,568,968
Petitioner,	)	Issued February 3, 2009
	)	
v.	)	
	)	
PROTECH CHEMICALS LTD.	)	
	)	Atty. Docket No. 0802-a01
Respondent.	)	
_____	)	

**PETITION FOR CANCELLATION  
UNDER 35 U.S.C. § 184 AND 37 CFR §§ 5.11-5.13**

Petitioner Hentzen Coatings, Inc. (“Petitioner”) believes it is being damaged by the registration of STERILCOAT AM in connection with powder coatings and powder paints consisting of resins and pigments for application to metal substrates in international class 002 shown in United States Registration No. 3,568,968, issued to Respondent Protech Chemicals Ltd. (“Respondent”) on February 3, 2009. Petitioner respectfully requests that the Trademark Trial and Appeal Board cancel U.S. Registration No. 3,568,968 (“the ‘968 Registration”), under Sections 2(a), 2(d), 14(1) and 43(c) of the Trademark Act of 1946 (the “Lanham Act”), 15 U.S.C. § 1052(a), 1052(d), 1064(1) and 1125(c), respectively.

Grounds for cancellation asserted by Petitioner include:

1. Petitioner is a corporation of the State of Wisconsin with an address of 6937 West Mill Road, Milwaukee, Wisconsin 53218. Petitioner is in the business, inter alia, of coating compositions in the nature of paint containing thermosetting resins and thermoplastic resins used to coat metal products, for industrial applications.

2. Petitioner has applied to register the word mark STERILKOTE for goods in international class 002. Petitioner's application, filed October 2, 2009, is presently pending as United States Serial No. 77/840,015 ("the '015 Application").

3. Respondent's '968 Registration has been cited against Petitioner's '015 Application in a refusal to register Petitioner's mark.

4. Respondent obtained the '968 Registration claiming priority under § 44(d) of the Lanham Act without proving any use in the United States and claiming priority to Canada Application No. 1355946, filed July 17, 2007, registered as Canada Registration No. TMA723853, dated September 17, 2008.

5. Upon information and belief, Respondent does not have any constructive use date prior to July 17, 2007, and has not asserted any actual use of the STERILCOAT AM mark anywhere in the world prior to June 8, 2006.

6. Petitioner and its related companies (including, but not necessarily limited to predecessors in interest) have been using the STERILKOTE mark in substantially continuous and exclusive use in the United States since on or about January 18, 1934 in connection with the same and/or substantially similar goods as those claimed in the '968 Registration and the '015 Application. Predecessors in interest include the owners of U.S. Registration No. 645,332, U.S. Registration No. 1,714,873 and United States Serial No. 78/515,822.

7. Petitioner has itself been using the STERILKOTE mark continuously since prior to June 8, 2006, evidenced in part by copies of Petitioner's invoices dated June 6, 2005; September 6, 2005; December 15, 2005; March 31, 2006; November 17, 2006; June 28, 2007; December 3, 2007; July 31, 2008; October 27, 2008; January 19, 2009; August 20, 2009; and March 26, 2010 (all attached hereto as the 12 pages of Exhibit A).

8. Upon information and belief, Respondent did not have the required bona-fide bona fide intent to use the STERILCOAT AM mark for goods claimed in the '968 Registration at the time the application was filed.

9. Upon information and belief, Respondent failed to use the STERILCOAT AM mark in the United States for its claimed goods within a reasonable period after issuance of such registration.

10. Upon information and belief, Respondent has ceased use of the STERILCOAT AM mark in the United States in connection with its business.

11. Respondent has abandoned its STERILCOAT AM mark in the United States as to the goods claimed in the '968 Registration.

12. Petitioner will be damaged by continuance of the '968 Registration in that the registration has been cited against Petitioner's pending '015 Application and may delay and/or impair Petitioner's ability to register Petitioner's STERILKOTE mark.

WHEREFORE, Petitioner prays that this Petition for Cancellation be sustained and U.S. Registration No. 3,568,968 be canceled.

Correspondence address:

Please direct all communications to:

C. Thomas Sylke  
**tomsylke@core.com**  
Sylke Law Offices, LLC  
756 N. Milwaukee Street, Suite 210  
Milwaukee, Wisconsin 53202

Dated: June 28, 2010.

Respectfully submitted,

SYLKE LAW OFFICES, LLC

/c. thomas sylke/

C. Thomas Sylke  
756 N. Milwaukee Street, Suite 210  
Milwaukee, Wisconsin 53202  
414-431-2317

Attorney for Petitioner  
Hentzen Coatings, Inc.

**CERTIFICATE OF SERVICE**

The undersigned counsel of record hereby certifies that on this 28<sup>th</sup> day of June 2010, a copy of the foregoing Petition for Cancellation was served by placing a copy in U.S. Mail, postage prepaid, and addressed to the following correspondent of record:

Attorney Stewart J. Bellus  
Collard & Roe, P.C.  
1077 Northern Boulevard  
Roslyn, New York 11576-1614

/c. thomas sylke/

C. Thomas Sylke



**\*\* Invoice Reprint \*\***

Invoice No: INV-200259

Invoice Date: 6/6/2005

Customer: 00000013127

NORTH COAST CONTAINER  
8806 CRANE ST.  
CLEVELAND, OH 44105

NORTH COAST CONTAINER  
8806 CRANE ST.  
CLEVELAND, OH 44105  
United States (Domestic Address)

Work Order No.		Ship Date: 6/6/2005		Ship Via: PITT OHIO		
Required Date: 6/6/2005		Frt Terms: PREPAID FREIGHT				
Sales Rep: BATAVIA SALESMEN		Terms: 2% 10, NET 30				
Call #:		Site:				
Customer PO: 7762		Page 1 of 1				
Item Code	Description	Order Qty	B/O Qty	Ship Qty	Unit Price	Extended \$
105C24-PLB5	SER 12 STERILKOTE	10.00000		10.00000		

**Customer/Shipvia Comments**

EMAIL INVOICES TO RENEE RUSSIAN  
AT RRUSSIAN@NCC-CORP.COM  
DO NOT MAIL INVOICE

All special made to order products are shipped complete.

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**Total**

Remit to: HENTZEN COATINGS INC  
BOX 88037  
MILWAUKEE WI 53288-0037



**\*\* Invoice Reprint \*\***

Invoice No: INV-204633

Invoice Date: 9/6/2005

Customer: 000000013187

INDUSTRIAL CONTAINER SERVICES  
LLC  
2900 W. TRADE ST.  
CHARLOTTE, NC 28208

INDUSTRIAL CONTAINER SERVICES  
LLC  
2900 W. TRADE ST.  
CHARLOTTE, NC 28208  
United States (Domestic Address)

Work Order No.	Ship Date: 9/6/2005	Ship Via: JEVIC
Required Date: 9/6/2005	Frt Terms: PREPAID FREIGHT	
Sales Rep: BATAVIA SALESMEN	Terms: NET 30 DAYS	
Call #:	Site: BATA	
Customer PO: S3250	Page 1 of 1	

Item Code	Description	Order Qty	B/O Qty	Ship Qty	Unit Price	Extended \$
105D7-DNOL55	GREEN LVC PHENOLIC	385.00000		220.00000		
105C24-DNOL55	SER 12 STERILKOTE	220.00000		220.00000		

All special made to order products are shipped complete.

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**Total**

Remit to: HENTZEN COATINGS INC  
BOX 88037  
MILWAUKEE WI 53288-0037



**\*\* Invoice Reprint \*\***

Invoice No: INV-209644

Invoice Date: 12/15/2005

Customer: 000000013108

INDUSTRIAL CONTAINER  
27 HANSEN RD. SOUTH  
BRAMPTON, ONTARIO  
CANADA  
L6W 3H7,

INDUSTRIAL CONTAINER  
27 HANSEN RD. SOUTH  
BRAMPTON, ONTARIO  
CANADA  
L6W 3H7,  
Canada

Work Order No.		Ship Date: 12/15/2005		Ship Via: FREIGHT WORLD		
Required Date: 12/9/2005		Frt Terms: PREPAID & ADD				
Sales Rep: BATAVIA SALESMEN		Terms: NET 30 DAYS				
Call #:		Site:				
Customer PO: 54257		Page 1 of 1				

Item Code	Description	Order Qty	B/O Qty	Ship Qty	Unit Price	Extended \$
108T44LV-DNOL55	STERILKOTE 46	110.00000		110.00000		

All special made to order products are shipped complete.

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Total

Remit to: HENTZEN COATINGS INC  
BOX 88037  
MILWAUKEE WI 53288-0037



**\*\* Invoice Reprint \*\***

Invoice No: INV-214471

Invoice Date: 3/31/2006

Customer: 000000013127

NORTH COAST CONTAINER  
8806 CRANE ST.  
CLEVELAND, OH 44105

NORTH COAST CONTAINER  
8806 CRANE ST.  
CLEVELAND, OH 44105  
United States (Domestic Address)

Work Order No.		Ship Date: 3/31/2006		Ship Via: USF HOLLAND		
Required Date: 3/31/2006		Frt Terms: PREPAID FREIGHT				
Sales Rep: BATAVIA SALESMEN		Terms: 2% 10, NET 30				
Call #:		Site: BATA				
Customer PO: 1246		Page 1 of 1				
Item Code	Description	Order Qty	B/O Qty	Ship Qty	Unit Price	Extended \$

105C24-PLB5	SER 12 STERILKOTE	10.00000		10.00000		
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**Customer/Shipvia Comments**

EMAIL INVOICES TO RENEE RUSSIAN  
AT RRUSSIAN@NCC-CORP.COM  
DO NOT MAIL INVOICE

All special made to order products are shipped complete.

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Total

Remit to: HENTZEN COATINGS INC  
BOX 88037  
MILWAUKEE WI 53288-0037



**\*\* Invoice Reprint \*\***

Invoice No: INV-226030

Invoice Date: 11/17/2006

Customer: 00000016294

GREIF INDUSTRIAL PACKING  
PO BOX 68  
HARVEY, LA 70059

GREIF INDUSTRIAL PACKING  
1255 PETERS RD. GATE 2  
ATTN: ROD ROBIN  
HARVEY, LA 70058

Work Order No.	Ship Date: 11/17/2006	Ship Via: SAIA MOTOR FREI
Required Date: 11/17/2006	Frt Terms: COLLECT	
Sales Rep: STEVE SINNETT	Terms: NET 30 DAYS	
Call #:	Site: BATA	
Customer PO: 33747	Page 1 of 1	

Item Code	Description	Order Qty	B/O Qty	Ship Qty	Unit Price	Extended \$
105D22-DNOL55	LOW VOC 105D3	385.00000		385.00000		
195C24-DNOL55	SER 12 STERILKOTE	110.00000		110.00000		
22C254-DNOL50	SIZE COAT	150.00000		150.00000		

All special made to order products are shipped complete.

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Total

Remit to: HENTZEN COATINGS INC  
BOX 88037  
MILWAUKEE WI 53288-0037



**\*\* Invoice Reprint \*\***

Invoice No: INV-237079

Invoice Date: 6/28/2007

Customer: 000000014078

INDUSTRIAL CONTAINER SERVICE  
PO BOX 1217  
MATTHEWS, NC 28106

INDUSTRIAL CONTAINER SERVICE  
3212 RIDGE ROAD  
MATTHEWS, NC 28106  
United States (Domestic Address)

Work Order No.	Ship Date: 6/28/2007	Ship Via: JEVIC
Required Date: 6/28/2007	Frt Terms: PREPAID FREIGHT	
Sales Rep: CHRIS WORDEN	Terms: NET 30 DAYS	
Call #:	Site: BATA	
Customer PO: S410212	Page 1 of 1	

Item Code	Description	Order Qty	B/O Qty	Ship Qty	Unit Price	Extended \$
105R40-DNOL50	SERIES 300 BROWN	500.00000		500.00000		
105C24-DNOL55	SER 12 STERILKOTE	550.00000		550.00000		

All special made to order products are shipped complete.

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Total

Remit to: HENTZEN COATINGS INC  
BOX 88037  
MILWAUKEE WI 53288-0037



**\*\* Invoice Reprint \*\***

Invoice No: INV-245429

Invoice Date: 12/3/2007

Customer: 000000013127

NORTH COAST CONTAINER  
8806 CRANE ST.  
CLEVELAND, OH 44105

NORTH COAST CONTAINER  
8806 CRANE ST.  
CLEVELAND, OH 44105  
United States (Domestic Address)

Work Order No.		Ship Date: 12/3/2007		Ship Via: USF HOLLAND		
Required Date: 12/3/2007				Frt Terms: PREPAID FREIGHT		
Sales Rep: CHRIS WORDEN				Terms: 2% 10, NET 30		
Call #:				Site: BATA		
Customer PO: 1246				Page 1 of 1		
Item Code	Description	Order Qty	B/O Qty	Ship Qty	Unit Price	Extended \$
105C24-PLG5	SER 12 STERILKOTE	10.00000		10.00000		

**Customer/Shipvia Comments**

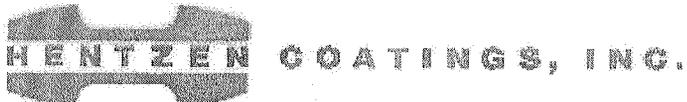
EMAIL INVOICES TO RENEE RUSSIAN  
AT RRUSSIAN@NCC-CORP.COM  
DO NOT MAIL INVOICE

All special made to order products are shipped complete.

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Total

Remit to: HENTZEN COATINGS INC  
BOX 58037  
MILWAUKEE WI 53288-0037



**\*\* Invoice Reprint \*\***

Invoice No: INV-258489

Invoice Date: 7/31/2008

Customer: 000000013173

TRILLA STEEL DRUMS  
2959 WEST 47TH ST.  
CHICAGO, IL 60632

TRILLA STEEL DRUMS  
2391 CASSENS DR.  
FENTON, MO 63026  
United States (Domestic Address)

Work Order No.	Ship Date: 7/31/2008	Ship Via: USF HOLLAND
Required Date: 7/31/2008	Frt Terms: COLLECT	
Sales Rep: STEVE SINNETT	Terms: NET 30 DAYS	
Call #:	Site: BATA	
Customer PO: 63029	Page 1 of 1	

Item Code	Description	Order Qty	B/O Qty	Ship Qty	Unit Price	Extended \$
105D22-DNOL50	LOW VOC 105D3	100.00000		100.00000		
108T44LV-DNOL55	STERILKOTE 46	102.00000		102.00000		

All special made to order products are shipped complete.

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Total

Remit to: HENTZEN COATINGS INC  
BOX 88037  
MILWAUKEE WI 53288-0037



\*\* Invoice Reprint \*\*

Invoice No: INV-263674

Invoice Date: 10/27/2008

Customer: 000000013184

INDUSTRIAL CONTAINER SERVICES  
PO BOX 2067  
MONTEBELLO, CA 90640

INDUSTRIAL CONTAINER SERVICES  
PO BOX 2067  
MONTEBELLO, CA 90640  
United States (Domestic Address)

Work Order No.	Ship Date: 10/27/2008	Ship Via: ROADRUNNER/DAWE
Required Date: 10/27/2008	Frt Terms: PREPAID FREIGHT	
Sales Rep: CHRIS WORDEN	Terms: 2% 10, NET 30	
Call #:	Site: BATA	
Customer PO: PL-1734	Page 1 of 1	

Item Code	Description	Order Qty	B/O Qty	Ship Qty	Unit Price	Extended \$
105R40-DNOL50	SERIES 300 BROWN	500.00000		500.00000		
105C24-DNOL55	SER 12 STERILKOTE	550.00000		550.00000		

**Customer/Shipvia Comments**

FAX INVOICE TO DEANNE WILLIAMS  
@ 1-323-721-6632  
DO NOT MAIL INVOICE

All special made to order products are shipped complete.

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Total

Remit to: HENTZEN COATINGS INC  
BOX 88037  
MILWAUKEE WI 53288-0037



**\*\* Invoice Reprint \*\***

Invoice No: INV-267710

Invoice Date: 1/19/2009

Customer: 000000013127

NORTH COAST CONTAINER  
8806 CRANE ST.  
CLEVELAND, OH 44105

NORTH COAST CONTAINER  
8806 CRANE ST.  
CLEVELAND, OH 44105  
United States (Domestic Address)

Work Order No.		Ship Date: 1/19/2009		Ship Via: USF HOLLAND		
Required Date: 1/19/2009		Frt Terms: PREPAID FREIGHT				
Sales Rep: CHRIS WORDEN		Terms: 2% 10, NET 30				
Call #:		Site: BATA				
Customer PO: 1246		Page 1 of 1				
Item Code	Description	Order Qty	B/O Qty	Ship Qty	Unit Price	Extended \$
105C24-DNOL55	SER 12 STERILKOTE	55.00000		55.00000		

**Customer/Shipvia Comments**

EMAIL INVOICES TO RENEE RUSSIAN  
AT RRUSSIAN@NCC-CORP.COM  
DO NOT MAIL INVOICE

All special made to order products are shipped complete.

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Total

Remit to: HENTZEN COATINGS INC  
BOX 88037  
MILWAUKEE WI 53288-0037



**\*\* Invoice Reprint \*\***

Invoice No: INV-278900

Invoice Date: 8/20/2009

Customer: 000000013165

GREIF BROTHERS CORP.  
PO BOX 8014  
DELAWARE, OH 43015

TRILLA ST, LOUIS CORP.  
2391 CASSENS DR.  
FENTON, MO 63026

Work Order No.	Ship Date: 8/20/2009	Ship Via: DAYTON FREIGHT
Required Date: 8/20/2009	Frt Terms: 3RD PARTY	
Sales Rep: STEVE SINNETT	Terms: NET 60 DAYS	
Call #:	Site: BATA	
Customer PO: 392100102	Page 1 of 1	

Item Code	Description	Order Qty	B/O Qty	Ship Qty	Unit Price	Extended \$
105D22-DNOL55	LOW VOC 105D3	110.00000		110.00000		
108T44LV-DNOL55	STERILKOTE 46	110.00000		110.00000		

All special made to order products are shipped complete.

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Total

Remit to: HENTZEN COATINGS INC  
BOX 88037  
MILWAUKEE WI 53288-0037



**\*\* Invoice Reprint \*\***

Invoice No: INV-290873

Invoice Date: 3/26/2010

Customer: 000000013127

NORTH COAST CONTAINER  
8806 CRANE ST.  
CLEVELAND, OH 44105

NORTH COAST CONTAINER  
8806 CRANE ST.  
CLEVELAND, OH 44105  
United States (Domestic Address)

Work Order No.	Ship Date: 3/26/2010	Ship Via: USF HOLLAND				
Required Date: 3/26/2010		Frt Terms: PREPAID FREIGHT				
Sales Rep: CHRIS WORDEN		Terms: 2% 10, NET 30				
Call #:		Site: BATA				
Customer PO: 1246		Page 1 of 1				

Item Code	Description	Order Qty	B/O Qty	Ship Qty	Unit Price	Extended \$
105C24-DNOL55	SER 12 STERILKOTE	55.00000		55.00000		

**Customer/Shipvia Comments**

EMAIL INVOICES TO RENEE RUSSIAN  
AT RRUSSIAN@NCC-CORP.COM  
DO NOT MAIL INVOICE

All special made to order products are shipped complete.

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Total

Remit to: HENTZEN COATINGS INC  
BOX 88037  
MILWAUKEE WI 53288-0037