

ESTTA Tracking number: **ESTTA65203**

Filing date: **02/06/2006**

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	Owens-Corning Fiberglas Technology Inc.
Granted to Date of previous extension	02/05/2006
Address	7734 W. 59th St. Summit, IL 60501-0907 UNITED STATES

Attorney information	Raymond I. Geraldson, Jr. Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP 311 South Wacker Drive Suite 5000 Chicago, IL 60606 UNITED STATES rgeraldson@pattishall.com, bscrimenti@pattishall.com, lbertels@pattishall.com, mgriffin@pattishall.com Phone:312-554-8000
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Applicant Information

Application No	78527569	Publication date	08/09/2005
Opposition Filing Date	02/06/2006	Opposition Period Ends	02/05/2006
Applicant	GloTell Products, Inc. 13475 Round Pond Road Shawneetown, IL 62984 UNITED STATES		

Goods/Services Affected by Opposition

Class 001. All goods and services in the class are opposed, namely: Chemical marking additives for anhydrous ammonia used to deter theft of and detect leaks of the ammonia
Class 035. All goods and services in the class are opposed, namely: Distributorship services featuring chemicals and additives for anhydrous ammonia

Attachments	protect.PDF (4 pages)
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Signature	/Raymond I. Geraldson, Jr./
Name	Raymond I. Geraldson, Jr.
Date	02/06/2006

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

In the Matter of Application Serial No. 78/527,569: PROTECTED BY PINK

Published in the *Official Gazette* of August 9, 2005, Page TM 129 in International Classes 1 and 35

OWENS CORNING FIBERGLAS)	
TECHNOLOGY INC.,)	
)	
Opposer,)	
)	
v.)	Oppn. No. _____
)	
GLOTELL PRODUCTS, INC.,)	
)	
Applicants.)	

NOTICE OF OPPOSITION

Owens Corning Fiberglas Technology Inc. ("Owens Corning"), an Illinois corporation located and doing business at 7734 West 59th Street, Summit, Illinois 60501-0907, believes it will be damaged by registration of the mark shown in Application Serial No. 78/527,569, and hereby opposes the same.

The grounds for the opposition are as follows:

1. Since long prior to the filing date of the intent-to-use application opposed herein, Owens Corning, through its licensee, has manufactured, advertised, promoted and sold a wide variety of insulation products and other building materials under a family of PINK color and word marks ("PINK Marks").

2. Owens Corning owns the following valid and subsisting registrations for its PINK color trademarks:

MARK	U.S. REG. NO	REG. DATE	GOODS
PINK	1,439,132	May 12, 1987	fibrous glass residential insulation
PINK	2,090,588	August 26, 1997	foam insulation for use in building and construction

MARK	U.S. REG. NO	REG. DATE	GOODS
PINK	2,349,499	May 16, 2000	air infiltration and moisture barrier for use in building construction, sold in rolls
PINK	2,380,445	August 29, 2000	extruded polystyrene attic rafter vents for use as a component of an insulation system
PINK	2,380,742	August 29, 2000	building insulation
PINK	2,695,673	March 11, 2003	roofing shingles
PINK PLUS LOGO AND DESIGN	2,808,452	January 27, 2004	roofing shingles
PINK PLUS LOGO AND DESIGN	2,808,451	January 27, 2004	roofing shingles

U.S. Reg. Nos. 1,439,132 and 2,090,588 are incontestible in accordance with 15 U.S.C. §§ 1065 and 1115(b).

3. Owens Corning is the owner of the following valid and subsisting registrations for its PINK word marks:

MARK	U.S. REG. NO	REG. DATE	GOODS
DURAPINK	1,848,205	August 2, 1994	roofing recovery board
PINKWRAP	2,021,199	December 3, 1996	air infiltration and weather barrier for use in building construction
INSULPINK	2,036,673	February 11, 1997	polystyrene insulation for buildings
THERMAPINK	2,072,858	June 17, 1997	foam insulation used in roofing applications
PROPINK	2,133,419	January 27, 1998	foam sheeting for use as a building insulation
PINKCORE	2,211,845	December 15, 1998	insulation system, namely, a polystyrene insulation board for use in buildings and glass fiber connector ties to hold the insulation in place

MARK	U.S. REG. NO	REG. DATE	GOODS
PROPINK	2,248,313	May 25, 1999	insulation used in building and construction
PINK PROFITS	2,451,818	May 15, 2001	newsletter related to the building industry
PINKFILL	2,805,799	January 13, 2004	loosefill insulation for use in building and construction
IT'S SMART TO THINK PINK	2,846,457	May 25, 2004	fiberglass and foam insulation for building and construction; air infiltration and weather barrier for use in building and construction
PARTNER UP WITH PINK	2,938,758	April 5, 2005	prerecorded videotapes and compact disks featuring home remodeling, repair and construction franchising, namely, offering technical assistance in the establishment and/or operation of home remodeling, repair and construction business

U.S. Reg. Nos. 1,848,205; 2,021,199; 2,036,673; 2,072,858; 2,133,419; 2,211,845; and 2,248,313 are incontestable in accordance with 15 U.S.C. §§ 1065 and 1115(b).

4. Long before the filing date of the intent-to-use application opposed herein, Owens Corning sold billions of dollars worth of insulation and other building materials under its PINK Marks, and spent many hundreds of millions of dollars advertising and promoting these products. The products sold under the PINK Marks have enjoyed great commercial success. As a result, the PINK Marks represent an enormously valuable goodwill which is owned by Owens Corning.

5. Owens Corning's PINK Marks have been "famous" within the meaning of 15 U.S.C. §§ 1125(c)(1).

6. Applicant's proposed use of the mark PROTECTED BY PINK for "Chemical marking additives for anhydrous ammonia used to deter theft of and detect leaks of the ammonia

(in International Class 1) and Distributorship services featuring chemicals and additives for anhydrous ammonia (in International Class 35)" is likely to result in confusion, mistake or deception with Owens Corning, or the products sold by Owens Corning under its PINK Marks, or in the erroneous belief that applicant or its PROTECTED BY PINK goods and services are in some way legitimately connected with, licensed or approved by Owens Corning.

7. Applicant's proposed use of the mark PROTECTED BY PINK for the goods and services set forth above would cause dilution of the distinctive quality of Owens Corning's PINK Marks.

8. Upon information and belief, neither applicant, nor any predecessor or related company of applicant, made commercial use of the mark PROTECTED BY PINK in connection with the goods and services stated in Application Ser. No. 78/527,569, or any other goods or services, before the filing date of the application.

9. Applicant's proposed use of the mark PROTECTED BY PINK is without Owens Corning's consent or permission.

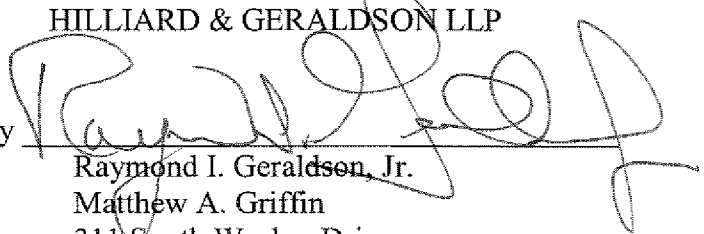
Owens Corning requests that Application No. 78/527,569 be refused and that this opposition be sustained. Please deduct the requisite filing fee of \$600 from Account No. 16-0650. Please credit any overpayment to or deduct any deficiency to Account No. 16-0650.

Please address all correspondence to Raymond I. Geraldson, Jr., Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP, 311 S. Wacker Drive, Suite 5000, Chicago, Illinois 60606, telephone (312) 554-8000, facsimile (312) 554-8015.

Respectfully submitted,

PATTISHALL, MCAULIFFE, NEWBURY,
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By



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