

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

GEORGIA-PACIFIC CORPORATION	)	Ser. No. 78/554,801
and G-P GYPSUM CORPORATION	)	
	)	
Opposers,	)	
	)	Mark: DECKSHIELD
v.	)	
	)	
JOHNS MANVILLE	)	Opposition No. _____
	)	
Applicant.	)	

NOTICE OF OPPOSITION

Georgia-Pacific Corporation and G-P Gypsum Corporation (collectively, and including their predecessors and affiliated and related companies, hereinafter, "Opposers") will be damaged by the registration of the DECKSHIELD mark that is the subject of Application Serial Number 78/554,801, filed by Johns Manville ("Applicant"), and state the following grounds under 15 U.S.C. § 1063 and 37 C.F.R. §§ 2.101 and 2.104 for their opposition to the registration of that application:

1. Opposer Georgia-Pacific Corporation ("GP") is a Georgia corporation with a principal place of business located at 133 Peachtree Street, N.E., Atlanta, Georgia, 30303. GP is one of the world's leading manufacturers and distributors of consumer and commercial tissue, paper, packaging and other consumer products such as disposable tabletop items.

2. Opposer G-P Gypsum Corporation ("G-P Gypsum") is a Delaware corporation with a principal place of business located at 133 Peachtree Street, N.E., Atlanta, Georgia, 30303. G-P Gypsum is a leading manufacturer of gypsum board products in North

America. G-P Gypsum is a wholly-owned subsidiary of GP.

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3. On April 10, 2006, the Board granted G-P Gypsum an extension of time through and including July 5, 2006, to oppose the instant application.

4. Opposers manufacture, market, and distribute the DENS-DECK® brand of gypsum board and sheathing board used in commercial roofing applications in the United States under the well-known marks DENS-DECK®.

5. Opposers have developed a family of DENS-DECK marks based upon the successful DENS-DECK® brand, including: DENS-DECK®, DENS-DECK PRIME®, and DENSDECK DURAGUARD® (hereinafter collectively referred to as the “DENS-DECK Marks”).

6. Opposers manufacture, market, and distribute the DENS-SHIELD® brand of tile-backing gypsum board used in commercial tile applications in the United States under the well-known mark DENS-SHIELD®.

7. Opposer G-P Gypsum is the owner of, *inter alia*, the following trademark registrations (hereinafter collectively referred to as the “Opposers’ Marks”):

Mark	Reg. No.	Goods	Date of First Use
DENS-DECK	1,528,267	gypsum board	06/12/1987
DENS-DECK PRIME	2,738,009	gypsum board and sheathing board used in commercial roofing applications	01/2001
DENSDECK DURAGUARD	3,080,608	gypsum board for use in commercial roofing applications	02/28/2004
DENS-SHIELD	1,489,350	gypsum board	03/27/1987

8. Opposers have continuously and exclusively used the DENS-DECK Marks in connection with the above-identified goods since each of the indicated dates of first use;

cumulatively, the DENS-DECK Marks have been in continuous use for more than twenty-five (25) years.

9. Opposers have sold hundreds of millions of dollars worth of gypsum board and sheathing board for commercial roofing applications in connection with the DENS-DECK Marks. Opposers have spent millions of dollars advertising and marketing goods sold in connection with the DENS-DECK Marks.

10. Opposers have continuously and exclusively used the DENS-SHIELD mark in connection with gypsum board tile backing products for over nineteen (19) years.

11. Opposers have sold hundreds of millions of dollars worth of gypsum board tile-backing products in connection with the DENS-SHIELD mark and have spent millions of dollars advertising and marketing goods sold in connection with the DENS-SHIELD mark.

12. By virtue of the widespread sales and extensive advertising and promotion of Opposers' products bearing the DENS-DECK Marks and the DENS-SHIELD mark, Opposers' Marks are well known by consumers in the relevant industries, are recognized and relied upon as identifying Opposers' goods and as distinguishing them from the goods of others, and have come to represent and symbolize extremely valuable goodwill belonging exclusively to Opposers.

13. By virtue of Opposers' extensive use and promotion, Opposers' Marks have acquired a high degree of distinctiveness.

14. By virtue of Opposers' extensive use and promotion, Opposers' Marks have become famous.

15. Applicant filed the instant application, Serial No. 78/554,801, on an intent-to-use basis, on January 27, 2005, for the mark DECKSHIELD for proposed use with “two or more composite materials, made of polymer fiber nonwovens and polymer coatings for building construction purposes in roofing underlayment membranes and roofing felts, namely, reinforced roofing membranes” in International Class 19 (“Applicant’s Mark”).

16. Applicant’s Mark is confusingly similar in sound and appearance to Opposers’ DENS-DECK Marks. In addition, Applicant’s DECKSHIELD mark is a composite of components of Opposers’ DENS-DECK Marks and DENS-SHIELD mark, and thus is confusingly similar to Opposers’ DENS-DECK Marks and DENS-SHIELD marks.

17. The products identified in Application Serial No. 78/554,801 are related to and/or substitutable for the products sold under Opposers’ DENS-DECK Marks. The products identified in Application Serial No. 78/554,801 are related to the products sold under Opposers’ DENS-SHIELD mark.

18. Products sold under Opposers’ Marks and the products identified by Application Serial No. 78/554,801 are directed to identical classes of purchasers and are marketed and sold through the same channels of trade.

19. Because of the circumstances applicable to marketing and sales in the commercial construction industry in which Applicant’s and Opposers’ goods are sold, including the fact that the individuals who physically purchase products are not necessarily the persons who made the decision to select a specific product, and because purchasers of Opposers’ products are regularly exposed both to Opposers’ DENS-DECK Marks and to their DENS-SHIELD Mark, there is a heightened risk that purchaser confusion will likely result from Applicant’s use of the DECKSHIELD mark.

20. Opposers' rights in the DENS-DECK Marks and DENS-SHIELD mark are superior to any rights Applicant may claim, Opposers having used their marks for many years prior to the filing date for Applicant's Mark.

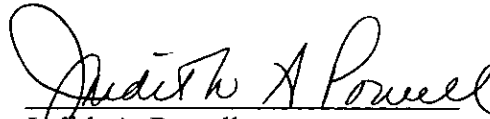
21. Opposers will be be damaged by the registration of Applicant's Mark because the mark so resembles Opposers' DENS-DECK Marks and also consists of a combination of Opposers' DENS-DECK Marks and DENS-SHIELD mark that it is likely to cause confusion, mistake and deception in the minds of the purchasing public. The purchasing public is likely to assume that the goods identified by Applicant's Mark are sold by Opposers, or that such goods originate with, or are authorized or approved by, or in some way connected to, Opposers, in violation of 15 U.S.C. §§ 1052(d) and 1125(a).

22. Opposers will be damaged by the registration of Applicant's Mark because, when used, Applicant's Mark will dilute the distinctive quality of Opposers' Marks in violation of Section 13(a) and 43(c) of the Trademark Act, 15 U.S.C. §§ 1063(a) and 1125(c).

23. Two duplicate copies of this Notice of Opposition as well as Form PTO-2038 to charge the required fee of \$300.00 are enclosed. The Director is authorized to debit KILPATRICK STOCKTON LLP Deposit Account No. 11-0860 for any deficiency in the required fee.

WHEREFORE, Opposers request that the Board refuse registration of Application Serial No. 78/554,801 and that this Opposition be sustained in favor of Opposers.

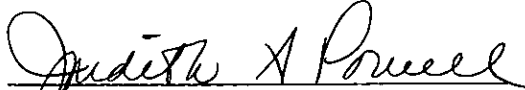
Respectfully Submitted,  
June 30, 2006



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CERTIFICATE OF MAILING

I hereby certify that this Notice of Opposition is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Trademarks, Attn: TTAB, P.O. Box 1451, Alexandria, VA 22313-1451 on **June 30, 2006**.



Judith A. Powell