

**UNITED STATES PATENT AND TRADEMARK  
OFFICE**

**Trademark Trial and Appeal Board**  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Mailed: October 1, 2004

Beaulieu Group, LLC

1502 Coronet Drive P.O. Box 1248  
Dalton, GA 307221248

**Cancellation No. 92043739**

Reg. No. 2872217

Randel S. Springer  
Womble Carlyle Sandridge & Rice, PLLC  
One West Fourth Street  
Winston-Salem, NC 27101

Anderson Corporation



V.

10-18-2004

U.S. Patent & TMOfo/TM Mail RcptDt. #21

Beaulieu Group, LLC

**Torri Rodgers, Legal Assistant**

A petition, a copy of which is attached, has been filed to cancel the above-identified registration.

Proceedings will be conducted in accordance with the Trademark Rules of Practice.

**ANSWER IS DUE FORTY DAYS** after the mailing date hereof.  
(See Trademark Rule 2.196 for expiration date falling on Saturday, Sunday or a holiday).

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations. The parties are reminded of the recent amendments to the Trademark Rules that affect the rules of practice before the TTAB. See Rules of Practice for Trademark-Related Filings Under the Madrid Protocol Implementation Act, 68 Fed. R. 55,748 (September 26, 2003) (effective November 2, 2003); Reorganization of Correspondence and Other Provisions, 68 Fed. Reg. 48,286 (August 13, 2003) (effective September 12, 2003). Notices concerning the rules changes, as well as the

Trademark Trial and Appeal Board Manual of Procedure (TBMP), are available at [www.uspto.gov](http://www.uspto.gov).

The parties are particularly referred to Trademark Rule 2.126 pertaining to the form of submissions. Paper submissions, including but not limited to exhibits and depositions, not filed in accordance with Trademark Rule 2.126 may not be given consideration or entered into the case file.

**Discovery and testimony periods are set as follows:**

Discovery period to open: **October 21, 2004**

Discovery period to close: **April 19, 2005**

30-day testimony period for party  
in position of plaintiff to close: **July 18, 2005**

30-day testimony period for party  
in position of defendant to close: **September 16, 2005**

15-day rebuttal testimony period  
for plaintiff to close: **October 31, 2005**

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

**NOTE:** The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See the *Official Gazette* notice titled "Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board," 1235 TMOG 68 (June 20, 2000). The notice is available at <http://www.uspto.gov>. Interlocutory matters which the Board agrees to discuss or decide by phone conference may

be decided adversely to any party which fails to participate.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.

**New Developments at the Trademark Trial and Appeal Board**

TTAB forms for electronic filing of extensions of time to oppose, notices of opposition, and inter partes filings are now available at <http://estta.uspto.gov>. Images of TTAB proceeding files can be viewed using TTABVue at <http://ttabvue.uspto.gov>.

ESTTA Tracking number: **ESTTA15911**

Filing date: **09/28/2004**

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

<b>Name</b>	Andersen Corporation		
<b>Entity</b>	Corporation	<b>Citizenship</b>	Minnesota
<b>Address</b>	100 Fourth Avenue North Bayport, MN 55003 UNITED STATES		

<b>Attorney information</b>	Randel S. Springer Womble Carlyle Sandridge & Rice, PLLC One West Fourth Street Winston-Salem, NC 27101 UNITED STATES rspringer@wcsr.com, lricci@wcsr.com Phone:(336) 721-3747
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#### Registration Subject to Cancellation

<b>Registration No</b>	2872217	<b>Registration date</b>	08/10/2004
<b>Registrant</b>	Beaulieu Group, LLC		
<b>Goods/Services Subject to Cancellation</b>	Class 027. First Use: 20020101 , First Use In Commerce: 20020101 Goods/Services: protective coating sold as a component of carpeting		
<b>Attachments</b>	Petition to Cancel.pdf ( 4 pages )		

<b>Signature</b>	/Randy Springer/
<b>Name</b>	Randel S. Springer
<b>Date</b>	09/28/2004

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

**In the Matter of Trademark Registration No. 2,872,217**

**For the Mark: PERMASHIELD**

**Date Registered: August 10, 2004**

<hr/> <b>Andersen Corporation,</b>	:	
	:	
<b>Petitioner,</b>	:	
	:	
<b>v.</b>	:	<b>Cancellation No.:</b> _____
	:	
<b>Beaulieu Group, LLC</b>	:	
	:	
	:	
<b>Registrant.</b>	:	
<hr/>	:	

**Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513**

**PETITION TO CANCEL**

Andersen Corporation, a Minnesota corporation having a place of business at 100 Fourth Avenue North, Bayport, Minnesota ("Petitioner"), believes that it will be damaged by U.S. Reg. No. 2,872,217 for the trademark PERMASHIELD, and hereby petitions to cancel the same.

As grounds for cancellation, it is alleged that:

1. Petitioner has adopted and continuously used the trademark PERMA-SHIELD since at least as early as 1965 in connection with windows, doors and related hardware. Petitioner has obtained several U.S. trademark registrations for the PERMA-SHIELD mark and similar marks (the "PERMA-SHIELD Marks"). These registrations are summarized below:



Mark	Goods/Services	Reg. No.	Registration Date
PERMA-SHIELD	Assemblies of window sash, frames, and hardware sold together as window units	832,822	August 1, 1967
PERMA SHIELD	Windows, doors and shutters, and related hardware, sold as units	1,026,750	December 9, 1975
ANDERSEN PERMA-SHIELD	Windows, doors and shutters, and related hardware, sold as units	1,051,867	November 2, 1976
PERMA-SHIELD	Extruded vinyl profiles and vinyl covered building materials-namely extruded rigid vinyl trim strips, vinyl wrapped auxiliary window casings, and vinyl coated plywood and laminated filler boards	1,180,190	December 1, 1981
PERMASHIELD	Expanded polystyrene foam sheeting for use as wall insulation sold wholesale directly to contractors in multiple pallet quantities	2,051,094	April 8, 1997

2. All five of Petitioner's registrations cited above are valid, subsisting, and have become incontestable pursuant to the provisions of the Lanham Act.

3. On August 10, 2004, Beaulieu Group, LLC ("Registrant") obtained U.S. Reg. No. 2,872,217 for the mark PERMASHIELD for protective coating sold as a component of carpeting.

4. Petitioner's registrations issued long prior to the filing date of Registrant's application to register the PERMASHIELD mark, namely, April 1, 2002.

5. Petitioner has expended considerable effort and expense in promoting its PERMA-SHIELD Marks and the goods sold under the PERMA-SHIELD Marks, with the result that the purchasing public has come to know, rely upon, and recognize the products of Petitioner by such mark. Petitioner has acquired substantial goodwill and a valuable reputation in its PERMA-SHIELD Marks.

6. If Registrant is permitted to retain the registration sought to be cancelled, and thereby, the *prima facie* exclusive right to use in commerce the mark PERMASHIELD with these goods,

confusion is likely to result to the great detriment of Petitioner, who has expended considerable sums and effort in promoting its PERMA-SHIELD Marks.

7. Concurrent use of the PERMASHIELD mark by Registrant and the PERMA-SHIELD Marks by Petitioner will create a likelihood of confusion and will result in irreparable damage to Petitioner's reputation and goodwill.

WHEREFORE, Petitioner deems that it is and will continue to be damaged by U.S. Reg. No. 2,872,217, and prays that this registration be canceled.

A duplicate copy of this Petition to Cancel is enclosed herewith. The Commissioner is hereby authorized to charge the \$300.00 filing fee to Deposit Account No. 500517. The Commissioner is also authorized to charge any deficiency in the payment of the filing fee or credit any overpayment to Deposit Account No. 500517.

Respectfully submitted,

Dated: September 28, 2004

By:

*Randy S. Springer*

Randel S. Springer

Anne C. Fleeson

Womble Carlyle Sandridge & Rice, PLLC

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Attorneys for Petitioner Andersen Corporation

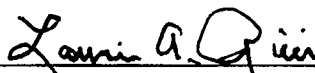


**CERTIFICATE OF MAILING**

I do hereby certify that on September 28, 2004, I filed via electronic means (ESTTA) this

Petition to Cancel with the:

U. S. Patent and Trademark Office  
Trademark Trial and Appeal Board  
Box TTAB – NO FEE  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

  
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Laurie A. Ricci, Senior Paralegal