

ESTTA Tracking number: **ESTTA255824**

Filing date: **12/18/2008**

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	Osmose, Inc.		
Entity	Corporation	Citizenship	New York
Address	980 Ellicott Street Buffalo, NY 14209 UNITED STATES		

Attorney information	Kenneth D. Suzan Hodgson Russ LLP 140 Pearl Street, Suite 100 The Guaranty Building Buffalo, NY 14202 UNITED STATES ksuzan@hodgsonruss.com Phone:(716) 856-4000		
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Registration Subject to Cancellation

Registration No	2967376	Registration date	07/12/2005
Registrant	CRF Technologies Group Ltd. 3345 Laird Road, Unit 1 Mississauga, Ontario, L5L 5R6 CANADA		

Goods/Services Subject to Cancellation

Class 019. First Use: 1998/08/21 First Use In Commerce: 1998/08/21 All goods and services in the class are cancelled, namely: Composite building material, namely fibreboard composed of fibrous materials and plastic intended for use in constructing fences, decks, docks and outdoor structures
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Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	NEXWOOD PETN CANCEL.pdf (6 pages)(111446 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	/Kenneth D. Suzan/
Name	Kenneth D. Suzan

Date	12/18/2008
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**THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<p>OSMOSE, INC.</p> <p style="text-align: center;">)</p> <p style="text-align: center;">)</p> <p style="text-align: center;">)</p> <p style="text-align: center;">)</p> <p style="text-align: center;">)</p> <p style="text-align: center;">)</p> <p style="text-align: center;">)</p> <p style="text-align: center;">)</p> <p style="text-align: center;">)</p> <p style="text-align: center;">)</p> <p style="text-align: center;">)</p> <p style="text-align: center;">)</p> <p style="text-align: center;">)</p> <p style="text-align: center;">)</p> <p style="text-align: center;">)</p> <p style="text-align: center;">)</p> <p style="text-align: center;">)</p> <p style="text-align: center;">)</p> <p style="text-align: center;">)</p> <p style="text-align: center;">)</p> <hr style="border: 0.5px solid black;"/>)	<p>Cancellation Proceeding</p> <p>No. _____</p> <p>Registration No. 2,967,376</p> <p>Registered: July 12, 2005</p>
<p>Petitioner,</p>		
<p>vs.</p>		
<p>CRF TECHNOLOGIES GROUP LTD.</p>		
<p>Respondent.</p>		

PETITION TO CANCEL

Petitioner, Osmose, Inc., a corporation organized under the laws of New York with a place of business at 980 Ellicott Street, Buffalo, New York 14209 (“Osmose” or “Petitioner”), believes it will be damaged by Registration No. 2,967,376 and hereby petitions to cancel this registration.

The grounds for cancellation are as follows:

1. Upon information and belief, CRF Technologies Group Ltd. is a Canadian corporation having a place of business at 3345 Laird Road, Unit 1, Mississauga, Ontario L5L 5R6 Canada (“Registrant”) and is the last owner of record listed on United States Patent and Trademark Office (“USPTO”) TARR system.

2. The Registrant has obtained a registration in the United States for the mark NEXWOOD.

3. The USPTO issued the registration for NEXWOOD on July 12, 2005 which covers “composite building material, namely fibreboard composed of fibrous materials and plastic intended for use in constructing fences, decks, docks and outdoor structures” under U.S. Trademark Registration No. 2,967,376 (the “Registration”).

4. Upon information and belief, Registrant no longer makes use of the Registration in connection with its goods in the United States.

5. Upon information and belief, Registrant does not intend to resume use of the Registration in connection with its goods in the United States.

6. Under 15 U.S.C. § 1127, nonuse of a mark with no intent to resume use shall be evidence of abandonment.

7. Under 15 U.S.C. § 1127, nonuse of a mark for three consecutive years shall be *prima facie* evidence of abandonment.

8. Petitioner has filed an application for registration of the mark NEXWOOD under Section 1(b) of the Trademark Act of 1946 (15 U.S.C. § 1051(b)), as amended for a heated and pressure treated wood treatment solution and treated wood and decking.

9. In an Office Action dated June 18, 2008, Petitioner’s application was refused registration under Trademark Act Section 2(d) (15 U.S.C. § 1052(d)) based upon

Registrant's prior registration.

10. Petitioner anticipates spending substantial time, effort and sums in the development of and advertising for its heated and pressure treated wood treatment solution and treated wood and decking under the NEXWOOD mark.

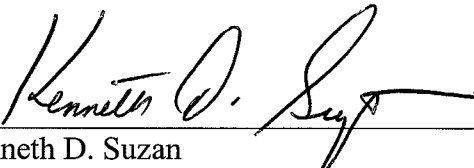
11. If Registrant is permitted to continue to maintain its registration, a significant barrier would be placed upon Petitioner's right to ultimately use and register the NEXWOOD mark. Such registration would thus be a source of damage and injury to the Petitioner.

WHEREFORE, Petitioner prays that this Petition be sustained, that judgment be entered in favor of Petitioner, and that registration of Registrant's mark under Registration No. 2,967,376 be cancelled.

Petitioner submits the cancellation fee in the amount of \$300. If there are any additional fees due and owing in connection with this request, please charge our Deposit Account No. 08-2442.

Dated: Buffalo, New York
December 18, 2008

HODGSON RUSS LLP
Attorneys for Petitioner

By: 
Kenneth D. Suzan

140 Pearl Street, Suite 100
The Guaranty Building
Buffalo, New York 14202
(716) 856-4000

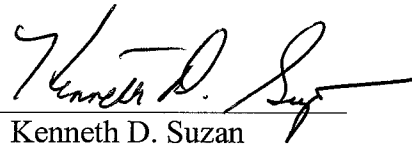
CERTIFICATE OF SERVICE

I, Kenneth D. Suzan, hereby certify that a true and correct copy of the foregoing *Petition to Cancel* was served on December 18, 2008 by first class-mail in a postage prepaid envelope addressed to:

CRF Technologies Group Ltd.
3345 Laird Road, Unit 1
Mississauga, Ontario L5L 5R6
Canada

-and-

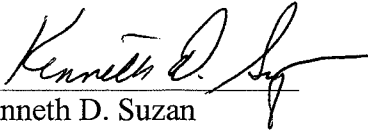
Bruce A. Tassan, Esq.
Tassan & Hardison
4143 27th Street North
Arlington, VA 22207-5211

A handwritten signature in black ink, appearing to read "Kenneth D. Suzan", written over a horizontal line.

Kenneth D. Suzan

CERTIFICATE OF FILING

I, Kenneth D. Suzan, hereby certify that this **Petition to Cancel** is being electronically filed with the Trademark Trial and Appeal Board on December 18, 2008



Kenneth D. Suzan