



Kelley Drye Obtains Final EPA Approval for Registration on Behalf of Copper Development Association

March 4, 2008

On February 29, 2008, Kelley Drye represented the Copper Development Association (CDA) in obtaining final approval from the Environmental Protection Agency (EPA) for registration of copper alloys as antimicrobial products. This unprecedented registration is the result of Special Counsel Joseph J. Green's efforts over the last four years on behalf of the CDA. Copper alloys are the first ever hard surfaces registered to make "public health" antibacterial claims.

Significantly, the "public health" registration means that while many competitor products (those incorporating Microban® and similar technology) are limited to making claims that they only protect the treated product from decay and discoloration, the registered copper alloys can claim that they specifically fight bacteria that can cause disease. With this registration, the copper industry now will be able to market a variety of products as "antimicrobial" – such as door knobs, hand rails, and a variety of touch surfaces in hospitals, homes, and other facilities.

Unlike traditional antimicrobial products for which there are established registration procedures (e.g., disinfectant sprays, wipes, and coatings), copper products do not fit the typical mold. Consequently, Joe worked with the CDA to develop unique mechanisms (such as test protocols, claim language, labels and directions for use) to obtain the registration. These new procedures will set the standard by which potential competitor products will be evaluated.

"It was a long and difficult process, but the CDA is delighted by the result," said Mr. Green. "The copper industry believes that antimicrobial products offer the 'greatest marketing opportunity for the industry since electricity.'"

While registration is a major step forward for the CDA, Kelley Drye's work is only just beginning. The firm will now advise the industry on how to comply with EPA's stringent conditions for maintaining the registration, including implementation of a detailed Product Stewardship Plan and review of marketing and advertising materials.