

EXPRESS MAIL #ET987511472US DATE OF DEPOSIT: MAY 20, 2003

I hereby certify that this Notice of Opposition and fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to: Commissioner of Trademarks, Box TTAB Fee, 2900 Crystal Drive, Arlington, VA 22202.


Catherine P. MacArthur

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

In the matter of Application Serial No. 78/070,300
Published in the *Official Gazette* on December 4, 2001
Trademark: **CYTOCOOL**


05-20-2003
U.S. Patent & TMO/TM Mail Rpt Dt. #22

**RICHARD-ALLAN SCIENTIFIC COMPANY,
OPPOSER**

VS.

UROCOR, INC.,

APPLICANT

OPPOSITION NO.:

NOTICE OF OPPOSITION

Opposer, Richard-Allan Scientific Company, a Wisconsin corporation located and doing business at 4481 Campus Drive, Kalamazoo, MI 49008 believes that it will be damaged by registration of the mark shown in Serial No. 78/070300, and hereby opposes the same.

DESCRIPTION OF APPLICANT'S APPLICATION:

Filed: June 21, 2001
Published for Opposition
in the Official Gazette: December 4, 2001
Mark: CYTOCOOL
Serial No.: 78/0710,300
International Class: 010
Goods: Medical devices, namely insulated containers used to transport medical specimens

05/23/2003 SEDWARDS 00000055 500300 78070300

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As grounds of opposition, it is alleged that:

1. Opposer has been, since January 1990, and is now using the mark CYTOCOOL in connection with the sale of rapid freezing aerosol used to freeze histological tissue. Said use has been valid and continuous since said date of first use and has not been abandoned. Said mark CYTOCOOL of Opposer is symbolic of extensive good will and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising and promotion. Opposer has filed US Trademark Application Serial No. 76/327,858, covering its use of CYTOCOOL, now suspended.

2. In view of the similarity of the respective marks and the related nature of the goods of the respective parties, it is alleged that Applicant's mark so resembles Opposer's mark CYTOCOOL previously used in the United States, and not abandoned, as to be likely to cause confusion or to cause mistake or to deceive.

3. If Applicant is permitted to use and register the CYTOCOOL mark for its goods as specified in the opposed application, confusion in trade resulting in damage and injury to Opposer would be caused and would result by reason of the similarity between Applicant's mark and Opposer's mark. Persons familiar with Opposer's mark would be likely to buy Applicant's goods as goods offered by, or licensed by Opposer, or misidentify source and believe that Applicant's goods are sponsored by or affiliated with Opposer. Furthermore, any defect, objection, or fault found with Applicant's goods marked under its mark would necessarily reflect upon and seriously injure the reputation that Opposer has established for its goods and services offered under its mark.

4. If Applicant is granted the registration herein opposed it would obtain thereby at least a prima facie exclusive right to the use of its mark. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, Opposer prays that said Application Serial No. 78/070300 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

A duplicate copy of this Notice of Opposition and the fee required by Section 2.6 are enclosed.

Opposer hereby appoints Edward R. Williams, Jr., member of the Bar of the State of Wisconsin, USPTO Registration No. 36,057, Chief Intellectual Property Counsel of Apogent Technologies Inc.; and/or Denise D. Riemann, member of the Bar of the State of Kansas, USPTO Registration No. 48,779, Intellectual Property Counsel of Apogent Technologies Inc.; and/or Brian J.X. Murphy, member of the Bars of the State of New Hampshire and Commonwealth of Massachusetts, Corporate Counsel of Apogent Technologies Inc.; all with an office at 30 Penhallow Street, Suite 300, Portsmouth, New Hampshire 03801, to act as attorneys for Opposer herein, with full power to prosecute said opposition, to transact all relevant business with the Patent and Trademark Office and in the United States Courts and to receive all official communications in connection with this opposition.

RICHARD-ALLAN SCIENTIFIC COMPANY
By Its Attorney,

Date: May 20, 2003



Edward R. Williams, Jr.
Chief Intellectual Property Counsel
Apogent Technologies Inc.
30 Penhallow Street
Portsmouth, NH 03801
(603) 433-6131
ewilliams@apogent.com

Apogent™

DIRECT DIAL: (800) 773-4230 EXT 721
FAX: (603) 436-3014
E-MAIL: cmacarthur@apogent.com
Apogent Technologies Inc.

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APOGENT FILE NO. 71081

May 20, 2003

Commissioner of Trademarks
Box TTAB Fee
2900 Crystal Drive
Arlington, VA 22202

Re: Notice of Opposition
Richard-Allan Scientific Company, Opposer vs. Urocor, Inc., Applicant
Mark: CYTOCOOL
Serial No.: 78/070,300
Published: December 4, 2001

Dear Sir:

Enclosed please find the original and one copy of Notice of Opposition regarding the above-referenced trademark application. A copy of the Notice has been forwarded to Joseph J. Ferretti as counsel for Applicant.

Please deduct the filing fee of \$300 from Deposit Account 500300. A duplicate copy of this letter is also enclosed for your use in accessing the Deposit Account. Authorization is also given for additional charges or credits regarding this matter to Deposit Account No. 500300.

Sincerely,



Catherine MacArthur
Intellectual Property Administrator

Enclosures
Via Express Mail

cc: Joseph J. Ferretti, Esquire
Diane M. Reed, Esquire



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