

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

ICYT VISIONARY BIOSCIENCE, INC.)
 (by statutory name change from)
 Cytometry Services, Inc.))
)
 Opposer,)
)
 vs.)
)
 COMPUCYTE CORPORATION)
)
 Applicant.)

Opposition No. _____

NOTICE OF OPPOSITION

Opposer, ICYT VISIONARY BIOSCIENCE, INC. (formerly Cytometry Services, Inc.), a corporation organized and existing under the laws of Illinois and having its principal place of business at 1816 South Oak Street, P.O. Box 1593, Champaign, Illinois, 61824-1593, believes it would be damaged by registration of the mark shown in U.S. Application Serial No. 78/156012 filed August 20, 2002 and published for opposition in the Trademark Official Gazette of March 18, 2003, and therefore, hereby opposes the same.

The grounds for this opposition are as follows:

1. Opposer is in the business of providing comprehensive cytometry solutions.
2. Opposer is the owner of the service marks ICYT, ICYT VISIONARY BIOSCIENCE, and ICYT VISIONARY BIOSCIENCE stylized and/or with design for

“designing, engineering and prototyping scientific instrument systems for use in the field of cytometry.”

3. Opposer is the owner of United States Trademark Application Nos. 78/177645 filed on October 23, 2002 (ICYT VISIONARY BIOSCIENCE), 78/178442 filed on October 25, 2002 (ICYT) and 78/178446 filed on October 25, 2002 (ICYT VISIONARY BIOSCIENCE stylized and/or with design) each for “designing, engineering and prototyping scientific instrument systems for use in the field of cytometry.”

4. Opposer has used its ICYT, ICYT VISIONARY BIOSCIENCE and ICYT VISIONARY BIOSCIENCE stylized and/or with design marks to identify its services since prior to August 20, 2002, the filing date in Applicant's above-identified application, the basis for which is a bona fide intent to use the mark in commerce – Section 1(b) [15 U.S.C.A. §1051(b)].

5. Opposer's ICYT, ICYT VISIONARY BIOSCIENCE and ICYT VISIONARY BIOSCIENCE stylized and/or with design marks identify Opposer and Opposer's services, and represent substantial goodwill of Opposer in its business.

6. Applicant's mark, ICYTE, so resembles Opposer's mark, ICYT, and is used for such closely related products as to be likely, when applied to Applicant's products, to cause confusion, to cause mistake or to deceive.

7. Because of the similarity of Applicant's mark, ICYTE, to Opposer's mark, ICYT, persons familiar with Opposer and its goods and services will be, and in fact have

been, misled into believing that Applicant's goods are sponsored by or otherwise associated with Opposer, thereby damaging Opposer.

8. On information and belief, Applicant made no use of the ICYTE mark prior to August 20, 2002.

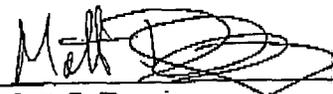
WHEREFORE, Opposer prays that this opposition be sustained and that registration of the mark in Application Serial No. 78/156012 filed August 20, 2002 in both International Class 009 and International Class 010 be denied.

Dated this 18th day of March 2003.

Respectfully submitted,

ICYT VISIONARY BIOSCIENCE, INC.,
An Illinois Corporation

By



Matt C. Deering,
One of its Attorneys

Prepared By:
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CERTIFICATE OF EXPRESS MAILING
(37 C.F.R. § 1.10)

"Express Mail" mailing label number: EO900605236US

Date of Deposit: March 18, 2003

I hereby certify that this Notice of Opposition concerning Application Serial No. 78/156012 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 Box TTAB - Fee, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia, 22203-3513.

MATT C. DEERING
One of Opposer's Attorneys

March 18, 2003



A handwritten signature in black ink, appearing to read 'Matt C. Deering', is written over a horizontal line. The signature is stylized and includes a large loop at the end.

Please direct all correspondence concerning this matter to:

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To: Box TTAB - Fee
Asst. Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

Date Mailed: March 18, 2003

Re: ICYT Visionary Bioscience, Inc. - Opposer
Computocyte Corporation, Applicant
Serial No. 78/156012

Please confirm receipt of the documents checked below by applying
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03-18-2003

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Acknowledged 3/18/03



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FACSIMILE TRANSMITTAL SHEET

TO: Tina Craven
Legal Assistant/PTO

FACSIMILE: 703/746-7121
TELEPHONE:

FROM: Matt C. Deering

**NUMBER OF
PAGES:**
(including this
page)

DATE: June 23, 2003

FILE: Notice of Opposition
Opposing Serial No.
78/156012

C/M NUMBER:

REMARKS: Per our telephone conversation today, attached please find our Notice of Opposition, correspondence filing same and the postcard receipt showing this received by the PTO TTAB on March 18, 2003.

If you have problems receiving this fax, please call Becky Fowler at 217/352-1800. Thank you.

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