

ESTTA Tracking number: **ESTTA12812**

Filing date: **08/03/2004**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Cyrus Hakakian
Granted to Date of previous extension	08/07/2004
Address	Cyrus Hakakian 241 West 37th Street, 12th Floor New York, NY 10018 UNITED STATES

Attorney information	Cathy E. Shore-Sirotnin Lackenbach Siegel LLP One Chase Road Scarsdale, NY 10583 UNITED STATES tmefs@LSLLP.com, cshore@lsllp.com Phone:914-723-4300
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Applicant Information

Application No	76546211	Publication date	06/08/2004
Opposition Filing Date	08/03/2004	Opposition Period Ends	08/07/2004
Applicant	SPPC Paris Bleu		

Goods/Services Affected by Opposition

Class 003. First Use: 20020400 First Use In Commerce: 20020400
All goods and services in the class are opposed, namely: Perfumery

Attachments	Notice of Opposition.pdf (6 pages)
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Signature	/cathy e. shore-sirotin/
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Name	Cathy E. Shore-Sirotin
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Date	08/03/2004
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Application Serial No.: 76/546,211
Mark: CYRUS
International Class: 3
Applicant: SPPC Paris Bleu
Date of Publication: June 8, 2004

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CYRUS HAKAKIAN,	:
	:
Opposer,	: OPPOSITION NO. _____
	:
v.	:
	:
SPPC PARIS BLEU,	:
	:
Applicant.	:
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NOTICE OF OPPOSITION

Cyrus Hakakian (“Opposer”), who has an address at 241 West 37th Street, 12th Floor, New York, New York 10018, believes that he will be damaged by registration of the CYRUS mark shown in Application Serial No. 76/546,211, applied for by SPPC Paris Bleu (“Applicant”).

Applicant’s mark was published for opposition on June 8, 2004. Opposer sought and received an extension to oppose until August 7, 2004. Thus, this Opposition is timely filed, pursuant to 37 C.F.R §2.101(c).

As grounds for Opposition, Opposer alleges:

1. Opposer does business in the United States.

2. Opposer is in the business of designing, manufacturing, having manufactured, distributing, promoting, advertising, offering for sale, and selling a wide variety of men's and women's clothing and related products, ("Opposer's Goods").
3. In connection with Opposer's Goods, Opposer is the owner of the trademark CYRUS (Stylized) ("Opposer's Mark").
4. Opposer's Mark depicts the name "Cyrus" in a stylized, script format.
5. Opposer has used Opposer's Mark in interstate commerce in connection with Opposer's Goods since at least as early as February 1993, long prior to Applicant's date of application.
6. In connection with Opposer's Mark, Opposer is the owner of United States Trademark Registration No. 1,860,998, registered on November 1, 1994, for "men's and ladies' clothing; namely, shirts, pants, jackets, shorts, skirts, scarves, ties, hats, underwear, stockings, socks, shoes," in International Class 25 ("Opposer's Registration").
7. Opposer's Registration is incontestable.
8. Throughout the years, Opposer has expended substantial amounts of money, time and effort in advertising, promoting and popularizing Opposer's Mark.
9. The trade, industry and public have throughout the years used, associated and attributed usage of Opposer's Mark with Opposer and Opposer alone, so that the trade in general and the purchasing public in particular have come to know and recognize Opposer's Mark and that Opposer's Goods originate from and belong solely to Opposer.
10. Opposer's Mark is a strong trademark and is famous in the United States, and has developed goodwill and a good reputation exclusive to Opposer.
11. In connection with Opposer's Mark, Opposer is the owner of United States Trademark Application No. 76/554253 ("Opposer's Application"), filed on or about October 27, 2003, based

on Applicant's intent-to-use the mark, for the following additional, highly related goods:

"cosmetics, hair and skin cleaning preparations, soaps, perfumery, essential oils, hair lotions and conditioners, antiperspirants, skin creams, make-up, shampoo, nail polish," in International Class 3; "eye wear and accessories, eyeglass spectacles, spectacle glasses, spectacle frames, spectacle cases, cases for contact lenses, sun glasses and frames," in International Class 9; "jewelry, imitation jewelry, precious jewelry, watches," in International Class 14; "home furnishings, textile articles for the home, bed wear, bed covering, blankets, quilts, bed sheets, pillow cases, comforters, mattress pads and covers, bed ruffles, shams, curtains, drapes, towels, hand cloths, dish towels," in International Class 24; and "men's, ladies' and children's clothing, namely, swim suits, lingerie, bras, panties, night gowns, hand bags, belts, men's wear and accessories, women's wear and accessories, children's wear and accessories, robes, day wear, night wear and loungewear," in International Class 25 ("Opposer's Related Goods").

12. Upon information and belief, Applicant is a corporation organized under the laws of France, with an address at 11, rue Marguerite, 75017 Paris, France.

13. Upon information and belief, on or about September 16, 2003, Applicant's trademark application for the CYRUS trademark was filed for "perfumery," in International Class 3, based on Applicant's alleged first use date of April 2002 ("Applicant's Application").

14. The CYRUS trademark applied for in Applicant's Application is confusingly and deceptively similar to Opposer's Mark, which Opposer has been using since long prior to Applicant's Application; hence, Applicant is not entitled to adopt, use or seek registration of the CYRUS trademark in connection with the goods identified in Applicant's Application.

15. The goods identified in Applicant's Application are closely related to Opposer's Goods sold under Opposer's Mark, as identified in Opposer's Registration.

16. The goods identified in Applicant's Application are identical, nearly identical, and closely related to Opposer's Related Goods identified in Opposer's Application and intended to be sold under Opposer's Mark.

17. The goods covered by Applicant's Application are of the type distributed and sold through the same channels of trade as Opposer's Goods and Opposer's Related Goods, and to the same class of purchasers as Opposer's Goods and Opposer's Related Goods. Such goods would reasonably be expected by the trade and purchasing public to emanate from or be sponsored by the same source.

18. Opposer's Mark and Applicant's purported mark are identical in pronunciation and meaning, and identical in appearance to the extent Applicant's purported word mark CYRUS subsumes Opposer's Mark CYRUS (Stylized), such that contemporaneous use of the respective marks will create a likelihood of confusion, mistake or deception among the trade and consumers.

19. Because of the strength of Opposer's Mark and because Applicant's purported mark is, for relevant purposes, identical thereto, any faults or imperfections in the goods of Applicant will reflect adversely on Opposer and its established goodwill and reputation, all to the detriment of Opposer unless this opposition is sustained.

20. The contemporaneous use by Applicant of CYRUS for the goods covered by Applicant's Application will dilute Opposer's rights and will eventually result in a lack of designation or

indication of origin and a loss of distinctiveness and exclusivity in Opposer's Mark if Applicant is allowed to register its purported mark.

21. Opposer has superior and paramount rights as compared to Applicant, and Opposer has used Opposer's Mark in commerce continuously and from a time prior to any date claimed by or available to Applicant. Consequently, Opposer avers that confusion, mistake, deception, dilution, and blurring in the trade and in the minds of the purchasers as between Opposer's Mark and Applicant's purported mark, and as to the origin of their respective goods, will be likely and bound to occur with resulting damage and injury to Opposer.

22. If Applicant's Application is granted registration, Applicant would thereby obtain at least a *prima facie* exclusive right to its use CYRUS in the trade, and such registration would be a source of serious damage and injury to Opposer.

23. Further, Applicant's Application has been cited as a potential bar to registration of Opposer's Mark, as depicted in Opposer's Application. Should Applicant's Application mature to registration and be finally cited as a bar, this would cause further damage and injury to Opposer and Opposer's Mark.

WHEREFORE, Opposer believes that he will be damaged by said registration and respectfully requests that this Opposition be sustained and that registration of CYRUS to Applicant be denied.

As this Notice of Opposition is being filed electronically via the Electronic System for Trademark Trials and Appeals, the requirement of 37 C.F.R. § 2.104 that it be filed in duplicate is waived.

In re: 76/546,211

The Commissioner is hereby authorized to charge Applicant's Attorneys' Deposit Account No. 502523 for the requisite opposition filing fee of \$300.00, required by 37 C.F.R. §§ 2.101 and 2.6, and to charge any additional fees which may be required or to credit any overpayments to the same deposit account.

Respectfully submitted,

LACKENBACH SIEGEL, LLP

Dated: Westchester, New York
July 27, 2004

By: 

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