

ESTTA Tracking number: **ESTTA34555**

Filing date: **06/01/2005**

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

<b>Name</b>	Rose Art Industries, Inc.
<b>Granted to Date of previous extension</b>	06/01/2005
<b>Address</b>	6 Regent Street Livingston, NJ 07039 UNITED STATES

<b>Attorney information</b>	Robert W. Smith McCarter & English, LLP Four Gateway Center, 100 Mulberry Street Newark, NJ 07102-0456 UNITED STATES rsmith@mccarter.com Phone:973-622-4444
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#### Applicant Information

<b>Application No</b>	78330028	<b>Publication date</b>	02/01/2005
<b>Opposition Filing Date</b>	06/01/2005	<b>Opposition Period Ends</b>	06/01/2005
<b>Applicant</b>	SHUR-LINE INC. 29 E. STEPHENSON STREET FREEPORT, IL 61032		

UNITED STATES
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**Goods/Services Affected by Opposition**

Class 016.

All goods and services in the class are opposed, namely: PAINT APPLICATORS

<b>Attachments</b>	PRO GRIP.pdf ( 4 pages )
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<b>Signature</b>	/robertwsmith/
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<b>Name</b>	Robert W. Smith
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<b>Date</b>	06/01/2005
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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ROSE ART INDUSTRIES, INC.,

Opposer,

-vs-

SHUR-LINE INC.,

Applicant.  
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NOTICE OF OPPOSITION

In the matter of the application of SHUR-LINE INC. (hereinafter "SHUR-LINE"), for the registration of "PRO GRIP," ("Applicant's Mark"), Application No. 78/330,028 (the "Application"), published in the Official Gazette of February 1, 2005, Rose Art Industries, Inc., a corporation of the State of New Jersey, with its principal place of business at 6 Regent Street, Livingston, New Jersey 07039 ("Rose Art" or "Opposer"), believes that it would be damaged by the registration of the mark shown in the application and hereby opposes same. The grounds for the opposition are:

1. Opposer is a corporation which has been engaged in the manufacture and distribution of writing, coloring and painting instruments, stationery products, arts and crafts activity sets, and toys and games for sale in the United States for more than seventy years.

2. On July 24, 2003, Opposer filed a trademark application for the PRO-GRIP mark (the "ROSE ART Mark") under Section 1(b).

3. Rose Art owns the following registrations and trademark registration applications for marks consisting of or including the terms GRIP as used in connection with stationery and arts and crafts supplies:

MARK	REG./APP. NO.	REG'N. /APP. FILING DATE	CLASS/GOODS
GREAT GRIPS	2,091,443	8/26/97	Class 16 – Pen.
GREAT GRIP	2,139,265	2/24/98	Class 16 – Artist’s brushes.
GREAT GRIPS	2182,621	8/18/98	Class 16 – Pencils.
SMART GRIP	2,353,707	5/30/00	Class 16 – Pens.
GRIP TECH	76/325,587	10/15/01	Class 16 - Pens, pencils, crayons, markers, colored pencils, and highlighter pens.
GREAT GRIPS	76/376,634	2/28/02	Class 8 - Scissors for stationery use.
GRIP RX	2,650,392	11/12/02	Class 16 – Writing instruments, namely, pens and pencils.
GRIP RX (Stylized)	2,707,673	4/15/03	Class 16 – Writing instruments, namely, pens and pencils.
PRO-GRIP	78/278,229	7/24/03	Class 16 – Writing instruments.
GRIPTASTIC	78/585,586	3/11/05	Class 16 – Pens, pencils, markers, stamper markers and crayons.

(the “GRIP Marks).

4. By reason of the extensive promotion, advertising, and provision of high-quality products manufactured and distributed by Rose Art in conjunction with its GRIP marks, the public and the trade have come to recognize products offered in conjunction with these marks as signifying Rose Art Industries, Inc., and its products as set forth above.

5. There is no issue as to priority. Rose Art filed the ROSE ART Mark in connection with related goods prior to the Applicant’s date of filing for the PRO GRIP mark.

6. Notwithstanding Rose Art Industries, Inc.'s long prior rights in the GRIP Marks, SHUR-LINE has filed the Application seeking to register Applicant's Mark for "paint applicators" in Class 16.

7. Applicant's Mark is virtually identical to Opposer's ROSE ART Mark, and is applied to goods related to those goods offered by Opposer in connection with its ROSE ART Mark. The Applicant's Mark so closely resembles the Opposer's ROSE ART Mark as to be likely to be confused therewith and mistaken therefor. The Applicant's Mark is deceptively similar to Opposer's ROSE ART Mark so as to cause confusion and lead to deception as to the origin of Applicant's goods bearing the Applicant's Mark.

8. If SHUR-LINE is permitted to use and register the "PRO GRIP" mark for its goods, as specified in the Application herein opposed, confusion in the trade resulting in damage and injury to Rose Art Industries, Inc. would be caused and would result by reason of the similarity between the Applicant's Mark and the Opposer's ROSE ART Mark. Persons familiar with Opposer's ROSE ART Mark would be likely to buy Applicant's goods as made and sold by, or sponsored or approved by, the Opposer.

9. If SHUR-LINE were granted the registration herein opposed, it would thereby obtain at least a prima facie exclusive right to the use of its mark. Such registration would be a source of damage and injury to the Opposer.

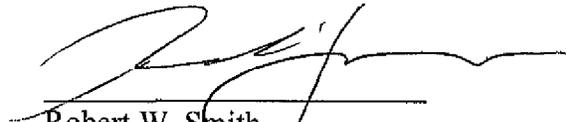
WHEREFORE, the Opposer, Rose Art Industries, Inc., prays that the application Serial No. 78/330,028 be rejected, and that the mark "PRO GRIP" sought to be registered for the

goods therein specified in International Class 16 be denied and refused.

Respectfully Submitted,

ROSE ART INDUSTRIES, INC.

By:



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Dated: June 1, 2005.

NWK2: 1319127.01