TTAB

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

In the matter of Application Serial No. 78/542,610
For the Mark: AERO-LITE

CYRO INDUSTRIES, Opposition No. _____

Opposer,

v.

AZDEL, INC.,

Applicant.

NOTICE OF OPPOSITION

BOX TTAB - FEE
Commissioner for Trademarks
P O Box 1451
Alexandria, VA 22313-1451

07/07/2006 GTHOMAS2 00000071 78542610
01 FC:6402 300.00 OP

In the matter of the application for registration of the trademark AERO-LITE ("Applicant's Mark") for glass fiber containing thermoplastic composite sheets for making semi-structural, non-flammable parts in the aircraft industry and aircraft shipping container industry in International Class 17 ("Applicant's Goods"), Serial No. 78/542,610, filed January 5, 2005, by Azdel, Inc. ("Applicant"), and published for opposition in the Trademark Official Gazette of May 2, 2006, CYRO Industries ("CYRO"), a Delaware corporation with its principal place of business at 100 Enterprise Drive, Rockaway, New Jersey 07866, believes that it would be damaged by registration of the mark shown therein and opposes the same on these grounds:

1. CYRO owns the trademarks, ACRYLITE and ACRYLITE PLUS ("the ACRYLITE Marks"). The ACRYLITE Marks are used in connection with plastics and acrylics in sheet form, sold as semi-finished products.

2. CYRO owns the following federal trademark registrations for the ACRYLITE Marks:

[redacted]

07-05-2006
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #22

Trademark	Status/Status Date	Goods/Services	Date of First Use
ACRYLITE*	Registered August 6, 1957	Plain and decoratively embedded acrylic building panel sheets in Class 19.	December 15, 1955
ACRYLITE*	Registered March 21, 1967	Acrylic molding compound in Class 1.	July 18, 1961
ACRYLITE PLUS*	Registered March 6, 1990	Molding and extrusion compounds sold for further manufacture in Class 1.	May 15, 1989
ACRYLITE PLUS	Registered December 11, 2001	Acrylic sheet for signs and displays in Class 17.	June 21, 2001

Printouts from the United States Patent and Trademark Office TESS database that identify the above registrations are shown in Exhibit A.

3. The registrations for the marks shown in Exhibit A and above constitute prima facie evidence of CYRO's exclusive right to control use of the marks shown therein in interstate commerce, and those registrations designated by an asterisk above are incontestable, and therefore constitute conclusive evidence of CYRO's exclusive right to control use of the marks shown therein in interstate commerce.

4. CYRO, and its predecessors, have continuously used the mark ACRYLITE for over fifty years, and have used the ACRYLITE Marks on and in connection with the goods identified in the United States registrations set forth in Exhibit A since the date of first use identified in those registrations and is still using the ACRYLITE Marks in interstate commerce.

5. One industry served by CYRO is the aerospace/aviation industry. CYRO's ACRYLITE sheeting products are designed for military and commercial aircraft applications, and meet or exceed United States Military specifications.

6. CYRO's ACRYLITE sheeting products are sold to fabricators, who then shape the material into aircraft components such as windshields, cockpits, and are used in laminate form for passenger windows of airplanes and helicopters.

7. Applicant's Mark AERO-LITE is confusingly similar to CYRO's ACRYLITE Marks.

8. Applicant's goods, namely thermoplastic composite sheets for making semi-structural, non-flammable parts in the aircraft industry and aircraft shipping container industry, are identical to those offered by CYRO, and specifically noted above, will be sold in the same trade channels and to the same customers in the aerospace/aircraft industry where CYRO's products are sold under the ACRYLITE Marks.

9. Customers and potential customers are likely to believe that Applicant's AERO-LITE goods are offered by CYRO, or licensed by CYRO, when in fact they are not.

10. As a result of the foregoing facts, intended customers for Applicant's Goods sold under Applicant's Mark are likely to be confused, mistaken, and deceived as to whether Applicant's Goods originate with or are sponsored, authorized, or licensed by CYRO, all to CYRO's damage.

11. Due to CYRO's priority and continuous use of the ACRYLITE Marks and the likelihood of confusion alleged above, Applicant is not entitled to the registration sought and said registration, if allowed, would be a source of injury and damage to CYRO. Priority is not in issue given CYRO's federal registrations referenced herein.

12. Applicant does not have CYRO's consent to use or register Applicant's Mark.

WHEREFORE, CYRO requests that this opposition be sustained and the registration sought by Applicant be refused. Enclosed herewith is a check in the amount of $300.00 in payment of the requisite fee. Charge or credit Deposit Account No. 13-3080 with any shortage or overpayment of the fees associated with this communication.

Dated this 30th day of June, 2006.

MICHAEL BEST & FRIEDRICH LLP
Attorneys for CYRO INDUSTRIES

By: _____
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Lori S. Meddings

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Atty. Ref. No.: 024010/9207

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to:

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Trademark Trial and Appeal Board
Attention: TTAB BOX FEE
P O Box 1451
Alexandria, VA 22313-1451

on this 30th day of June, 2006.

Joyce Early

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United States Patent and Trademark Office

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ACRYLITE

Word Mark	**ACRYLITE**
Goods and Services	IC 019. US 012. G & S: PLAIN AND DECORATIVELY EMBEDDED ACRYLIC BUILDING PANEL SHEETS. FIRST USE: 19551215. FIRST USE IN COMMERCE: 19551215
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Design Search Code	
Serial Number	72007651
Filing Date	May 3, 1956
Current Filing Basis	1A
Original Filing Basis	1A
Registration Number	0649532
Registration Date	August 6, 1957
Owner	(REGISTRANT) WASCO PRODUCTS, INC. CORPORATION MASSACHUSETTS BAY STATE ROAD CAMBRIDGE MASSACHUSETTS (LAST LISTED OWNER) CYTEC PLASTICS INC. CORPORATION DELAWARE 1209 ORANGE STREET C/O THE CORPORATION TRUST COMPANY WILMINGTON DELAWARE 19801
Assignment	ASSIGNMENT RECORDED

Recorded	
Attorney of Record	Mark L. Whipkey
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15.
Renewal	2ND RENEWAL 19970820
Live/Dead Indicator	LIVE

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Typed Drawing

Word Mark	**ACRYLITE**
Goods and Services	IC 001. US 001. G & S: [POLYESTER RESIN, AND AN] ACRYLIC MOLDING COMPOUND. FIRST USE: 19610718. FIRST USE IN COMMERCE: 19610718
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	72125696
Filing Date	August 9, 1961
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	March 12, 1963
Change In Registration	CHANGE IN REGISTRATION HAS OCCURRED
Registration Number	0825930
Registration Date	March 21, 1967
Owner	(REGISTRANT) AMERICAN CYANAMID COMPANY CORPORATION MAINE BERDAN AVE. WAYNE NEW JERSEY (LAST LISTED OWNER) CYTEC PLASTICS INC. CORPORATION DELAWARE 1209 ORANGE STREET C/O THE CORPORATION TRUST COMPANY WILMINGTON DELAWARE 19801
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of	

Record	Mark L. Whipkey
Prior Registrations	0559677;0649532
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15.
Renewal	1ST RENEWAL 19870321
Live/Dead Indicator	LIVE

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TARR Status | ASSIGN Status | TDR | TTAB Status *(Use the "Back" button of the Internet Browser to return to TESS)*

Typed Drawing

Word Mark	**ACRYLITE** PLUS
Goods and Services	IC 001. US 001 006. G & S: MOLDING AND EXTRUSION COMPOUNDS SOLD FOR FURTHER MANUFACTURE. FIRST USE: 19890515. FIRST USE IN COMMERCE: 19890515
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	73811667
Filing Date	July 10, 1989
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	December 12, 1989
Registration Number	1585221
Registration Date	March 6, 1990
Owner	(REGISTRANT) CYRO INDUSTRIES COMPOSED OF CYANAMID PLASTICS, INC. AND ROHACRYL, INC., BOTH CORPORATIONS OF DELAWARE PARTNERSHIP NEW JERSEY P.O. BOX 5055 100 ENTERPRISE DRIVE ROCKAWAY NEW JERSEY 07866 (LAST LISTED OWNER) CYTEC PLASTICS INC. CORPORATION DELAWARE 1209 ORANGE STREET C/O THE CORPORATION TRUST COMPANY WILMINGTON DELAWARE 19801
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Mark L. Whipkey

Prior Registrations	0825930
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR).
Renewal	1ST RENEWAL 20000328
Live/Dead Indicator	LIVE

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Typed Drawing

Word Mark	**ACRYLITE** PLUS
Goods and Services	IC 017. US 001 005 012 013 035 050. G & S: acrylic sheet for signs and displays. FIRST USE: 20010621. FIRST USE IN COMMERCE: 20010621
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	75359652
Filing Date	September 19, 1997
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	August 25, 1998
Registration Number	2517705
Registration Date	December 11, 2001
Owner	(REGISTRANT) CYRO Industries composed of Cytec Plastics Inc. and Rohacryl, Inc., both Delaware corporations PARTNERSHIP NEW JERSEY 100 Enterprise Drive P.O. Box 5055 Rockaway NEW JERSEY 07866
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Mark L. Whipkey
Prior Registrations	0649532;0825930;1585221
Type of Mark	TRADEMARK
Register	PRINCIPAL

Live/Dead Indicator LIVE