

ESTTA Tracking number: **ESTTA90166**

Filing date: **07/17/2006**

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	CYRO Industries
Granted to Date of previous extension	07/15/2006
Address	100 Enterprise Drive Rockaway, NJ 07866 UNITED STATES
Attorney information	Lori S. Meddings Michael Best & Friedrich LLP 100 E. Wisconsin Avenue Suite 3300 Milwaukee, WI 53202-4108 UNITED STATES lsmeddings@michaelbest.com, mkeipdocket@michaelbest.com, mark.whipkey@degussa.com Phone:414-271-6560

Applicant Information

Application No	78694898	Publication date	05/16/2006
Opposition Filing Date	07/17/2006	Opposition Period Ends	07/15/2006
Applicant	Sumitomo Chemical Co., Ltd. 27-1, Shinkawa 2-chome, Chuo-ku Tokyo, 104-8260 JAPAN		

Goods/Services Affected by Opposition

Class 001. All goods and services in the class are opposed, namely: Unprocessed plastics; unprocessed synthetic resins for general industrial use
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Attachments	A1673810.PDF (3 pages)(327141 bytes) a1657690.pdf (8 pages)(1168416 bytes)
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Signature	/lori s. meddings/
Name	Lori S. Meddings
Date	07/17/2006

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

In the matter of Application Serial No. 78/694,898
For the Mark: ACRYFT

CYRO INDUSTRIES,

Opposition No. _____

Opposer,

v.

SUMITOMO CHEMICAL CO., LTD.,

Applicant.

NOTICE OF OPPOSITION

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

In the matter of the application for registration of the trademark ACRYFT ("Applicant's Mark") for unprocessed plastics; unprocessed synthetic resins for general industrial use International Class ("Applicant's Goods"), Serial No. 78/694,898, filed August 17, 2005, by Sumitomo Chemical Co., Ltd., ("Applicant"), and published for opposition in the Trademark Official Gazette of May 16, 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 sold as semi-finished products.

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

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, has continuously used the mark ACRYLITE for over fifty years, and has 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. CYRO's products offered under the ACRYLITE Marks are sold in many industries, including automotive, appliance, sanitary ware and portable phone housings.

6. CYRO's ACRYLITE products are sold to fabricators, who then shape the material into components and end products.

7. Applicant's Mark ACRYFT is confusingly similar to CYRO's ACRYLITE Marks.

8. Applicant's goods, namely unprocessed plastics; unprocessed synthetic resins for general industrial use, are identical to those offered by CYRO, and as specifically noted above, will be sold in the same trade channels and to the same customers in the automotive,

appliance and sanitary or food packaging industries where CYRO's products are sold under the ACRYLITE Marks.

9. Customers and potential customers are likely to believe that Applicant's ACRYFT 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. Charge Deposit Account No. 13-3080 the \$300.00 filing fee for this opposition, and with any shortage or overpayment of the fees associated with this communication.

Dated this 17th day of July, 2006.

MICHAEL BEST & FRIEDRICH LLP
Attorneys for CYRO INDUSTRIES

By: /s/ Lori S. Meddings

Thomas A. Miller
Lori S. Meddings

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Atty. Ref. No.: 024010/9209



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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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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 Register	TRADEMARK PRINCIPAL

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