

TTAB

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

In re application Serial No. 76/192,421  
Published in the Official Gazette of July 2, 2002 at TM 505  
Mark: QAS



08-05-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #7

Paul Hertzler & Co.	)
d/b/a Hertzler Systems	)
Opposer,	)
v.	)
QAS Limited	)
Applicant.	)

Opposition No. \_\_\_\_\_

02 AUG 12 AM 8:44  
TRADEMARK TRIAL AND  
APPEAL BOARD

BOX TTAB FEE  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

**NOTICE OF OPPOSITION**

An application for registration of the trademark QAS for "computer software for the management and capture of addresses" in International Class 9 was filed in the U.S. Patent and Trademark Office on January 9, 2001 by QAS Limited (hereinafter "Applicant") under Sections 1(a) and 44(e) of the Trademark Act, and was assigned Serial No. 76/192,421. This mark was published for opposition on Page TM505 of the Official Gazette dated July 2, 2002.

Paul Hertzler & Co., Inc. d/b/a Hertzler Systems, an Indiana corporation, having an address of 2312 Eisenhower Drive North, Goshen, Indiana 46526 ("Opposer"), believes that it will be damaged by the registration of the above-identified mark QAS for the above-recited goods and hereby opposes its federal registration.

The grounds for the Opposition are as follows:

1. Opposer is the owner of U.S. Trademark Registration No. 1,715,323 for the mark QA/S for "computer programs in the field of quality control in manufacturing" in International Class 9, which was filed on December 9, 1991, registered on September 15, 1992, and renewed on July 7, 2002. A declaration pursuant to Sections 8 and 15 of the Trademark Act was accepted and acknowledged on December 11, 1997. A copy of Reg. No. 1,715,323 is attached hereto and made a part hereof.

2. Since at least as early as December 31, 1983, Opposer has been using the mark QA/S for computer programs in the field of quality control in manufacturing, and continues to use the mark to this day. Opposer has developed substantial and valuable goodwill in connection with this mark.

3. Applicant seeks registration of the mark QAS for computer software for the management and capture of addresses in International Class 9.

4. The mark for which Applicant seeks registration is virtually identical to Opposer's prior registered mark QA/S, Registration No. 1,715,323, and registration is being sought by Applicant for goods that are very similar to the goods of Opposer's prior registration and which may, if Applicant's mark is permitted registration, compete therewith.

5. The registration by Applicant of the mark QAS sought to be registered should be denied. If Applicant succeeds in registering its mark, there will be statutory rights created thereby in violation of the earlier established rights of Opposer, all to the harm of Opposer's goodwill, and with the resultant diminution of Opposer's rights in its mark, to the damage and injury of Opposer and of the public.

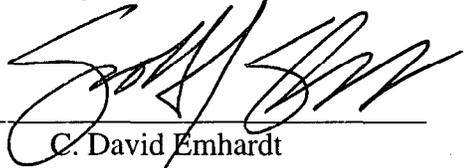
6. The use of the mark sought to be registered by Applicant is likely to cause confusion, mistake and deception in the minds of the public and to lead the public to believe that

Applicant's goods identified thereby have their source in Opposer or that in some way Opposer is endorsing or sponsoring such goods, or that Opposer is in some way associated with Applicant in providing the goods so identified.

WHEREFORE, Opposer files this Notice of Opposition and prays that the Application Serial No. 76/192,421 being opposed herein be denied; that registration of the subject mark be refused, and for such other and further relief in the premises as may be deemed to be just and proper.

The filing fee of \$300.00 is presented herewith.

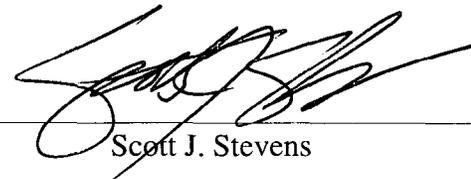
Respectfully submitted,

By 

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(317) 634-3456  
Attorney for Opposer  
Paul Hertzler & Co., Inc.

**CERTIFICATE OF MAILING**

I hereby certify that the foregoing Notice of Opposition and required filing fee is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, postage prepaid, on August 1, 2002.

By   
Scott J. Stevens

Int. Cl.: 9

Prior U.S. Cl.: 38

Reg. No. 1,715,323

**United States Patent and Trademark Office**

Registered Sep. 15, 1992

**TRADEMARK  
PRINCIPAL REGISTER**

**QA/S**

PAUL HERTZLER & CO., INC. (INDIANA COR-  
PORATION)  
P.O. BOX 578  
221 N. MAIN STREETSUITE 300  
GOSHEN, IN 46526

FIRST USE 12-31-1983; IN COMMERCE  
12-31-1983.

SER. NO. 74-228,088, FILED 12-9-1991.

FOR: COMPUTER PROGRAMS IN THE  
FIELD OF QUALITY CONTROL IN MANU-  
FACTURING, IN CLASS 9 (U.S. CL. 38).

THOMAS V. SHAW, EXAMINING ATTORNEY

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(1860-1932)  
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(1890-1957)

August 1, 2001

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Arlington, VA 22202-3513



08-05-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #7

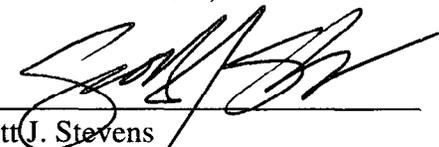
Re: Notice of Opposition In the Matter of  
Trademark Application Serial No. 76/192,421  
Mark: QAS  
Our Ref.: 3018-7

Dear Sir or Madam:

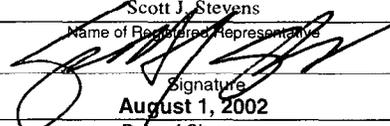
Enclosed is an original and one copy of a Notice of Opposition in the matter of Trademark Application Serial No. 76/192,421, together with a check in the amount of \$300.00 to cover the statutory filing fee. Please charge any additional fees or credit any overpayment to Deposit Account No. 23-3030.

Respectfully submitted,

Paul Hertzler & Co., Inc.

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, postage prepaid, on	
August 1, 2002	Date of deposit
Scott J. Stevens	Name of Registered Representative
	Signature
August 1, 2002	Date of Signature