



a mark registered in the Patent and Trademark Office, or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods of the applicant, to cause confusion..." 17 U.S.C. § 1052(d).

3. Opposer has not pleaded facts which, if proved, establish either (1) that Opposer has a registered mark, or (2) that Opposer owns a mark or trade name previously used in the United States by another. Specifically, Opposer has not alleged that its mark, "HUMAN RX", was used prior to Applicant's filing date of April 29, 2002.

4. Opposer's allegation that it is the "senior user" of the mark "HUMAN RX" in commerce as regulated by Congress is not an allegation of fact, but a legal conclusion.

5. Even if Opposer's allegation regarding being the senior user of the mark "HUMAN RX" were considered an allegation of fact, it would not, if proved, establish that Opposer's mark was used in the United States prior to April 29, 2002. Indeed, it is irrelevant whether or not Opposer is the senior user of the mark "HUMAN RX" because Applicant has never used the mark "HUMAN RX."

Wherefore Applicant respectfully requests that the Notice of Opposition be dismissed with prejudice and that Applicant be awarded its fees and costs and such other relief as is just and equitable.

Respectfully submitted,

CREDIT UNION CAREERS, INC.

By: 
One of their Attorneys

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CERTIFICATE OF EXPRESS MAIL

Pursuant to 37 CFR Section 1.10, the undersigned certifies that this communication was deposited with the U.S. Postal Service, "Express Mail Post Office Addressee" service on November 20, 2003 and addressed to Box TTAB, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202. The "Express Mail" mailing label number is EV 034976429 US



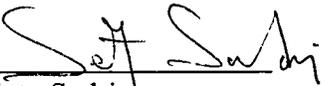
Sety Sadri

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of November, 2003, a copy of the foregoing APPLICANT'S MOTION TO DISMISS OPPOSER'S NOTICE OF OPPOSITION UNDER FED. R.CIV.P. 12(b)(6) was served on the following party by fax and first class mail, postage prepaid to the following address:

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