

ESTTA Tracking number: **ESTTA22257**

Filing date: **12/29/2004**

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>	Red Hat Society, Inc
<b>Granted to Date of previous extension</b>	12/29/2004
<b>Address</b>	431 S. Acacia Avenue Fullerton, CA 92831 UNITED STATES

<b>Attorney information</b>	Albert Y. Tsui Cherskov & Flaynik 20 N. Wacker Drive, Suite 1447 Chicago, IL 60606 UNITED STATES atsui@cherskov.com Phone:312-621-1330
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#### Applicant Information

<b>Application No</b>	78331972	<b>Publication date</b>	08/31/2004
<b>Opposition Filing Date</b>	12/29/2004	<b>Opposition Period Ends</b>	12/29/2004
<b>Applicant</b>	MacDonald, Louis R. 8 Cole Court Bayport, NY 11705		

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

Class 016.

All goods and services in the class are opposed, namely: Magazine, featuring women's interest, namely, crafts, gardening, home, travel, fashion, family, fun and health

<b>Attachments</b>	Opposition.pdf ( 4 pages ) Exhibit 1.pdf ( 3 pages ) Exhibit 2.pdf ( 1 page )
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<b>Signature</b>	/Albert Y. Tsui/
<b>Name</b>	Albert Y. Tsui
<b>Date</b>	12/29/2004

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

THE RED HAT SOCIETY, INC., )  
 ) Opposition No.:  
 )  
 Opposer, )  
 )  
 v. )  
 )  
 )  
 LOUIS R. MACDONALD, )  
 )  
 Applicant. )  
 )  
 )

**NOTICE OF OPPOSITION**

The trademark application of Louis R. MacDonald of Bayport, New York (hereafter “Applicant”) for registration of the trademark **RED AND PURPLE**, having Serial No.: 78/331,972, published on the Official Gazette on August 31, 2004, is hereby opposed by THE RED HAT SOCIETY, INC., (hereinafter “Opposer” or “RHS”). RHS has its principle place of business in Fullerton, California. RHS believes that it will be damaged by registration of Applicant’s mark shown in Serial No. 78/331,972 and hereby states as follows:

1. RHS is, and has been since 1997, doing business as a women’s association that actively promotes the interests of middle aged women.
2. RHS was founded by Ms. Sue Ellen Cooper in 1997 as an organization promoting women’s fun and sisterhood. Members of RHS meet and enjoy activities wearing red hats and purple dresses.
3. The colors red and purple have been used as an RHS theme since RHS’s inception. For instance, RHS members wearing red hats with purple dresses signify that they are

at least fifty years old, while RHS members wearing pink hats and lavender dresses indicate that they are under the age of fifty. This color motif (red-purple and pink-lavender) extends throughout goods sold and services provided by RHS and is a source indicator among RHS members, its licensees, and the general public. Since the adoption of the colors, RHS has continually used the colors in all aspects of its business.

4. Currently, there are approaching one million RHS members in more than 35,000 chapters in all 50 states and 30 countries. Since RHS's inception, RHS membership has continued to grow.

5. RHS members gather at meetings and events wearing the aforementioned color motifs. RHS mails literature across the United States depicting the red and purple and pink and lavender motifs.

6. RHS owns U.S. Trademark No.: 2,713,356 for **RED HAT SOCIETY** in International Class 35. The mark has been used continuously in interstate commerce to promote women's services at least as early as 1997. A copy of the USPTO Trademark Applications and Registrations Retrieval (TARR) printout is attached as Exhibit 1.

7. The RHS trademark registration is valid and the trademark has been continuously used since 1997 and has not been abandoned. The mark is symbolic of the extensive goodwill and consumer recognition built up by the RHS through substantial amounts of time and effort in advertising and promotion.

8. RHS has applied for U.S. Trademark Registration of **RED HAT SOCIETY** in international classes 14 (jewelry), 16 (stationary) and 25 (clothing), based on a first used date of October 2000.

9. RHS owns and operates the website [www.redhatsocietystore.com](http://www.redhatsocietystore.com) that sells red and purple hats, jewelry, clothing, and accessories and numerous other products.

10. RHS also owns and operates the website [www.redhatsociety.com](http://www.redhatsociety.com). On its website, RHS uses the colors red and purple as a banner and as text colors.

11. In addition, the website promotes RHS's magazine entitled "RED HAT SOCIETY LIFESTYLE". The magazine promotes women's services and also prominently displays pictures, fonts and lettering in red and purple colors throughout the magazine. Attached as Exhibit 2 is a copy of the January/February 2005 issue of RED HAT SOCIETY LIFESTYLE magazine.

12. RHS has expended considerable sums in exerting every effort to maintain the highest standard of quality for its goods and services, and has created valuable goodwill among its members and the purchasing public under its **RED HAT SOCIETY** mark, its color motifs, and its newsletters and magazines.

13. Applicant's mark is confusingly similar to RHS's red and purple theme and RHS's magazine. A registration and use by Applicant on a magazine is likely to cause confusion, deception, and mistake among RHS patrons, licensees and members.

14. As a result of RHS's extensive use of the red and purple theme, registration of Applicant's mark is likely to damage RHS in that Applicant's mark, when used on or in connection with a women's interest magazine for goods in International Class 16, is likely to cause confusion, to cause mistake, or to deceive. Such confusion is likely to cloud RHS's title, its own mark, its color motifs, and the goodwill inherent therein, so as to falsely suggest a connection between RHS and applicant.

**WHEREFORE**, Opposer believes that it will be damaged by the registration of Applicant's mark and prays that the registration of the mark **RED AND PURPLE** be denied.

The filing fee for the Opposition in the amount of \$300.00 is enclosed.

Respectfully submitted,

**THE RED HAT SOCIETY, INC.**

Dated: December 29, 2004

By: s/ Albert Y. Tsui  
Michael J. Cherskov  
Albert Y. Tsui  
CHERSKOV & FLAYNIK  
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(312) 621-1330  
Attorneys for Opposer

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2004-12-29 11:37:44 ET**

**Serial Number:** 76429061

**Registration Number:** 2713356

**Mark (words only):** RED HAT SOCIETY

**Standard Character claim:** No

**Current Status:** Registered.

**Date of Status:** 2003-05-06

**Filing Date:** 2002-07-01

**Transformed into a National Application:** No

**Registration Date:** 2003-05-06

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 108

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)**

**Current Location:** 900 -File Repository (Franconia)

**Date In Location:** 2004-05-17

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

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1. Red Hat Society, Inc.

**Address:**

Red Hat Society, Inc.  
221 North Harbor Boulevard, Suite P  
Fullerton, CA 92832  
United States

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** Nevada

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**GOODS AND/OR SERVICES**

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**International Class:** 035

association services, namely, promoting the interests of women

**First Use Date:** 1997-12-00**First Use in Commerce Date:** 2000-08-21**Basis:** 1(a)

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**ADDITIONAL INFORMATION**

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**Disclaimer:** "SOCIETY"

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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2004-03-29 - PAPER RECEIVED

2003-05-06 - Registered - Principal Register

2003-02-11 - Published for opposition

2003-01-22 - Notice of publication

2002-12-10 - Approved for Pub - Principal Register (Initial exam)

2002-11-12 - Communication received from applicant

2002-11-12 - PAPER RECEIVED

2002-10-21 - Non-final action mailed

2002-09-30 - Case file assigned to examining attorney

2002-09-26 - Case file assigned to examining attorney

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**CORRESPONDENCE INFORMATION**

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**Correspondent**

Dax Alvarez (Attorney of record)

DAX ALVAREZ

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LOS ANGELES, CALIFORNIA 90025-1026

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# RED HAT SOCIETY Lifestyle

The Official Publication of the Red Hat Society

Style

Travel

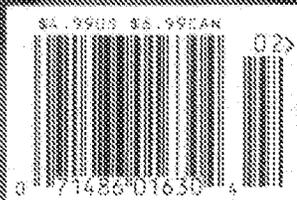
Parties

Girlfriend  
Getaways

*Sue Ellen Cooper*  
Exalted Queen Mother

Fabulous at  
*any age!*

January / February 2005



PLUS: Chapter Chatter

Exhibit 2