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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	American Association of State Highway and Transportation Officials		
Entity	Corporation	Citizenship	Washington, D.C.
Address	444 North Capitol Street, N.W. Suite 249 Washington, DC 20001 UNITED STATES		

Attorney information	Richard A. Steyer Howe, Anderson & Steyer, P.C. 815 Connecticut Avenue, N.W. Suite 620 Washington, DC 20006 UNITED STATES rsteyer@haspc.com Phone:(202) 296-5680

Applicant Information

Application No	78607099	Publication date	03/14/2006
Opposition Filing Date	04/07/2006	Opposition Period Ends	04/13/2006
Applicant	Britt/Paulk Insurance Agency, Inc. 100 Glen Eagles Court Carrollton, GA 30117 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. All goods and sevices in the class are opposed, namely: Computer software for the administration of insurance policies by allowing insurance agents and others to input information through a computerized user interface and obtain a quote and issue an insurance policy

Attachments	OPUS Opposition.pdf (2 pages)

Signature	/RAS/
Name	Richard A. Steyer
Date	04/07/2006

The Opposing Party (AASHTO) believes that it will be damaged by the registration of the "OPUS" mark (Serial No. 78-607099) referred to above and published for opposition on March 14, 2006, and submits the following opposition to registration of the mark:

1) The Opposing Party's opposition to registration of the "OPUS" mark referenced above is based upon a pending decision of the PTO's assigned examining attorney to refuse registration of the Opposing Party's application to register the mark "OPIS BRIDGE DESIGN" with design element (Serial No. 78/436791). In connection with that application, the examining attorney cited Trademark Act Section 2(d) as the basis for refusal of registration of the "OPIS BRIDGE DESIGN" mark, contending that the mark so resembles the mark bearing U.S. Registration No. 2,632,815 ("OPUS") as to be likely, when used on the identified goods, to cause confusion or to cause mistake, or to deceive. The cited "OPUS" mark (U.S. Registration No. 2,632,815) is registered in International Class 9 to a company in Mexico, Ecosoft, S.DE R.L. DE C.V. for use in connection with software.

2) The Opposing Party has filed a Notice of Appeal and Request for Reconsideration of the examining attorney's Final Refusal in the matter of its application to register "OPIS BRIDGE DESIGN" based upon its contention that the examining attorney's decision to deny registration of the mark under Section 2(d) is in error and contrary to the facts and law cited by AASHTO. However, in order to protect its interests in the registered mark "OPIS" (U.S. Registration No. 2, 249,961) and to preserve its arguments in support of registration of the "OPIS BRIDGE DESIGN" mark (Serial No. 78/436791), the Opposing Party is compelled to submit this opposition and rely upon similar arguments to those posited by the examining attorney in connection with her denial of the application to register "OPIS BRIDGE DESIGN."

3) In refusing registration of the Opposing Party's mark "OPIS BRIDGE DESIGN", the examining attorney asserted that the mark created the same overall impression as the registered mark "OPUS" (U.S. Registration No. 2,632, 815) in that "the points of similarity are of greater importance than the points of difference." She also found that in comparing the "OPUS" and "OPIS BRIDGE DESIGN" marks there are similarities as to sound, commercial meaning and impression and that both marks are used in connection with very similar goods/services, that is, software. The examining attorney rejected the Opposing Party's position that its "OPIS BRIDGE DESIGN" software product is used by a highly specialized and limited group of professionals, in particular, federal and state highway/transportation officials and experienced members of the highway/transportation industry, and thus the likelihood of confusion as to the source of the software product is minimal. The examining attorney responded by stating that just because purchasers are sophisticated or knowledgeable in a particular field does not necessarily mean that they are sophisticated or knowledgeable in the field of trademarks or immune from source confusion.

4) The Opposing Party is also the owner of the mark "OPIS" (U.S. Registration No. 2, 249,961) which was registered June 1, 1999 for use in connection with software for bridge design that incorporates load resistance design methodology. The "OPIS" mark is applied to and used in connection with the same software product as the Opposing Party's "OPIS BRIDGE DESIGN" mark. The "OPIS" mark has been continuously used in commerce since March 1, 1999 and the

Opposing Party has filed combined Section 8 and 15 affidavits which have been acknowledged and accepted by the PTO.

5) In addition, the Opposing Party's OPIS/OPIS BRIDGE DESIGN software is part of a suite of software for designing, rating and managing highway bridges connected by a common data base. The other components of the suite of software products are the Opposing Party's "PONTIS" (U.S. Registration No. 2,097,106) and "VIRTIS" (U.S. Registration No. 2,173,572) software. The Opposing Party has also applied for registration of design marks for "PONTIS BRIDGE MANAGEMENT" (Serial No. 78/436798) and "VIRTIS BRIDGE LOAD RATING" (Serial No. 78/436811) that have virtually identical designs as the Opposing Party's "OPIS BRIDGE DESIGN" mark. These software products are advertised and marketing together, thus strengthening the association with the Opposing Party.

6) If the Section 2(d) final refusal issued by the examining attorney with respect to registration of the Opposing Party's "OPIS BRIDGE DESIGN" is upheld, then the Opposing Party submits that the same Section 2(d) arguments against registration apply to the Applicant Britt/Paulk Insurance Agency's application to register the "OPUS" mark (Serial No. 78-607099). Specifically, the applied for "OPUS" mark is similar in sound, meaning and commercial impression to the "OPUS" mark (U.S. Registration No. 2,632,815) and the Opposing Party's "OPIS" mark (U.S. Registration No. 2,249, 961), and the goods/services for all three marks are very closely related, that is, Class 9 "software."

7) Based on the above, the Opposing Party (AASHTO) respectfully submits that the Applicant's mark for which registration is sought so resembles the marks shown in U.S. Registration No. 2,632,815 ("OPUS") and U.S. Registration 2,249, 961 ("OPIS") as to be likely, when used on the identified software goods, to cause confusion, or to cause mistake, or to deceive the average purchaser as to the source of the mark.