

ESTTA Tracking number: **ESTTA238655**

Filing date: **09/24/2008**

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	General Motors Corporation
Granted to Date of previous extension	09/24/2008
Address	300 Renaissance Center Detroit, MI 48265-3000 UNITED STATES

Attorney information	Karen A. Merkle General Motors Corporation 300 Renaissance CenterMC#482-C23-B21 Detroit, MI 48265-3000 UNITED STATES karen.a.merkle@gm.com Phone:313-665-0950
----------------------	--

Applicant Information

Application No	77143225	Publication date	05/27/2008
Opposition Filing Date	09/24/2008	Opposition Period Ends	09/24/2008
Applicant	Godley, Renell 4903 Canterbury Way Houston, TX 77069 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Men's suits; Jeans; T-shirts

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2713873	Application Date	01/07/2000
Registration Date	05/06/2003	Foreign Priority Date	NONE
Word Mark	H1		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 012. First use: First Use: 2001/11/19 First Use In Commerce: 2001/11/19 MOTOR LAND VEHICLES, NAMELY TRUCKS AND SPORT UTILITY VEHICLES, ENGINES THEREFOR AND STRUCTURAL PARTS THEREOF

U.S. Registration No.	3232460	Application Date	04/20/2005
Registration Date	04/24/2007	Foreign Priority Date	NONE
Word Mark	H1		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2001/11/29 First Use In Commerce: 2001/11/29 Clothing, namely, aprons, caps, coats, dress shirts, gloves, golf shirts, hats, headbands, jackets, moccasins, neckties, overalls, pants, polo shirts, rainwear, slippers, socks, sunvisors, sweat pants, sweat shirts, sweaters, t-shirts and vests		

U.S. Registration No.	3308057	Application Date	05/12/2003
Registration Date	10/09/2007	Foreign Priority Date	NONE
Word Mark	HUMMER H1		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2006/08/00 First Use In Commerce: 2006/08/00 Mobile radio communication devices, namely, portable radios and walkie talkies; portable stereo systems, CD players, personal stereos, and telephones		

U.S. Registration No.	3056298	Application Date	11/07/2003
Registration Date	01/31/2006	Foreign Priority Date	NONE
Word Mark	H2		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2005/10/00 First Use In Commerce: 2005/10/00 Deodorants, antiperspirants, facial cleansers, facial creams, facial scrubs, facial lotion, deodorant soap, non-medicated lip balm, cologne, perfume, after-shave gel, after-shave lotions, and shower gel		

U.S. Registration No.	2681576	Application Date	01/07/2000
Registration Date	01/28/2003	Foreign Priority Date	NONE
Word Mark	H2		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 012. First use: First Use: 2002/06/24 First Use In Commerce: 2002/06/24 MOTOR LAND VEHICLES, NAMELY TRUCKS AND SPORT UTILITY VEHICLES, ENGINES THEREFOR AND STRUCTURAL PARTS THEREOF

U.S. Registration No.	2696663	Application Date	01/24/2001
Registration Date	03/11/2003	Foreign Priority Date	NONE
Word Mark	H2		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2002/06/24 First Use In Commerce: 2002/06/24 Motor land vehicles, namely, automobiles, sport utility vehicles, trucks, vans, engines therefor and structural parts thereof		

U.S. Registration No.	2707075	Application Date	03/20/2001
Registration Date	04/15/2003	Foreign Priority Date	NONE
Word Mark	H2		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2000/09/00 First Use In Commerce: 2001/10/15 Clothing, namely, aprons, caps, coats, dress shirts, gloves, golf shirts, hats, headbands, jackets, moccasins, neckties, overalls, pants, polo shirts, rainwear, slippers, socks, sunvisors, sweat pants, sweaters, t-shirts and vests		

U.S. Registration No.	2604940	Application Date	03/20/2001
Registration Date	08/06/2002	Foreign Priority Date	NONE
Word Mark	H2		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2000/09/00 First Use In Commerce: 2000/09/00 Almanacs, automotive books, paper and plastic bags for merchandise, bank checks, bumper stickers, desktop business card holders, business cards, calendars, checkbook covers, children's activity books, cookbooks, decals, desk top holders, gift wrapping paper, greeting cards, letter openers, markers, note pad holders, note pads, paper banners, paper coasters, paper flags, paper luggage tags, paper napkins, paperweights, pen and pencil holders, pencils, pens, photo albums, pictures, playing cards, pocket secretaries, postcards, posters, printed labels, reproduction lithographic prints, stationery folders, trading and collector cards		

U.S. Registration No.	2741769	Application Date	03/20/2001
-----------------------	---------	------------------	------------

Registration Date	07/29/2003	Foreign Priority Date	NONE
Word Mark	H2		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 026. First use: First Use: 2000/09/00 First Use In Commerce: 2000/09/00 Belt buckles for clothing not made of precious metal, embroidered emblems, hat pins, zipper pulls		

U.S. Registration No.	2686547	Application Date	03/20/2001
Registration Date	02/11/2003	Foreign Priority Date	NONE
Word Mark	H2		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 021. First use: First Use: 2000/09/00 First Use In Commerce: 2001/10/15 Beverage glassware, bottle openers, insulting beverage wraps, plastic coasters, commemorative plates, containers for food, portable beverage coolers, corkscrews, cups, glass canisters, ice scrapers with brushes, mugs, ornament replicas of vehicles made of glass, crystal and ceramic, portable all purpose household containers, salt and pepper shakers, serving trays not of precious metal, squeeze bottles sold empty, drinking steins		

U.S. Registration No.	2625051	Application Date	03/20/2001
Registration Date	09/24/2002	Foreign Priority Date	NONE
Word Mark	H2		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 006. First use: First Use: 2000/09/00 First Use In Commerce: 2000/09/00 ingots of common metal, metal key rings, metal key fobs, metal license plates, non-luminous and non-mechanical metal signs, parking signs and street signs, metal money clips, metal tool boxes and tool racks, metal piggy banks, metal decorative boxes and ornamental replicas of vehicles made of pewter and bronze		

U.S. Registration No.	3051518	Application Date	05/13/2003
Registration Date	01/24/2006	Foreign Priority Date	NONE
Word Mark	HUMMER H2		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2004/02/00 First Use In Commerce: 2004/02/00 Mobile radio communication devices, namely, mobile radios and walkie talkies;		

	portable radios, portable stereo systems, CD players, personal stereos, and telephones
--	--

U.S. Registration No.	3058165	Application Date	10/15/2003
Registration Date	02/07/2006	Foreign Priority Date	NONE
Word Mark	H3		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2005/05/17 First Use In Commerce: 2005/05/17 Motor land vehicles, namely trucks and sport utility vehicles, engines therefor and structural parts thereof		

U.S. Registration No.	3457399	Application Date	10/29/2007
Registration Date	07/01/2008	Foreign Priority Date	NONE
Word Mark	H3		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 006. First use: First Use: 2005/08/29 First Use In Commerce: 2005/08/29 Metal key chains, metal key fobs, metal key rings, non-luminous and non-mechanical metal signs, non-luminous and non-mechanical metal parking signs, non-luminous and non-mechanical metal street signs, metal license plates		

U.S. Application No.	77313435	Application Date	10/25/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	H3		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: Backpacks, umbrellas, luggage		

U.S. Registration No.	3453396	Application Date	10/29/2007
Registration Date	06/24/2008	Foreign Priority Date	NONE
Word Mark	H3		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 2005/07/05 First Use In Commerce: 2005/07/05 Miniature models of vehicles, toy vehicles, hobby kits for the construction of toy vehicles, collectable toy cars, radio controlled toy cars, ride-on toys in the nature		

	of pedal cars, board games, balloons, stand alone video game machines, hand held unit for playing video games, pinball machines, Christmas tree ornaments, golf ball markers, golf balls, golf clubs
--	--

U.S. Application No.	78702540	Application Date	08/29/2005
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	H3 PROFILE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: Motor land vehicles, namely, trucks		

U.S. Application No.	77339589	Application Date	11/29/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	H3T		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: Motor land vehicles, namely, automobiles, sport utility vehicles, trucks, vans, engines therefor and structural parts thereof		

U.S. Registration No.	3404569	Application Date	05/30/2007
Registration Date	04/01/2008	Foreign Priority Date	NONE
Word Mark	H3X		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2006/07/20 First Use In Commerce: 2006/07/20 Motor land vehicles, namely, sport utility vehicles and trucks		

U.S. Application No.	77369333	Application Date	01/11/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	H4		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: Motor land vehicles, namely, automobiles, sport utility vehicles, trucks, vans, engines therefor and structural parts thereof		

Attachments	75891029#TMSN.gif (1 page)(bytes) 78612682#TMSN.jpeg (1 page)(bytes) 78324504#TMSN.jpeg (1 page)(bytes) 75891028#TMSN.gif (1 page)(bytes) 78044608#TMSN.gif (1 page)(bytes) 78054001#TMSN.gif (1 page)(bytes) 78054011#TMSN.gif (1 page)(bytes) 78054008#TMSN.gif (1 page)(bytes) 78054000#TMSN.gif (1 page)(bytes) 78054005#TMSN.gif (1 page)(bytes) 77315486#TMSN.jpeg (1 page)(bytes) 77313435#TMSN.jpeg (1 page)(bytes) 77315490#TMSN.jpeg (1 page)(bytes) 78702540#TMSN.jpeg (1 page)(bytes) 77339589#TMSN.jpeg (1 page)(bytes) 77192886#TMSN.jpeg (1 page)(bytes) 77369333#TMSN.jpeg (1 page)(bytes) Rennel Godley - Notice of Opposition.pdf (6 pages)(208083 bytes)
-------------	---

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/KAM/
Name	Karen A. Merkle
Date	09/24/2008

connection with, inter alia, the manufacture, distribution and sale of motor land vehicles and their parts and accessories.

4. As a result of the continuous and extensive use of the H# Marks by Opposer, the H# Marks have become and continue to function as an extremely well-known indicators to the consuming public of the high-quality motor land vehicle parts and accessories originating from Opposer.
5. Opposer has also engaged in licensing of its H# Marks for use in connection with, inter alia, the manufacture, distribution and sale of a wide variety of automotive and non-automotive goods, such as those which are the subject of the registrations and pending applications noted in the table below.
6. Opposer is the owner of the following trademark registrations and pending applications for H# Marks:

MARK	REG. NO.	FILING DATE	GOODS
H1	Reg. No. 2,713,873	January 7, 2000	Motor land vehicles, namely trucks and sport utility vehicles, engines therefor and structural parts thereof.
H1	Reg. No. 3,232,460	April 20, 2005	Clothing, namely, aprons, caps, coats, dress shirts, gloves, golf shirts, hats, headbands, jackets, moccasins, neckties, overalls, pants, polo shirts, rainwear, slippers, socks, sunvisors, sweat pants, sweat shirts, sweaters, t-shirts and vests
HUMMER H1	Reg. No. 3,308,057	May 12, 2003	Mobile radio communication devices, namely, mobile radios and walkie talkies; portable radios, portable stereo systems, CD players, personal stereos, and telephones
H2	Reg. No. 3,056,298	November 7, 2003	Deodorants, antiperspirants, facial cleansers, facial creams, facial scrubs, facial lotion, deodorant soap, non-medicated lip balm, cologne, perfume, after-shave gel,

			after-shave lotions, and shower gel
H2	Reg. No. 2,681,576	January 7, 2000	Motor land vehicles, namely trucks, sport utility vehicles, engines therefore and structural parts thereof
H2 (stylized)	Reg. No. 2,696,663	January 24, 2001	Motor land vehicles, namely, automobiles, sport utility vehicles, trucks, vans, engines therefore and structural parts thereof
H2 (stylized)	Reg. No. 2,707,075	March 20, 2001	Clothing, namely, aprons, caps, coats, dress shirts, gloves, golf shirts, hats, headbands, jackets, moccasins, neckties, overalls, pants, polo shirts, rainwear, slippers, socks, sun visors, sweat pants, sweaters, T-shirts and vests
H2 (stylized)	Reg. No. 2,604,940	March 20, 2001	Automotive books, paper and plastic bags for merchandise, bank checks, calendars, checkbook covers, etc.
H2 (stylized)	Reg. No. 2,741,769	March 20, 2001	Belt buckles for clothing not made of precious metal, embroidered emblems, hat pins, zipper pulls
H2 (stylized)	Reg. No. 2,686,547	March 20, 2001	Beverage glassware, bottle openers, insulating beverage wraps, plastic coasters, commemorative plates, etc.
H2 (stylized)	Reg. No. 2,625,051	March 20, 2001	Banks, decorative boxes, ingots, key chains, key fobs, key rings, keys, license plates, metal signs, money clips, parking signs, replicas of vehicles, street signs, tool boxes, tool racks
HUMMER H2	Reg. No. 3,051,518	May 13, 2003	Mobile radio communication devices, namely, mobile radios and walkie talkies; portable radios, portable stereo systems, CD players, personal stereos, and telephones
H3	Reg. No. 3,058,165	October 15, 2003	Motor land vehicles, namely, trucks and sport utility vehicles, engines therefore and structural parts thereof
H3	Reg. No. 3,457,399	October 29, 2007	Metal key chains, metal key fobs, metal key rings, metal

			signs, metal parking signs, metal street signs, metal license plates
H3	Appl. Ser. No. 77/313435 (Allowed)	October 25, 2007	Backpacks, umbrellas, luggage
H3	Reg. No. 3,453,396	October 29, 2007	Miniature models of vehicles, toy vehicles, hobby kits for the construction of toy vehicles, collectable toy cars, radio controlled cars, peddle cars, board games, balloons, stand alone video game machines, hand held unit for playing video games, pinball machines, Christmas tree ornaments, golf ball markers, golf balls, golf clubs
H3 PROFILE	Appl. Ser. No. 78/702540 (Allowed)	August 29, 2005	Motor land vehicles, namely, trucks.
H3T	Appl. Ser. No. 77/339589 (Allowed)	November 29, 2007	Motor land vehicles, namely automobiles, sport utility vehicles, trucks, vans, engines therefor and structural parts thereof
H3X	Reg. No. 3,404,569	May 30, 2007	Motor land vehicles, namely sport utility vehicles and trucks
H4	Appl. Ser. No. 77/369333 (Allowed)	January 11, 2008	Motor land vehicles, namely automobiles, sport utility vehicles, trucks, vans, engines therefor and structural parts thereof

7. As a further, natural expansion of its use of the HUMMER mark, Opposer has licensed a wide variety of apparel bearing its famous H3 mark including, without limitation, hats, shirts, jackets and coats since *as early as November 22, 2004 (emphasis added)*. Opposer has also filed a trademark application for its mark H3 for use on apparel. Opposer's H3 application was assigned Serial No. 77/312060.
8. Opposer's success with the licensing of its H# Marks including H3 on automotive and non-automotive products further exemplifies the trade and public's association of

Opposer's H# Marks with the high-quality products originating from Opposer and its authorized licensees.

9. On information and belief, Applicant, Renell Godley d/b/a In the Sky Creations and Solutions, is an individual and a citizen of the United States of America with a principal place of business at 4903 Canterbury Way, Houston, TX 77069.
10. On March 28, 2007, Applicant filed an application to register the trademark "H³" in International Class 25 for "Men's suits; Jeans; T-shirts" on an intent-to-use basis. Applicant's H³ application was assigned Application Serial No. 77/143225. Applicant's H³ application was filed: (i) more than five years after Opposer first filed for its H1 trademark, and (ii) at least two years after Opposer first used its H3 mark on apparel.
11. The H³ mark in Application Serial No. 77/143,225 so resembles Opposer's H1, H2 and, in particular its H3 trademarks registered and/or used in the United States and not abandoned, (i) as to be likely to cause confusion, or to cause mistake, or to deceive within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d); and (ii) as to cause dilution of Opposer's famous H1, H2 and H3 trademarks within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. §1125(c).
12. Opposer will be damaged by the registration of Application Serial No. 78/143,225 insofar as the registration would be prima facie evidence of (a) the validity of the registration, (b) Applicant's ownership of the H³ mark for the goods specified in the registration, and (c) Applicant's exclusive right to use the H³ mark in commerce when, in fact, Applicant is not entitled to such rights by virtue of Opposer's prior continuous use and registration of the H1, H2 and H3 trademarks and Opposer's prior and continuous use of the trademark H3 for apparel.

WHEREFORE, Opposer prays that Application Serial No. 77/143,225 be refused registration and this Notice of Opposition be sustained in favor of opposer.

Respectfully submitted,

Date: September 24, 2008

A handwritten signature in cursive script that reads "Karen A. Merkle". The signature is written in black ink and is positioned above a horizontal line.

Karen A. Merkle
Attorney for Opposer
General Motors Corporation
300 Renaissance Center
MC#482-C23-B21
Detroit, Michigan 48265-3000
(313) 665-0950 phone
(313) 665-4976 fax
karen.a.merkle@gm.com