

ESTTA Tracking number: **ESTTA525491**

Filing date: **03/07/2013**

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	9022-5814 Quebec Inc.
Granted to Date of previous extension	03/16/2013
Address	1650 Place de Lierre Laval, QC H7G4X7 CANADA

Attorney information	Daniel F. O'Connor Daniel F. O'Connor, Lawyers 755 St. Jean Blvd., Suite 401 Pointe-Claire, Quebec, UN H9R 5M9 CANADA doconnor@danielfoconnor.com Phone:514-697-8466
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Applicant Information

Application No	85695959	Publication date	01/15/2013
Opposition Filing Date	03/07/2013	Opposition Period Ends	03/16/2013
Applicant	LOC ENTERPRISES, LLC 6515 Claw Foot Court Maineville, OH 450397290 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2012/09/04 First Use In Commerce: 2012/09/04 All goods and services in the class are opposed, namely: Administration of a customer loyalty program which provides for consumer access, use and tracking of a plurality of individual loyalty programs
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application No.		Application Date	
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			

Description of Mark	NONE
Goods/Services	

Attachments	Notice of Opposition Pleading.pdf (3 pages)(126903 bytes)
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Certificate of Service

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

Signature	/Daniel O'Connor/
Name	Daniel F. O'Connor
Date	03/07/2013

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

In the matter of trademark application Serial No.: 85695959 for an opposition

For the mark: LOC

Published in the Official Gazette on January 15, 2013

Opposition No.:

9022-5814 QUEBEC INC., d.b.a.
LOC Software, a provincial
corporation legally incorporated
under Quebec Laws, having its
registered office at 1650 Place de
Lierre, City of Laval, Province of
Quebec, H7G 4X7, Canada

Opposer

- v. -

LOC Enterprises, LLC
6515 Claw Foot Court
Maineville
OH, USA
450397290

Applicant

NOTICE OF OPPOSITION

1. The above identified Opposer, 9022-5814 Quebec Inc. (hereafter "LOC Software"), the full post office address of whose principal office or place of business is: 1650 place de Lierre, Laval (Quebec), H7G 4X7, Canada, gives notice of opposition to the proposed registration of the trade-mark advertised under the above number published for Opposition on January 15, 2013.
2. The Opposer believes that he will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same. The grounds of opposition are as follows:
 - (a) the trademark is not registrable;

- (b) the trademark compromises the opposer's mark previously used in United States as to be likely to cause confusion; and
 - (c) the use or registration of the trademark will cause dilution.
3. The trademark LOC is not registrable, as it is confusing with the Opposer's following previously used mark, for which an application for registration has been filed under serial number 85868918, contrary to Section 2(d) of the *Trademark Act*:

LOC

4. The trademark LOC is confusing with the Opposer's previously used mark having regard to all the surrounding circumstances, including all of the factors mentioned in Section 2 of the *Trademark Act*.
5. More particularly, without limitation, the following factors result in confusion between the two marks:
- (a) the Opposer's mark LOC has been in use in commerce in the United States since at least January 1st, 1998;
 - (b) the Opposer's services have gained notoriety in association with the trademark LOC;
 - (c) the Opposer's website at www.locsoftware.com has been in operation for many years before the Applicant's trademark was first used by the Applicant, and on this website the Opposer's trademark LOC has been used in association with the Opposer's services that are the same as those of the Applicant;
 - (d) the purchasers of Applicant's services are also potential clients of Opposer's services;
 - (e) the services are competitively priced; and
 - (f) the marks in question are identical.
6. The trademark compromises the Opposer's use of the same mark previously, and still, used in commerce in the United States by the Opposer.

7. For all reasons listed above, the Applicant's use of the trademark LOC will cause confusion with the Opposer's mark previously used and still used in the United States.
8. Distinctiveness is a precondition to registration. Distinctive, in relation to a trademark, means a trademark that actually distinguishes the services in association with which it is used by its owner from the services of others. The opposed trademark LOC does not distinguish the services of Applicant's loyalty programs from the services of Opposer's loyalty programs marketed in association with the identical mark of the Opposer, and this from many years before use of the identical opposed trademark by Applicant.
9. For all the foregoing reasons, the trademark LOC should not be registered and the Opposer so requests.
10. The Opposer appoints Daniel F. O'Connor, Lawyers, whose full post office address in Canada is 755 St. Jean Blvd, Suite 401, Pointe Claire, Quebec, H9R 5M9, Fax No. 514-697-9166, as the firm upon whom service of any document in respect of the opposition may be made with the same effect as if it had been served upon the Opposer.

By: 
Daniel F. O'Connor, Lawyers

Date: March 7, 2013