

ESTTA Tracking number: **ESTTA605267**

Filing date: **05/20/2014**

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	Jaguar Land Rover Limited
Granted to Date of previous extension	05/21/2014
Address	Abbey RoadWhitley Coventry, CV3 4LF UNITED KINGDOM

Attorney information	ROBYN S LEDERMAN BROOKS KUSHMAN PC 1000 TOWN CENTER #2200 SOUTHFIELD, MI 48075 UNITED STATES rlederman@brookskushman.com, mdorosh@brookskushman.com, lren- nert@brookskushman.com Phone:248-358-4400
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Applicant Information

Application No	86114833	Publication date	01/21/2014
Opposition Filing Date	05/20/2014	Opposition Period Ends	05/21/2014
Applicant	Pismo Labs Technology Ltd A5, 5/F, HK Spinners Bldg, Phase-6, Kowloon, HONG KONG		

Goods/Services Affected by Opposition

<p>Class 009. First Use: 2009/09/15 First Use In Commerce: 2009/09/15 All goods and services in the class are opposed, namely: Broadband wireless equipment, namely, telecommunications base station equipmentfor cellular and fixed networking and communications applications; Communication software for providing access to the Internet; Communications software for connecting network devices; Computer software and hardware for managing and configuring network equipment; Computer software for accessing information directories that may be downloaded from the global computer network; Computer software for administration of computer local area networks; Computer software for managing and configuring network equipment that maybe downloaded from a global computer network; Computers for network management;LAN (local area network) operating software; Network access server operating software; VPN (virtual private network) operating software; WAN (wide area network) operating software; Wireless controllers to monitor and control the functioning of other electronic devices</p>

Grounds for Opposition

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

U.S. Registration No.	4487397	Application Date	03/08/2013
Registration Date	02/25/2014	Foreign Priority Date	NONE
Word Mark	JAGUAR INCONTROL		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0 Downloadable cloud computer software for use in providing communications and entertainment connectivity in connection with the use of motor land vehicles; Navigational system, comprising electronic transmitters, receivers, circuitry, microprocessors, cellular telephone and computer software all for use in navigation and all integrated into a motor vehicle; Software and computer hardware, namely, sensors, computers, and wireless transceivers to provide connectivity within the vehicle, between vehicles, with cell phones, and with data centers, in addition to tactile, audible, and visual interfaces to interact with occupants of the vehicle; Diagnostic apparatus consisting of sensors for use in testing vehicle function and in diagnosing vehicle electrical and mechanical problems, integrated into a motor vehicle; Wireless transmission and receiving equipment for use in connection with remote computers for use in automobiles for tracking, monitoring and diagnosing vehicle maintenance and for providing information to drivers; Computer application software for smartphones, PDA devices and tablet computers, namely, software for use by drivers of vehicles and passengers for accessing, viewing, and interacting with and downloading information and entertainment content, all in the field of automobiles via the Internet; Downloadable software and on-board computer software that provides users with remote and in-vehicle access to motor vehicle functions and functions relating to driver safety, convenience, communication, entertainment, and navigation; global positioning systems; downloadable software and on-board computer software that allow users to track and locate stolen vehicles, charge electronics, and store and synchronize collected personalized user and vehicle information through a data cloud; Electronic interface modules for wired and wireless interface of mobile phones and electronic media players with an automotive electrical system; all of the above integrated into motor vehicles</p> <p>Class 012. First use: First Use: 0 First Use In Commerce: 0 Electronic interface modules sold as an integral part of a motor land vehicle</p> <p>Class 035. First use: First Use: 0 First Use In Commerce: 0 Providing information in the field of scheduled automotive maintenance appointments; Scheduling of routine maintenance appointments; consumer information services, namely, providing information in the field of the location and availability of vehicle service stations, namely, gasoline stations; consumer information services, namely, providing information in the field of the location and availability</p>		

of electricity charging stations for vehicles

Class 037. First use: First Use: 0 First Use In Commerce: 0

Providing emergency roadside assistance service, namely, responding to calls for roadside assistance; Providing maintenance and vehicle repair information to drivers regarding their vehicles

Class 038. First use: First Use: 0 First Use In Commerce: 0

Telecommunication services, namely, providing electronic message alerts via the internet notifying individuals of timing for vehicle maintenance; Telecommunication services, namely, electronic transmission of motor vehicle information, audio and video messages and data; Electronic transmission of data via a dedicated channel; Mobile telephone communications; Communication by E-mail, satellite, and VAN (value added network), namely, transmission of voice and data; Providing telecommunications connections and user access to a global computer network; Telecommunications, namely, receiving, coordinating and forwarding of remote calls on vehicle condition; Electronic transmission of text, audio, video, image, signals, position, movement and data between land vehicles, land vehicle components, data centers, phones, personal computers and other electronic and digital devices; Telematic transmission of information for the deployment of emergency assistance services, the automatic notification of air bag deployment, stolen vehicle tracking, remote vehicle diagnostics, remote vehicle door lock and unlock, remote vehicle horn and light activation, location and navigation assistance providing route support and directions

Class 039. First use: First Use: 0 First Use In Commerce: 0

Providing a portal which is accessible by customers via a mobile device and website to provide access to functions relating to navigation; Mobile information services, namely, traffic information and directional guidance to motor vehicle operator; GPS navigation services, namely, providing forecast route guidance to drivers, navigation services via the Internet, assistance with destination setting, voice routing and location assistance services through components integrated into a motor vehicle, namely, transmitters, receivers, microprocessors, software, cellular phone, and electrical architecture all interacting with global position system and satellite technology and a customer service center; Information services, namely, providing news in the field of travel and traffic information; Providing information in the nature of GPS navigation services and travel route planning regarding the location and availability of gasoline and electric charging stations for vehicles

Class 042. First use: First Use: 0 First Use In Commerce: 0

Providing virtual computer systems and virtual computer environments through cloud computing for use in connection with motor land vehicles; Mobile information services, namely, weather information; Vehicle diagnostic services, namely, providing vehicle diagnostic information, vehicle mileage, vehicle maintenance needs, vehicle diagnostic readings and diagnostic trouble codes to drivers and car dealers regarding vehicles via cellular technology; Application service provider (ASP) services featuring software that enables drivers to play and program audio, video, text and multimedia content; Hosting an online community website featuring information about vehicles; Online system management services that allow users to remotely view, monitor, program, operate and control motor vehicle systems for others; Remote monitoring of electric battery charging systems used in land vehicles; Providing an inspection program for pre-owned vehicles; Automobile diagnostic services, namely, providing interactive information concerning the status and power of vehicles via mobile phones and computer networks and monitors; on-line system management services that allow users to remotely program the time for turning on air conditioners and other features in vehicles via mobile phones and the Internet

Class 045. First use: First Use: 0 First Use In Commerce: 0

Providing a portal which is accessible by customers via a mobile device and website to provide access to motor vehicle functions, namely, to allow users to

	<p>track and locate stolen vehicles; Roadside emergency and security services, namely, computer aided transmission of signals for vehicle locking mechanism; Roadside emergency and security services, namely, remote vehicle door lock and unlock, remote engine start, stolen vehicle tracking, detection and notification to vehicle owners; Vehicle monitoring services for safety purposes, namely, automatic notification of airbag deployment, automatic collision notification services and notification to operator of abnormal status of vehicle; Driver management, namely, monitoring, tracking and alerting motor vehicle owners whether drivers have exceeded speed limit or left a pre-set geographical area using a global positioning system; Concierge services for motor vehicle drivers comprising making requested personal arrangements and reservations and rendered remotely through communication systems integrated into motor vehicles; On-line system management services that allow users to remotely set and start of battery charge and air conditioner in an electric vehicle</p>
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U.S. Registration No.	4500626	Application Date	03/08/2013
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Registration Date	03/25/2014	Foreign Priority Date	NONE
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Word Mark	LAND ROVER INCONTROL		
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Design Mark			
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Description of Mark	NONE		
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Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0 Downloadable cloud computer software for use in providing communications and entertainment connectivity in connection with the use of motor land vehicles; Navigational system, comprising electronic transmitters, receivers, circuitry, microprocessors, cellular telephone and computer software all for use in navigation and all integrated into a motor vehicle; Software and computer hardware, namely, sensors, computers, and wireless transceivers to provide connectivity within the vehicle, between vehicles, with cell phones, and with data centers, in addition to tactile, audible, and visual interfaces to interact with occupants of the vehicle; Diagnostic apparatus consisting of sensors for use in testing vehicle function and in diagnosing vehicle electrical and mechanical problems, integrated into a motor vehicle; Wireless transmission and receiving equipment for use in connection with remote computers for use in automobiles for tracking, monitoring and diagnosing vehicle maintenance and for providing information to drivers; Computer application software for smartphones, PDA devices and tablet computers, namely, software for use by drivers of vehicles and passengers for accessing, viewing, and interacting with and downloading information and entertainment content, all in the field of automobiles via the Internet; Downloadable software and on-board computer software that provides users with remote and in-vehicle access to motor vehicle functions and functions relating to driver safety, convenience, communication, entertainment, and navigation; global positioning systems; downloadable software and on-board computer software that allow users to track and locate stolen vehicles, charge electronics, and store and</p>		
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synchronize collected personalized user and vehicle information through a data cloud; Electronic interface modules for wired and wireless interface of mobile phones and electronic media players with an automotive electrical system; all of the above integrated into motor vehicles

Class 012. First use: First Use: 0 First Use In Commerce: 0

Electronic interface modules sold as an integral part of a motor land vehicle

Class 035. First use: First Use: 0 First Use In Commerce: 0

Providing information in the field of scheduling automotive maintenance appointments; Scheduling of routine maintenance appointments; consumer information services, namely, providing information in the field of the location and availability of vehicle service stations, namely, gasoline stations; consumer information services, namely, providing information in the field of the location and availability of electricity charging stations for vehicles

Class 037. First use: First Use: 0 First Use In Commerce: 0

Providing emergency roadside assistance service, namely, responding to calls for roadside assistance; Providing maintenance and vehicle repair information to drivers regarding their vehicles

Class 038. First use: First Use: 0 First Use In Commerce: 0

Telecommunication services, namely, providing electronic message alerts via the internet notifying individuals of timing for vehicle maintenance; Telecommunication services, namely, electronic transmission of motor vehicle information, audio and video messages and data; Electronic transmission of data via a dedicated channel; Mobile telephone communications; Communication by E-mail, satellite, and VAN (value added network), namely, transmission of voice and data; Providing telecommunications connections and user access to a global computer network; Telecommunications, namely, receiving, coordinating and forwarding of remote calls on vehicle condition; Electronic transmission of text, audio, video, image, signals, position, movement and data between land vehicles, land vehicle components, data centers, phones, personal computers and other electronic and digital devices; Telematic transmission of information for the deployment of emergency assistance services, the automatic notification of air bag deployment, stolen vehicle tracking, remote vehicle diagnostics, remote vehicle door lock and unlock, remote vehicle horn and light activation, location and navigation assistance providing route support and directions

Class 039. First use: First Use: 0 First Use In Commerce: 0

Providing a portal which is accessible by customers via a mobile device and website to provide access to functions relating to navigation; Mobile information services, namely, traffic information and directional guidance to motor vehicle operator; GPS navigation services, namely, providing forecast route guidance to drivers, navigation services via the Internet, assistance with destination setting, voice routing and location assistance services through components integrated into a motor vehicle, namely, transmitters, receivers, microprocessors, software, cellular phone, and electrical architecture all interacting with global position system and satellite technology and a customer service center; Information services, namely, providing news in the field of travel and traffic information; Providing information in the nature of GPS navigation services and travel route planning regarding the location and availability of gasoline and electric charging stations for vehicles

Class 042. First use: First Use: 0 First Use In Commerce: 0

Providing virtual computer systems and virtual computer environments through cloud computing for use in connection with motor land vehicles; Mobile information services, namely, weather information; Vehicle diagnostic services, namely, providing vehicle diagnostic information, vehicle mileage, vehicle maintenance needs, vehicle diagnostic readings and diagnostic trouble codes to drivers and car dealers regarding vehicles via cellular technology; Application service provider (ASP) services featuring software that enables drivers to play and program

	<p>audio, video, text and multimedia content; Hosting an online community website featuring information about vehicles; Online system management services that allow users to remotely view, monitor, program, operate and control motor vehicle systems for others; Remote monitoring of electric battery charging systems used in land vehicles; Providing an inspection program for pre-owned vehicles; Automobile diagnostic services, namely, providing interactive information concerning the status and power of vehicles via mobile phones and computer networks and monitors; on-line system management services that allow users to remotely program the time for turning on air conditioners and other features in vehicles via mobile phones and the Internet</p> <p>Class 045. First use: First Use: 0 First Use In Commerce: 0</p> <p>Providing a portal which is accessible by customers via a mobile device and website to provide access to motor vehicle functions, namely, to allow users to track and locate stolen vehicles; Roadside emergency and security services, namely, computer aided transmission of signals for vehicle locking mechanism; Roadside emergency and security services, namely, remote vehicle door lock and unlock, remote engine start, stolen vehicle tracking, detection and notification to vehicle owners; Vehicle monitoring services for safety purposes, namely, automatic notification of airbag deployment, automatic collision notification services and notification to operator of abnormal status of vehicle; Driver management, namely, monitoring, tracking and alerting motor vehicle owners whether drivers have exceeded speed limit or left a pre-set geographical area using a global positioning system; Concierge services for motor vehicle drivers comprising making requested personal arrangements and reservations and rendered remotely through communication systems integrated into motor vehicles; On-line system management services that allow users to remotely set and start of battery charge and air conditioner in an electric vehicle</p>
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Attachments	85871009#TMSN.jpeg(bytes) 85871114#TMSN.jpeg(bytes) Notice of Opposition - INCONTROL - Pismo.pdf(38626 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 First Class Mail on this date.

Signature	/robyn s lederman/
Name	ROBYN S LEDERMAN
Date	05/20/2014

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

In re Trademark Application

Serial No.: 86/114,833

Filed: November 11, 2013

Trademark: **INCONTROL**

Atty. Docket No.: JAGW641OC

Published in the Official Gazette on January 21, 2014

JAGUAR LAND ROVER LIMITED,)	Serial No. 85/045,850
Opposer,)	Opposition No. _____
v.)	
PISMO LABS TECHNOLOGY, LTD.,)	
Applicant.)	

NOTICE OF OPPOSITION

VIA ELECTRONIC FILING
Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Sir/Madam:

Opposer, Jaguar Land Rover Limited, a United Kingdom private company limited by shares (PRC), having a principal place of business at Abbey Road, Whitley, Coventry CV3 4LF, United Kingdom (“Opposer”), believes that it is and will continue to be damaged by the registration of the mark INCONTROL in the name of Pismo Labs Technology, Ltd.,

("Applicant") shown in U.S. Trademark Application Serial No. 86/114,833, and hereby opposes the same.

Requests for an extension of time to oppose were filed on February 19, 2014 and March 17, 2014 and were granted, extending the time to file to May 21, 2014.

As grounds of opposition, Jaguar Land Rover Limited alleges that:

1. Opposer and its predecessors have manufactured and sold vehicles, vehicle parts, accessories, and a wide variety of related automotive and non-automotive goods and services worldwide for more than 70 years.

2. In the United States, Opposer is the owner of U.S. Trademark Registration No. 4/487,397, for JAGUAR INCONTROL, covering goods and services in Classes 9, 12, 35, 37, 38, 39, 42, and 44, applied for on March 8, 2013, and issued on February 25, 2014. This registration is valid and subsisting, uncancelled and unrevoked.

3. In the United States, Opposer is the owner of U.S. Trademark Registration No. 4/500,626, for LAND ROVER INCONTROL, covering goods and services in Classes 9, 12, 35, 37, 38, 39, 42, and 44, applied for on March 8, 2013, and issued on March 25, 2014. This registration is valid and subsisting, uncancelled and unrevoked.

4. Both JAGUAR INCONTROL and LAND ROVER INCONTROL, cover in relevant part:

"Downloadable cloud computer software for use in providing communications and entertainment connectivity in connection with the use of motor land vehicles; Navigational system, comprising electronic transmitters, receivers, circuitry, microprocessors, cellular telephone and computer software all for use in navigation and all integrated into a motor vehicle; Software and computer hardware, namely, sensors, computers, and wireless transceivers to provide connectivity within the vehicle, between vehicles, with cell phones, and with data centers, in addition to tactile, audible, and visual interfaces to interact with occupants of the vehicle; Diagnostic apparatus consisting of sensors for use in testing vehicle function and in diagnosing vehicle electrical and mechanical problems, integrated into a motor vehicle; Wireless transmission and receiving equipment for use in connection with remote computers for use in automobiles for tracking, monitoring and diagnosing vehicle maintenance and for providing information to drivers; Computer application software for smartphones, PDA devices and tablet computers, namely, software for use by drivers of vehicles and passengers for accessing, viewing, and interacting with and downloading information and entertainment content, all in the field of automobiles via the Internet; Downloadable software and on-board computer software that provides users with remote and in-vehicle access to motor vehicle functions and functions

relating to driver safety, convenience, communication, entertainment, and navigation; global positioning systems; downloadable software and on-board computer software that allow users to track and locate stolen vehicles, charge electronics, and store and synchronize collected personalized user and vehicle information through a data cloud. Electronic interface modules for wired and wireless interface of mobile phones and electronic media players with an automotive electrical system; all of the above integrated into motor vehicles” in Class 9.

5. Opposer has expended considerable time, effort and expense in advertising and promoting both JAGUAR INCONTROL and LAND ROVER INCONTROL marks and the goods associated with them throughout the United States, with the result that the purchasing public has come to know and recognize such products of Opposer by these marks. The Opposer has exceedingly valuable goodwill established in its marks.

6. Applicant is seeking to register the mark INCONTROL for the following goods:

Class 9: Broadband wireless equipment, namely, telecommunications base station equipment for cellular and fixed networking and communications applications; Communication software for providing access to the Internet; Communications software for connecting network devices; Computer software and hardware for managing and configuring network equipment; Computer software for accessing information directories that may be downloaded from the global computer network; Computer software for administration of computer local area networks; Computer software for managing and configuring network equipment that may be downloaded from a global computer network; Computers for network management; LAN (local area network) operating software; Network access server operating software; VPN (virtual private network) operating software; WAN (wide area network) operating software; Wireless controllers to monitor and control the functioning of other electronic devices.

This is evidenced by publication of the mark in the *Official Gazette* on January 21, 2014. The Applicant filed this application on November 11, 2013.

7. There is no issue as to priority. Opposer filed and registered both JAGUAR INCONTROL and LAND ROVER INCONTROL marks in connection with the relevant goods prior to Applicant’s November 11, 2013 filing date.

8. Upon information and belief, Applicant did not use its INCONTROL mark prior to the Opposer’s first use of its JAGUAR INCONTROL and LAND ROVER INCONTROL marks with respect to the goods at issue.

9. Applicant’s INCONTROL mark is identical or virtually identical to Opposer’s senior JAGUAR INCONTROL and LAND ROVER INCONTROL marks.

10. Because the purchasing public has come to recognize and associate the products of Opposer by Opposer's marks, Applicant's proposed INCONTROL mark would be recognized as uniquely and unmistakably identifying or suggesting a connection to Opposer.

11. Opposer is not connected with the activities performed or goods sold (or intended to be sold or performed) by Applicant under its INCONTROL mark.

12. The fame and reputation of Opposer is such that, if the Applicant's INCONTROL mark is used with Applicant's designated goods, a connection with Opposer will be presumed.

13. Applicant's INCONTROL mark in Application No. 86/114,833 so resembles Opposer's JAGUAR INCONTROL and LAND ROVER INCONTROL marks and the goods as identified are so closely related to the goods of Opposer as to be likely, when used in connection with Applicant's goods, to cause confusion, or to cause mistake, or to deceive in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

14. Applicant's INCONTROL mark in Application No. 86/114,833 so resemble Opposer's JAGUAR INCONTROL and LAND ROVER INCONTROL marks and the goods identified are so closely related to the goods of the Opposer as to be likely, when used in connection with Applicant's goods, to falsely suggest a connection with Opposer in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(a).

15. If Applicant were granted the registration herein opposed, it would obtain at least a *prima facie* exclusive right to use of INCONTROL in connection with the designated goods. Such registration would be a source of injury and damage to Opposer's prior and established rights in its JAGUAR INCONTROL and LAND ROVER INCONTROL marks.

WHEREFORE, Opposer respectfully requests that registration of the INCONTROL mark, Application Serial No. 86/114,833, be refused and that this opposition be sustained.

The fee required under 37 C.F.R. § 2.6(a)(17) is being paid electronically concurrently with the filing of this Notice of Opposition. If the filing fee is found to be insufficient for any reason, please charge such deficiency to the deposit account.

Respectfully submitted,

By: /robyn s lederman/
Robyn S. Lederman
Attorneys/Agents for Opposer

Serial No. 86/114,833

JAGW64100C

Date: May 20, 2014

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075
Phone: 248-358-4400
Fax: 248-358-3351

CERTIFICATE OF SERVICE

I certify that I served:

CONSOLIDATED NOTICE OF OPPOSITION

on May 20, 2014 by First Class Mail and email to:

Pismo Labs Technology Ltd.
481 Castle Peak Road, Cheung Sha Wan
A5, 5/F, HK Spinners Building, Phase-6
Kowloon, Hong Kong

Courtesy Copy via Email: kennethy@peplink.com

Attorney/Agent for Applicant for INCONTROL mark

By: /robyn s lederman/
Robyn S. Lederman

Attorneys/Agents for Opposer