

ESTTA Tracking number: **ESTTA180253**

Filing date: **12/12/2007**

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	CODET INC.
Granted to Date of previous extension	12/12/2007
Address	#43 MAPLE, C.P. 90 COATICOOK, QUEBEC, J1A 2S8 CANADA

Attorney information	Daniel T. Earle SHLESINGER, ARKWRIGHT & GARVEY LLP 1420 KING STREET, SUITE 600 ALEXANDRIA, VA 22314 UNITED STATES jim@sagllp.com, danearle@sagllp.com, nitasantiago@sagllp.com Phone:703-684-5600
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Applicant Information

Application No	75901934	Publication date	08/14/2007
Opposition Filing Date	12/12/2007	Opposition Period Ends	12/12/2007
Applicant	PAS ENTERPRISES, INC 1375 East Main Street El Cajon, CA 92021 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 1999/07/00 First Use In Commerce: 1999/07/00 All goods and services in the class are opposed, namely: clothing, namely, caps, T-shirts, sweatshirts, and jackets

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.	1461066	Application Date	03/04/1987
Registration Date	10/13/1987	Foreign Priority Date	NONE
Word Mark	HOT ROD		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1987/01/20 First Use In Commerce: 1987/01/20 SHIRTS, PANTS, JACKETS, COVERALLS AND OVERALLS

U.S. Application No.	76514463	Application Date	05/14/2003
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	HOT ROD
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 025. First use: First Use: 1993/05/01 First Use In Commerce: 1993/05/01 CLOTHING, NAMELY, SHIRTS, T-SHIRTS, PANTS, JEANS, SHORTS, VESTS, JACKETS, COVERALLS, OVERALLS, SWEATERS, SUSPENDERS, BELTS, HEADWEAR, CAPS, SOCKS, UNDERWEAR, GLOVES, FOOTWEAR, BOOTS, SHOES, SANDALS, APRONS, COATS, BANDANAS, PAJAMAS, SKIRTS, HOSIERY, NECK TIES, AND TANK TOPS
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U.S. Application No.	78722020	Application Date	09/28/2005
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	HOT ROD
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Design Mark	
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Description of Mark	"The mark consists of the color gray appears in the word "HOT ROD", in the oval-shaped band surrounding the word "HOT ROD", and in the shield surrounding the oval shaped band. The color red appears within the oval, but not in the lettering for the word "HOT ROD". The color black appears in the shield surrounding the oval shaped band."
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Goods/Services	Class 025. First use: CLOTHING, NAMELY, SHIRTS, T-SHIRTS, PANTS, JEANS, SHORTS, VESTS, JACKETS, COVERALLS, OVERALLS, SWEATERS, SUSPENDERS, BELTS, HEADWEAR, CAPS, SOCKS, UNDERWEAR, GLOVES, FOOTWEAR, BOOTS, SHOES, SANDALS, APRONS, COATS, BANDANAS, PAJAMAS, SKIRTS, HOSIERY, NECK TIES, AND TANK TOPS
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Attachments	76514463#TMSN.gif (1 page)(bytes) 78722020#TMSN.jpeg (1 page)(bytes) R-5752 NOTICE OF OPPOSITION.PDF (4 pages)(84653 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	/dte/
Name	Daniel T. Earle
Date	12/12/2007

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

In the matter of Trademark Application Serial No. 75/901,934
published in the Official Gazette on August 14, 2007.

CODET INC.,	:	
	:	
Opposer,	:	
v.	:	Opposition No.
	:	
PAS Enterprises, Inc.,	:	
	:	
Applicant.	:	

NOTICE OF OPPOSITION (CLASS 25 ONLY)

Opposer, CODET INC. (hereinafter "Opposer"), a corporation organized under the laws of Canada, located and doing business at #43 Maple, C.P. 90, Coaticook, Quebec, J1A 2S8 Canada, believes that it will be damaged by a registration of the mark shown in application Serial No. 75/901,934, for the goods in International Class 25 only, and hereby opposes the same.

The grounds for the opposition are as follows:

1. Since long prior to the filing date of the application for registration, and any use date claimed therein, Opposer has marketed and sold clothing under the mark, HOT ROD.

2. Opposer is the owner of the following trademark:
Registration No. 1,461,066, HOT ROD, for shirts, pants jackets, coveralls and overalls.

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3. The above registration is in full force and effect on the Principal Register at the United States Patent and Trademark Office. The registration is incontestable, and thus operates as conclusive evidence of Opposer's ownership of the mark and its exclusive right to use the same in commerce throughout the United States.

4. Opposer's trademark is favorably known as a valuable asset of Opposer. The mark, HOT ROD, is a symbol of considerable good will and recognition built up by Opposer through substantial amounts of time and effort.

5. Opposer has filed an application to register the mark, HOT ROD, for clothing, application Serial No. 76/514,463, filed on May 14, 2003. Opposer has been advised that Applicant's mark, HOT ROD CITY, may be a basis for refusal to register Opposer's pending application under Section 2(d) of the Trademark Act. The advice is set forth in an Office Action from the U.S. Patent and Trademark Office, dated November 29, 2003.

6. Opposer has filed an application to register the mark, HOT ROD & Design, for clothing, application Serial No. 78/722,020, filed on September 28, 2005. Opposer has been advised that Applicant's mark, HOT ROD CITY, may be a basis to

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refuse to register Opposer's pending application under Section 2(d) of the Trademark Act. The advice is set forth in an Office Action from the U.S. Patent and Trademark Office, dated April 1, 2006.

7. Applicant filed, on January 1, 2000, an application for a similar mark to Opposer, HOT ROD CITY, for amongst other goods/services, clothing, namely, caps, T-shirts, sweatshirts, and jackets, in International Class 25, on the basis of a claimed date of first use of July, 1999.

8. In view of the similarity between the respective marks, and the related nature of the goods of the respective parties, Applicant's mark so resembles Opposer's trademark, previously used in the United States and not abandoned, as to be likely to cause confusion, or to cause mistake, or to deceive, to the irreparable damage of Opposer.

9. If Applicant is granted a registration for the mark herein opposed for the International Class 25 goods, Applicant would obtain thereby at least a *prima facie* exclusive right to use the mark. Such registration would be a source of damage and injury to Opposer and Opposer's business.

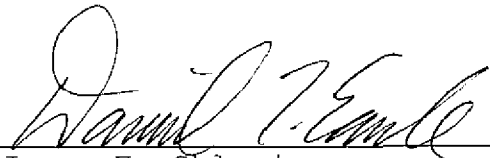
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WHEREFORE, Opposer prays that said Application Serial No. 75/901,934 International Class 25 be rejected, that no registration be issued to Applicant for its mark, and that this Notice of Opposition be sustained in favor of Opposer.

Respectfully submitted,

CODET INC.

Date: Dec. 12, 2007

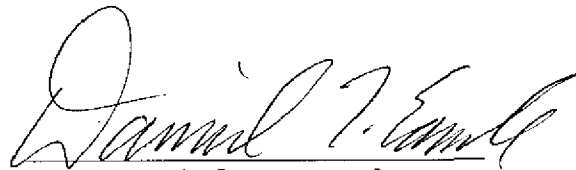
By: 

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CERTIFICATE OF SERVICE

I, Daniel T. Earle, Attorney for Opposer, do hereby certify that this NOTICE OF OPPOSITION (Class 25 Only) has been served upon Applicant by mailing a copy thereof by prepaid first class mail to PAS Enterprises, Inc., 13465 Camino Canada #106-147, El Cajon, California 92021, this 12th day of December, 2007.



Daniel T. Earle