

ESTTA Tracking number: **ESTTA207410**

Filing date: **04/25/2008**

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	Knox Associates, Inc. dba The Knox Company
Granted to Date of previous extension	04/26/2008
Address	1601 West Deer Valley Road Phoenix, AZ 85027 UNITED STATES

Attorney information	Alina S. Morris Knobbe Martens Olson & Bear, LLP 2040 Main Street, 14th Floor Irvine, CA 92614 UNITED STATES efiling@kmob.com Phone:949-760-0404
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Applicant Information

Application No	79040769	Publication date	02/26/2008
Opposition Filing Date	04/25/2008	Opposition Period Ends	04/26/2008
International Registration No.	0930045	International Registration Date	05/02/2007
Applicant	Pamci Networks Denmark ApS Aabogade 15 DK-8200 Aarhus N DENMARK		

Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Downloadable computer software for use in encrypting customer confidential information stored online, downloadable electronic publications in the nature of newsletters and teaching manuals in the field of computer security
Class 038. All goods and services in the class are opposed, namely: Provision of online access to databases containing data and documents relating to customer confidential information
Class 039. All goods and services in the class are opposed, namely: Electronic storage of data and documents relating to customer confidential information

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.	1649269	Application Date	07/19/1990
Registration Date	07/02/1991	Foreign Priority Date	NONE
Word Mark	KNOX-BOX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 006. First use: First Use: 1975/09/25 First Use In Commerce: 1975/09/30 wall-mounted metal lock boxes for securing access keys to buildings and/or storage areas		

U.S. Registration No.	2027433	Application Date	03/30/1994
Registration Date	12/31/1996	Foreign Priority Date	NONE
Word Mark	KNOX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1975/09/30 First Use In Commerce: 1975/09/30 metal security box for secured protection of electrical and/or electronic circuits and/or apparatus; computerized encoder and decoder which provides access to lock boxes		

U.S. Registration No.	2072103	Application Date	03/30/1994
Registration Date	06/17/1997	Foreign Priority Date	NONE
Word Mark	KNOX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 006. First use: First Use: 1975/09/30 First Use In Commerce: 1975/09/30 metal key security holders for securing access of keys to buildings and/or storage areas; metal security box for secured protection of keys for emergency use		

U.S. Registration No.	2867870	Application Date	10/15/2002
Registration Date	07/27/2004	Foreign Priority Date	NONE
Word Mark	KNOX-COAT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 006. First use: First Use: 2003/06/25 First Use In Commerce: 2003/06/25 METAL SECURITY BOXES		

U.S. Registration No.	3290692	Application Date	03/30/2006
Registration Date	09/11/2007	Foreign Priority Date	NONE
Word Mark	KNOX-VAULT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 006. First use: First Use: 1980/06/16 First Use In Commerce: 1980/07/17 metal security boxes; wall-mounted metal lock boxes for securing access cards, keys, and floor plans to buildings and storage areas, and for protecting electrical and electronic circuits and apparatus		

U.S. Application No.	77257560	Application Date	08/16/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	KNOXWARE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2005/02/00 First Use In Commerce: 2005/02/00 Computer software, including software for use on key retention devices		

Attachments	78850681#TMSN.jpeg (1 page)(bytes) 77257560#TMSN.jpeg (1 page)(bytes) KNOXX.pdf (8 pages)(335868 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	/Alina S. Morris/
Name	Alina S. Morris
Date	04/25/2008

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

Knox Associates, Inc.,

Opposer,

v.

Pamci Networks Denmark ApS,

Applicant.

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) I hereby certify that this correspondence and all marked
) attachments are being deposited with the United States
) Patent and Trademark Office, Trademark Trial and
) Appeal Board via electronic filing through their website
) located at <http://esta.uspto.gov/> on:

April 25, 2008

(Date)

Alina S. Morris

Alina S. Morris

NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir or Madam:

Opposer, Knox Associates, Inc., d/b/a The Knox Company (hereinafter referred to as "Knox"), located and doing business at 1601 West Deer Valley Road, Phoenix AZ 85027, believes that it will be damaged by registration of the mark shown in U.S. Trademark Application Serial No. 79/040,769 ("Applicant's Application") filed May 2, 2007 by Pamci Networks Denmark ApS (hereinafter referred to as "Applicant"), and hereby opposes the same.

A description of Applicant's Application is as follows:

Mark: BOXXKNOX
Serial No.: 79/040,769
Filing Date: May 2, 2007
Publication Date: February 26, 2008
Goods and Services: Downloadable computer software for use in encrypting customer confidential information stored

online, downloadable electronic publications in the nature of newsletters and teaching manuals in the field of computer security, in International Class 9
Provision of online access to databases containing data and documents relating to customer confidential information, in International Class 38
Electronic storage of data and documents relating to customer confidential information, in International Class 39

Alleged Date of First Use: 66(a) filing basis

As grounds for opposition, it is alleged:

1. Since at least as early as 1975, Knox has used names and marks containing the term KNOX, including the marks set forth in Paragraphs 2 through 7 below (collectively, the “KNOX Marks”) in association with security devices (“Knox’s Goods.”)

2. Knox is the owner of and relies on U.S. Trademark Registration No. 1,649,269 (the “’269 Registration”) for the mark KNOX-BOX® for “wall-mounted metal lock boxes for securing access keys to buildings and/or storage areas.” The ’269 Registration was filed on July 19, 1990, issued on July 2, 1991, and claims a date of first use in interstate commerce of at least as early as September 25, 1975. Thus, the filing date, date of registration, and date of first use in commerce of the ’269 Registration are all prior to the filing date of Applicant’s Application. By virtue of Knox’s compliance with the provisions of 15 U.S.C. § 1065, Knox’s right to use the KNOX-BOX mark shown in the ’269 Registration is incontestable.

3. Knox is the owner of and relies on U.S. Trademark Registration No. 2,027,433 (the “’433 Registration”) for the mark KNOX® for “metal security box for secured protection of electrical and/or electronic circuits and/or apparatus; computerized encoder and decoder which provides access to lock boxes.” The ’433 Registration was filed on March 30, 1994, issued on December 31, 1996, and claims a date of first use in interstate commerce of at least as early as September 30, 1975. Thus, the filing date, date of registration, and date of first use in commerce

of the '433 Registration are all prior to the filing date of Applicant's Application. By virtue of Knox's compliance with the provisions of 15 U.S.C. § 1065, Knox's right to use the KNOX mark shown in the '433 Registration is incontestable.

4. Knox is the owner of and relies on U.S. Trademark Registration No. 2,072,103 (the "'103 Registration") for the mark KNOX® for "metal key security holders for securing access of keys to buildings and/or storage areas; metal security box for secured protection of keys for emergency use." The '103 Registration was filed on March 30, 1994, issued on June 17, 1997, and claims a date of first use in interstate commerce of at least as early as September 30, 1975. Thus, the filing date, date of registration, and the date of first use in commerce of the '103 Registration are all prior to the filing date of Applicant's Application. By virtue of Knox's compliance with the provisions of 15 U.S.C. § 1065, Knox's right to use the KNOX mark shown in the '103 Registration is incontestable.

5. Knox is the owner of and relies on U.S. Trademark Registration No. 2,867,870 (the "'870 Registration") for the mark KNOX-COAT® for "metal security boxes." The '870 Registration was filed on October 15, 2002, issued on July 27, 2004, and claims a date of first use in interstate commerce of at least as early as June 25, 2003. Thus, the filing date, the date of registration, and the date of first use in commerce of the '870 Registration are all prior to the filing date of Applicant's Application.

6. Knox is the owner of and relies on U.S. Trademark Registration No. 3,290,692 (the "'692 Registration") for the mark KNOX-VAULT for "metal security boxes; wall-mounted metal lock boxes for securing access cards, keys, and floor plans to buildings and storage areas, and for protecting electrical and electronic circuits and apparatus." The '692 Registration was filed on March 30, 2006, issued on September 11, 2007, and claims a date of first use in

interstate commerce of at least as early as June 16, 1980. Thus, the filing date and the date of first use in commerce of the '692 Registration are prior to the filing date of Applicant's Application.

7. Knox is the owner of and relies on U.S. Trademark Application Serial No. 77/257,560 (the "'560 Application") for the mark KNOXWARE® for "computer software, including software for use on key retention devices." The '560 Application was filed on August 16, 2007 and claims a date of first use in interstate commerce of at least as early as February, 2005. Thus, the date of first use in commerce of the KNOXWARE mark is prior to the filing date of Applicant's Application.

8. The '269, '433, '103, '870, and '692 Registrations are valid, subsisting, unrevoked and uncanceled; as such they constitute prima facie evidence of the validity of the registered marks and of the registrations thereof, and of Knox's ownership of the marks shown therein and/or Knox's exclusive right to use the marks in commerce in connection with the goods and services named therein, without condition or limitation. The '269, '433, '103, '870, and '692 Registrations also constitute notice to Applicant of Knox's claim of ownership of the marks shown therein; all as provided in Section 7(b), 22 and 33(a) of the Trademark Act of 1946, as amended.

9. The '269, '433, '103, '870, and '692 Registrations are derived from applications filed in the United States Patent and Trademark Office ("PTO") on dates prior to the filing of Applicant's Application. The '269, '433, '103, '870, and '692 Registrations are valid and subsisting. In view of the substantial similarity of the respective marks and the related nature of the goods and services of the respective parties, it is alleged, that Applicant's mark so resembles

the registered marks in Knox's Federal Registrations, previously used in the United States and not abandoned, as to be likely to cause confusion or to cause make or deceive.

10. If Applicant is permitted to register the mark shown in Applicant's Application, Applicant's corresponding prima facie exclusive right to use the BOXKNOX mark in nationwide commerce will conflict Knox's lawful and prima facie exclusive right to use the KNOX Marks nationwide.

11. If Applicant is permitted to register the mark shown in Applicant's Application, Applicant's corresponding prima facie exclusive right to use the BOXKNOX mark in nationwide commerce will conflict with Knox's lawful and prima facie exclusive right to use the marks in the '269, '433, '103, '870, and '692 Registrations and the '560 Application nationwide.

12. Knox has used the KNOX Marks in connection with the sale and promotion of Knox's goods since at least as early as the dates of first use set forth in paragraphs 1 through 7 above. Such use has been valid and continuous, and has not been abandoned. The relevant class of the public has come to associate Knox with the KNOX Marks.

13. Since a date well prior to the filing date of Applicant's Application, Knox has used the KNOX Marks in connection with the sale and promotion of Knox's goods. Such use has been valid and continuous, and has not been abandoned. As a result of this use, well prior to the filing date of Applicant's Application, the relevant class of the public has come to associate Knox with the KNOX Marks.

14. Knox has invested substantial amounts of time, effort and money in the KNOX Marks. By reason of Knox's widespread and continuous use of the KNOX Marks, in addition to the protection afforded to Knox by the '269, '433, '103, '870, and '692 Registrations and the

'560 Application, Knox has extensive, non-registered statutory and common law rights in the KNOX Marks.

15. Knox, through sales, advertising and promotion of Knox's goods under the KNOX Marks, since a date prior to the filing date of Applicant's Application, has built up at great expense and effort, valuable goodwill symbolized by the KNOX Marks.

16. In view of Knox's prior rights in the KNOX Marks, Applicant is not entitled to register the BOXKNOX mark pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

17. In view of Knox's prior use and registrations of the Knox Marks, the BOXKNOX mark is likely to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

18. Applicant is not entitled to register the BOXKNOX mark pursuant to Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

19. Through extensive use and advertising of its KNOX Marks, the marks have become famous for Knox's goods.

20. Applicant's registration of the BOXKNOX mark will dilute the distinctive quality of Knox's famous marks within the meaning of Section 43(c) of the Trademark Act, 15 U.S.C. 1125(c), and will lessen the ability of Knox's KNOX Marks to distinguish the goods of Knox, regardless of the category of goods or services in connection with which Applicant uses the BOXKNOX mark.

21. Applicant has no license, consent or permission from KNOX to use or register the BOXKNOX mark.

22. By reason of all the foregoing, Knox will be gravely damaged by the registration of the mark shown in Applicant's Application because registration of this mark would be in violation of Knox's trademark and trade name rights.

WHEREFORE, Knox prays that U.S. Trademark Application Serial No. 79/040,769 be rejected and stricken, that no registration be issued thereon to Applicant, and this opposition be sustained in favor of Knox.

Please charge Deposit Account No. 11-1410 for any fees which may be required, or credit any overpayment to this account.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

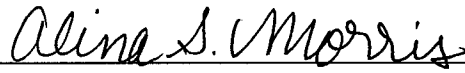
Dated: April 25, 2008

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Attorneys for Opposer,
Knox Associates, Inc.
d/b/a The Knox Company

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **NOTICE OF OPPOSITION** upon Applicant by depositing one copy thereof in the United States Mail, first-class postage prepaid on April 25, 2008, addressed as follows:

Morten Rottboel Djernaes
Pamci Networks Denmark ApS
Aabogade 15
DK-8200 Aarhus N
Denmark



Alina S. Morris