

ESTTA Tracking number: **ESTTA210829**

Filing date: **05/12/2008**

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	Codet Inc.		
Entity	Corporation	Citizenship	Canada
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 danearle@sagllp.com, nitasantiago@sagllp.com, jim@sagllp.com Phone:703-684-5600
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Applicant Information

Application No	76677276	Publication date	04/29/2008
Opposition Filing Date	05/12/2008	Opposition Period Ends	05/29/2008
Applicant	Restoration, LLC 6852 Highway 150 East Maiden, NC 28650 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2000/02/00 First Use In Commerce: 2000/02/00 All goods and services in the class are opposed, namely: Clothing, namely, hats and t-shirts
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Applicant Information

Application No	76677274	Publication date	04/29/2008
Opposition Filing Date	05/12/2008	Opposition Period Ends	05/29/2008
Applicant	Restoration LLC 6852 Highway 150 East Maiden, NC 28650 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2004/09/01 First Use In Commerce: 2004/09/01 All goods and services in the class are opposed, namely: Clothing, namely, hats and t-shirts
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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. 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		

Attachments	Notice of Opp.PDF (4 pages)(71880 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	05/12/2008

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

In re matter of Trademark Application Serial No. 76/677,276 and Application Serial No. 76/677,274, published in the Official Gazette on April 29, 2008.

CODET INC.,	:	
	:	
Opposer,	:	Opposition No. _____
	:	
	:	
RESTORATION, LLC	:	
	:	
Applicant.	:	

CONSOLIDATED NOTICE OF OPPOSITION
(CLASS 25 ONLY)

Petitioner, CODET INC., 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 marks shown in Application Serial No. 76/677,276 and Application Serial No. 76/677,274, for Class 25 only, and hereby opposes each of these applications.

The grounds for the opposition are as follows:

1. Since long prior to the filing dates of the applications, and any use dates 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.

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 mark 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. On May 22, 2007, Applicant filed an application for
registration of the mark, HOT ROD EXPRESS, for clothing, namely,
hats and t-shirts with a claimed date of first use of the mark
in February, 2000, long after Opposer's first use of its mark,
HOT ROD, for clothing.

6. On May 22, 2007 Applicant filed an application for registration of the mark, HOT ROD EXPRESS & Design, for clothing, namely, hats and t-shirts, with a claimed date of first use of the mark on September 1, 2004, long after Opposer's first use of its mark, HOT ROD, for clothing.

7. In view of the similarity between Opposer's mark and Applicant's marks and the related nature of the goods of the respective parties, Applicant's marks so resemble Opposer's mark, 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.

8. Applicant's continued use of the marks, HOT ROD EXPRESS and HOT ROD EXPRESS & Design, for clothing, namely, hats and t-shirts, is likely to cause confusion in the minds of the purchasing public between the goods of Opposer, bearing the mark, HOT ROD, and the goods of Applicant, bearing the mark, HOT ROD EXPRESS, or the mark, HOT ROD EXPRESS & Design.

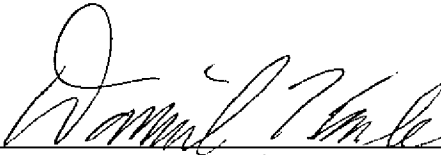
WHEREFORE, Opposer prays that said Application Serial No. 76/677,276 and Application Serial No. 76/677,274 be rejected, that no registration be issued to Applicant for these

marks in Class 25, and that this Notice of Opposition be
sustained in favor of Opposer.

Respectfully submitted,

CODET INC.

Date: May 17, 2008

By: 

James E. Shlesinger
Daniel T. Earle
Attorneys for Opposer
SHLESINGER, ARKWRIGHT & GARVEY LLP
1420 King Street, Suite 600
Alexandria, Virginia 22314
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CERTIFICATE OF SERVICE

I, Daniel T. Earle, Attorney for Opposer, do hereby certify that this CONSOLIDATED NOTICE OF OPPOSITION (CLASS 25 ONLY) has been served upon Applicant by mailing a copy thereof by prepaid first class mail to David R. Schaffer, attorney for Applicant, Miles & Stockbridge P.C., 1751 Pinnacle Drive, Suite 500, McLean, Virginia 22102-3833, this 12th day of May, 2008.



Daniel T. Earle