

ESTTA Tracking number: **ESTTA243800**

Filing date: **10/20/2008**

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	POWER FINANCIAL CREDIT UNION
Granted to Date of previous extension	10/19/2008
Address	2020 NW 150TH AVENUE PEMBROKE PINES, FL 33028 UNITED STATES
Attorney information	Amy Wright Taft Stettinius & Hollister LLP One Indiana Square, Suite 3500 Indianapolis, IN 46204 UNITED STATES efstrademarks@sommerbarnard.com

Applicant Information

Application No	77184192	Publication date	04/22/2008
Opposition Filing Date	10/20/2008	Opposition Period Ends	10/19/2008
Applicant	Power Corporation of Canada 751 Victoria Square Montreal, H2Y2J3 CANADA		

Goods/Services Affected by Opposition


Class 035. All goods and services in the class are opposed, namely: Business management; public relations services to businesses in the financial, insurance, investment, newspaper and printing fields
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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.	2550156	Application Date	01/29/2001
Registration Date	03/19/2002	Foreign Priority Date	NONE
Word Mark	POWER 1 CREDIT UNION		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 2000/08/21 First Use In Commerce: 2000/08/21 Banking

Related Proceedings	Opposition Nos. 91179604 and 91179928
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Attachments	78045393#TMSN.gif (1 page)(bytes) POWER FINANCIAL; 77184192_1.pdf (8 pages)(165332 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	/Amy Wright/
Name	Amy Wright
Date	10/20/2008

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

Power Financial Credit Union Registrant Vs Power Corporation of Canada Applicant	Opposition No. _____ Mark: POWER FINANCIAL Serial No. 77184192 Published: 2008-04-22
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NOTICE OF OPPOSITION

Power Financial Credit Union ("Registrant") believes it will be damaged by registration of the trademark shown in Application Serial No. 77184192 and hereby opposes its registration. As grounds for this opposition, Registrant respectfully alleges the following:

1. Registrant is a Florida credit union with a business address of 2020 NW 150th Avenue, Pembroke Pines, Florida 33028.

2. Upon information and belief, Power Corporation of Canada ("Applicant") is a Canadian corporation with a business address of 751 Victoria Square, Montreal H2Y2J3, Canada.

THE INCONTESTABLE POWER 1 CREDIT UNION TRADEMARK

3. Registrant is the owner of U.S. Registration Number 2550156 for the mark

POWER 1 CREDIT UNION® and DESIGN () which is issued in connection with *banking services* in International Class 36. See attached Exhibit A.

4. U.S. Reg. No. 2550156 is principally registered.

5. The term “POWER” has not been disclaimed in U.S. Reg. No. 2550156, giving Registrant rights in that term, standing alone.

6. Section 8 and 15 affidavits have been accepted and acknowledged in connection with Registrant’s POWER 1 CREDIT UNION® trademark, Reg. No. 2550156, making this registration incontestable.

7. Registrant owns and operates the website www.powerfi.org, which is directed to and accessible by consumers located throughout the United States.

8. The POWER 1 CREDIT UNION® trademark is prominently displayed on Registrant’s web site, specifically, at http://www.powerfi.org/site/info_history.html, which is accessible to U.S. consumers.

9. Registrant’s POWER 1 CREDIT UNION® financial banking services are offered throughout the United States, and accessible via the world wide web, one of the 3,433 shared branches located throughout the United States as well as all Florida Power & Light (FPL) locations throughout the United States.

10. Registrant has spent hundreds of thousands of dollars in advertising and

marketing and has participated in and sponsored countless community events in order to promote the POWER 1 CREDIT UNION® trademark.

11. Registrant generated revenue of over \$34 Million last year alone in connection with POWER 1 CREDIT UNION® banking services.

12. Consumers have come to associate the POWER 1 CREDIT UNION® trademark exclusively with financial banking services originating from Registrant and Registrant alone.

THE POWER FINANCIAL APPLICATION

13. According to Patent and Trademark Office records, Applicant filed a federal trademark application, assigned Application Serial No. 77184192, for the mark POWER FINANCIAL on May 17, 2007 (hereinafter, the POWER FINANCIAL Application). See attached Exhibit B.

14. The POWER FINANCIAL Application covers financial services, specifically, “*Business management; public relations services to businesses in the financial, insurance, investment, newspaper and printing fields*” in International Class 35.

15. The POWER FINANCIAL Application does not recite a date of first use and is based on an intent to use in the United States.

16. Applicant has disclaimed the term FINANCIAL, leaving its rights and interests in this mark in the term POWER.

REGISTRATION OF THE POWER FINANCIAL APPLICATION WILL CAUSE HARM TO REGISTRANT

17. Registrant’s rights in the POWER 1 CREDIT UNION® trademark predate

Applicant's May 17, 2007 filing date.

18. There is a direct overlap between the dominant portion of Applicant's mark and Registrant's mark; i.e. the term POWER.

19. Further, the use and registration of Applicant's POWER FINANCIAL trademark is and would be harmful to Registrant's interests in its family of trademarks, including not only Registrant's POWER 1 CREDIT UNION registered trademark, but also Registrant's Application Serial Nos. 78973645 and 77059168 for the word and design mark POWER FINANCIAL CREDIT UNION.

20. In separate proceedings, filed on October 9, 2007 and September 19, 2007, Applicant opposed (via Opposition Nos. 91179604 and 91179928) Registrant's Application Serial Nos. 78973645 and 77059168 for the word and design mark POWER FINANCIAL CREDIT UNION, claiming that consumers would be likely to become confused between Applicant's POWER FINANCIAL mark and Registrant's POWER FINANCIAL CREDIT UNION marks.

21. Applicant's oppositions were based, in part, on an allegation of likelihood of confusion between its POWER FINANCIAL marks and Registrant's Application Serial Nos. 78973645 and 77059168.

22. To the extent that Applicant is correct that Registrant's Application Serial Nos. 78973645 and 77059168 create a likelihood of confusion, then that would suggest, if not evidence, likelihood of confusion present in the instant matter. Alternatively, if the Registrant prevails in the oppositions filed by Applicant against Registrant's Applications (Opposition Nos. 91179604 and 91179928), Applicant may be estopped from pursuing this present

Application Serial No. 77184192.

23. As such, the registration of Applicant's POWER FINANCIAL trademark will cause harm to Registrant in that it will potentially prohibit the registration of Registrant's Application Serial Nos. 78973645 and 77059168.

Accordingly, Registrant respectfully requests that this Opposition be sustained and that Applicant's POWER FINANCIAL Application Serial No. 77184192 be denied registration.

Dated this 20th day of October, 2008.

Respectfully submitted,

/Amy Wright/
Amy L. Wright
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Attorney for Registrant

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of Opposition was served by First-Class Mail, postage prepaid, upon the following, on October 20th 2008:

JENNIFER A. VAN KIRK
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/Amy Wright/

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Fax: (317) 713-3699

EXHIBIT A

Desktop - Citrix Presentation Server Client [SpeedScreen On]
Trademark Electronic Search System (TESS) - Microsoft Internet Explorer

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Word Mark POWER 1 CREDIT UNION
Goods and Services IC 036. US 100 101 102. G & S: Banking. FIRST USE: 20000821. FIRST USE IN COMMERCE: 20000821
Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code 26.07.01 - Diamonds with plain multiple line border; Diamonds with plain single line border
26.07.21 - Diamonds that are completely or partially shaded
Serial Number 78045393
Filing Date January 29, 2001
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition December 25, 2001
Registration Number 2550156
Registration Date March 19, 2002
Owner (REGISTRANT) Power 1 Credit Union Federally Chartered Credit Union UNITED STATES 2020 NW 150th Avenue Pembroke Pines FLORIDA 33028
(LAST LISTED OWNER) POWER FINANCIAL CREDIT UNION FEDERAL CREDIT UNION FLORIDA 2020 NW 150TH AVENUE PEMBROKE PINES FLORIDA 33028
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Amy Wright
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CREDIT UNION" APART FROM THE MARK AS SHOWN
Type of Mark SERVICE MARK
Register PRINCIPAL
Affidavit Text SECT 15, SECT 8 (6-YR).
Live/Dead Indicator LIVE

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EXHIBIT B

Desktop - Citrix Presentation Server Client [SpeedScreen On]
Trademark Electronic Search System (TESS) - Microsoft Internet Explorer

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POWER FINANCIAL

Word Mark POWER FINANCIAL
Goods and Services IC 035, US 100 101 102, G & S: Business management; public relations services to businesses in the financial, insurance, investment, newspaper and printing fields
Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Serial Number 77184192
Filing Date May 17, 2007
Current Filing Basis 1B
Original Filing Basis 1B
Published for Opposition April 22, 2008
Owner (APPLICANT) Power Corporation of Canada CORPORATION CANADA 751 Victoria Square Montreal CANADA H2Y2J3
Attorney of Record Jennifer A. Van Kirk
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FINANCIAL" APART FROM THE MARK AS SHOWN
Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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