

ESTTA Tracking number: **ESTTA413057**

Filing date: **06/06/2011**

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	Project Consulting Services, Inc.
Granted to Date of previous extension	06/05/2011
Address	3300 West Esplanade Avenue, Suite 500 Metairie, LA 70002 UNITED STATES

Attorney information	Raymond G. Areaux (#33,643) Carver, Darden, Koretzky, Tessier, Finn, Blossman & Areaux, LLC 1100 Poydras Street, Suite 3100 New Orleans, LA 70163 UNITED STATES areaux@carverdarden.com Phone:(504) 585-3803
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### Applicant Information

Application No	77849757	Publication date	12/07/2010
Opposition Filing Date	06/06/2011	Opposition Period Ends	06/05/2011
Applicant	Gordon Management Partners, LLC No. 214 2123 OLD SPARTANBURG RD Greer, SC 29650 UNITED STATES		

### Goods/Services Affected by Opposition

Class 009. First Use: 2009/06/26 First Use In Commerce: 2009/06/26 All goods and services in the class are opposed, namely: Computer software for evaluating and determining risk in credit processes
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### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)


### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2778228	Application Date	10/24/2000
Registration Date	10/28/2003	Foreign Priority Date	NONE
Word Mark	C.A.T.S.		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 1997/03/12 First Use In Commerce: 1997/03/12 Engineering and consultation services in the field of oil and gas onshore and offshore projects namely, project management and data gathering services in the field of both onshore and offshore projects in the oil and gas industry

U.S. Application No.	77852251	Application Date	10/19/2009
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	C.A.T.S.
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 042. First use: Providing online non-downloadable software for project management and data gathering services in the oil and gas industry; Online hosting of data for others pertaining to project management in the oil and gas industry
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U.S. Application No.	77852284	Application Date	10/19/2009
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	C.A.T.S.
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 009. First use: Computer software for project management and data gathering services in the oil and gas industry
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Attachments	77852251#TMSN.jpeg ( 1 page )( bytes ) 77852284#TMSN.jpeg ( 1 page )( bytes ) Notice of Opposition.17347.pdf ( 6 pages )(104829 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	/Theodore S. Owers III/
Name	Raymond G. Areaux (#33,643)
Date	06/06/2011

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

<b>Project Consulting Services, Inc.</b> Opposer	*	Opposition No.: to be assigned
	*	
v.	*	Serial No. 77/849,757
	*	
<b>Gordon Management Partners, LLC</b> Applicant	*	Term: CATS
	*	

**NOTICE OF OPPOSITION**

Project Consulting Services, Inc., a corporation formed under the laws of the state of Louisiana, whose address is 3300 West Esplanade Avenue, Suite 500, Metairie, Louisiana, 70002, believes that it will be damaged by the grant of a registration to Gordon Management Partners, LLC for the term CATS as set forth in application Serial No. 77/849,757 and hereby opposes the same in this opposition filed pursuant to 37 CFR §2.104(b).

As grounds for opposition, Opposer alleges as follows:

1. Applicant seeks to register the term CATS in International Class 009 for “Computer software for evaluating and determining risk in credit processes” as evidenced by the filing of trademark application Serial No. 77/849,757 (“the ‘757 Application”) on October 15, 2009 and the publication for opposition of the ‘757 Application on December 7, 2010. The ‘757 Application recites a date of first use of June 26, 2009.

2. Opposer is the owner of U.S. Registration No. 2,778,228 of the service mark C.A.T.S. for “Engineering and consultation services in the field of oil and gas onshore and offshore projects namely, project management and data gathering services in the field of both onshore and offshore projects in the oil and gas industry” (“the ‘228 Registration”). The ‘228

Registration issued on October 28, 2003 and recites a date of first use and a date of first use in commerce of March 12, 1997. The '228 Registration enjoys incontestable status pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065.

3. In addition to the services identified in the '228 Registration, Opposer has delivered, and intends to deliver, certain other related goods and services under its C.A.T.S. mark.

4. Opposer is the owner of U.S. application Serial No. 77/852,251 to register its C.A.T.S. mark for "Providing online non-downloadable software for project management and data gathering services in the oil and gas industry; Online hosting of data for others pertaining to project management in the oil and gas industry," filed on October 19, 2009.

5. Opposer is the owner of U.S. application Serial No. 77/852,284 to register its C.A.T.S. mark for "Computer software for project management and data gathering services in the oil and gas industry," filed on October 19, 2009.

6. Opposer owns and has continuously used its C.A.T.S. mark in commerce in connection with one or more of the goods and services described in Paragraphs 2 through 5 since at least as early as March 12, 1997, which date is many, many years before the October 15, 2009 filing date of the '757 Application or the June 26, 2009 date of first use recited in the '757 Application.

7. By virtue of the substantial delivery of one or more of the goods and services described in Paragraphs 2 through 5 under the C.A.T.S. mark, persons familiar with such goods and services have come to recognize Opposer's C.A.T.S. mark as an indication of a unique brand of goods and services. Consequently, Opposer has established valuable good will in its C.A.T.S. mark.

8. By virtue of its exclusive and continuous use of the C.A.T.S. mark and activities preparatory thereto, Opposer has acquired and is the sole owner of common law, state statutory, and other trademark, service mark, trade name, domain name, and related rights to its C.A.T.S. mark, which rights are superior to Applicant's rights, if any there be, in the term CATS.

9. Applicant's goods intended to be offered in connection with the term CATS are closely related to the goods and services offered, and intended to be offered, in connection with Opposer's C.A.T.S. mark and are sold, distributed or provided, or likely to be sold, distributed or provided, through the same or commercially related channels of trade to the same or overlapping classes of purchasers, consumers or users.

10. Persons familiar with Opposer's goods and services marketed under its C.A.T.S. mark, upon seeing advertisements for Applicant's goods sold, distributed or provided under the term CATS, would be likely to believe, and would be justified in so believing, that such services originated from Opposer or were produced in association, connection or affiliation with, or under sponsorship, approval or authorization by, Opposer. Thus, the term CATS, as used in connection with Applicant's goods, would lead persons familiar with Opposer's C.A.T.S. mark to believe that Applicant's goods are provided or originated by, sold or distributed in association, connection or affiliation with, or under sponsorship, approval, authorization or license from Opposer.

11. It is likely that, and Opposer believes that, if Applicant is permitted to register the term CATS for the goods identified in the '757 Application, confusion of the trade and public would, or likely would, result by reason of similarity between the term CATS and Opposer's C.A.T.S. mark. Such confusion would result in damage and injury to Opposer. Customers, consumers and/or users familiar with Opposer's C.A.T.S. mark would be likely to purchase,

consume, or otherwise use Applicant's goods, believing them to originate from, be sponsored by, or be under license from Opposer. Any defect, objection, fault, or adverse publicity in connection with Applicant's goods sold, distributed or provided under the term CATS would necessarily reflect on and seriously injure the reputation that Opposer has established for its C.A.T.S. mark.

12. If Applicant is granted a registration for the term CATS for the goods identified in the '757 Application, it would obtain thereby at least prima facie exclusive right to use such marks in connection with such goods. Such registrations would be a source of damage and injury to Opposer and Opposer's customers.

13. In view of the similarity of the respective marks and the similarity of the goods and services of the respective parties, the term CATS so resembles Opposer's C.A.T.S. mark as to be likely to cause confusion, or to cause mistake or to deceive as to the affiliation, connection, or association between the parties or as to the origin, sponsorship, or approval by Opposer of the Applicant's goods.

14. Opposer's C.A.T.S. mark is distinctive and famous according to a number of factors, and Applicant's registration of the term CATS will cause, further, or support, or is likely to cause, further, or support, dilution of the distinctive quality of Opposer's C.A.T.S. mark and otherwise violate and infringe upon Opposer's rights under Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

15. Prior to filing this Notice of Opposition, Opposer and Applicant engaged in discussions that resulted in Applicant filing a "Request for Amendment to Recitation of Goods" on May 23, 2011. In its filing, Applicant requested to amend the identification of goods in the '757 Application to: "Computer software for evaluating and determining risk in credit processes

for use by financial and investment service businesses as well as auditing departments” (the “Negotiated Amendment”).

16. The deadline to file this Notice of Opposition is June 6, 2011, and pursuant to 37 C.F.R. §2.102, no further extensions of time to oppose are available. As of June 6, 2011, the Negotiated Amendment had not been formally approved by the USPTO. Accordingly, Opposer files this Notice of Opposition to preserve its rights in the event the Negotiated Amendment is rejected by the USPTO. If the Negotiated Amendment is approved without modification by the USPTO, Opposer will withdraw this Notice of Opposition.

**WHEREFORE**, Opposer, Project Consulting Services, Inc., prays that, after due proceedings are had, Applicant’s application Serial Nos. 77/849,757 be rejected, that registration of the term CATS therein sought be denied and refused, and that this opposition be sustained.

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To the extent any fees are required to file or process these documents, the Commissioner is hereby authorized to charge any and all fees which may be required, or credit any overpayment to, Deposit Account No. 03-0937.

Respectfully submitted,

/Theodore S. Owers III  
**RAYMOND G. AREAUX (Reg. #33,643)**  
**THEODORE (TODD) S. OWERS III**  
**IAN C. BARRAS (Reg. #62,812)**  
**J. MATTHEW MILLER III**  
Carver, Darden, Koretzky, Tessier,  
Finn, Blossman & Areaux, L.L.C.  
1100 Poydras Street, Suite 3100  
New Orleans, Louisiana 70163  
Telephone: 504-585-3803  
Facsimile: 504-585-3801  
E-mail: [areaux@carverdarden.com](mailto:areaux@carverdarden.com)  
Attorneys for Opposer

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Consolidated Notice of Opposition has been served on Applicant by mailing said copy on June 6, 2011 via first-class mail to the correspondence address of record listed in the Trademark Applications and Registrations Retrieval (TARR) system located at <http://tarr.uspto.gov>:

Hunter S. Freeman, Esq.  
McNair Law Firm, P.A.  
Post Office Box 447  
Greenville, South Carolina 29602-0447

/Theodore S. Owers III  
Theodore S. Owers III