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

Proceeding	86129533
Applicant	Unirush, LLC
Applied for Mark	24K RUSHCARD
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Applicant: Unirush, LLC	:	
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Mark: 24K RUSHCARD	:	Examining Attorney: Kevon Chisholm
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Serial No. 86/129533	:	Law Office: 103
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Filing Date: November 26, 2013	:	
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**APPLICANT’S APPEAL BRIEF**

Applicant hereby appeals the Trademark Examining Attorney’s refusal to register the trademark 24K RUSHCARD in Class 9 under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), on the grounds of a potential likelihood of confusion with the mark 24 KARAT CARD in U.S. Registration No. 3,277,453.

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## STATEMENT OF THE ISSUE

Did the Examining Attorney err in finding that Applicant's 24K RUSHCARD mark for "*magnetically encoded debit cards; magnetically encoded prepaid debit cards*" in Class 9 is likely to be confused with Registration No. 3,277,453 for 24 KARAT CARD for "*credit card services*?"

## FACTS AND PROCEDURAL HISTORY

On November 26, 2013, Applicant filed an application for registration of the mark 24K RUSHCARD to be used in connection with "*magnetically encoded debit cards; magnetically encoded prepaid debit cards*" in Class 9.

The Examining Attorney issued an initial Office Action on March 17, 2014, refusing registration under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d) on the basis of a potential likelihood of confusion with U.S. Registration No. 3,277,453 for 24 KARAT CARD for "*credit card services*." Specifically, the Examining Attorney determined that the two marks were similar because the marks both contained "24," "K" or "Karat," and the word "Card" (despite the dominant presence of Applicant's well-known RUSHCARD mark) and that the goods and services were similar because they were generally within the financial field. Based on these findings, the Examining Attorney determined that a likelihood of confusion existed and registration was refused.

On September 17, 2014, Applicant filed a response to the Examining Attorney's rejection which argued against the Examining Attorney's reasons for refusal, requesting that the refusal be withdrawn, and that the mark be allowed to register.

The Examining Attorney issued a final action maintaining the refusal under Section 2(d) on October 9, 2014. In this action, the Examining Attorney reasserted the previously made

arguments against registration and added that the dominant portion of Applicant's mark was 24K or "Karat" rather than Applicant's well-known RUSHCARD mark.

On April 9, 2015, Applicant filed a request for reconsideration of the Examining Attorney's rejection which argued against the Examining Attorney's reasons for refusal, requesting that the refusal be withdrawn, and that the mark be allowed to register. Applicant further timely filed a notice of appeal with the Trademark Trial and Appeal Board on this same day.

The Examining Attorney denied the request for reconsideration on June 1, 2015 again continuing the likelihood of confusion refusal resulting in this appeal for which this brief now provides support.

## **ARGUMENT**

### **I. The Marks Are Distinguishable.**

#### **a. Applicant's 24K RUSHCARD Mark is Distinguishable in Sight, Sound and Commercial Impression from the Cited Registration.**

Applicant's 24K RUSHCARD mark is not likely to be confused with the cited mark for 24 KARAT CARD because Applicant's mark differs significantly in appearance, sound, connotation and commercial impression from the registration.

It is well-established that marks are not confusingly similar if they differ in "appearance, sound, connotation, and commercial impression." *See e.g. In re E.I. du Pont de Nemours & Co.*, 177 U.S.P.Q. 563 (C.C.P.A. 1973); *First Savings Bank FSB v. First Bank System, Inc.* 101 F.3d 645 (10th Cir. 1996); *Plough, Inc. v. Kreis Laboratories*, 314 F.2d 635 (9th Cir. 1963).

The Examining Attorney erroneously rests his argument that the marks are confusingly similar based upon the notion that 24K is similar to 24 KARAT and that 24K is the dominant portion of Applicant's mark. To make this conclusion, the Examining Attorney has erroneously

treated Applicant's well-known house mark, RUSHCARD, as essentially being the word "card" so as to find confusion. Such dissection of Applicant's mark is improper. "It is axiomatic that a mark should not be dissected and considered piecemeal; rather, it must be considered as a whole in determining likelihood of confusion." *Franklin Mint Corp. v. Master Mfg. Co.*, 667 F.2d 1005, 1007 (C.C.P.A. 1981); *see also* TMEP § 1207.01(c)(ii) (*citing In re Shell Oil Co.*, 992 F.2d 1204, 1206 (Fed. Cir. 1993); *Massey Junior Coll., Inc. v. Fashion Inst. of Tech.*, 492 F.2d 1399, 1402 (C.C.P.A. 1974)).

However, greater weight may indeed be given to the dominant feature of a mark for purposes of determining likelihood of confusion. *See, e.g., Giant Food, Inc. v. Nation's Foodservice, Inc.*, 710 F.2d 1565, 1570-71, 218 U.S.P.Q. 390, 395 (Fed. Cir. 1983); *see also* TMEP §1207.01(b)(iii). Contrary to the position of the Examining Attorney, the dominant portion of Applicant's mark is not 24K but its well-known house mark RUSHCARD.

In determining the dominant portion of a mark, one criterion is whether the buyer would be more likely to remember and use one part of a mark as indicating origin of the goods. *See Price Candy Co. v. Gold Medal Candy Corp.*, 105 U.S.P.Q. 266 (C.C.P.A. 1955). Here, Applicant's 24K RUSHCARD house mark contains Applicant's well-known and distinctive RUSHCARD house mark, which buyer's would be more likely to remember and use as indicating origin of the goods than 24K.

Indeed, Applicant's RUSHCARD house mark is the subject of over 13 registrations prominently featuring RUSHCARD as the dominant portion of its mark<sup>1</sup>. *See* Exhibit A to September 17, 2014 Office Action response filed by Applicant. Applicant further uses its RUSHCARD house mark prominently on its website and marketing materials. *See* Exhibits F, I

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<sup>1</sup> Applicant notes that as of the time of filing Exhibit A to the September 17, 2014 Office Action, seven of the listed marks had not yet matured to registration. These marks have all since registered during the pendency of the 24K RUSHCARD application.

and J to April 9, 2015 Request for Reconsideration. Applicant has used its RUSHCARD mark prominently with the public for over a decade. *See* Exhibit A to September 17, 2014 Office Action Response; Exhibit M to April 9, 2015 Request for Reconsideration. Therefore, there is no question that consumers would readily recognize RUSHCARD as being the dominant portion of Applicant's 24K RUSHCARD trademark and the Examining Attorney erred in holding that 24K was the dominant portion of Applicant's mark.

When reviewing the marks as a whole with proper weight being afforded to the true dominant portion of Applicant's mark there are substantial differences between the two marks that create a different overall impression and make the two marks easily distinguishable.

First, the marks themselves present distinguishable sight and sound impressions in that Applicant's mark utilizes 24K and includes the distinctive house mark RUSHCARD. 24K is pronounced differently from 24 KARAT, as used in the cited registration. Furthermore, the appearance of Applicant's house mark RUSHCARD presents an entirely different sound and sight from the cited registration's use of "CARD" with 24 KARAT. Therefore, when viewing the marks as a whole, 24 KARAT CARD and 24K RUSHCARD present entirely distinguishable sight and sound impressions.

Most importantly though, the marks present highly distinguishable commercial impressions. The cited registration is owned by Samuels Jewelers Inc., a jewelry store that provides *credit card services* to purchasers of its jewelry. *See* Exhibits A-E to April 9, 2015 Request for Reconsideration. The use of the wording "24 KARAT" in the cited registration for 24 KARAT CARD conveys the commercial impression of a 24 KARAT diamond, playing on the jewelry being sold by registration.<sup>2</sup>

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<sup>2</sup> Indeed, the only credit card now mentioned on the website for Samuels Jewelers is the "Diamond Elite" card, once again playing on this jewelry theme. *See* Exhibits A-E to April 9, 2015 Request for Reconsideration.

In stark contrast is the use by Applicant of 24K in its 24K RUSHCARD. The applied for mark is one in a family of marks for its RUSHCARD *prepaid debit cards*. See Exhibit A to September 17, 2014 Office Action; Exhibits F, I, and J to April 9, 2015 Request for Reconsideration. These marks include CARBON RUSHCARD, EDGE RUSHCARD, GLOSS RUSHCARD, and MIDNIGHT RUSHCARD. *Id.* In each instance the use of the word next to the RUSHCARD house mark is to suggest the appearance or color of the card being issued by Applicant. *Id.* Such is also the case for 24K RUSHCARD. *Id.* Here, 24K when used in combination with the RUSHCARD house mark suggests a commercial impression of a gold colored RUSHCARD.

Indeed, Applicant notes that the very definition and application of the word “Karat” changes when it is used on gold versus diamonds, the exact connotations being made between the cited registration and Applicant’s mark. See Exhibit B to September 17, 2014 Office Action response. Therefore, the marks convey highly distinguishable commercial impressions even in just the 24K and 24 KARAT wording alone, even without consideration of the impact of Applicant’s dominant RUSHCARD house mark. Accordingly, confusion between the cited registration and Applicant’s mark is not likely to arise.

**b. Applicant’s Mark Incorporates the Dominant and Well-Known RUSHCARD House Mark Further Obviating Potential Confusion.**

Even without the clear differences in sight, sound and commercial impression set forth above, the very presence of the well-known RUSHCARD house mark should be sufficient to distinguish the marks. It is well established that the use of a house mark can adequately distinguish a mark, even from another mark it includes as a whole. See *Knight Textile Corp. v. Jones Investment Co.*, 75 U.S.P.Q.2d 1313, 1316 (T.T.A.B. 2005). In *Knight Textile*, the Board held that “confusion is unlikely to result from contemporaneous use of opposer's ESSENTIALS

mark and applicant's NORTON MCNAUGHTON ESSENTIALS mark, **even where the marks are used on identical goods marketed in the same channels to the same classes of purchasers.** *Id.* at 1317. Considering dictionary definitions and evidence of third party registrations which included the word "essentials" (MODERN ESSENTIALS and ISLAND ESSENTIALS for example), the Board determined that "ESSENTIALS is a highly suggestive term as applied to clothing, and that applicant's addition of its house mark NORTON MCNAUGHTON renders the two marks sufficiently distinguishable, when viewed in their entirety, that confusion is not likely to occur." *Id.* at 1316.

Indeed, courts have repeatedly recognized that well-known house marks are particularly effective in preventing confusion. *See CareFirst of Maryland, Inc. v. First Care, P.C.*, 77 U.S.P.Q.2d 1577 (4th Cir. 2006) (“consumers encountering ‘CareFirst BlueCross BlueShield,’ on the one hand, and ‘First care’ on the other, are more likely to focus on the differences between the two, particularly when the most salient difference – the addition of ‘BlueCross BlueShield’ – is itself a prominent mark”); *A&H Sportswear, Inc. v. Victoria’s Secret Stores, Inc.*, 57 U.S.P.Q.2d 1097 (3rd Cir. 2000) (“affixing a well-known house mark like that of Victoria’s Secret can help diminish the likelihood of confusion”); *Bristol-Myers Squibb Co. v. McNeil-P.P.C., Inc.*, 24 U.S.P.Q.2d 1161 (2nd Cir. 1992) (“The prominent presence of well-known trade names goes far toward countering any suggestion of consumer confusion”); *Frisch’s Restaurant, Inc. v. Shoney’s Inc.*, 225 U.S.P.Q. 1169 (6th Cir. 1985) (“even had the district judge erred in selecting the marks ... the emphasis of the strong corporate name somewhat reduces .. the potential for confusion”).

As in these cases, Applicant has affixed its well-known RUSHCARD house mark to the wording 24K and consumers encountering 24K RUSHCARD and 24 KARAT CARD are more

likely to focus on the salient differences between the marks, in particular RUSHCARD, the prominent and well-known house mark. This is even more likely given that the only remaining portion of the marks at issue is 24K or 24 KARAT, which is weak and diluted due to widespread third party use and registration.<sup>3</sup>

Wording is typically characterized as “weak” if it is “in common use by many other sellers in the market.” MCCARTHY §§ 11:76, 11:88 (emphasis added); *see also In re Philip Morris, Inc.*, 179 U.S.P.Q. 60, 61 (T.T.A.B. 1973). In fact, “widespread third-party use... of marks containing a certain shared term is competent to suggest that purchasers have been conditioned to look to other elements of the marks as a means of distinguishing the source of goods in the field.” *In re Broadway Chicken, Inc.*, 38 U.S.P.Q.2d 1559, 1565-66 (T.T.A.B. 1996); *see also* T.M.E.P. §1207.01(d)(iii) “[T]hird party registrations are similar to dictionaries showing how language is generally used”) (citations omitted).

The Examining Attorney erroneously disregarded the clear evidence of the weakness and dilution of 24K or 24 KARAT on the grounds that third party registrations do not show use in commerce.<sup>4</sup> *See* October 9, 2014 Final Office Action. Case law is well established though that third party registrations may be used effectively to show that a mark is inherently weak, by showing that different entities have adopted and registered marks in a particular field, and that the USPTO has allowed registration of marks over one another despite the fact that they have points of similarity. *Clinton Detergent Co. v. Proctor & Gamble Co.*, 133 U.S.P.Q. 520 (C.C.P.A. 1962). For instance, when a USPTO trademark application is refused because of a prior registration, the applicant can effectively argue that its mark is no more likely to cause

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<sup>3</sup> Indeed the whole of the cited registration is weak and entitled to a narrow scope of protection given that “Card” was disclaimed from the cited registration as being descriptive of the services at issue. *See* U.S. Registration No. 3,277,453.

<sup>4</sup> Despite this position, the Examining Attorney relied heavily on third party registrations to argue that the goods and services at issue are similar. *See* October 9, 2014 Final Office Action.

confusion with the registered mark than the registered mark is likely to be confused with one or more other registered marks, all of which include the common element. *In re Hamilton Bank*, 222 U.S.P.Q. 174, 179 (T.T.A.B. 1984); *Smithkline Beckman Corp. v. Proctor & Gamble Co.*, 223 U.S.P.Q. 1230, 1235 (NDNY 1984), *aff'd without opinion*, 755 F.2d 914 (2nd Cir. 1985). Third party registrations may be made of record by filing copies of USPTO printouts, which are admissible as “official records.” *Weyerhaeuser Co. v. Katz*, 24 USPQ.2d 1230, 1231-32 (T.T.A.B. 1992).

Here, the Trademark Office has repeatedly allowed for coexistence of marks utilizing 24K or 24 KARAT across overlapping and competing goods, including most recently in Class 36. Applicant has set forth examples of this coexistence in the charts below across two distinct Classes of goods.

**Class 3:**

<b>Registration Number</b>	<b>Mark</b>	<b>Goods and Services</b>
4540429	<b>24 KARITE GOLD</b>	Cosmetics
4523453	<b>FLAWLESS 24K</b>	Personal care products, namely, lip glass
3732744	<b>24K</b>	Hair styling preparations
4427089	<b>ORO THERAPY 24K &amp; Design</b>	Kits comprising shampoo, hair masks, body care, cosmetic preparations
1516123	<b>24-KARAT BRONZE &amp; Design</b>	Skin care preparations, namely, suntan lotion

See Exhibit C to September 17, 2014 Office Action response.

**Class 25:**

<b>Registration Number</b>	<b>Mark</b>	<b>Goods and Services</b>
4495758	<b>24K &amp; Design</b>	Clothing, namely, shirts
4631708	<b>24 KARAT SKATE SUPPLIES</b>	Clothing, namely, t-shirts, hats, and sweatshirts
4335212	<b>24KARATS SURF</b>	Sweat pants, sport shirts, headgear, namely, caps
3836462	<b>MINX 24K</b>	T-shirts, tops, shirts, pajamas, pants
2332732	<b>STAR STATUS 24K GOLD</b>	Men's, women's and children's clothing
3545899	<b>24KARAT</b>	Pants, skirts, and dresses

*See Exhibit C to September 17, 2014 Office Action response.*

These are just a handful of the numerous uses of 24K or 24 KARAT on the register peacefully coexisting without confusion. In each instance above, whether in Class 3 or 25, the Trademark Office has allowed for coexistence across directly competing goods despite the fact that each mark contains the points of similarity of 24K or 24 KARAT. In Class 3 alone, the Trademark Office allowed for coexistence between a mark for just 24K by itself with another for ORO THERAPY 24K & Design for competing hair care products. As with Applicant's mark, ORO THERAPY constituted the owners distinctive house mark and the Trademark Office deemed that sufficient to obviate any potential confusion with the earlier registration for 24K. This coexistence is therefore highly persuasive and strong evidence that the Trademark Office and the public treats 24K or 24 KARAT as weak or diluted, entitled to a narrow scope of protection.

Indeed, the Trademark Office has confirmed that such a determination is proper in Class 36 by its allowance of an application for MADE WITH 24 KARAT GOLD. *See* Exhibit L to April 9, 2015 Request for Reconsideration. The MADE WITH 24 KARAT GOLD application filed by a party wholly unrelated to the cited registration is filed for, among other services, *financial services, namely, charge card, credit card and debit card services; credit card payment processing services; computerized credit verification, namely, evaluation of the credit worthiness of companies and private individuals, and financial risk management services; providing information in the fields of foreign currency; providing cash and other rebates for credit card use as part of a customer loyalty program.* *Id.* (emphasis added).

The fact that the Trademark Office has held that this mark can peacefully coexist with the cited registration for 24 KARAT CARD, which explicitly overlaps with the registration in the provision of *credit card services*, is highly persuasive evidence that the Trademark Office considers 24 KARAT to be weak and diluted, thus deserving of a narrow scope of protection.

Accordingly, Applicant's 24K RUSHCARD mark, with its well-known house mark as the dominant element, is not likely to be confused with the weak cited registration for 24 KARAT CARD.

## **II. The Goods and Services are Offered Under Conditions Designed to Prevent Confusion.**

In addition to the unmistakable differences between Applicant's 24K RUSHCARD mark and the cited mark for 24 KARAT CARD, no likelihood of confusion exists in light of the differences in the conditions under which the goods and services are sold by each respective party.

The question is determining similarity of the services at issue is "whether the public would be confused as to their source." TMEP §1207.01(a). The Board has stated that "if the

goods or services in question are not related or marketed in such a way that they would be encountered by the same persons in situations that would create the incorrect assumption that they originate from the same source, then, even if the marks are identical, confusion is not likely.” See *Local Trademarks, Inc. v. Handy Boys, Inc.*, 16 U.S.P.Q.2d 1668 (T.T.A.B. 1986); *Quartz Radiation Corp. v. Comm/Scope Co.*, 1 U.S.P.Q.2d 1668, 1669 (T.T.A.B. 1986) (holding QR for coaxial cable and QR for various apparatus used in connection with photocopying, drafting and blueprint machines not likely to cause confusion because of the differences in the parties respective goods in terms of their nature and purpose, how they were promoted, and who they were purchased by).

Here, the Examining Attorney has erroneously concluded that Applicant’s goods and the services offered by the cited registration are similar because they both generally travel within the financial services field. See March 17, 2014 Office Action and October 9, 2014 Office Action. To support this conclusion, the Examining Attorney has submitted third party registrations and website screenshots from major credit card companies like Visa and MasterCard and banking institutions. *Id.* Yet neither Applicant nor the cited registration are major credit card companies or banking institutions.

Further, the Examining Attorney submitted several registrations including lengthy “laundry” lists of financial activities which have repeatedly been held to have minimal probative value as to the relatedness of the particular services at issue. See *In re Mucky Duck Mustard Co. Inc.*, 6 U.S.P.Q.2d 1467, 1470 n.6 (T.T.A.B. 1988) (the Board gave little consideration to two third-party registrations owned by “a large department store and an amusement or theme center, respectively, where a wide variety of goods and services are sold.”). Therefore, the evidence submitted by the Examining Attorney does not serve to establish that consumers of Applicant

goods or the cited registrations services are likely to believe they inherently emanate from the same source.<sup>5</sup>

Instead, the cited registration is a jewelry company who provides *credit card services* to its jewelry customers. See Exhibits A-D to April 9, 2015 Request for Reconsideration. Consumers using the *credit card services* of the cited registration do so specifically to finance the purchase of jewelry from registrant. *Id.* The marketing and actual purchase of the services by consumers is done **exclusively** within the physical locations of the cited registration. *Id.*

In stark contrast are the goods of Applicant, who provides prepaid debit cards wherein consumers purchase a card that allows them to upload various amounts of money to the card. See Exhibits F-J to April 9, 2015 Request for Reconsideration. Applicant's prepaid debit cards can only be purchased by applying online at Applicant's website and all management of the cards by the consumer is done through Applicant's website. *Id.*

In short, the conditions and activities surrounding the marketing and sale of these goods and services are such that they would not be encountered by the same persons under circumstances that could, because of similarities of marks used with them, give rise to the mistaken belief that they originate from or are in some way associated with the same producer. See *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 101 U.S.P.Q.2d 1713, 1722 (Fed. Cir. 2012); *Schering Corporation v. Alza Corporation*, 207 U.S.P.Q. 504, 507 (T.T.A.B. 1980); *Oxford Pendaflex Corp. v. Anixter Bros. Inc.*, 201 U.S.P.Q. 851, 854 (T.T.A.B. 1978). Consumers of the registrant's *credit card services* would not be confused into visiting Applicant's website and purchasing its *prepaid debit cards* and vice versa. The application

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<sup>5</sup> See *In re Donnay International, S.A.*, 31 U.S.P.Q.2d 1953 (T.T.A.B. 1994) ("third-party registrations submitted by the Examining Attorney do not persuade us it is the norm for companies to sell both rackets and soccer balls and to adopt a single product mark for both, or that customers would be aware of such a practice, such that they would assume that the products emanate from the same source if they were sold under the same or similar marks").

processes, marketing, and location of the goods and services themselves are so distinct that there is no opportunity for confusion to arise.

Furthermore, a higher standard for determining likelihood of confusion is proper where “parties sell their goods to discriminating purchasers under conditions calculated to insure care in discerning the source or origin of the goods, confusion is not likely.” *Industrial Nucleonic’s Corp. v. Hinde*, 177 U.S.P.Q. 386, 387 (C.C.P.A. 1973).

Indeed, knowledgeable or sophisticated consumers “may be expected to exercise greater care” when choosing to purchase certain goods or services. *See Astra Pharmaceutical Prods. v. Beckman Instruments*, 718 F.2d 1201, 1206 (1st Cir. 1983) (finding purchasers of ASTRA local anesthetic preparations and purchasers of expensive ASTRA computerized blood analysis machines were unlikely to be confused due to buyer sophistication, even though both mark owners sold products to large hospitals); *SquirtCo v. Seven-Up Co.*, 628 F.2d 1086, 1091 (8th Cir. 1980) (stating in a trademark infringement action, the “kind of product, its cost, and the conditions of purchase are important factors in considering whether the degree of care exercised by the purchaser can eliminate the likelihood of confusion which would otherwise exist”).

Here, Applicant and the owner of the cited registration are selling their goods and services to highly discerning consumers making serious financial decisions. Consumers purchasing the services of the registrant must engage in a complicated and involved process involving the transfer of highly sensitive information including social security numbers, personal address information, income details, and bank accounts. *See Exhibit G to April 9, 2015 Request for Reconsideration*. Applicant’s consumers are equally discerning and engage in a separate involved transaction again requiring the disclosure of highly sensitive and identifying information. *See Exhibit K to April 9, 2015 Request for Reconsideration*. The decision to

purchase the goods or services of Applicant or the cited registration are therefore not made lightly.

Trademark law has long supported the tenet that sophisticated purchasers of financial services can distinguish between two marks even when the marks are identical. *See First Nat'l Bank v. First Nat'l Bank S.D.*, 655 F. Supp. 2d 979 (D.S.D. 2009); *Omicron Capital, LLC v. Omicron Capital, LLC*, 433 F. Supp. 2d 382 (S.D.N.Y. 2006); *Beneficial Corp. v. Beneficial Capital Corp.*, 529 F. Supp. 445 (S.D.N.Y. 1982); *interState Net Bank v. NETB@NK, Inc.*, 348 F. Supp. 2d 340 (D.N.J. 2004).

Accordingly, the differences in how the goods and services at issue are marketed to highly discerning purchasers are sufficient to ensure confusion between the marks is not likely to arise.

### **III. Conclusion**

For the reasons set forth above, the marks at issue are highly distinguishable and sold to highly discerning consumers under conditions guaranteed to ensure confusion is not likely to arise. Therefore, the extent of potential confusion is *de minimis* and there can be no support for a refusal pursuant to Section 2(d) of the Lanham Act. *See In re E.I. du Pont*, 476 F.2d at 1361. Applicant respectfully requests that the pending application for 24K RUSHCARD be passed to publication.

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 3, 2015 a copy of the foregoing was filed with the Trademark Trial and Appeal Board's ESTTA system.

/April L. Besl/  
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