

ESTTA Tracking number: **ESTTA21931**

Filing date: **12/22/2004**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Fidelity National Financial, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	601 Riverside Avenue Jacksonville, FL 33204 UNITED STATES		

Name	Fidelity National Title Insurance Company		
Entity	Corporation	Citizenship	California
Address	601 Riverside Avenue Jacksonville, FL 33204 UNITED STATES		

Name	Fidelity National Information Services, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	601 Riverside Avenue Jacksonville, FL 33204 UNITED STATES		

Attorney information	John B. Greenberg The Stolar Partnership LLP 911 Washington Avenue 7th Floor St. Louis, MO 63101 UNITED STATES		
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jbg@stolarlaw.com Phone:(314) 231-2800

Applicant Information

Application No	78443753	Publication date	11/23/2004
Opposition Filing Date	12/22/2004	Opposition Period Ends	12/23/2004
Applicant	FMR Corp. 82 Devonshire Street Boston, MA 02109 UNITED STATES		

Goods/Services Affected by Opposition

Class 036.

All goods and services in the class are opposed, namely: Financial services, namely, securities brokerage, clearing and custody services; investment trade execution services; financial information provided by electronic means

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Attachments	753.PDF (6 pages) 759.PDF (6 pages)
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Signature	/johnbgreenberg/
Name	John B. Greenberg
Date	12/22/2004

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

In the matter of trademark application Serial No. 78/443,753

Filed June 30, 2004

For the mark: FUELED BY NATIONAL FINANCIAL
A FIDELITY INVESTMENTS COMPANY
(and design)

Published in the Trademark *Official Gazette*
on November 23, 2004 at page TM 153

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Fidelity National Financial, Inc., Fidelity National)		
Title Insurance Company and Fidelity National)		
Information Services, Inc.,)		
)		
)	Opposers,	
)		
v.)		Opposition No.
)		
FMR Corp.,)		
)		
)	Applicant.	
_____)	

Opposers Fidelity National Financial, Inc., Fidelity National Title Insurance Company and Fidelity National Information Services, Inc. (collectively "Opposers") believe that they will be damaged by registration of the mark FUELED BY NATIONAL FINANCIAL A FIDELITY INVESTMENTS COMPANY and design (the "Applicant Mark") shown in Applicant FMR Corp.'s ("Applicant") Application Serial No. 78/443,753 in International Class 36 and hereby oppose the same. The grounds for opposition are as follows:

1. Opposer Fidelity National Financial, Inc. is a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, having its principal place of business at 601 Riverside Avenue, Jacksonville, Florida 32204.

2. Opposer Fidelity National Title Insurance Company is a corporation duly organized and existing under and by virtue of the laws of the State of California, having its principal place of business at 601 Riverside Avenue, Jacksonville, Florida 32204.

3. Opposer Fidelity National Information Services, Inc. is a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, having its principal place of business at 601 Riverside Avenue, Jacksonville, Florida 32204.

4. Opposers are related companies that are engaged in the business of providing a wide range of real estate and financial services.

5. Upon information and belief, since long prior to the priority date for the Applicant Mark, Opposers and/or their licensees have continuously used in commerce FIDELITY NATIONAL, FIDELITY NATIONAL FINANCIAL and other marks containing these words in connection with certain real estate services and/or financial services.

6. Opposers are the owners of myriad federal registrations and/or pending applications, including, without limitation:

- a. Fidelity National Financial, Inc. is the owner of Application Serial No. 76/180,913 for the mark FIDELITY NATIONAL FINANCIAL and design, which Application was filed on December 14, 2000 and based on use since at least as early as August 1, 2000 for: (i) title insurance services, namely agency, brokerage, underwriting, consultancy and information services for real property located within and outside of the United States; insurance services, namely agency, brokerage, underwriting, consultancy and information services for property, casualty, life and health insurance, and coordination of insurance transactions between agents; services for originating, closing and servicing real estate transactions for others, namely real estate evaluation, closing and settlement services, default title, property tax payment services, property tax delinquency processing services, financial disbursement processing services, real estate escrow and impounding services, credit reporting services, flood determination

services, flood hazard compliance services, flood hazard certifications, property valuation and appraisal services and broker-priced opinion services, real estate loan default management services, posting, publication and auctioneering services for real estate foreclosures, trust management services, trustee's sale guarantee services, reconveyance services, loan portfolio services featuring document preparation and recording, mortgage lending services, mortgage assignment and release preparation services, services relating to advisory and management services for coordination of real estate owned, "REO", transactions for lenders and services, foreclosure and bankruptcy management services, and financial disclosure reporting services; services in the nature of acting as a qualified intermediary for tax-deferred exchanges for real and personal property; real estate services, namely providing relocation information to new home purchasers; real estate services for timeshare and resort properties, namely underwriting title insurance, underwriting title insurance policies, escrow services and real estate listings for resale, and foreclosure services; home warranty services. and commercial finance services, namely services for originating, funding, acquiring, selling, securitizing and servicing non-cancelable equipment leases for others; in International Class 36; (ii) real estate maintenance services, namely, weatherproofing, debris removal, property securing, winterization and property preservation work; in International Class 37; (iii) real estate inspection services to determine a property's condition, verification of occupancy and interview of borrower; real estate maintenance services, namely lawn care; services for originating, closing and servicing real estate transactions for others, namely title search services in the nature of due diligence and research services designed to resolve and retrieve missing or defective documents and to obtain certified copies of documents and chain-of-title verification; and legal services in the field of real estate; in International Class 42;

- b. Fidelity National Title Insurance Company is the owner of Registration No. 1,305,281 for the mark FIDELITY NATIONAL TITLE INSURANCE COMPANY and design, which was registered on November 13, 1984 and based on use since at least as early as February 2, 1973 for title insurance services-namely, underwriting title insurance for the general public, in International Class 36;
- c. Fidelity National Title Insurance Company is the owner of Application Serial No. 76/517,535 for the mark FIDELITY NATIONAL TITLE INSURANCE COMPANY, which Application was filed on May 28, 2003 and based on use since at

least as early as June 10, 1969 for title insurance services, namely, underwriting title insurance for the general public, in International Class 36; and

- d. Fidelity National Information Services, Inc. is the owner of Application Serial No. 78/423,163 for the mark FIDELITY NATIONAL INFORMATION SERVICES, which Application was filed on May 21, 2004 on an intent-to-use basis for: (i) computer software and software systems for internal use by banks, credit unions, thrifts, automotive finance companies, mortgage companies, and other lending and deposit companies, namely for loan, lease, mortgage, and deposit front end, account, call center, and item processing, imaging, and electronic payment (ATM) services, and ancillary and incidental software and services and management relating thereto, namely information and data capture, information organization, financial analysis, accounting and reporting, customer service, and branch automation, but excluding computer software and software systems used by mutual fund companies to provide financial analysis and reporting to its customers; and computer software and software systems for internal use by professional real estate agents, brokers, banks, credit unions, thrifts, mortgage companies, attorneys, title companies, closing agencies, and other lending companies and loan servicers, namely for real estate transaction processing, accounting, marketing, and closing document services, but excluding computer software and computer software systems used by mutual fund companies to provide financial analysis and reporting to its customers; in International Class 9; (ii) real estate services for internal use by professional real estate agents, brokers and lenders; namely providing transaction tracking, monitoring and management services; providing flood zone, environmental and natural and man-made hazard compliance and disclosure services; and providing real estate property tax reporting, monitoring and disbursement processing services; in International Class 35; (iii) providing, designing, developing, programming, outsourcing, hosting, installing, converting, integrating, maintaining, managing, and consulting on proprietary and third party computer software and software systems, computer networks and hardware for internal use by banks, credit unions, thrifts, automotive finance companies, mortgage companies, and other lending and deposit companies, namely for loan, lease, mortgage, and deposit front end, account, call center, and item processing, imaging, and electronic payment (ATM) services, and ancillary and incidental services and management relating thereto, namely information and data capture, information organization, financial analysis, accounting and reporting, customer service, and branch

automation, but excluding computer software and software systems, computer networks and hardware used by mutual fund companies to provide financial analysis and reporting to its customers; providing title insurance underwriting for the general public; providing title agency services; providing for the issuance of a title insurance policy by a title insurer; providing title searches; providing an abstract of title; providing the status of title in a title commitment; providing title exception resolution, verification of payments for loans secured by a subject property and verification of prorated expense amounts; providing credit reporting services; providing chain-of-title history services; providing an online searchable database of real estate property records and listings, tours of properties, property profiles, property transaction histories, comparable area sales data, crime statistics, public and private school data and neighborhood demographics; providing real estate property risk information services; providing real estate valuation, appraisal, appraiser scoring, and collateral assessment services; providing real estate exchange services. providing mortgage loan fulfillment and processing services for United States homebuilders; and providing underwriting warranty programs in the field of real estate property appraisal reports; in International Class 36; providing, designing, and managing business continuity and disaster recovery services for computer software and hardware systems, excluding disaster recovery services used by mutual fund companies; real estate title agency, closing, and lender outsourcing services, namely retrieval, review, preparation and recordation of real estate closing and post closing documents; providing temporary use of non-downloadable computer software that provides marketing materials on behalf of real estate agents and brokers; providing real estate default management and foreclosure solutions and litigation support; and providing real estate inspection services; in International Class 42.

7. Through the widespread use and promotion of Opposers' above-referenced and other marks over a long period of time and by virtue of the quality of the goods and services provided under said marks, Opposers have built up valuable good will and reputation in connection with said marks which would be jeopardized by Applicant's use and registration of the Applicant Mark.

8. The services for which Applicant seeks to register the Applicant Mark -- financial services, namely, securities brokerage, clearing and custody services,

investment trade execution services, financial information provided by electronic means -
- are in certain respects related to the goods and services previously provided under one
or more of Opposers' above-referenced and other marks.

9. The Applicant Mark so resembles Opposers' above-referenced and other marks which were previously used in commerce and/or registered with the United States Patent and Trademark Office, and not abandoned, as to be likely, when applied to the services of Applicant, to cause confusion, or to cause mistake or to deceive.

10. Upon information and belief, Applicant to date has not made use of the Applicant Mark in commerce.

11. Opposers would be damaged by the issuance to Applicant of a registration of the Applicant Mark for the services in Application Serial No. 78/443,753.

WHEREFORE, Opposers pray that this opposition be sustained, and that registration be refused of Application Serial No. 78/443,753.

Respectfully Submitted,

THE STOLAR PARTNERSHIP LLP

By: 

John B. Greenberg
911 Washington Avenue, 7th Floor
St. Louis, Missouri 63101
(314) 231-2800
(314) 436-8400 (Fax)

Attorneys for Opposers

Date: December 22, 2004

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

In the matter of trademark application Serial No. 78/443,759

Filed June 30, 2004

For the mark: NATIONAL FINANCIAL

A FIDELITY INVESTMENTS COMPANY

FUEL YOUR BUSINESS (and design)

Published in the Trademark *Official Gazette*

on November 23, 2004 at page TM 153

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Fidelity National Financial, Inc., Fidelity National)		
Title Insurance Company and Fidelity National)		
Information Services, Inc.,)		
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v.)		Opposition No.
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FMR Corp.,)		
)		
)	Applicant.	
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Opposers Fidelity National Financial, Inc., Fidelity National Title Insurance Company and Fidelity National Information Services, Inc. (collectively "Opposers") believe that they will be damaged by registration of the mark NATIONAL FINANCIAL A FIDELITY INVESTMENTS COMPANY FUEL YOUR BUSINESS and design (the "Applicant Mark") shown in Applicant FMR Corp.'s ("Applicant") Application Serial No. 78/443,759 in International Class 36 and hereby oppose the same. The grounds for opposition are as follows:

1. Opposer Fidelity National Financial, Inc. is a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, having its principal place of business at 601 Riverside Avenue, Jacksonville, Florida 32204.

2. Opposer Fidelity National Title Insurance Company is a corporation duly organized and existing under and by virtue of the laws of the State of California, having its principal place of business at 601 Riverside Avenue, Jacksonville, Florida 32204.

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5. Upon information and belief, since long prior to the priority date for the Applicant Mark, Opposers and/or their licensees have continuously used in commerce FIDELITY NATIONAL, FIDELITY NATIONAL FINANCIAL and other marks containing these words in connection with certain real estate services and/or financial services.

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services, flood hazard compliance services, flood hazard certifications, property valuation and appraisal services and broker-priced opinion services, real estate loan default management services, posting, publication and auctioneering services for real estate foreclosures, trust management services, trustee's sale guarantee services, reconveyance services, loan portfolio services featuring document preparation and recording, mortgage lending services, mortgage assignment and release preparation services, services relating to advisory and management services for coordination of real estate owned, "REO", transactions for lenders and services, foreclosure and bankruptcy management services, and financial disclosure reporting services; services in the nature of acting as a qualified intermediary for tax-deferred exchanges for real and personal property; real estate services, namely providing relocation information to new home purchasers; real estate services for timeshare and resort properties, namely underwriting title insurance, underwriting title insurance policies, escrow services and real estate listings for resale, and foreclosure services; home warranty services. and commercial finance services, namely services for originating, funding, acquiring, selling, securitizing and servicing non-cancelable equipment leases for others; in International Class 36; (ii) real estate maintenance services, namely, weatherproofing, debris removal, property securing, winterization and property preservation work; in International Class 37; (iii) real estate inspection services to determine a property's condition, verification of occupancy and interview of borrower; real estate maintenance services, namely lawn care; services for originating, closing and servicing real estate transactions for others, namely title search services in the nature of due diligence and research services designed to resolve and retrieve missing or defective documents and to obtain certified copies of documents and chain-of-title verification; and legal services in the field of real estate; in International Class 42;

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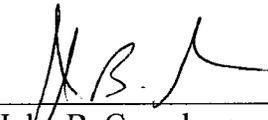
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Date: December 22, 2004