

ESTTA Tracking number: **ESTTA85944**

Filing date: **06/19/2006**

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	Bank of America Corporation
Granted to Date of previous extension	06/28/2006
Address	100 North Tryon Street Charlotte, NC 28255 UNITED STATES

Attorney information	Randel S. Springer Womble Carlyle Sandridge & Rice, PLLC One West Fourth Street Winston-Salem, NC 27101 UNITED STATES trademarkswinston@wcsr.com, rspringer@wcsr.com Phone:(336) 721-3747
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Applicant Information

Application No	78505307	Publication date	02/28/2006
Opposition Filing Date	06/19/2006	Opposition Period Ends	06/28/2006
Applicant	Black AmeriCard 3204 North 128th Street Kansas City, KS 66109 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. All goods and services in the class are opposed, namely: debit card services
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Attachments	BlackAmericard.pdf (4 pages)(95038 bytes)
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Signature	/Randy Springer/
Name	Randel S. Springer
Date	06/19/2006

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

In re Application Serial No. 78/505,307
For the Mark **BLACK AMERICARD**
International Class 36
Published February 28, 2006

BANK OF AMERICA CORPORATION,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
BLACK AMERICARD,)	
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

Opposer, Bank of America Corporation (“Opposer”), a Delaware corporation, residing at 100 North Tryon Street, Charlotte, North Carolina 28255, believes that it will be damaged by registration of the mark subject of Trademark Application Serial No. 78/505,307 for the mark BLACK AMERICARD in International Class 36 filed on October 25, 2004 by Black Americard, a Kansas corporation, with an address at 3204 North 128th Street, Kansas City, Kansas, 66109, and hereby opposes same.

The grounds for this opposition are as follows:

1. Opposer is one of the largest financial services companies in the United States.
2. Opposer provides a full line of personal and commercial banking and financial products and services, including consumer and commercial banking, consumer and commercial lending, automobile financing services, credit, debit and ATM card services, and investment services throughout the United States.

3. Since at least 1958, Opposer has provided credit financing services under the mark BANKAMERICARD throughout the United States.

4. Opposer owns all common law rights to the mark BANKAMERICARD for use in connection with credit financing services.

5. By virtue of its long use of the BANKAMERICARD mark over the last forty-eight years, the BANKAMERICARD mark has attained wide public recognition as a source identifier for Opposer's services and has developed significant goodwill.

6. Applicant filed Application Serial No. 78/505,307 for the mark BLACK AMERICARD on or about October 25, 2004 claiming an intent to use the mark in connection with "debit card services" in International Class 36 (hereinafter "Applicant's Mark").

7. Applicant's Mark so resembles Opposer's BANKAMERICARD mark as to be likely to cause confusion or to cause mistake or to deceive consumers.

8. Opposer has priority over Applicant's Mark by virtue of Opposer's prior use in commerce of the BANKAMERICARD mark.

9. Applicant's Mark dilutes Opposer's famous mark in violation of Section 43(c) of the Lanham Act, 15 U.S.C. §1125(c).

10. Opposer will be damaged and irreparably harmed if registration is granted to Applicant for Applicant's Mark.

The Commissioner is hereby authorized to charge the required fee of \$300 to Deposit Account No. 50-0517. The Commissioner is also hereby authorized to charge any deficiency in the payment of the required fee or credit any overpayment to Deposit Account No. 50-0517.

WHEREFORE, Opposer prays that registration of Application Serial No. 78/505,307 for the services identified in International Class 36 be refused, and that this Opposition be sustained in favor of Opposer.

This 19th day of June, 2006.

Respectfully submitted,



Randel S. Springer

Christine S. Beaman

Fang Liu

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ATTORNEYS FOR BANK OF AMERICA
CORPORATION

CERTIFICATE OF MAILING

I do hereby certify that on June 19, 2006, 2005, I filed via electronic means (ESTTA) this

NOTICE OF OPPOSITION with the:

U. S. Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451



Laurie A. Ricci, Senior Paralegal