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Black AmeriCard
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July 26, 2006

Via Express Mail

United States Patent and Trademark Office
Commissioner for Trademarks
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Re: Answer To Notice of Opposition
Application Serial No. 78/505,307
Opposition No.:9117143

To: Commissioner for Trademarks

According to the Rules and Regulations of the US Trials and Appeals Board, please find enclosed copy of our Answer To Notice of Opposition to Application Serial No. 78/505,307 Opposition No.:9117143.

Please feel free to contact me if you wish to discuss this matter in more detail. My email address is vewiser@yahoo.com. Thank you.

Respectfully,

Vewiser L. Dixon

[redacted]

07-27-006

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #22

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

BANK OF AMERICA CORPORATION, Opposer, v BLACK AMERICARD, Applicant	In the matter of Serial No. 78/505,307 For the mark Black AmeriCard Published February 28, 2006 Opposition No.: 91171431

ANSWER TO NOTICE OF OPPOSITION

Through the undersigned pro se representation, Applicant, Black AmeriCard ("Applicant") answers the Notice of Opposition filed against Application Serial No. 78/505,307 by Opposer, Bank of America Corporation, ("Opposer") as set forth below. The Answer paragraphs are numbered to correspond to the numbered paragraphs of the Notice of Opposition.

The first paragraph of the Notice of Opposition is an introductory paragraph to which no responsive pleadings are required. To the extent responses are deemed necessary, Applicant denies that Opposer will be damaged by registration of the mark shown in Application Serial No. 78/505,307.

1. Applicant is without reasonable knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in this statement and, therefore, remains acknowledged.

2. Applicant is without reasonable knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in this statement and, therefore, remains acknowledged.

3. Applicant is without reasonable knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in this statement and,

therefore, remains acknowledged. Opposer provides "credit financing services" and Applicant has applied for a Mark that will grant the rights for debit card services for which the Opposer has not applied. See United States v. Visa U.S.A., Inc., 163 F. Supp.2d 322,335-38 (S.D.N.Y. 2002) (rejecting after trial defendants' claim that general purpose credit card market includes all methods of payment, including debit cards, noting defendants' own statements and studies confirming distinctions between debit and credit card services.) as cited in In re Visa Check/MasterMoney Antitrust Litigation, 192 F.R.D. 68 (E.D.N.Y. 200), aff'd, 280 F.3d 124 (2d Cir.2001), cert. denied, 122 S. Ct. 2382 (2002).

4. Applicant is without reasonable knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in this statement and, therefore, remains acknowledged. Applicant finds that Opposition uses the word mark VISA for their trademark rights for debit card services and not BANKAMERICARD. Debit card and credit card financing services are distinct consumer markets as evident in See United States v. Visa U.S.A., Inc.,. Precedent has been set in Memorandum Order 96-CV-5238 by Judge John Gleeson defining the relevant market for debit card services and credit card financing services; See United States v. Visa U.S.A., Inc., 163 F. Supp.2d 322,335-38 (S.D.N.Y. 2002) (rejecting after trial defendants' claim that general purpose credit card market includes all methods of payment, including debit cards, noting defendants' own statements and studies confirming distinctions between debit and credit card services.) as cited in In re Visa Check/MasterMoney Antitrust Litigation, 192 F.R.D. 68 (E.D.N.Y. 200), aff'd, 280 F.3d 124 (2d Cir.2001), cert. denied, 122 S. Ct. 2382 (2002).

5. Applicant is without reasonable knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in this statement and,

therefore, denies the same. The Applicant offers the fact that the Opposer had not established the word mark BANKAMERICARD in the class of debit card market services, since at the time in which the Opposer filed for trademark protection there was no existing debit card market; therefore no brand name significance or goodwill has been established over the past forty-eight years using the word Mark BANKAMERICARD in the "debit card market".

6. Applicant filed amended Application Serial No. 78/505,307 to include Goods and Services IC 036. US 100 101 102. G&S: debit card services for the Mark Black AmeriCard on or about October 25, 2004 with an intent to use the Mark in connection with "debit card services" in International Class 36 (hereinafter "Applicant's Mark").

7. Denied. Applicant filed a service mark application for Black AmeriCard on or about October 25, 2004 without intent to cause confusion or to cause mistake or deceive consumers. The mark in the application is not identical. The terms "Black AmeriCard" and "BANKAMERICARD" are neither confusing nor deceptive to the consumers. The obvious difference is the exclusion of the generic term "BANK" and the inclusion of the definitive term "Black"; along with the spelling of "AmeriCard" in the registered mark. There are many other live trademarks that use "AMERICARD" as its word mark.

8. Denied. Applicant's Mark application has priority over the Opposer's use in commerce since the Opposer's Mark is in connection with credit financing services and not debit card services. See United States v. Visa U.S.A., Inc., 163 F. Supp.2d 322,335-38 (S.D.N.Y. 2002) (rejecting after trial defendants' claim that general purpose credit card market includes all methods of payment, including debit cards, noting defendants' own statements and studies confirming distinctions between debit and credit card services.) as cited in In re Visa

Check/MasterMoney Antitrust Litigation, 192 F.R.D. 68 (E.D.N.Y. 200), aff'd, 280 F.3d 124 (2d Cir.2001), cert. denied, 122 S. Ct. 2382 (2002).

9. Denied. Applicant's Mark does not dilute Opposer's Mark. Applicant's Mark is standing with the support of Section 1055 of the Lanham Act and also the protection through enforcement of §2 Sherman Act, 15 U.S.C. §2. Applicant has registered mark with the intent to pursue business fairly in the marketplace.

10. Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in this paragraph and, therefore, denies the same.

WHEREFORE, Applicant, Black AmeriCard, respectfully requests that the Trademark Trial and Appeal Board dismiss the Notice of Opposition in its entirety with prejudice.

Respectfully submitted,

Date: 7/26/06

Vewiser L. Dixon
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CERTIFICATE OF MAILING

I do hereby certify that on July 26,2006, I filed via electronic means (ESTTA) this ANSWER TO NOTICE OF OPPOSITION with the:

U.S. Patent and Trademark Office

Trademark Trial and Appeal Board

P.O. Box 1451

Alexandria, Virginia 22313-1451

Vewiser L. Dixon