

ESTTA Tracking number: **ESTTA118982**

Filing date: **01/10/2007**

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	Rapid Funding, LLC		
Entity	Limited Liability Company	Citizenship	Colorado
Address	200 Spruce Street Suite 200 Denver, CO 80230 UNITED STATES		

Attorney information	R. Garth Ferrell Mallgren & Ferrell, P.C. 200 Spruce Street Suite 201 Denver, CO 80230 UNITED STATES gferrell@mallgrenferrell.com Phone:303-341-0700
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### Applicant Information

Application No	78753914	Publication date	12/12/2006
Opposition Filing Date	01/10/2007	Opposition Period Ends	01/11/2007
Applicant	Bain & Company Inc. 131 Dartmouth Street Boston, MA 02116 UNITED STATES		

### Goods/Services Affected by Opposition

Class 035. Opposed goods and services in the class: Business management consulting services, namely, advising on how to make sound decisions to companies in the financial services, information technology, telecommunications, automotive, logistics and transportation, aerospace and defense, chemicals and oil, energy and utilities, metals and mining, real estate and consumer products fields
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Attachments	Notice of Opposition.pdf ( 7 pages )(483585 bytes )
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Signature	/R. Garth Ferrell/
Name	R. Garth Ferrell
Date	01/10/2007

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

In the matter of trademark application Serial No. 78-753,914

For the trademark RAPID

Published in the Official Gazette on December 12, 2006

Rapid Funding, LLC, Opposer,  v.  Bain & Company, Applicant.	Opposition No.:
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BOX TTAB FEE

Assistant Commissioner for Trademarks

2900 Crystal Drive

Arlington, VA 22202-3513

NOTICE OF OPPOSITION

RAPID FUNDING, LLC, a limited liability company organized and existing under the laws of the State of Colorado, believes that it will be damaged by registration of the mark shown in Serial No. 78-753,914 in International Class 35 and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. The Applicant seeks to register RAPID as a trademark for “business management consulting services, namely advising on how to make sound decisions to companies in the *financial services*, information technology, telecommunications, automotive, logistics, and transportation, aerospace and defense, chemicals and oil, energy and utilities, metals and mining, *real estate* and consumer products fields” (italics added).

2. The Opposer is engaged in the business of providing financial services and products; namely, loan financing, real estate and accounts receivable lease lending and mortgage lending, under the mark RAPID FUNDING.

3. Opposer has been marketing such financial services and products since the latter part of 2000. These services are marketed nationally by various means, including internet domain name registration of variations of the phrase “rapid” and “rapid funding”, and Opposer’s use of RAPID FUNDING has developed distinctiveness for certain services in the financial services market sector, including loans, financing and mortgage lending, among other services.

#### Consumer Confusion

4. Opposer has marketed and sold its services throughout the United States, and has promoted and advertised the services to the trade as RAPID FUNDING.

5. By virtue of its efforts, and the expenditure of considerable sums for promotional activities, the Opposer’s services and similar services that are provided are commonly referred to as RAPID FUNDING.

6. Upon information and belief, Opposer alleges that the services of Opposer and Applicant are offered in similar channels of commerce and offered to similar customers.

7. The use of the term RAPID is confusingly similar to, is likely to create confusion with, and its use infringes on the prior use of the trademark RAPID FUNDING by the Opposer for similar or related financial services and real estate services and is therefore an unlawful use on which Applicant may not base its registration.

8. As a result of the confusing similarity between Opposer’s mark and Applicant’s mark, and because the services of Applicant and Opposer are similar, are in similar channels of

commerce, and are directed to similar customer, registration of the mark RAPID in connection with the Applicant's services is likely to cause confusion or is likely to deceive purchasers as to the source or sponsorship of such services.

9. Confusion as to the source will occur by the use of the term RAPID in connection with its use in the financial services and real estate services industries, such as that of the Opposer, that are similar channels of commerce.

10. Rapid Funding's continuous use for over 5 years of RAPID FUNDING for financial services, including mortgage lending services, has created distinctiveness in the mark RAPID FUNDING, in connection with mortgage lending, real estate and other financing services provided by Rapid Funding.

WHEREFORE, the Opposer prays that the application Serial No. 78-753,914 be rejected, and that the mark therein sought for the services provided herein specified in International Class 35 be denied and refused.

Opposer hereby gives notice under Rule 2.122(d), that in this opposition proceeding and in any appeals relating thereto, it may rely in part on its registration which is annexed as an exhibit to this Notice of Opposition as evidence in support of this Notice of Opposition.

A duplicate copy of this Notice of Opposition and fee required in § 2.6(a)(17) are enclosed herewith.

The Opposer, by authority of the undersigned, hereby appoints R. Garth Ferrell, member of the Bar of the State of Colorado, Mallgren & Ferrell, P.C., 200 Spruce Street, Suite 201, Denver, Colorado 80230, its duly authorized attorney in the matter of the opposition identified above, to prosecute said opposition, to transact all business in the Patent and Trademark Office

and in the United States courts connected with this opposition, to sign its name to all papers which may hereinafter be filed in connection therewith, and to receive all communications relating to the same.

Respectfully submitted,

MALLGREN & FERRELL, P.C.

A handwritten signature in cursive script, appearing to read "R. Garth Ferrell", written over a horizontal line.

R. Garth Ferrell

RAPID FUNDING, LLC



Dated: \_\_\_\_\_

\_\_\_\_\_  
Andrew S. Miller, Manager

The United States of America



CERTIFICATE OF REGISTRATION  
PRINCIPAL REGISTER

*The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.*

*The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office; that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Director of the United States Patent and Trademark Office; and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.*

*A copy of the Mark and pertinent data from the application are part of this certificate.*

*This registration shall remain in force for TEN (10) years, unless terminated earlier as provided by law, and subject to compliance with the provisions of Section 8 of the Trademark Act of 1946, as Amended.*



A handwritten signature in cursive script, appearing to read "Eugene Profane".

**EXHIBIT A**

*Director of the United States Patent and Trademark Office*

Int. Cl.: 36

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 2,656,451

Registered Dec. 3, 2002

SERVICE MARK  
PRINCIPAL REGISTER

*2nd Dec. 3, 2007*  
*3rd Dec. 3, 2012*



Rapid Funding

RAPID FUNDING LLC (COLORADO CORPORATION)  
200 SPRUCE STREET  
SUITE 200  
DENVER, CO 80230

FIRST USE 12-15-2000; IN COMMERCE 12-15-2000.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "RAPID FUNDING", APART FROM THE MARK AS SHOWN.

FOR: FINANCIAL SERVICES, NAMELY, LOAN FINANCING, REAL ESTATE AND ACCOUNTS RECEIVABLE LEASE LENDING AND MORTGAGE LENDING, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

SER. NO. 76-368,321, FILED 2-6-2002.

KELLEY WELLS, EXAMINING ATTORNEY