

ESTTA Tracking number: **ESTTA200464**

Filing date: **03/25/2008**

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	BROWN BROTHERS HARRIMAN & CO.		
Entity	Partnership	Citizenship	NEW YORK
Composed Of:	WILLIAM ANDERSON, GLENN E. BAKER, PETER B. BARTLETT, THOMAS E. BERK, BRIAN A. BERRIS, TAYLOR S. BODMAN, JOHN J. BORLAND, TIMOTHY J. CONNELLY, DOUGLAS A. DONAHUE, JR., and ANTHONY T. ENDERS, all citizens of the United States, and others		
Address	140 BROADWAY NEW YORK, NY 10005 UNITED STATES		

Attorney information	ALLEN J. BADEN KENYON & KENYON LLP 333 W. SAN CARLOS ST. STE. 600 SAN JOSE, CA 95110 UNITED STATES TMDOCKETSJ@KENYON.COM Phone:4089757500
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Applicant Information

Application No	78931697	Publication date	03/25/2008
Opposition Filing Date	03/25/2008	Opposition Period Ends	04/24/2008
Applicant	BIDS HOLDINGS L.P. 120 BROADWAY SUITE 2010-01 NEW YORK, NY 10271 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. All goods and services in the class are opposed, namely: Financial services, namely, providing a stock trading system for trading large blocks of stock

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1447916	Application Date	06/16/1986
Registration Date	07/14/1987	Foreign Priority Date	NONE

Word Mark	BIDS
Design Mark	
Description of Mark	NONE
Goods/Services	Class 038. First use: First Use: 1979/11/00 First Use In Commerce: 1979/11/00 ELECTRONIC TRANSMISSION OF FINANCIAL SECURITIES INFORMATION TO FINANCIAL INSTITUTIONS

Related Proceedings	91181503
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Attachments	BIDS_BLOCKETC_NOO.pdf (6 pages)(960419 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Facsimile or email (by agreement only) on this date.

Signature	/ALLEN J. BADEN/
Name	ALLEN J. BADEN
Date	03/25/2008

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

In re Application of : BIDS HOLDING, L.P.
Serial No. : 78/931,697
Filed : 07/18/2006
For the Mark : BIDS BLOCK INTEREST DISCOVERY SERVICE

*Published in the Official Gazette on March 25, 2008
TM Page TM 1088*

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Brown Brothers Harriman & Co., a partnership organized under the laws of New York having its principal place of business at 140 Broadway, New York, New York 10005 ("Opposer"), believing that it will be damaged by registration of the alleged "BIDS BLOCK INTEREST DISCOVERY SERVICE" mark claimed in U.S. Trademark Application Serial No. 78/931,697 (the "Challenged Application"), hereby opposes the same.

As grounds for its opposition, Opposer alleges as follows, with knowledge concerning its own acts, and on information and belief as to all other matters:

1. Applicant, Bids Holdings L.P., a limited liability company, having an address at 120 Broadway, Suite 2010-01, New York, New York 10271, owns and is the applicant of record of the Challenged Application.

2. By the application herein opposed, Applicant is seeking to obtain registration for the alleged mark BIDS BLOCK INTEREST DISCOVERY SERVICE for "financial services, namely providing a stock trading system for trading large blocks of stock" in International Class

36 under the provisions of the Trademark Act of 1946. Opposer attaches a copy of page TM 1088 from the Official Gazette of March 25, 2008, in which the U.S. Patent and Trademark Office published this application, as Exhibit A to this paper.

3. The Applicant filed for the instant application under the Intent-to-Use provisions of the Trademark Act on July 18, 2006.

4. Opposer is the owner of 17 active registrations for the BIDS mark: 16 foreign registrations and one registration with the U.S. Patent and Trademark Office, namely, U.S. Registration No. 1447916, as a trademark for a wide range of services. Opposer attaches and makes of record two copies of the electronic record for U.S. Registration No. 1447916 prepared and issued by the Office showing both the (current) status of and title to the registration, as Exhibit B to this paper.

5. Opposer also owns broad common law trademark rights in the BIDS mark by virtue of its provision of services under the BIDS mark throughout the United States and around the world.

6. Opposer's BIDS mark is used by consumers and the trade to identify a myriad of services provided by Opposer, including services in Classes 36, 38, and 42. These services are related to and often sold in or provided to the same channels of trade and to the same customers as the services for which applicant now seeks registration of the subject alleged trademark.

7. By virtue of Opposer's efforts and the expenditure of considerable sums for promotional activities, and by virtue of the excellence of its services, Opposer has gained for its BIDS mark a most valuable reputation and exceedingly valuable goodwill.

8. The alleged trademark proposed for registration by the Applicant, namely, the words BIDS BLOCK INTEREST DISCOVERY SERVICE, is confusingly similar to Opposer's BIDS trademark.

9. The addition of the words "BLOCK INTEREST DISCOVERY SERVICE" to Applicant's mark is not sufficient to distinguish the mark from Opposer's BIDS trademark

10. The alleged mark in the Challenged Application "so resembles a mark registered in the Patent and Trademark Office or a mark previously used in the United States by another and not abandoned," namely Opposer's BIDS trademark, "as to be likely when applied to the services of Applicant, to cause confusion, or to cause mistake, or to deceive."

11. Moreover, the applied for trademark is not a "trademark by which the services of the Applicant may be distinguished from the services of others," namely the services offered by Opposer under its BIDS mark, which Opposer has used since well prior to the filing date of Applicant's intent to use application, and Opposer has never abandoned its trademark.

12. If the Applicant were permitted to use and register the BIDS BLOCK INTEREST DISCOVERY SERVICE mark for its services, as specified in the application herein opposed, confusion in the trade resulting in damage and injury to the Opposer would be caused and would result by reason of the substantial similarity between Applicant's mark and Opposer's mark. Persons familiar with Opposer's services would be likely to confuse Applicant's services as and for services offered by Opposer. Furthermore, any defect, objection or fault found with Applicant's services marketed under its alleged trademark would necessarily reflect upon and seriously injure the reputation that Opposer has established for its services sold or provided under its trademark.

13. Accordingly, the Board should refuse and deny registration of Applicant's alleged trademark in accordance with Section 2(d) of the Trademark Act of 1946, 15 U.S.C. § 1052(d).

14. If Applicant were granted a registration for the alleged trademark herein opposed, it would obtain thereby at least the prima facie exclusive right to use said mark. Such

registration would be inconsistent with Opposer's right to use its trademark BIDS to identify the source of and describe Opposer's services.

15. WHEREFORE, the Opposer prays that the Trademark Trial and Appeals Board reject application Serial No. 78/931,697, and that the registration of the mark therein sought for the services therein specified be denied and refused, and that the Board sustain this Opposition.

Please address all future communications regarding this opposition to the following attorney of record for Opposer:

Allen J. Baden
KENYON & KENYON LLP
333 West San Carlos Street
San Jose, California 95110
Telephone: (408) 975-7500
Email: abaden@kenyon.com

Applicant files this Notice of Opposition electronically, pursuant to 37 C.F.R. § 2.104(a). Please charge the filing fee of \$300.00, and any other fees associated with this proceeding to the undersigned attorney's Deposit Account 11-0600.

Respectfully submitted,

Dated: March 25, 2008

By: /Allen J. Baden/
Allen J. Baden
KENYON & KENYON LLP
333 West San Carlos Street
San Jose, California 95110
Telephone: (408) 975-7500
Facsimile: (408) 975-7501

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

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document:

Notice of Opposition

Was mailed to:

Andrew L. Goldstein
Freeborn & Peters
311 S. Wacker Drive
Suite 3000
Chicago, Il 60606

by the following indicated method:

By mailing full, true, and correct copies thereof in a sealed, first-class postage-prepaid envelope deposited with the United States Postal Service at San Jose, California, on the date set forth below.

DATED: this 25th Day of March, 2008.



I. Marie Kotsubo

CLASS 36—(Continued).

SN 78-929,193. THELMA AND LOUISE CLUB LIMITED, LONDON, UNITED KINGDOM, FILED 7-13-2006.



OWNER OF UNITED KINGDOM REG. NO. 2361479, DATED 10-28-2005, EXPIRES 4-22-2014.

THE COLOR(S) RED, BLACK, AND WHITE IS/ARE CLAIMED AS A FEATURE OF THE MARK.

THE MARK CONSISTS OF THE LETTERS "T L & C" AND TWO MIFMAN FIGURES. THE LETTERING APPEARS IN RED THE AMPERSAND APPEARS IN WHITE. THE HAIR, FEET AND A PORTION OF THE PURSE HELD BY THE FIGURE ON THE LEFT APPEAR IN BLACK. THE HAIR, FEET AND A PORTION OF THE PURSE HELD BY THE FIGURE ON THE RIGHT APPEAR IN WHITE.

FOR INSURANCE SERVICES, NAMELY, INSURANCE AGENCIES, AND INSURANCE CLAIMS ADMINISTRATION, BROKERAGE AND CONSULTATION; PROVIDING INFORMATION IN INSURANCE MATTERS; EMERGENCY FINANCIAL ASSISTANCE FOR TRAVELERS, NAMELY, PROVIDING TEMPORARY LOANS; CONSULTANCY AND ADVISORY SERVICES RELATING TO ALL THE AFORESAID, NAMELY, INSURANCE CONSULTATION AND FINANCIAL CONSULTATION TO TRAVELERS IN NEED OF FINANCIAL ASSISTANCE, TRAVEL AGENCY SERVICES, NAMELY, ISSUING TRAVELER'S CHECKS (U.S. CLS. 100, 101 AND 102).

JOHN DWYER, EXAMINING ATTORNEY

CLASS 36—(Continued).

SN 78-941,403. BACKWATER BAY VENTURES LLC, MOORESVILLE, NC, FILED 7-31-2006.

BACKWATER BAY

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

FOR REAL ESTATE SERVICES, NAMELY, REAL ESTATE ACQUISITION SERVICES, LEASING OF REAL ESTATE, REAL ESTATE MANAGEMENT, REAL ESTATE INVESTMENT AND REAL ESTATE FINANCING (U.S. CLS. 100, 101 AND 102).

FIRST USE 12-0-2004; IN COMMERCE 12-0-2004. MARGARET POWER, EXAMINING ATTORNEY

SN 78-941,958. WOOD, ALICE M., DBA WEALTH WATCHERS INTERNATIONAL, NAPERVILLE, IL, FILED 8-1-2006.

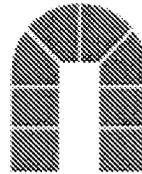
BECAUSE "EVERY DAY AND EVERY DOLLAR MAKE A DIFFERENCE"

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

FOR CONSULTING SERVICES IN THE FIELD OF STRATEGIC FINANCIAL PLANNING (U.S. CLS. 100, 101 AND 102).

FIRST USE 12-30-2005; IN COMMERCE 12-30-2005. TINA L. SNAPP, EXAMINING ATTORNEY

SN 78-943,733. ARCHWAY CAPITAL MANAGEMENT, INC., DALLAS, TX, FILED 8-3-2006.



**ARCHWAY
CAPITAL**

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

THE MARK CONSISTS OF THE WORDS "ARCHWAY CAPITAL" AND A STYLIZED REPRESENTATION OF AN ARCH.

FOR INVESTMENT BANKING SERVICES (U.S. CLS. 100, 101 AND 102). FIRST USE 3-15-2003; IN COMMERCE 3-15-2003. JENNY PARK, EXAMINING ATTORNEY

SN 78-931,097. BIDS HOLDINGS L.P., NEW YORK, NY, FILED 7-18-2006.



NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BLOCK INTEREST" AND "SERVICE", APART FROM THE MARK AS SHOWN.

THE COLOR(S) RED, BLUE, AND BLACK IS/ARE CLAIMED AS A FEATURE OF THE MARK.

THE MARK CONSISTS OF THE COLOR BLUE APPEARS IN THE WORDING AS THE COLOR OF THE FIRST TWO LETTERS OF THE WORD "BIDS" AND IN THE DESIGN AS THE COLOR OF ONE ARROW DIRECTLY UNDER THE WORD "BIDS". THE COLOR RED APPEARS IN THE WORDING AS THE COLOR OF THE SECOND TWO LETTERS OF THE WORD "BIDS" AND IN THE DESIGN AS THE COLOR OF THE SECOND ARROW DIRECTLY UNDER THE BLACK WORDS "BLOCK INTEREST DISCOVERY SERVICE" WHICH FOLLOW THE WORD "BIDS" IN THE MARK.

FOR FINANCIAL SERVICES, NAMELY, PROVIDING A STOCK TRADING SYSTEM FOR TRADING LARGE BLOCKS OF STOCK (U.S. CLS. 100, 101 AND 102). ANDREA HACE, EXAMINING ATTORNEY