

ESTTA Tracking number: **ESTTA202372**

Filing date: **04/02/2008**

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	Quantitative Analysis Service, Inc.
Granted to Date of previous extension	04/02/2008
Address	95 Christopher Columbus Drive, Floor 12A Jersey City, NJ 07302 UNITED STATES

Attorney information	Laura Popp-Rosenberg Fross Zelnick Lehrman & Zissu, P.C. 866 United Nations Plaza New York, NY 10017 UNITED STATES lpopp-rosenberg@frosszelnick.com Phone:(212) 813-5900
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**Applicant Information**

Application No	77212384	Publication date	12/04/2007
Opposition Filing Date	04/02/2008	Opposition Period Ends	04/02/2008
Applicant	QA3, LLC 13815 FNB Parkway Omaha, NE 68154 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 036. First Use: 1999/05/31 First Use In Commerce: 1999/05/31 All goods and services in the class are opposed, namely: Investment services, namely asset acquisition, consultation, development and management services; Insurance underwriting in the field of life, health and medical; Financial consultation; Financial planning consultation; Financial portfolio management
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Mark Cited by Opposer as Basis for Opposition**

U.S. Registration No.	3085051	Application Date	04/11/2005
Registration Date	04/25/2006	Foreign Priority Date	NONE
Word Mark	QAS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 016. First use: First Use: 1979/07/16 First Use In Commerce: 1979/07/16 Books incorporating charts in the field of financial instruments Class 036. First use: First Use: 1979/07/16 First Use In Commerce: 1979/07/16 Investment advisory services in connection with stocks, bonds, interest rates, international markets, and commodities, directed to pension and profit-sharing plans, commercial banks, insurance companies and money managers, and providing comparative investment performance information and data in connection with the same

Related Proceedings	Oppositions (numbers not yet assigned) against Serial No. 77212463 and Serial No. 77212472
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Attachments	78605884#TMSN.jpeg ( 1 page )( bytes ) Notice of Opposition (QA3) (F0251373).PDF ( 11 pages )(5795231 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 First Class Mail on this date.

Signature	/Laura Popp-Rosenberg/
Name	Laura Popp-Rosenberg
Date	04/02/2008

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

In the matter of Application Serial No. 77/212,384  
Published in the *Official Gazette* on December 4, 2007

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:   
QUANTITATIVE ANALYSIS SERVICE, INC., :   
:   
Opposer, :   
:   
- against - : Opposition No.   
:   
QA3, LLC, :   
:   
Applicant. :   
:   
-----X

**NOTICE OF OPPOSITION**

Quantitative Analysis Service, Inc., a New Jersey corporation with a principal place of business at 95 Christopher Columbus Drive, Floor 12A, Jersey City, New Jersey 07302, believes that it would be damaged by the issuance of a registration for the trademark QA3 (Stylized) as applied for in Application Serial No 77/212,384 filed on June 21, 2007, by QA3, LLC for “Investment services, namely asset acquisition, consultation, development and management services; Insurance underwriting in the field of life, health and medical; Financial consultation; Financial planning consultation; Financial portfolio management” in International Class 36, and therefore opposes the same. The specific grounds for this opposition are as follows:

1. For nearly thirty years, Quantitative Analysis Service, Inc. (“Opposer”) has used QAS as a trademark in connection with investment advisory and research services. Opposer also uses the QAS mark on goods related to such services.

2. Opposer has invested a significant amount of time, effort and money in developing and promoting its goods and services under the QAS mark. As a result of these

efforts, the QAS mark has come to identify Opposer's services and services exclusively and to represent enormous goodwill.

3. In addition to the common law rights Opposer possesses in and to the QAS mark, Opposer owns federal Registration No. 3085051 for the QAS mark for "Books incorporating charts in the field of financial instruments" in Class 16 and "Investment advisory services in connection with stocks, bonds, interest rates, international markets, and commodities, directed to pension and profit-sharing plans, commercial banks, insurance companies and money managers, and providing comparative investment performance information and data in connection with the same" in Class 36. Print-outs from the United States Patent and Trademark Office's online databases reflecting this registration are attached as Exhibit A. The registration is valid, subsisting and in full force and effect, and constitutes evidence of the validity of the mark and of Opposer's exclusive right to use the mark on the services identified in the registration.

4. Upon information and belief, QA3, LLC ("Applicant") is a Nebraska limited liability company located and doing business at 13815 FNB Parkway, Omaha, Nebraska 68154.

5. Upon information and belief, on June 21, 2007, Applicant filed Application Serial No. 77/212,384, the application herein opposed (the "Application"), for the mark QA3 (Stylized) (the "QA3 Mark") for "Investment services, namely asset acquisition, consultation, development and management services; Insurance underwriting in the field of life, health and medical; Financial consultation; Financial planning consultation; Financial portfolio management" in International Class 36.

6. In connection with the Application, Applicant claimed May 31, 1999 as the date of first use in commerce of the QA3 Mark.

7. Opposer's QAS mark has been used continuously since a date prior to any date upon which Applicant can rely.

8. Applicant's QA3 Mark is highly similar to Opposer's QAS mark.

9. The services identified in the Application are closely related to the goods and services Opposer offers under its QAS mark.

10. Based on the similarity of the parties' respective marks and goods and services, consumers are likely to be deceived into falsely believing that the services offered by Applicant under the QA3 Mark originate with or are approved or authorized by Opposer, or that there is some relationship between Applicant and Opposer.

11. Any use of the QA3 Mark by Applicant in connection with the services specified in the Application is therefore likely to cause confusion, cause mistake or to deceive consumers in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

12. Registration to Applicant of the QA3 Mark would be inconsistent with Opposer's prior exclusive rights in the QAS mark and threatens destruction of Opposer's investment and goodwill in its long-established and valuable QAS mark.

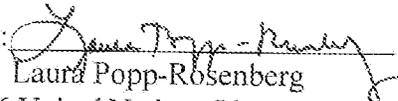
13. By reason of the foregoing, Opposer will be damaged by the registration of the QA3 Mark to Applicant.

WHEREFORE, Opposer respectfully requests that this opposition be sustained and that the registration sought by Application Serial No. 77/212,384 be denied.

Dated: New York, New York  
April 2, 2008

Respectfully submitted,

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By:   
Laura Popp-Rosenberg

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New York, New York 10017

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Email: [lpopp-rosenberg@frosszelnick.com](mailto:lpopp-rosenberg@frosszelnick.com)

*Attorneys for Opposer Quantitative Analysis  
Service, Inc.*

# EXHIBIT A



United States Patent and Trademark Office

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FARR Status	ASSIGN Status	EDP	TTAB Status
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# QAS

**Word Mark**                      QAS

**Goods and Services**                      IC 016. US 002 005 022 023 029 037 038 050. G & S: Books incorporating charts in the field of financial instruments. FIRST USE: 19790716. FIRST USE IN COMMERCE: 19790716

IC 036. US 100 101 102. G & S: Investment advisory services in connection with stocks, bonds, interest rates, international markets, and commodities, directed to pension and profit-sharing plans, commercial banks, insurance companies and money managers, and providing comparative investment performance information and data in connection with the same. FIRST USE: 19790716. FIRST USE IN COMMERCE: 19790716

**Standard Characters Claimed**

**Mark Drawing Code**                      (4) STANDARD CHARACTER MARK

**Serial Number**                      78605884

**Filing Date**                      April 11, 2005

**Current Filing Basis**                      1A

**Original Filing Basis**                      1A

**Published for Opposition**                      January 31, 2006

**Registration**                      3085051

**Number**  
**Registration Date** April 25, 2006  
**Owner** (REGISTRANT) Quantitative Analysis Service, Inc. CORPORATION NEW JERSEY Floor 12A 95 Christopher Columbus Drive Jersey City NEW JERSEY 07302  
**Attorney of Record** Lawrence E. Apolzon  
**Type of Mark** TRADEMARK. SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE



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Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-04-02 17:15:14 ET

Serial Number: 78605884 Assignment Information Trademark Document Retrieval

Registration Number: 3085051

Mark

**QAS**

(words only): QAS

Standard Character claim: Yes

Current Status: Registered.

Date of Status: 2006-04-25

Filing Date: 2005-04-11

Transformed into a National Application: No

Registration Date: 2006-04-25

Register: Principal

Law Office Assigned: LAW OFFICE 101

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)

Current Location: 650 -Publication And Issue Section

Date In Location: 2006-04-25

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**  
.....

I. Quantitative Analysis Service, Inc.

**Address:**

Quantitative Analysis Service, Inc.  
Floor 12A 95 Christopher Columbus Drive

Jersey City, NJ 07302

United States

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** New Jersey

**GOODS AND/OR SERVICES**

**International Class:** 016

**Class Status:** Active

Books incorporating charts in the field of financial instruments

**Basis:** 1(a)

**First Use Date:** 1979-07-16

**First Use in Commerce Date:** 1979-07-16

**International Class:** 036

**Class Status:** Active

Investment advisory services in connection with stocks, bonds, interest rates, international markets, and commodities, directed to pension and profit-sharing plans, commercial banks, insurance companies and money managers, and providing comparative investment performance information and data in connection with the same

**Basis:** 1(a)

**First Use Date:** 1979-07-16

**First Use in Commerce Date:** 1979-07-16

**ADDITIONAL INFORMATION**

(NOT AVAILABLE)

**MADRID PROTOCOL INFORMATION**

(NOT AVAILABLE)

**PROSECUTION HISTORY**

**NOTE:** To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2006-04-25 - Registered - Principal Register

2006-01-31 - Published for opposition

2006-01-11 - Notice of publication

2005-12-21 - Law Office Publication Review Completed

2005-12-16 - Assigned To LIE

2005-12-09 - Approved for Pub - Principal Register (Initial exam)

2005-12-08 - Amendment From Applicant Entered  
2005-11-25 - Communication received from applicant  
2005-11-25 - PAPER RECEIVED  
2005-11-10 - Non-final action mailed  
2005-11-09 - Non-Final Action Written  
2005-11-08 - Assigned To Examiner  
2005-04-18 - New Application Entered In Tram

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Attorney of Record**  
Lawrence E. Apolzon

**Correspondent**  
LAWRENCE E. APOLZON  
FROSS ZELNICK LEHRMAN & ZISSU, P.C.  
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NEW YORK, NY 10017-1822  
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Fax Number: 212-813-5901

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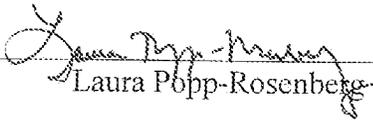
**CERTIFICATE OF SERVICE**

I hereby certify that on this 2<sup>nd</sup> day of April 2008, a true and correct copy of the foregoing NOTICE OF OPPOSITION was served by U.S. mail on the correspondent of record at the following addresses:

Adam H. Jacobs, Esq.  
Law Offices of Adam H. Jacobs  
1904 Farnam St, Suite 726  
Omaha, NE 68102-1970

-and-

Adam H. Jacobs, Esq.  
Stinson Morrison Hecker LLP  
1299 Farnam Street, Suite 1501  
Omaha, NE 68102

  
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Laura Popp-Rosenberg