

ESTTA Tracking number: **ESTTA234063**

Filing date: **09/02/2008**

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	Aspen Capital Advisors, Inc.
Granted to Date of previous extension	09/10/2008
Address	1740 Persimmon Drive, Suite 100 Naples, FL 34109 UNITED STATES

Attorney information	JENNIFER L. WHITELAW WHITELAW LEGAL GROUP 3838 Tamiami Trail North, Suite 310 Naples, FL 34103 UNITED STATES ttabmail@whitelawfirm.com
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Applicant Information

Application No	78617999	Publication date	05/13/2008
Opposition Filing Date	09/02/2008	Opposition Period Ends	09/10/2008
Applicant	Aspen Capital Management LLC 425 NW Tenth Avenue, Suite 305 Portland, OR 97209 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. All goods and services in the class are opposed, namely: financial investment in the field of real estate, real estate investment, real estate syndication, loan financing, commercial lending services, mortgage lending, real estate equity sharing, namely, managing and arranging for co-ownership of real estate
Class 037. All goods and services in the class are opposed, namely: real estate development

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. Application No.	78788512	Application Date	01/10/2006
Registration Date	NONE	Foreign Priority	NONE

		Date	
Word Mark	ASPEN CAPITAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2002/04/30 First Use In Commerce: 2002/04/30 Financial services, namely providing financial advice, investment advice, capital formation advice; and investment management services		

Related Proceedings	N/A
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Attachments	78788512#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (5 pages)(18245 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	/KATHLEEN L. KOLACZ/
Name	Kathleen L. Kolacz
Date	09/02/2008

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

To the Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

In the matter of Application Serial No. 78/617,999, Published in the Official Gazette on May 13, 2008

ASPEN CAPITAL ADVISORS, INC.)	
)	
Opposer,)	Opposition No. _____
)	
v.)	
)	
ASPEN CAPITAL MANAGEMENT, LLC)	
)	
Applicant.)	

CERTIFICATE OF MAILING

I HEREBY CERTIFY that the original of this Notice of Opposition is being electronically filed with the Trademark Trial and Appeal Board of the United States Patent and Trademark Office through the web site at <http://estta.uspto.gov> on September 2, 2008.

/s/ KATHLEEN L. KOLACZ
KATHLEEN L. KOLACZ

NOTICE OF OPPOSITION

Opposer, Aspen Capital Advisors, Inc. (hereinafter "Opposer"), a Florida corporation, whose address is 1740 Persimmon Drive, Suite 100, Naples, Florida 34109, believes it will be damaged by registration of the mark ASPEN CAPITAL, shown in Serial No. 78/617999, filed April 27, 2005, by Aspen Capital

Management LLC, and published for opposition in the Official Gazette on May 13, 2008, and hereby opposes registration thereof on the following grounds:

1. Opposer is a well known and highly respected company engaged in providing financial services, providing financial advice, investment advice, capital formation advice and investment management services. Opposer has invested considerable time and resources in the development of its trademarks, reputation and goodwill.

2. Opposer is the owner of all rights, title and interest in the mark ASPEN CAPITAL, U.S. Trademark Application No. 78/788512, for

Financial services, namely providing financial advice, investment advice, capital formation advice; and investment management services, in International Class 36

(hereinafter "Opposer's Mark"), and has used its mark long prior to Applicant's intent-based application filing dated April 27, 2005.

3. During the time in which Opposer has used Opposer's Mark, Opposer has promoted its services under Opposer's Mark and Opposer's services, so promoted and rendered, now possess a widely recognizable and favorable brand recognition. By

virtue of Opposer's efforts, advertising, and promotional activities, and by virtue of the excellence of the services associated with Opposer's Mark, Opposer's Mark has an extremely valuable reputation.

4. Applicant, Aspen Capital Management LLC, (hereinafter "Applicant"), seeks to register the mark ASPEN CAPITAL, (hereinafter "Applicant's mark"), as a trademark for "financial investment in the field of real estate, real estate investment, real estate syndication, loan financing, commercial lending services, mortgage lending, real estate equity sharing, namely, managing and arranging for co-ownership of real estate," in International Class 36 and "real estate development" in International Class 37, as evidenced by the publication of the mark in the May 13, 2008, Official Gazette. The application was filed on April 27, 2005 with no claim to use.
5. Registration of Applicant's mark in International Classes 36 and 37 would be a source of damage and injury to Opposer and a source of possible confusion to Opposer's many customers who rely upon the reputation of the Opposer, the high quality of Opposer's services as reflected by Opposer's Mark and because consumers are likely to attribute the source or

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sponsorship of Applicant's services to Opposer.

WHEREFORE, Opposer Aspen Capital Advisors, Inc., believes that it will be harmed by said registration of Applicant's mark in International Classes 36 and 37 and prays that it be denied, and for such other and further relief in the premises as may be deemed just and proper.

The required filing fee is submitted herewith.

Opposer hereby appoints Jennifer L. Whitelaw and Kathleen L. Kolacz, at the address below, to represent it in connection herewith.

Respectfully submitted,

/s/KATHLEEN L. KOLACZ
JENNIFER L. WHITELOW
KATHLEEN L. KOLACZ
WHITELOW LEGAL GROUP
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Notice of Opposition in this matter is being provided to the Applicant via U.S. Certified Mail on September 2, 2008:

Aspen Capital Management, LLC
425 NW Tenth Avenue, Suite 305
Portland, OR 97209

/s/KATHLEEN L. KOLACZ
KATHLEEN L. KOLACZ