

ESTTA Tracking number: **ESTTA245705**

Filing date: **10/29/2008**

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	GaryPost
Granted to Date of previous extension	11/19/2008
Address	1840 Century Park East, Suite 800 Los Angeles, CA 90024 UNITED STATES

Attorney information	Julie Dalke Latham & Watkins LLP 650 Town Center Dr, 20th fl Costa Mesa, CA 92626 UNITED STATES ipdocket@lw.com Phone:714-540-1235
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Applicant Information

Application No	79045549	Publication date	07/22/2008
Opposition Filing Date	10/29/2008	Opposition Period Ends	11/19/2008
International Registration No.	0941961	International Registration Date	09/05/2007
Applicant	AMBIENTA SOCIETA' DI GESTIONE DEL RISPARMIO SOCIETA' PER AZIONI IN FORMA ABBREVIATA AMBIENTA SGR SPA Via Larga, 2 I-20122 MILANO ITALY		

Goods/Services Affected by Opposition

<p>Class 036. All goods and services in the class are opposed, namely: Financial management operations for the collective management of savings accomplished through the promotion, constitution and organization of investment trusts, namely, mutual funds; brokerage of shares; management of assets of mutual funds; financial consultation in the field of financial structure; administration of savings accounts; corporate savings account services; savings account services; savings and loan services; savings bank services; estate trust management; trust services, namely, investment and trust company services; financial analysis and consultation; investment advisory services; investment banking services; investment management; investment management of and distribution of annuities; financial planning; financial portfolio management; financial research; financial risk management consultation; administration and management of trusts; trust management accounts; financial consultation on the subject of industrial strategy; financial consultation concerning the combinations and purchase of undertakings</p>

Applicant Information

Application No	79049033	Publication date	09/30/2008
Opposition Filing Date	10/29/2008	Opposition Period Ends	10/30/2008
International Registration No.	0950964	International Registration Date	09/05/2007
Applicant	AMBIENTA SOCIETA' DI GESTIONE DEL RISPARMIO SOCIETA' PER AZIONI IN FORMA ABBREVIATA AMBIENTA SGR SPA Via Larga, 2 I-20122 MILANO ITALY		

Goods/Services Affected by Opposition

<p>Class 036. All goods and services in the class are opposed, namely: Financial management operations for the collective management of savings accomplished through the promotion, constitution and organization of investment trusts, namely, mutual funds; placement of relative shares, namely, brokerage of shares; management of assets of mutual funds; financial consultation on the subject of financial structure; administration of savings accounts; corporate savings account services; savings account services; savings and loan services; savings bank services; estate trust management; trust services, namely, investment and trust company services; financial analysis and consultation; investment advisory services; investment banking services; investment management; investment management of and distribution of annuities; financial planning; financial portfolio management; financial research; financial risk management consultation; administration and management of trusts; trust management accounts; financial consultation on the subject of industrial strategy; financial consultation concerning the combinations and purchase of undertakings</p>
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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.	2577413	Application Date	06/19/2000
Registration Date	06/11/2002	Foreign Priority Date	NONE
Word Mark	AMBIENT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1993/00/00 First Use In Commerce: 1993/00/00		

	FINANCIAL ANALYSIS AND CONSULTATION SERVICES IN THE FIELD OF CAPITAL GROWTH AND RESTRUCTURING, MERGERS AND ACQUISITIONS, STRATEGIC ALLIANCES, JOINT VENTURES AND LICENSING AGREEMENTS, COMPANY FINANCING, INVESTMENTS, FINANCIAL STRUCTURING AND RESTRUCTURING AND DIVIDEND POLICY; FINANCIAL INVESTMENTS IN THE FIELD OF SECURITIES, INVESTMENT BANKING SERVICES IN THE FIELD OF UNDERWRITING, AGENT SERVICES, AND INVESTMENT ADVISORY SERVICES
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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 Overnight Courier on this date.

Signature	/Julie Dalke/
Name	Julie Dalke
Date	10/29/2008

savings account services; savings account services; savings and loan services; savings bank services; estate trust management; trust services, namely, investment and trust company services; financial analysis and consultation; investment advisory services; investment banking services; investment management; investment management of and distribution of annuities; financial planning; financial portfolio management; financial research; financial risk management consultation; administration and management of trusts; trust management accounts; financial consultation on the subject of industrial strategy; financial consultation concerning the combinations and purchase of undertakings” in International Class 36, as shown in Applications No. 79/045549 and 79/049033, owned by Ambienta Societa' di Gestione del Risparmio Societa' per Azioni in forma abbreviata Ambienta SGR SPA (“Applicant”). Accordingly, Opposer hereby opposes the application under Section 13 of the Trademark Act (15 U.S.C. §1063).

As grounds for the opposition, Opposer alleges as follows:

1. Opposer, and its predecessors in interest, have been and are now engaged in the business of providing *financial services and investment services*. The mark **AMBIENT** has at all times been used in, on or with the aforementioned services.
2. Prior to September 5, 2007, the filing date of Applicant’s trademark applications, Opposer adopted and used the mark **AMBIENT** in connection with *financial services and investment services*.
3. Opposer first adopted and used the mark **AMBIENT** for *financial services and investment services* at least as early as 1993.

4. Opposer owns US Patent and Trademark Office service mark Registration No. 2577413 for the **AMBIENT** mark. This registration covers *financial analysis and consultation services in the field of capital growth and restructuring, mergers and acquisitions, strategic alliances, joint ventures and licensing agreements, company financing, investments, financial structuring and restructuring and dividend policy; financial investments in the field of securities, investment banking services in the field of underwriting, agent services, and investment advisory services* in Class 36 and registered on the Principal Register on June 11, 2002.

5. Opposer's above registration is valid, unrevoked, uncanceled, and in full force and effect. Opposer owns this registration and the trademark shown thereby and all the business and goodwill connected with said mark in the United States. Furthermore, this registration is incontestable.

6. Since the adoption and first use of its **AMBIENT** mark, Opposer has made substantial and continuous use of its **AMBIENT** mark in interstate commerce on and in connection with *financial services and investment services*.

7. Opposer's **AMBIENT** mark is now, and ever since its first use has been, applied to *financial services and investment services*. These services have been advertised and promoted and rendered in interstate commerce. Opposer's **AMBIENT** mark is strong, well known, and of great value to Opposer. In the mind of the trade and of the public, Opposer's **AMBIENT** mark identifies and designates Opposer's services and distinguishes them from the goods and services of others.

8. By the applications herein opposed, Applicant seeks to register **AMBIENTA** and **AMBIENTA SGR ENVIRONMENTAL ASSETS & Design** for services in Class 36. The terms “SGR” and “ENVIRONMENTAL ASSETS” have been disclaimed as descriptive.

9. The respective services are identical or highly related. Applicant’s marks are nearly identical to Opposer’s previously used and registered **AMBIENT** mark. Therefore, when used in connection with Applicant’s services, Applicant’s marks are likely to cause confusion, mistake, or deception with consequent injury to Opposer and the public.

10. Opposer will be damaged by the registrations sought by Applicant because such registrations would support and assist Applicant in the confusing, misleading, and deceptive use of Applicant’s marks and would give to Applicant color of exclusive statutory rights to such designation in violation of Opposer’s superior rights.

WHEREFORE, Opposer believes that it will be damaged by the registration of Applicant’s marks and prays that they be denied.

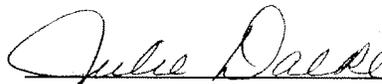
Please recognize as attorneys for Opposer Perry J. Viscounty, Julie L. Dalke, Deborah A. Gubernick, Mark A. Finkelstein, and all other attorneys of the law firm of Latham & Watkins LLP, 650 Town Center Drive, Suite 2000, Costa Mesa, California 92626-1925. Please address all communications to Julie Dalke of Latham & Watkins LLP at the address set forth below.

Respectfully submitted,

LATHAM & WATKINS LLP

Dated: October 28, 2008

By:



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Attorneys for Opposer
Gary M. Post

CERTIFICATE OF SERVICE

I, Adam Kummins, hereby certify that I served a true and correct copy of the foregoing NOTICE OF CONSOLIDATED OPPOSITION by Federal Express upon:

Ambienta SGR SPA
Via Larga, 2
I-20122 Milano
Italy

with a copy to their Correspondent:

Dr. Modiano & Associati S.P.A.
Via Meravigli, 16
I-20123 Milano
Italy

on October 29, 2008



Adam Kummins