

ESTTA Tracking number: **ESTTA414262**

Filing date: **06/14/2011**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Wizard Co., Inc.		
Entity	Corporation	Citizenship	Delaware
Address	6 Sylvan Way Parsippany, NJ 07054 UNITED STATES		

Name	Avis Budget Group, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	6 Sylvan Way Parsippany, NJ 07054 UNITED STATES		

Attorney information	Linda Rush Avis Budget Group, Inc. 6 Sylvan Way Parsippany, NJ 07054 UNITED STATES uspto.mail@avisbudget.com Phone:973 496-3682		
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Applicant Information

Application No	79084137	Publication date	05/17/2011
Opposition Filing Date	06/14/2011	Opposition Period Ends	06/16/2011
International Registration No.	1042972	International Registration Date	04/26/2010
Applicant	Technikus AG Aeulestrasse 5 FL-9490 Vaduz LIECHTENSTEIN		

Goods/Services Affected by Opposition

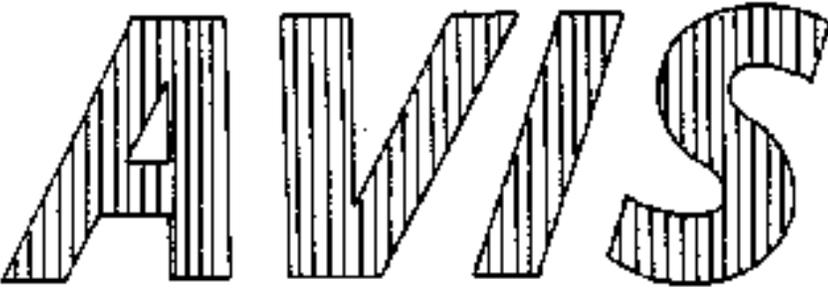
Class 035. All goods and services in the class are opposed, namely: Advice on the organization and management of businesses; accounting; organizational consulting in business matters; preparation of tax returns; business advice; human resources consultancy; advertising; business administration and office work
Class 036. All goods and services in the class are opposed, namely: Raising capital for charitable foundations; bill payment

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
Other	Opposers allege its family of AVIS marks are famous, individually or collectively

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	703700	Application Date	07/24/1959
Registration Date	08/30/1960	Foreign Priority Date	NONE
Word Mark	AVIS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U105 (International Class 029). First use: First Use: 1945/08/30 First Use In Commerce: 1945/09/30 VEHICLE RENTAL AND LEASING SERVICES		

U.S. Registration No.	1353304	Application Date	01/28/1985
Registration Date	08/06/1985	Foreign Priority Date	NONE
Word Mark	AVIS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 1963/12/31 First Use In Commerce: 1963/12/31 VEHICLE RENTING AND LEASING SERVICES		

U.S. Registration No.	1671740	Application Date	01/09/1991
Registration Date	01/14/1992	Foreign Priority Date	NONE
Word Mark	AVIS CARES		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1990/01/00 First Use In Commerce: 1990/01/00 information guides in the use of rental vehicles, various local state driving laws and driving safety tips		

U.S. Registration No.	1835715	Application Date	02/05/1993
Registration Date	05/10/1994	Foreign Priority Date	NONE
Word Mark	AVIS CHAIRMAN'S CLUB		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 1988/05/00 First Use In Commerce: 1988/05/00 automobile rental and leasing services		

U.S. Registration No.	1660119	Application Date	01/09/1991
Registration Date	10/08/1991	Foreign Priority Date	NONE
Word Mark	AVIS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 1990/01/00 First Use In Commerce: 1990/01/00 vehicle rental and leasing services Class 042. First use: First Use: 1990/01/00 First Use In Commerce: 1990/01/00 retail used car dealership services		

U.S. Registration No.	1071131	Application Date	12/01/1976
Registration Date	08/09/1977	Foreign Priority Date	NONE
Word Mark	AVIS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 1957/03/00 First Use In Commerce: 1957/03/00 ARRANGING FOR THE RENTAL AND LEASING OF SELF-DRIVE VEHICLES		

	AND CHAUFFEUR-DRIVEN VEHICLES INCLUDING RESERVATIONS THEREFOR IN FOREIGN COUNTRIES		
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U.S. Registration No.	2538416	Application Date	06/26/2001
Registration Date	02/12/2002	Foreign Priority Date	NONE
Word Mark	AVIS INTERACTIVE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2000/03/24 First Use In Commerce: 2000/03/24 Providing vehicle rental information via a global communications network		

U.S. Registration No.	2814594	Application Date	09/06/2002
Registration Date	02/17/2004	Foreign Priority Date	NONE
Word Mark	AVIS CORPORATE AWARDS PROGRAM		
Design Mark	<p style="text-align: center;">AVIS CORPORATE AWARDS PROGRAM</p>		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1987/01/01 First Use In Commerce: 1987/01/01 Promoting the services of vehicle rental and leasing companies through the administration of corporate awards programs designed to award corporate members with incentive based discounts on car rentals		

U.S. Registration No.	3013854	Application Date	07/07/2003
Registration Date	11/08/2005	Foreign Priority Date	NONE
Word Mark	AVIS ESCAPE RATES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2003/09/30 First Use In Commerce: 2003/09/30 Vehicle rental and leasing services		

U.S. Registration No.	3194055	Application Date	03/20/2006
Registration Date	01/02/2007	Foreign Priority Date	NONE
Word Mark	AVIS CARES		

Design Mark	<h1>AVIS CARES</h1>		
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 1989/03/01 First Use In Commerce: 1989/03/01 vehicle renting and leasing services and travel advisory services		

U.S. Registration No.	3264583	Application Date	03/20/2006
Registration Date	07/17/2007	Foreign Priority Date	NONE
Word Mark	AVIS CARES		
Design Mark	<h1>AVIS CARES</h1>		
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1989/03/01 First Use In Commerce: 1989/03/01 printed matter, namely printed informational cards in the field of vehicle safety; instructional and teaching material, namely information guides in the use of rental vehicles, information concerning local driving laws and driving safety tips		

U.S. Registration No.	3363030	Application Date	02/06/2007
Registration Date	01/01/2008	Foreign Priority Date	NONE
Word Mark	AVIS FIRST		

Design Mark	<h1>AVIS FIRST</h1>		
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2007/03/14 First Use In Commerce: 2007/03/14 Leasing of vehicles; Rental of vehicles		

U.S. Registration No.	3430711	Application Date	09/13/2007
Registration Date	05/20/2008	Foreign Priority Date	NONE
Word Mark	AVIS PREFERRED		
Design Mark	<h1>AVIS PREFERRED</h1>		
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 1988/05/31 First Use In Commerce: 1988/05/31 Leasing of vehicles; Rental of vehicles		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	AVIS		
Goods/Services	House mark for variety of corporate related activities, including the conducting of its business		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	AVIS BUDGET GROUP		
Goods/Services	House mark for a variety of corporate related activities including the conducting of its business		

Attachments	73519567#TMSN.gif (1 page)(bytes) 74129081#TMSN.gif (1 page)(bytes) 74129082#TMSN.gif (1 page)(bytes) 76447514#TMSN.gif (1 page)(bytes) 78840887#TMSN.jpeg (1 page)(bytes) 78840889#TMSN.jpeg (1 page)(bytes) 77100596#TMSN.jpeg (1 page)(bytes) 77278619#TMSN.jpeg (1 page)(bytes) AvisTechnikusOpp.pdf (4 pages)(113533 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 Overnight Courier on this date.

Signature	/Linda Rush/
Name	Linda Rush
Date	06/14/2011

NOTICE OF OPPOSITION

1. Opposer, Wizard Co., Inc. (hereinafter, "Wizard"), is a Delaware corporation having its principal place of business at 6 Sylvan Way, Parsippany, New Jersey 07054. Opposer, Avis Budget Group, Inc. (hereinafter, "ABG"), is a Delaware corporation having its principal place of business at 6 Sylvan Way, Parsippany, New Jersey 07054.

2. Upon information and belief, Applicant, Technikus AG is a Liechtenstein corporation having a place of business at Aeulestrasse 5, FL9490, Vaduz, Liechtenstein.

3. Wizard owns exclusive rights in and to the mark AVIS, and to a number of other names and marks containing the term AVIS (the "AVIS Marks"), which marks have been used extensively in connection with car rental and leasing services, car sales, and ancillary services both in the United States and abroad.

4. Wizard owns the following United States trademark registrations:

AVIS, Registration No. 703700, for vehicle rental and leasing services

AVIS, Registration No. 1353304, for vehicle renting and leasing services

AVIS CARES & Design, Registration No. 1671740, for information guides in the use of rental vehicles, various local state driving laws and driving safety tips

AVIS CHAIRMAN'S CLUB, Registration No. 1835715, for automobile rental and leasing services

AVIS & Design, Registration No. 1660119, for vehicle rental and leasing services; retail used car dealership services

AVIS, Registration No. 1071131, for arranging for the rental and leasing of self-drive vehicles and chauffeur-driven vehicles including reservations therefor in foreign countries

AVIS INTERACTIVE, Registration No. 2538416, for providing vehicle rental information via a global communications network

AVIS CORPORATE AWARDS PROGRAM, Registration No. 2814594, for promoting the services of vehicle rental and leasing companies through the administration of corporate awards programs designed to award corporate members with incentive based discounts on car rentals

AVIS ESCAPE RATES, Registration No. 3013854, for vehicle rental and leasing services

AVIS CARES, Registration No. 3194055, for vehicle renting and leasing services and travel advisory services

AVIS CARES, Registration No. 3264583, for printed matter, namely printed informational cards in the field of vehicle safety; instructional and teaching material, namely information guides in the use of rental vehicles, information concerning local driving laws and driving safety tips

AVIS FIRST, Registration No. 3363030, for leasing of vehicles; rental of vehicles

AVIS PREFERRED, Registration No. 3430711, for leasing of vehicles; rental of vehicles

These registrations are valid, subsisting and provide prima facie evidence of Opposer's exclusive right to use the AVIS Marks in commerce.

5. Eight of the alleged registrations are incontestable and provide conclusive evidence of Opposer's exclusive right to use the AVIS Marks in commerce.

6. ABG is the parent company of Wizard. ABG is the owner of the unregistered house marks AVIS and AVIS BUDGET GROUP (hereinafter, "House Marks"), which are used in connection with a wide variety of corporate related activities, including the conducting of its business.

7. Since long before the filing date of Applicant's application and any use date that Applicant may claim, Wizard and its related companies or franchisees have used the AVIS Marks in interstate commerce in connection with car rental and leasing services, car sales, and ancillary services throughout the United States and abroad.

8. Since long before the filing date of Applicant's application and any use date that Applicant may claim, Wizard and its related companies or franchisees have continuously used the AVIS Marks in interstate commerce on and in connection with the advertising, promotion and sale of such services.

9. Wizard and its related companies and franchisees have made substantial expenditures in advertising and promoting the AVIS Marks over a period of many years and, thus, these marks have become well known and famous among purchasers as distinctive indicators of origin.

10. Since long before the filing date of Applicant's application and any use date that Applicant may claim, ABG has continuously used the House Marks in connection with various corporate related

activities, including the conducting of its business.

11. Notwithstanding Opposers' rights in the AVIS Marks, Applicant is seeking registration of the mark AVIS in class 35 and 36 in connection with various business matters.

12. Upon information and belief, when Applicant applied to register its alleged mark, Applicant had full knowledge of Opposers' prior rights in the AVIS Marks.

13. The designation Applicant seeks to register, namely, AVIS, so resembles Opposers' AVIS Marks that the use and registration thereof by Applicant is likely to cause confusion, mistake and/or deception, within the meaning of Section 2(d) of the Trademark Act, as to the source or origin of Applicant's services, and will injure and damage Opposers and the goodwill and reputation symbolized by the AVIS Marks.

14. Applicant is not affiliated or connected with or endorsed or sponsored by Opposers, nor have Opposers approved any services offered or sold under Applicant's alleged mark, nor has Opposers granted Applicant permission to use said mark.

15. Likelihood of confusion is enhanced in this case by the fact that the AVIS Marks and Applicant's alleged mark are identical and that Opposers' services and those of Applicant are identical or confusingly similar in nature.

16. Likelihood of confusion is enhanced in this case by the fame of the AVIS Marks and by the fact that consumers associate these marks with services offered, approved or endorsed by Opposers.

17. The granting of a trademark registration of AVIS to Applicant would be contrary to Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d), and would violate and diminish the prior and superior rights of Opposer.

18. Opposer will be damaged if application Serial No. 79084137 should be granted because Applicant will obtain statutory rights in the designation AVIS in violation and derogation of the established prior rights of Opposer.

19. Wherefore, Opposer prays that its opposition be sustained, that application Serial No. 79084137 be rejected and that registration of AVIS as a service mark of Applicant be refused and denied.

Respectfully Submitted,

/Linda Rush/

Linda Rush, Esq.

For Opposers

Wizard Co., Inc.
6 Sylvan Way
Parsippany, New Jersey 07054

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