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

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

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CITIGROUP INC., :  
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 : **Opposer,** :  
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 : **- against -** : **Opposition No. 91201920**  
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 : **CITIAIR, LLC,** :  
 :  
 : **Applicant.** :  
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REPLY BRIEF OF OPPOSER CITIGROUP INC.

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## **PRELIMINARY STATEMENT**

Citigroup Inc. (“Citigroup” or “Opposer”) respectfully submits its reply brief in support of its opposition to the pending trademark application for the mark CITIAIR (and Design), filed by Citiair, LLC (“Applicant” or “Citiair”).<sup>1</sup>

Many of the issues raised in Citiair's Trial Brief (the “Citiair Brief”) were anticipated and addressed in Citigroup’s Trial Brief (the “Citigroup Brief”), and those arguments will not be repeated here. To the extent that Citiair presented new arguments or ones that need to be further addressed, or relied on unsupported factual or legal assertions, Opposer focuses on a few principal points in its reply.

## **ARGUMENT**

In Section A below, Opposer addresses Applicant's three Motions to Strike certain evidence introduced by Citigroup during its testimony period, after which it addresses the merits of the Citiair Brief.

### **A. Citiair's Motions to Strike**

#### **1. Citigroup's Advertising Agencies**

Citiair moves to strike any testimony regarding any Citigroup advertising agency, on the grounds that such information was not provided in discovery, as requested in Citiair Interrogatory No. 9. (See Citiair Br. at 3-4.) It is significant that while the Citiair Brief set forth that Interrogatory in full, it entirely omitted Citigroup's response. In fact, Citigroup lodged a timely (and proper) objection to the improper breadth and scope of the Interrogatory:

Opposer objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome, as well as not relevant to any claim or defense of any party to this litigation.

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<sup>1</sup> In this Reply Brief, Opposer will adopt the terminology and definitions it employed in Citigroup's Trial Brief, filed April 18, 2013.

(See Applicant's First Notice of Reliance, Ex. A.) Such objection was completely appropriate, as it is simply inconceivable that every advertising agency used by Citigroup would be relevant to any of the issues herein, particularly since, as Applicant argues, travel services comprise only one part of Citigroup's services.

In the face of this objection, Citiair's obligation was to move to compel a more specific response, revise and narrow its Interrogatory, or otherwise seek to resolve the dispute. It said and did nothing, and accordingly has waived any proper objection. (See Trademark Trial and Appeal Board Manual of Procedure ("TBMP") § 523.04 (2012).) To rule otherwise would set a troubling precedent – allowing, indeed encouraging, a party to serve "form" interrogatories of extraordinary breadth, and then gain a tactical advantage from that strategy.

**2. Citigroup Exhibit 112**

The document disputed here shows the presence of a Citigroup "pop-up" advertisement on a website where Citiair advertises. Mr. Raj has acknowledged that Citiair advertises on that site. (Raj Tr. at 26:21-27:12, 63:13-65:4.) On the face of the document, it clearly is an Internet print-out, and thus requires no separate authentication when, as here, proffered only to show that the particular webpage was available at the time of printing (and not the truth of what was on that website). (See TBMP § 704.08(b).) However, as Citigroup does not believe this document to be of significance to either party, it agrees to withdraw the disputed exhibit.<sup>2</sup>

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<sup>2</sup> Applicant accuses Citigroup of manufacturing evidence in connection with this document. (Citiair Br. at 38-39.) Citigroup's withdrawal of the document is in no way an admission of any such conduct. To the contrary, Applicant's inflammatory accusations are grounded only in the testimony of Mr. Raj personally, who has certainly not been offered or qualified as an expert in key word searching, and clearly has no personal knowledge of Citigroup's key word purchase process. Applicant, in fact, offers no evidence whatsoever, other than sheer speculation, that Citigroup has purchased the key word "Citiair." There is no reason to believe that Applicant's advertising would not  
(cont'd)

**3. Citigroup Notice of Reliance Exhibit 523**

Citair's assertions with respect to Exhibit 523 of Citigroup's Notice of Reliance (completely mischaracterize the relevant testimony. The document encompassed by the Notice of Reliance is a newspaper article, and was properly proffered as such in Citigroup's Notice of Reliance (see "Citi NOR" (Docket No. 15)) – not as a press release, as Applicant argues (see Citair Br. at 6). One Citigroup witness, moreover, testified that this article was based on a press release regarding a new product offered by Citigroup in connection with its American Airlines AAdvantage partnership. (Baum Tr. at 56:21-57:24.) That testimony is not inconsistent with Citigroup's offering of the newspaper article for the purpose of showing the publicity garnered by Citigroup's family of CITI Marks for a number of goods and services, including those related to travel.

**B. Applicant's Failure to Acknowledge the Broad Scope of its Application**

Citair's Application cites as its goods and services "travel booking agencies." The Application, therefore, is not limited on its face to any specific type of travel service, target demographic, or channel of trade. The Citair Brief, however, reads as if the Application seeks to register the CITIAIR Mark only for online bookings of air flights to and from India, for persons of Indian descent. Thus, Citair argues that because the specific limited services and channels of trade currently offered by Applicant differ from those offered by Opposer, these DuPont<sup>3</sup> factors weigh in Applicant's favor.

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have triggered the "pop-up" based solely on Citigroup's purchase of "CITI" as a key word. In any event, even if Opposer, or its agents, had purchased the key word "Citair," this is of no consequence, as Citigroup's position has always been, and remains, that this term falls within the scope of its rights.

<sup>3</sup> See In re E.I. DuPont DeNemours & Co., 476 F.2d 1357 (C.C.P.A. 1973).

This position is way wide of the mark. The relevant inquiry for the Trademark Trial and Appeal Board ("TTAB," or "Board") is whether the mark cited in the Application, when used in connection with the cited goods and services, is likely to be confused with the family of CITI Marks; Citiair's current, limited use of the CITIAIR Mark is simply not relevant to the likelihood of confusion analysis. See Canadian Imperial Bank of Commerce v. Wells Fargo Bank, N.A., 811 F.2d 1490, 1493 (Fed. Cir. 1987) (holding that the question of likelihood of confusion must be evaluated based on an analysis of the mark as applied to the goods and/or services cited); Jet Tours v. Mark Travel Corp., Opp. No. 97,115, 1999 WL 20927, at \*2 (T.T.A.B. Jan. 19, 1999) (rejecting argument that the parties were not direct competitors as they each focused on travel to different destinations, on the grounds that registrability is evaluated on the basis of the identification of goods and/or services set forth in the applications and registrations of record, which each cited general travel services).

Here, whereas Citiair's current use of the CITIAIR Mark is, according to its position, limited to online sales of air tickets to and from India to persons of South Asian descent, registration of its Application would cover nationwide expansion (including bricks and mortar locations) of any and all travel booking services to anyone in the United States. Indeed, Mr. Raj himself testified to the expanding nature of his business (see Citiair Br. at 9), and acknowledged that he already intends to open a number of bricks and mortar locations in the next several years (and that these would be in Citigroup's primary banking areas). (See Citi NOR Ex. 605, Raj Depo. Tr., at 26:10-27:18.)<sup>4</sup> In addition, though Mr. Raj claims that Citiair currently

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<sup>4</sup> Citigroup and Citiair already share a number of marketing channels, including online channels and certain NRI-driven activities. That certain of Citigroup's websites are only available to Citigroup customers (see Citiair Br. at 41) is of no significance, considering that this population includes over 20 million credit card customers alone (see NOR Ex. 564, at OPP008482). In addition, that Applicant's websites are open to the public means that it has no way of knowing the nationality of its

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almost exclusively offers flight booking services, the Citiair website advertises a number of other travel-related services, including travel insurance, cruises, and hotel bookings (all of which are presumably not limited to travel to and from India). (See id. at 27:19-28:8.) It is clear in this case that the broad language of the services cited in the Application was not unintentional, given Applicant's existing plans for expansion and the services listed on the website.

**C. Alleged Differences in Commercial Impression of the Marks**

With respect to the "similarity of marks" factor,<sup>5</sup> Applicant summarizes its argument as follows:

[N]one of Citibank's pleaded registrations incorporate the term AIR. None of Citibank's pleaded registrations incorporate the likeness of an airplane. None of Citibank's registrations evoke a feeling of godliness or enlightenment.

(Citiair Br. at 42.) On this critical DuPont factor as well, Applicant completely misses the point, or ignores the evidence in the record.

**1. Applicant's Failure to Acknowledge Opposer's Famous Family of CITI Marks**

First, while Applicant bases its argument on six specific federal trademark registrations proffered by Opposer for its CITI Marks (see Citiair Br. at 23-24), Citigroup in fact properly introduced into evidence a total of 29 current and prior federal trademark registrations and applications for CITI Marks, as well as a number of common-law marks. (See Citi NOR Ex. 567, Am. Notice of Opp., Exs. A & B (Docket No. 5); see also Moses Tr. at 21:4-26:16.)

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customers, and thus Mr. Raj cannot confirm which of Applicant's customers are in fact of Indian descent. Finally, that Mr. Raj claims to not have personally seen any Citigroup NRI representatives at the regional fairs he attends (Citiair Br. at 36) does not mean that such representatives were not there, or did not attend other fairs frequented by the same target demographic.

<sup>5</sup> The fame, distinctiveness, and mark similarity issues all bear directly on the claims of both likelihood of confusion and dilution. The only other argument Citiair made with respect to dilution, its alleged good faith, is also addressed below.

Accordingly, Applicant's reliance on the purported differences in the CITIAIR Mark as compared to only those six CITI Marks is inadequate here to establish a distinct commercial impression. Significantly, one of the overlooked federal trademark registrations owned by Citigroup, that for CITIMILES, U.S. Reg. No. 1880842, does in fact "incorporate the likeness of an airplane." (See NOR Ex. 590.) In addition, the testimony was clear that the other CITI Marks are often used in conjunction with travel imagery such as airplanes. (See Villanueva Tr. at 25:9-26:4, 54:4-17, 69:24-71:4; see also Citi Exs. 66, 188.)

Regardless of which of Opposer's CITI Marks Applicant has "cherry-picked" for discussion in its Brief, that none of them incorporate the term AIR is of little significance here. This is because the relevant inquiry is not the similarity between Applicant's applied-for mark and any particular one of the CITI Marks, but whether Applicant's mark is so similar to the CITI family as a whole that it would be likely to be confused as a member of that family. See Black & Decker Corp. v. Emerson Elec. Co., 84 U.S.P.Q.2d 1482, 1491 (T.T.A.B. 2007). Here, Applicant does not dispute that the members of Citigroup's family of CITI Marks each consist of the prefix "CITI," followed by a term or terms descriptive of the services provided.<sup>6</sup> (See Citi-air Br. at 24-25.) Applicant also concedes that its own mark is comprised of the prefix "CITI" followed by a descriptive term. (See, e.g., id. at 25 (quoting Mr. Raj's testimony that the term "air" was selected because Applicant sells air services).) Given these facts, it is clear that, though Opposer does not have a federal trademark registration for the mark CITIAIR specifically, such mark is extremely similar in commercial impression to Citigroup's famous family of CITI Marks, and is thus very likely to be confused as a member of that family.

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<sup>6</sup> Opposer notes that Applicant's assertions regarding the impression conveyed by the selected CITI Marks to the relevant consuming population (see Citi-air Br. at 24-25) are completely unsupported factually.

In its brief discussion of the "family of marks" doctrine, Applicant dismisses that theory on the grounds that the doctrine applies only where a party's use of its mark is "for goods or services which are similar or related to plaintiff's." (Citiair Br. at 26.) Setting aside that both parties do indeed provide travel services, Applicant's statement of the law regarding trademark families is simply incorrect. In fact, application of the doctrine is not limited to direct competitors, particularly where the opposer owns a famous family of marks, which marks are used on a variety of goods and services. See, e.g., McDonald's Corp. v. McClain, 37 U.S.P.Q.2d 1274, 1276 (T.T.A.B. 1995) (holding confusion could be likely between opposer's family of "Mc" marks, which each combine the "Mc" prefix with a suggestive or descriptive term, and the mark "McClain" for legal services, even though opposer does not render legal services); McDonald's Corp. v. 2Bell B.V., Opp. No. 91118911, 2004 WL 1090662, at \*5 (T.T.A.B. Apr. 22, 2004) ("[T]he question is not whether opposer does, or even would, provide dating services, but rather whether the purchasing public would believe, in view of the fame of opposer's family of marks and the similarity of MCDATE to that family, and in light of the numerous and diverse nature of the goods and services on which opposer already uses its marks, that McDonald's either provides a dating service, or that it is a service that is endorsed by, or in some way associated with, McDonald's."). Thus, even if Opposer did not offer goods and services related to those cited in the Application, the family of marks doctrine would still apply and show likelihood of confusion.

**2. Applicant's Assertions Regarding the Meaning of the Term "CITI"**

Applicant's contention that its mark is distinguishable from any of the CITI Marks, or the family of CITI Marks as a whole, on the basis that the term "CITI" in its own mark "evoke[s] a feeling of godliness or enlightenment" (see Citiair Br. at 42), is completely unsupported. Applicant has provided no evidence whatsoever regarding what the applied-for mark "evokes" in any population, or segment thereof, with the exception of the testimony of Mr.

Raj himself, who claims that the term "CITI" means "enlightenment" in the Tamil language.<sup>7</sup> (See Citiar Br. at 8, 25; NOR Ex. 605, at 30:19-40:10, 66:21-67:8.) Mr. Raj provides no explanation why "sound-alikes" such as "CITY," or "SITI," or "SITY" would not convey the same alleged meaning.<sup>8</sup> This is particularly striking when one considers that Mr. Raj's own testimony, cited in the Citiar Brief not once, but twice, uses the term "CITY" no fewer than three times in place of "CITI." (See, e.g., Citiar Br. at 8, 25.) Thus, Applicant's own Brief shows that there is nothing special about "CITI," even if one were to credit Mr. Raj's testimony regarding the "enlightenment" connotations.<sup>9</sup>

Mr. Raj's testimony regarding the commercial impression of the mark "CITI" is also highly questionable given that Tamil is only one of 22 languages spoken in India, and is the official language of only one Indian state. See [https://en.wikipedia.org/wiki/Tamil\\_language](https://en.wikipedia.org/wiki/Tamil_language). Indeed, Tamil is spoken by fewer than 100 million people worldwide (see id.), whereas the population of India alone is over 1.2 billion (see <http://countrymeters.info/en/India/>). Thus, Applicant's argument that a Tamil-sounding term evokes a certain reaction in the minds of Indian nationals in the United States has no support in this record, or in reality. And, of course, the Application at issue is not limited to marketing to South Asians with knowledge of the Tamil dialect.

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<sup>7</sup> Notably, in the Citiar Brief, Applicant does not acknowledge that this "feeling of godliness and enlightenment" would be conveyed only through a translated Tamil word.

<sup>8</sup> Citigroup has already indicated that its opposition to the Application arises from the use of "CITI." (Moses Tr. at 97:24-99:2.)

<sup>9</sup> In addition, testimony from a Citigroup witness indicates that the correct transliteration of the Tamil word invoked by Applicant would be "SITI." (See Nariman Tr. at 36:3-20.)

**D. Fame of the CITI Family of Marks**

Despite the undisputed enormous scope and breadth of Citigroup's business, extensive advertising and promotional expenditures, sponsored and independently conducted brand strength surveys, and comprehensive media coverage, Applicant contends that this DuPont factor "strongly weighs" against Opposer. (Citiair Br. at 35.) In making this argument, Applicant ignores three court decisions (as well as a recent TTAB decision) holding the CITI and CITIBANK Marks to be famous since at least as early as 1998, both for likelihood of confusion and for dilution purposes. See, e.g., CIT Grp., Inc. v. Citicorp, 20 F. Supp. 2d 775, 793 (D.N.J. 1998); Citigroup Inc. v. City Holding Co., 171 F. Supp. 2d 333, 346 (S.D.N.Y. 2001); Citigroup Inc. v. Capital City Bank Grp., Inc., 94 U.S.P.Q.2d 1645, 1658 (T.T.A.B. 2010), aff'd, 637 F.3d 1344 (Fed. Cir. 2011).

Rather, Applicant contends that Citigroup's branding studies "fail[] to satisfy the standards enunciated by its own witnesses" (Citiair Br. at 33), on the grounds that unaided brand awareness levels of Citigroup did not reach "above 40%." (Id. at 35.) This assertion mischaracterizes the testimony of Anthony Michelini and Anne Moses, both of whom stated that a famous mark would be recognized by a large percentage of the United States population (see id. at 33) – not that high awareness levels would be reached on an unaided basis. Applicant's brief also mischaracterizes the relevant case law. Though Kenner Parker, heavily relied upon by Applicant (Citiair Br. at 32, 34-5, 45), did take into account the unaided awareness levels of opposer's mark, that case did not in any way state that this was the only appropriate metric of fame. See Kenner Parker Toys Inc. v. Rose Art Indus., Inc., 963 F.2d 350, 353 (Fed. Cir. 1992). The other Federal Circuit case relied upon by Citiair, Recot, Inc. v. M.C. Becton, 214 F.3d 1322 (Fed. Cir. 2000) (Citiair Br. at 32), did not even reference any brand awareness metrics in its discussion of the opposer's fame.

In fact, though unaided awareness figures are probative in determining fame in likelihood of confusion and likelihood of dilution analyses, this Board has also used aided, or "total," awareness figures as well. See, e.g., Nat'l Pork Bd. v. Supreme Lobster & Seafood Co., 96 U.S.P.Q.2d 1479, 1490 (T.T.A.B. 2010) (accepting aided awareness figures on the renown of opposer's claimed slogan); General Mills, Inc. v. Fage Dairy Processing Indus. S.A., 100 U.S.P.Q.2d 1584, 1596 (T.T.A.B. 2011) (accepting aided awareness figures to show fame of TOTAL mark despite low unaided awareness numbers). In the instant circumstance, where there are hundreds of financial institutions throughout the United States, it is to be expected that when asked on an unaided basis, consumers will refer to their local banks. Accordingly, "in the context of this industry and fragmented market," General Mills, 100 U.S.P.Q.2d at 1596, one cannot discount the extremely high levels of aided awareness enjoyed by Opposer – particularly in view of the fact that, at all times, the unaided and total awareness levels of Opposer have been on par with its major competitors (see, e.g., Micheline Tr. at 23:24-25:15; Citi Ex. 98).

Applicant also contends that Opposer did not offer evidence of consumer awareness of the CITI Marks in connection with the services relevant here. (Citi Ex. Br. at 18.) This is wrong because, first, the various indicia of fame testified to by Citigroup's witnesses no doubt apply to the marketplace as a whole, given the huge revenues, significant expenditures on advertising, and customer base enjoyed by Opposer, as well as extensive solicited and unsolicited publicity (including at least two sketches on the late-night television program, Saturday Night Live). (See, e.g., Moses Tr. at 51:20-53:2.) Moreover, Applicant ignores that Opposer offered into evidence a credit card brand tracking survey, covering the years 2008 to 2012, showing aided awareness levels of between approximately \*\*\*\*\*.<sup>10</sup> (Citi Ex. 99,

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<sup>10</sup> Throughout, asterisks indicate confidential material which has been redacted.

at OPP010828.) Given that Mr. Raj himself testified that the overwhelming majority of his customers complete their transactions using credit cards (Citi NOR Ex. 605, at 41:15-18), Applicant cannot in all seriousness take the position that the credit card awareness data is irrelevant to the fame of the CITI Marks among those who travel. One does not need an evidentiary citation to recognize that air travel is typically not paid for in cash.

**E. Similarity of Services Offered by the Parties**

Applicant goes to great lengths to distinguish the services offered by the parties herein, arguing that travel is not Citigroup's "core" service, but rather only a "value proposition," and that the parties are not direct competitors. (Citiair Br. at 15-16.) These distinctions are meaningless. First, it is well established that there is no requirement that parties to a trademark opposition be direct competitors for a finding of likelihood of confusion. See, e.g., Champion Performance Prods., Inc. v. Sara Lee Global Fin., LLC, Can. No. 92040440, 2007 WL 954363, at \*4 (T.T.A.B. Mar. 23, 2007) ("It is a general rule that goods or services need not be identical or even competitive in order to support a finding of likelihood of confusion."); Int'l Cellucotton Prods. Co. v. Miller Supply Co., 102 U.S.P.Q. 394, 396 (Dec. Comm'r Pat. 1954) (same).<sup>11</sup> Here, though Applicant construes the fact that certain of Citigroup's websites include references to other travel booking agencies as an admission that Citigroup does not provide such services

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<sup>11</sup> Moreover, differences between the parties' services do not weigh against a finding of likely confusion where the opposer's mark is famous. See, e.g., Recot, 214 F.3d at 1327 (cited by Applicant in Citiair Br. at 32) (reversing TTAB decision on the grounds that "the Board's rule – that the fame of the FRITO-LAY marks extends no further than the products with which the marks are currently used – undercuts the legal standard of protection for famous marks"); Google Inc. v. ACPS Global, Inc., Opp. No. 91198926, 2012 WL 2364349, at \*3 (T.T.A.B. June 11, 2012) ("[W]hen a product reaches the marketplace under a famous mark, special care is necessary to appreciate that products not closely related may nonetheless be confused as to source by the consumer because of the fame of the mark." (citation omitted)); Wax v. Amazon Techs., Inc., 500 F. App'x 944, 947-48 (Fed. Cir. 2013) ("[T]he point of showing that a mark is famous relieves the opposer from having to prove that the services it provides are the same as the applicant's services.").

(see Citiair Br. at 16-17), Applicant fails to recognize that a consumer would far more likely perceive these website references as meaning that the services identified there are closely related to the business of Opposer, if not originating from Opposer.

Notwithstanding Applicant's attempt to draw attention away from the variety of travel services provided by Opposer, it cannot be disputed that Citigroup provides tens of millions of dollars worth of the same type of travel services as Applicant, i.e. travel bookings, to millions of customers nationwide, and has done so since well prior to Applicant's first use of its mark. (Citigroup Br. at 13-19.) Though these services may not comprise the bulk of Citigroup's revenues, Applicant has cited no legal support whatsoever for a proposed requirement that only "core" services of an opposer be considered in a likelihood of confusion analysis. Further, though Applicant claims that Citigroup's witnesses "do not truly believe that they themselves provide travel services," those very witnesses have testified to the importance of Opposer's travel services to the business of Citigroup. (See, e.g., Hines Tr. at 23:1-12; Villanueva Tr. at 25:9-26:4, 69:24-71:4; Moses Tr. at 98:11-99:11.)

Whether any of Citigroup's federal trademark registrations for its CITI Marks contains the word "travel" or other travel-related terms is of little significance here, though, of course, Citigroup has for years owned a federal trademark registration for CITITRAVEL, as well as two for CITIMILES and one for CITIRAIL. (See Citi NOR Exs. 577-78, 587, 590.) Indeed, a number of the 29 federal trademark registrations and applications offered into evidence by Opposer cite credit card loyalty and incentive rewards programs, which services necessarily include travel. (See, e.g., Citi NOR Ex. 567, Ex. A: CITI THANKYOU, CITIBANK (and Design), CITI BONUS CASH CENTER, CITI EXECUTIVE, and CITIFORWARD.)

Also of little significance is the alleged dissimilarity between Citigroup's NRI-specific services and those offered by Applicant to the same demographic. (See Citiair Br. at 30-31.) As discussed above, the relevant comparison is that of Applicant's services, as cited in the Application, to those offered by Opposer. See Canadian Imperial Bank, 811 F.2d at 1493; Jet Tours, 1999 WL 20927, at \*2. However, it is worth noting that Applicant mischaracterizes the extent of Citigroup's services to Applicant's target demographic, in that the Citiair Brief asserts that Citigroup "conceded that the only services that can or are provided to NRIs are banking services." (Citiair Br. at 31; see also id. at 17-18.) In fact, the Citigroup Vice President and Senior Counsel in charge of the United States NRI business testified that Citigroup, for regulatory reasons, offers NRI-specific services in the banking area only. (Nariman Tr. at 7:17-8:5.) However, NRIs in the United States may, and often do, avail themselves of any of Opposer's myriad other services, including travel services. (See Villanueva Tr. at 75:13-18.) It goes without saying that Opposer does not discriminate against South Asians – i.e. it does not, for example, refuse to provide them with credit card services if they request such services.

**F. Alleged Good Faith of Applicant**

Applicant relegates its discussion of its good faith in selecting the CITIAIR Mark to the very end of its brief, where it simply states that the original company was founded in Singapore by founders with "no knowledge whatsoever" of Opposer, and that the "intent was to adopt an indianized name for a travel company then offering flights to and from India and Singapore." (Citiair Br. at 47-48.) First, the contention that CITIAIR is an "indianized name," simply because its founder asserts that "CITI" has a specific meaning in a language spoken by a small minority of Indians, is addressed above. Second, that Applicant's founder has resided continuously in the northeastern United States since 2007, two years before the cited date of first

use of the CITIAIR Mark, makes it difficult to accept that he had never heard of Citigroup until the instant proceeding. (See Citair Br. at 7.)

On the issue of alleged good faith, no trademark search was conducted by or on behalf of Applicant before use of the mark, or before application to register (Citi NOR Ex. 605, at 19:21-20:13) – a point made in the Citigroup Brief (see Citigroup Br. at 47) to which Applicant has not responded. It is apparent that Applicant here has overlooked the basic principle that trademark rights are territorial, and that what marks Applicant has used in Singapore are not relevant here. See, e.g., Bayer Consumer Care AG v. Belmora LLC, 90 U.S.P.Q.2d 1587, 1591-92 (T.T.A.B. 2009). Indeed, the absence of care in selecting and applying to register the CITIAIR Mark is evidenced by the fact that the cited date of first use is March 31, 2009 (Citi NOR Ex. 566), though Applicant clearly acknowledges that the mark was not even adopted until December 2010, i.e. 1<sup>3</sup>/<sub>4</sub> years after the claimed date of first use (Citair Br. at 10).

Accordingly, the record certainly does not support Applicant's alleged good faith.

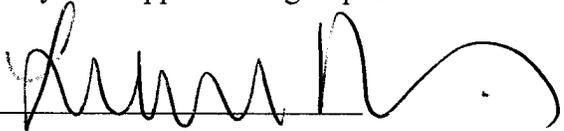
**CONCLUSION**

For all the foregoing reasons, Opposer respectfully requests that the Board sustain its Opposition to Applicant's pending Application.

Dated: June 3, 2013

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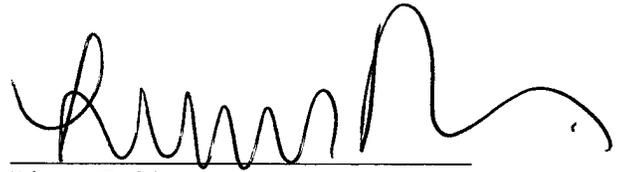
By: 

**CERTIFICATE OF SERVICE**

I, Limor Robinson, a member of the bar of the State of New York, hereby certify that on this 3rd day of June, 2013, I caused a true and correct copy of the Reply Brief of Opposer Citigroup Inc. to be served on the following person, BY MAIL AND EMAIL:

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A handwritten signature in black ink, appearing to read 'Limor Robinson', written over a horizontal line.

Limor Robinson