

ESTTA Tracking number: **ESTTA472518**

Filing date: **05/15/2012**

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	Atlas Venture Advisors, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	25 First Street, Suite 303 Cambridge, MA 02141 UNITED STATES		

Attorney information	Lawrence R. Robins Edwards Wildman Palmer LLP F.D.R. Station, P.O. Box 130 New York, NY 10150 UNITED STATES trademark@edwardswildman.com,lrobins@edwardswildman.com,pconcanon@edwardswildman.com Phone:617-239-0010
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Applicant Information

Application No	85429471	Publication date	05/01/2012
Opposition Filing Date	05/15/2012	Opposition Period Ends	05/31/2012
Applicant	Atlas Peak Capital Management, LLC 400 Montgomery Street, Suite 900 Atlas Peak Capital Management, LLC San Francisco, CA 94104 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. First Use: 2011/09/19 First Use In Commerce: 2011/09/19 All goods and services in the class are opposed, namely: Investment management and investment fund services

Applicant Information

Application No	85429501	Publication date	05/01/2012
Opposition Filing Date	05/15/2012	Opposition Period Ends	05/31/2012
Applicant	Atlas Peak Capital Management, LLC 400 Montgomery Street, Suite 900 Atlas Peak Capital Management, LLC San Francisco, CA 94104 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. First Use: 2011/09/19 First Use In Commerce: 2011/09/19 All goods and services in the class are opposed, namely: Investment management and investment fund services

Grounds for Opposition

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

U.S. Registration No.	3118619	Application Date	10/26/2001
Registration Date	07/25/2006	Foreign Priority Date	NONE
Word Mark	ATLAS VENTURE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 1987/11/30 First Use In Commerce: 1987/11/30 Business consulting services in the fields of strategic planning, change management, budgeting, human capital planning and administration, international expansion and growth management; arranging and conducting business conferences in the fields of life sciences, information technology and business strategy</p> <p>Class 036. First use: First Use: 1987/11/30 First Use In Commerce: 1987/11/30 Venture capital fund services, namely, raising capital for business investment, business valuation, investment advice and management services, venture capital fund formation, venture capital fund management and venture capital investment consultation</p>		

U.S. Registration No.	3081092	Application Date	10/26/2001
Registration Date	04/18/2006	Foreign Priority Date	NONE
Word Mark	ATLASVENTURE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 1987/11/30 First Use In Commerce: 1987/11/30 Business consulting services in the fields of strategic planning, change management, budgeting, human capital planning and administration, international expansion, and growth management; arranging and conducting business conferences and seminars in the fields of life sciences, information technology and business strategy</p> <p>Class 036. First use: First Use: 1987/11/30 First Use In Commerce: 1987/11/30</p>		

	Venture capital fund services, namely, raising capital for business investment, business valuation, investment advice and management services, venture capital fund formation, venture capital fund management and venture capital investment consultation
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U.S. Registration No.	4104754	Application Date	05/24/2011
Registration Date	02/28/2012	Foreign Priority Date	NONE
Word Mark	ATLAS VENTURE		
Design Mark			
Description of Mark	The mark consists of a depiction of a nautilus in a shaded square with the wording "ATLAS VENTURE" to the right.		
Goods/Services	Class 036. First use: First Use: 2011/01/13 First Use In Commerce: 2011/01/13 Venture capital fund services, namely, raising capital for business investment, business valuation, investment advice and management services, venture capital fund formation, venture capital fund management and venture capital investment consultation		

U.S. Registration No.	4105687	Application Date	08/30/2011
Registration Date	02/28/2012	Foreign Priority Date	NONE
Word Mark	ATLAS VENTURE		
Design Mark			
Description of Mark	The mark consists of a depiction of a nautilus in a shaded square with the wording "ATLAS VENTURE" to the right.		
Goods/Services	Class 035. First use: First Use: 2011/01/13 First Use In Commerce: 2011/01/13 Business consulting services in the fields of strategic planning, change management, budgeting, human capital planning and administration, international expansion and growth management; arranging and conducting business conferences in the fields of life sciences, information technology and business strategy		

Attachments	76330409#TMSN.gif (1 page)(bytes) 76330413#TMSN.gif (1 page)(bytes) 85328521#TMSN.jpeg (1 page)(bytes) 85410934#TMSN.jpeg (1 page)(bytes) ATLAS PEAK CAPITAL Notice of Opposition.pdf (15 pages)(614385 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	/Lawrence R. Robins/
Name	Lawrence R. Robins
Date	05/15/2012

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

ATLAS VENTURE ADVISORS, INC.,)	
)	
Opposer)	
)	
v.)	Opposition No. _____
)	
ATLAS PEAK CAPITAL MANAGEMENT,)	
LLC)	
)	
Applicant)	
)	

Applicant Serial Nos.: 85/429,471 and 85/429,501
Filed: June 21, 2011
Published for Opposition: September 22, 2011
Marks: ATLAS PEAK CAPITAL and ATLAS PEAK CAPITAL and DESIGN

NOTICE OF OPPOSITION

Opposer, Atlas Venture Advisors, Inc. ("Opposer"), a Delaware corporation, having a principal place of business at 25 First Street, Suite 303, Cambridge, MA 02141, believes that it is being damaged, and will be damaged, by Atlas Peak Capital, LLC's ("Applicant") registration of the marks ATLAS PEAK CAPITAL shown in Application Serial No. 85/429,471, and ATLAS PEAK CAPITAL and DESIGN shown in Application Serial No. 85/429,501 and hereby opposes the same. As grounds for opposition, Opposer alleges that, upon actual knowledge with respect to Opposer and its own acts, and upon information and belief as to other matters:

Opposer and its ATLAS VENTURE Mark

1. Opposer is a leading global venture capital firm. Opposer forms, offers, and manages venture capital funds and partnerships, and provides financing, consulting and management services to start-up and early stage companies and their management teams.

2. Since at least as early as November 1987, Opposer has: (i) used its ATLAS VENTURE marks to offer and promote its various services; (ii) spent substantial time and resources in promoting its services under the ATLAS VENTURE marks; (iii) invested in and advised over 300 companies throughout the United States and elsewhere; and (iv) raised in excess of \$2 Billion in venture capital fund investments. Opposer currently manages venture capital funds valued at over \$2 Billion.

3. Opposer owns the following United States trademark registrations for its ATLAS VENTURE marks (printouts from PTO TESS/TARR databases are attached as Exhibit A):

Mark	Registration Number Registration Date	Class
ATLAS VENTURE	3,118,619 7/25/06	Classes 35 and 36
ATLAS VENTURE Logo	3,081,092 4/18/06	Classes 35 and 36
ATLAS VENTURE Logo	4,104,754 2/28/12	Class 36
ATLAS VENTURE Logo	4,105,687 2/28/12	Class 35

4. The foregoing registrations are valid and subsisting and constitute prima facie evidence of Opposer's ownership of, and exclusive rights to use, its ATLAS VENTURE marks in commerce in connection with the services recited in the registrations.

5. Opposer's rights to its ATLAS VENTURE marks long predate Applicant's filing date of September 22, 2011 and its claimed date of first use of September 19, 2011. Opposer

has used its ATLAS VENTURE marks continuously in commerce since long prior to Applicant's filing and first use dates.

6. Through use of its ATLAS VENTURE marks in the United States over the last 24 years, Opposer has established extremely valuable goodwill and recognition in its marks by virtue of its quality services offered thereunder.

Applicant and its ATLAS Marks

7. Applicant is identified as an Delaware limited liability company with an address at 400 Montgomery Street, Suite 900, San Francisco, CA 94104.

8. On September 22, 2011, Applicant filed Application Serial No. 85/429,471 to register the mark ATLAS PEAK CAPITAL for "investment management and investment fund services" in Class 36. The services listed in the application are identical, substantially similar and/or closely related to the services Opposer offers under its ATLAS VENTURE marks.

9. Also, on September 22, 2011, Applicant filed Application Serial No. 85/429,501 to register the mark ATLAS PEAK CAPITAL and DESIGN for the same services in Class 36. The services listed in this application are also identical, substantially similar and/or closely related to the services Opposer offers under its ATLAS VENTURE marks.

Likelihood of Confusion, 15 U.S.C. § 1052(d)

10. Opposer repeats and realleges each and every allegation set forth in Paragraphs 1 through 9 above.

11. Opposer has used its ATLAS VENTURE marks continuously in commerce since prior to the filing date of the opposed applications.

12. Two of Opposer's pleaded registrations issued prior to the filing date of the opposed applications.

13. Applicant's ATLAS PEAK CAPITAL and ATLAS PEAK CAPITAL and DESIGN marks are confusingly similar in sound, appearance, connotation, and overall commercial impression to Opposer's ATLAS VENTURE marks and cover services identical, substantially similar, and/or closely-related to those offered by Opposer under its marks.

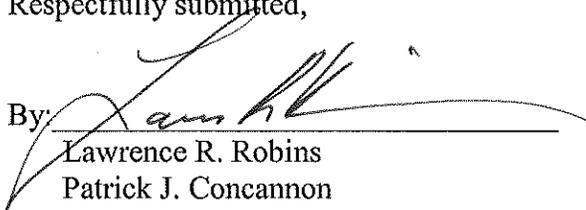
14. Applicant's ATLAS PEAK CAPITAL and ATLAS PEAK CAPITAL and DESIGN marks so resemble Opposer's previously used and registered ATLAS VENTURE marks as to be likely, when used in connection with Applicant's services covered by Application Serials Nos. 85/429,471 and 85/429,501, to cause confusion, or to cause mistake, or to deceive under Section 2(d) of the Lanham Act, as amended, 15 U.S.C. § 1052(d).

WHEREFORE, Opposer believes that it is being damaged, and will be damaged, by the registration of the marks shown in Application Serial Nos. 85/429,471 and 85/429,501, and requests that the opposition be sustained, and that registration to Applicant be refused.

A filing has been submitted electronically. If the filing fee is found to be insufficient for any reason, please charge such deficiency to our Deposit Account No. 041105.

Respectfully submitted,

Dated: May 15, 2012

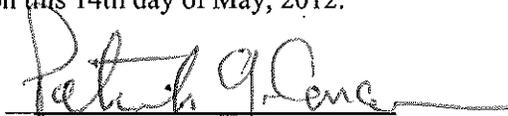
By: 

Lawrence R. Robins
Patrick J. Concannon
Edwards Wildman Palmer LLP
111 Huntington Avenue
Boston, MA 02119
Telephone: 617.239.0100
Facsimile: 617.227.4420

Attorneys for Opposer

CERTIFICATE OF ELECTRONIC MAILING

I hereby certify that the foregoing Notice of Opposition is being submitted electronically through the Trademark Trial and Appeal Board's ESTTA System on this 14th day of May, 2012.


Patrick J. Concannon

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing NOTICE OF OPPOSITION is being deposited with the U.S. Postal Service with sufficient postage as first class mail this 14th day of May, 2012 in an envelope addressed to Applicant's counsel of record at the following address:

Linda Joy Kattwinkel
Owen, Wickersham & Erickson, P.C.
455 Market Street, Suite 1910
San Francisco, CA 94105-5408


Patrick J. Concannon

EXHIBIT A

EXHIBIT A



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Typed Drawing

Word Mark	ATLAS VENTURE
Goods and Services	IC 035. US 100 101 102. G & S: Business consulting services in the fields of strategic planning, change management, budgeting, human capital planning and administration, international expansion and growth management; arranging and conducting business conferences in the fields of life sciences, information technology and business strategy. FIRST USE: 19871130. FIRST USE IN COMMERCE: 19871130
	IC 036. US 100 101 102. G & S: Venture capital fund services, namely, raising capital for business investment, business valuation, investment advice and management services, venture capital fund formation, venture capital fund management and venture capital investment consultation. FIRST USE: 19871130. FIRST USE IN COMMERCE: 19871130
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	76330409
Filing Date	October 26, 2001
Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	May 2, 2006
Registration Number	3118619
International Registration Number	0892602
Registration Date	July 25, 2006
Owner	(REGISTRANT) Atlas Venture Advisors, Inc. CORPORATION DELAWARE 25 First Street Suite 303 Cambridge MASSACHUSETTS 02141

Attorney of Record LAWRENCE R. ROBINS
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE VENTURE APART FROM THE MARK AS SHOWN
Type of Mark SERVICE MARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR).
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Word Mark ATLASVENTURE
Goods and Services IC 035. US 100 101 102. G & S: Business consulting services in the fields of strategic planning, change management, budgeting, human capital planning and administration, international expansion, and growth management; arranging and conducting business conferences and seminars in the fields of life sciences, information technology and business strategy. FIRST USE: 19871130. FIRST USE IN COMMERCE: 19871130

IC 036. US 100 101 102. G & S: Venture capital fund services, namely, raising capital for business investment, business valuation, investment advice and management services, venture capital fund formation, venture capital fund management and venture capital investment consultation. FIRST USE: 19871130. FIRST USE IN COMMERCE: 19871130

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 26.09.21 - Squares that are completely or partially shaded

Serial Number 76330413

Filing Date October 26, 2001

Filing Basis 1A

Original Filing Basis 1A

Published for Opposition January 24, 2006

Registration 3081092

Number

Registration Date April 18, 2006

Owner (REGISTRANT) Atlas Venture Advisors, Inc. CORPORATION DELAWARE 890 Winter Street Suite 320 Waltham MASSACHUSETTS 02451

Attorney of Record TIMOTHY H. HIEBERT

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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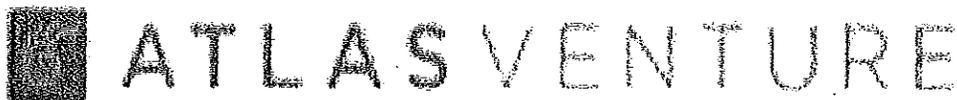
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Word Mark ATLAS VENTURE
Goods and Services .IC 035. US 100 101 102. G & S: Business consulting services in the fields of strategic planning, change management, budgeting, human capital planning and administration, international expansion and growth management; arranging and conducting business conferences in the fields of life sciences, information technology and business strategy. FIRST USE: 20110113. FIRST USE IN COMMERCE: 20110113
Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code 03.19.18 - Conch shells; Nautilus; Sand dollars; Scallops; Shells, including sand dollars, nautilus, conch shells and scallops
 26.11.21 - Rectangles that are completely or partially shaded
Serial Number 85410934
Filing Date August 30, 2011
Filing Basis 1A
Original Filing Basis 1A
Published for Opposition December 13, 2011
Registration Number 4105687
Registration Date February 28, 2012
Owner (REGISTRANT) Atlas Venture Advisors, Inc. CORPORATION DELAWARE Suite 303 25 First

Street Cambridge MASSACHUSETTS 02141

Attorney of Record Lawrence R. Robins

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "VENTURE" APART FROM THE MARK AS SHOWN

Description of Mark Color is not claimed as a feature of the mark. The mark consists of a depiction of a nautilus in a shaded square with the wording "ATLAS VENTURE" to the right.

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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