

ESTTA Tracking number: **ESTTA499292**

Filing date: **10/10/2012**

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 | The PNC Financial Services Group, Inc. |
| Granted to Date of previous extension | 10/10/2012 |
| Address | 249 Fifth Avenue Pittsburgh, PA 15222 UNITED STATES |

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|----------------------|---|
| Attorney information | Mark Sommers Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P. 901 New York Avenue, NW Washington, DC 20001-4413 UNITED STATES docketing@finnegan.com, larry.white@finnegan.com, mark.sommers@finnegan.com |
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Applicant Information

| | | | |
|------------------------|---|------------------------|------------|
| Application No | 85456136 | Publication date | 06/12/2012 |
| Opposition Filing Date | 10/10/2012 | Opposition Period Ends | 10/10/2012 |
| Applicant | Keith Alexander Ashe Apt 322 4835 Cordell Ave Bethesda, MD 20814 UNITED STATES | | |

Goods/Services Affected by Opposition

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| Class 036. All goods and services in the class are opposed, namely: Web-based personal finance tools, namely, providing a website featuring non-downloadable instructional videos in the field of finance, online financial calculators, and online information in the field of finance |
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Grounds for Opposition

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

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|----------------------|------------|-----------------------|------------|
| U.S. Application No. | 85650817 | Application Date | 06/13/2012 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | SPENDOLOGY | | |

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|---------------------|---|
| Design Mark | SPENDOLOGY |
| Description of Mark | NONE |
| Goods/Services | Class 036. First use: First Use: 2010/08/00 First Use In Commerce: 2010/08/00 An online money management tool that allows account holders to track balances, budgets, and expenses by category and time period |

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| Attachments | 85650817#TMSN.jpeg (1 page)(bytes) PNC Notice of Opposition.pdf (5 pages)(13280 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 | /Mark Sommers/ |
| Name | Mark Sommers |
| Date | 10/10/2012 |

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

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|---|---|-------------------------------|
| _____ |) | |
| The PNC Financial Services Group, Inc., |) | |
| |) | |
| Opposer, |) | Opposition No. |
| |) | |
| v. |) | Mark: SPENDOLOGY |
| |) | |
| Keith Alexander Ashe d/b/a Spendology, |) | Serial No.: 85/456,136 |
| |) | Filing Date: October 25, 2011 |
| |) | Published: June 12, 2012 |
| Applicant. |) | |
| _____ |) | |

NOTICE OF OPPOSITION

The PNC Financial Services Group, Inc. (“Opposer”), a Pennsylvania corporation having a business address at 249 Fifth Avenue, Pittsburgh, Pennsylvania 15222, believes that it is being and will be damaged by the registration of the mark SPENDOLOGY in Application Serial No. 85/456,136 and opposes the same. As grounds for its opposition, Opposer alleges that, upon actual knowledge with respect to itself and its own acts, and upon information and belief as to all other matters:

Opposer and its SPENDOLOGY Mark

1. Opposer is one of the largest national diversified financial service organizations in the United States, providing retail banking, corporate and institutional banking, residential mortgage banking, and asset management services.
2. Opposer owns and has continuously used in commerce the mark SPENDOLOGY in connection with an online money management tool that allows account holders to track balances, budgets, and expenses since at least as early as August 2010.

3. Opposer is the owner of Application No. 85/650,817 for the mark SPENDOLOGY covering “an online money management tool that allows account holders to track balances, budgets, and expenses by category and time period” in International Class 36, filed June 13, 2012 under Section 1(a) of the Lanham Act. 15 U.S.C. § 1051(a).

Applicant and His SPENDOLOGY Application

4. Keith Alexander Ashe (“Applicant”) is an individual with an address of 4835 Cordell Avenue, Bethesda, Maryland 20814.

5. Applicant is the listed owner of Application Serial No. 85/456,136 for the mark SPENDOLOGY for “web-based personal finance tools, namely, providing a website featuring non-downloadable instructional videos in the field of finance, online financial calculators, and online information in the field of finance” in International Class 36, filed October 25, 2011. The application was originally filed under Section 1(a) of the Lanham Act, 15 U.S.C. § 1051(a), but was later amended to Section 1(b), 15 U.S.C. §1051(b).

**Likelihood of Confusion
Section 2(d), 15 U.S.C. § 1052(d)**

6. Opposer repeats and realleges each and every allegation set forth in Paragraphs 1 through 5.

7. Opposer used its SPENDOLOGY mark in commerce prior to Applicant’s October 25, 2011 filing date for Application Serial No. 85/456,136.

8. Opposer used its SPENDOLOGY mark in commerce prior to any date of first trademark use for “web-based personal finance tools, namely, providing a website featuring non-downloadable instructional videos in the field of finance, online financial calculators, and online information in the field of finance” that may be alleged by Applicant.

9. Opposer’s SPENDOLOGY application has been refused registration, in part, because of an anticipatory citation of Applicant’s prior-pending SPENDOLOGY application,

presumably because Applicant's and Opposer's SPENDOLOGY marks are identical in sound, appearance, and overall commercial impression and Applicant's services identified in the opposed application are identical to and/or closely related to the services offered by Opposer in connection with its SPENDOLOGY mark.

10. Applicant's application so resembles Opposer's previously used SPENDOLOGY mark as to be likely to cause confusion, or to cause mistake, or to deceive in violation of Section 2(d), 15 U.S.C. § 1052(d).

11. For the foregoing reasons, Opposer is being and will be damaged by the registration of the mark SPENDOLOGY for "web-based personal finance tools, namely, providing a website featuring non-downloadable instructional videos in the field of finance, online financial calculators, and online information in the field of finance" in International Class 36.

WHEREFORE, Opposer respectfully requests that Application Serial No. 85/456,136 be refused registration and that this opposition be sustained.

A filing fee of \$300 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. 06-0916.

Respectfully submitted,

THE PNC FINANCIAL SERVICES GROUP, INC.

Dated: October 10, 2012

By: /Mark Sommers/

Mark Sommers

Naresh Kilaru

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER L.L.P.

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Washington, D.C. 20001-4413

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Attorneys for Opposer

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing NOTICE OF OPPOSITION was served on October 10, 2012 by first-class mail, postage prepaid, on Applicant at the following address of record and to Applicant's counsel:

Keith Alexander Ashe
DBA Spendology
4835 Cordell Ave. Apt 322
Bethesda, MD 20814-3150

/Larry L. White/
Larry L. White
Legal Assistant