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

Proceeding	91211919
Party	Plaintiff American Express Marketing & Development Corp., American Express Travel Related Services Company
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Submission	Motion to Suspend for Civil Action
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Signature	/Camille Calman/
Date	11/25/2013
Attachments	Motion to suspend proceeding.pdf(12624 bytes ) Exhibit A.pdf(127722 bytes ) Exhibit B.pdf(67406 bytes )

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

In re Serial No. 85/801,419 for the mark  
BLACKCARDSTATUS

AMERICAN EXPRESS MARKETING &  
DEVELOPMENT CORP. and AMERICAN  
EXPRESS TRAVEL RELATED SERVICES  
COMPANY, INC.,

Opposers,

v.

BLACKCARDSTATUS LLC,  
Applicant.

**Opposition No. 91211919**

**OPPOSER’S MOTION TO SUSPEND PENDING  
OUTCOME OF ANOTHER PROCEEDING**

In the matter of Opposition No. 91211919 with respect to application Serial No. 85/801,419, American Express Marketing & Development Corp. and American Express Travel Related Services Company, Inc. (“Opposers”), through their undersigned counsel, Davis Wright Tremaine LLP, hereby move pursuant to 37 CFR § 2.117 and Trademark Trial and Appeal Board Manual of Procedure § 510.2 to suspend these Opposition proceedings pending the outcome of *American Express Marketing & Development Corp. v. Blackcardstatus LLC*, No. 2:13-cv-01177-DSC, currently pending in the Western District of Pennsylvania (the “Civil Action”). A stay of these Opposition proceedings is appropriate per 37 C.F.R. § 2.117(a), which provides:

Whenever it shall come to the attention of the Trademark Trial and Appeal Board that a party or parties to a pending case are engaged in a civil action or another Board proceeding which may have a bearing on the case, proceedings before the Board may be

suspended until termination of the civil action or the other Board proceeding.

37 CFR § 2.117(a).

Opposers filed the Civil Action on August 14 and served the summons and complaint on applicant Blackcardstatus LLC, a resident of Nevada, on August 16, 2013 in Nevada, and on Joseph Graziano, a resident of Pennsylvania, on October 22, 2013 in Pennsylvania. A copy of the complaint filed in the Civil Action (without exhibits) is annexed hereto as Exhibit A. Both defendants have defaulted in the Civil Action. A copy of the clerk's entry of default as to applicant Blackcardstatus LLC is annexed hereto as Exhibit B. Opposers have filed a motion for default judgment against Blackcardstatus LLC with the court and are awaiting disposition, and will file for entry of default and a motion for default judgment against Graziano in the next several days. Opposers will advise the Board promptly once judgment has been entered against each of the defendants.

In the Civil Action, Opposers have alleged that applicant's past and/or present use of multiple marks containing the words "BLACK CARD" (including but not limited to "BLACKCARDSTATUS") and its attempt to obtain a federal registration for the mark "BLACKCARDSTATUS" infringe Opposers' trademark rights, constitute false designation of origin, unfair competition, and cyberpiracy, among other claims. *See, e.g.*, Exhibit A at ¶¶ 69-123. A decision by the district court will have a direct bearing on this proceeding, and indeed could be dispositive of the issues in the present opposition, because Opposers have asked the court for relief that includes a permanent injunction against Applicant's use of the mark and a withdrawal of Applicant's trademark application.

Opposers therefore respectfully submit that suspension of this Opposition is appropriate pending the outcome of the Civil Action.

DATED this 25th day of November, 2013.

Respectfully submitted,

DAVIS WRIGHT TREMAINE LLP

/Camille Calman/

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**By Order of the Board, effective** \_\_\_\_\_

By: \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I hereby certify that on this 25th day of November, 2013, a true and complete copy of the foregoing **Motion to Suspend Pending Outcome of Other Proceeding** has been served upon Applicant by delivering the same via first class mail at the following address:

Blackcardstatus LLC.  
311 West Third Street, Suite 3955  
Carson City, Nevada 89703

/Camille Calman/  
Camille Calman

# **EXHIBIT A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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AMERICAN EXPRESS MARKETING & DEVELOPMENT CORP. and AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY, INC.,	:	Civil Action No. _____
	:	
Plaintiffs,	:	<b>COMPLAINT</b>
	:	<b>(Jury Trial Demanded)</b>
vs.	:	
BLACKCARDSTATUS LLC and JOSEPH GRAZIANO,	:	
	:	
Defendants.	:	
-----	x	

Plaintiffs American Express Marketing & Development Corp. and American Express Travel Related Services Company, Inc. (collectively, “American Express”), by and through their undersigned attorneys Reed Smith LLP and Davis Wright Tremaine LLP, as and for their complaint against defendants Blackcardstatus LLC (“BCS LLC”) and Joseph Graziano (“Graziano”), allege as follows:

**NATURE OF THE ACTION**

1. This is an action for trademark infringement, false designation of origin, unfair competition, and cyberpiracy arising under the laws of the United States, for trademark dilution arising under the laws of the State of New York and the Commonwealth of Pennsylvania, and for common-law trademark infringement and unfair competition, all arising from defendants’ use of, registration of a domain name for, and attempt to register as a trademark, the term “BLACKCARDSTATUS” and use of and registration of domain names for other marks confusingly similar to American Express’s valuable trademarks.

2. American Express, among its varied business operations, issues charge and credit cards to individual and business consumers. It has famously branded its various classes of cards by using colors to differentiate among them including green, gold, and platinum. These colors also denote the level of benefits available to users, the annual fees charged, and – in the eyes of some – the status of the cardholder.

3. The most prestigious and difficult-to-obtain American Express card is the American Express “Centurion Card”, which is a black charge card made of titanium, with a gold border and a patterned black background, centered by the imprinted image of the head of a Roman centurion. Corresponding to its unique appearance are exceptional benefits cardholders with this highest American Express status enjoy including airline upgrades, elite status in frequent flyer programs, and companion airfares; room upgrades at various hotel chains; personalized concierge service; and invitations to exclusive events.

4. Because of the Centurion Card’s unique services and the status of its holders, because it is available only to a tiny percentage of American Express cardholders, and because of its unusual appearance, the card is well known among the general public and in popular culture as the “Black Card.” As a direct consequence, ownership of a Black Card has become a symbol of unique status, extreme luxury, and unparalleled financial success.

5. Defendants are perpetrating a scheme to trade upon the very reputation and success of the American Express “Black Card” name and mark, by their use of the name and mark “BLACKCARDSTATUS” for their own commercial activities including, *inter alia*, an informational website about luxury goods and services, the purpose of which they have described as “to provide reviews on luxury goods. Including, but not limited to, expensive watches, sports cars, champagne, cigars, etc. It will also include photos and blog entries of opulent and decadent

vacations and experiences that the average person might not experience in a lifetime.” They have applied to register that trademark in the United States Patent and Trademark Office (“PTO”), based on services they claim to provide at the website [www.blackcardstatus.com](http://www.blackcardstatus.com) and have created and maintain numerous other websites under variants of that name and mark, including but not limited to [www.blackcardcares.com](http://www.blackcardcares.com), [www.blackcardvc.com](http://www.blackcardvc.com), and [www.blackcardmedia.com](http://www.blackcardmedia.com).

6. Defendants’ use of the BLACKCARDSTATUS mark and their association of the words “Black Card” with luxury goods and financial success, and their attempt to play off the brand image of exclusivity and status that American Express has purposefully created and nurtured for the Centurion Card a/k/a the Black Card, at its own considerable effort and expense, has irreparably injured and will continue to irreparably injure American Express unless defendants are enjoined.

#### **THE PARTIES**

7. Plaintiff American Express Marketing & Development Corp. (“AMEX M&D”) is a corporation organized and existing under the laws of Delaware with its principal place of business at 200 Vesey Street, New York, NY 10285.

8. Plaintiff American Express Travel Related Services Company, Inc. (“AMEX”) is a corporation organized and existing under the laws of the State of New York with its principal place of business at 200 Vesey Street, New York, NY 10285.

9. AMEX is in the business of providing financial and travel related services, including credit and charge cards, travelers cheques, and travel agency services, to individuals and corporations worldwide.

10. AMEX M&D is a fully owned subsidiary of AMEX and is the owner of various American Express trademarks including but not limited to the registered trademark “BLACKCARD”; AMEX M&D in turn licenses those trademarks to AMEX, which uses them in commerce and/or licenses others to use them in commerce.

11. Defendant Blackcardstatus LLC is a limited liability company formed under the laws of the State of Nevada, with its principal place of business at 311 West Third Street, Suite 3955, Carson City, Nevada 89703.

12. Defendant Joseph Graziano is an individual who, upon information and belief, resides at 151 Fort Pitt Blvd., Pittsburgh, Pennsylvania 15222. He is the principal and owner of defendant BCS LLC and a member thereof, and controls and directs all of its business operations.

#### **JURISDICTION AND VENUE**

13. This action arises under and pursuant to the Lanham Act, 15 U.S.C. § 1051 *et seq.*; under the common law of trademark infringement and unfair competition; and under New York General Business Law 350-L and 54 Pa. Cons. Stat. § 1124.

14. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) and (b), because it arises under the trademark and unfair competition laws of the United States. The court has supplemental jurisdiction over plaintiffs’ common law and state law claims pursuant to 28 U.S.C. § 1367(a).

15. The Court has personal jurisdiction over defendants pursuant to Fed. R. Civ. P., Rule 4(k)(1)(A) because defendants reside in the Western District of Pennsylvania.

16. Venue in this action lies in the Western District of Pennsylvania pursuant to 28 U.S.C. § 1391(b) because defendants reside in the Western District of Pennsylvania.

## **FACTUAL BACKGROUND**

### **The Business of American Express**

17. American Express was founded in 1850 as an express mail company. Since that time, it has become one of the world's premier multinational financial service companies.

18. Since the 1950s, American Express has issued charge and credit card services to individual and business customers, whom it calls "card members." Card members typically pay an annual fee for their American Express cards. Most of the cards are charge cards, meaning that they must be paid off in full every month. The principal card in the American Express family of cards is the American Express Green Card. Other American Express cards include the Gold Card and the Platinum Card. All of the cards provide certain services and benefits, the level of which increases from the Green Card to the Gold Card to the Platinum Card, as does the annual fee for each card.

19. American Express's business activities are not limited to issuance and administration of charge and credit cards or financial services. For example, American Express publishes five magazines ("Travel and Leisure," "Food and Wine," "Departures," "Executive Travel," and "Black Ink"), offering editorial content regarding luxury vacations, gourmet food, and luxury goods. "Gold" or higher status card members receive exclusive access to entertainment and sports events (including preferred seating and/or the opportunity to purchase tickets before the general public). Accordingly, consumers who see American Express's trademarks and trade names used in connection with publications, entertainment services, and related activities are likely to believe that these services emanate from and/or are sponsored by American Express.

**AMEX Introduces The Black Card**

20. Beginning in the 1980s, American Express offered to a small number of its high net-worth card members a black plastic card containing special customer service numbers. This card was not a credit or charge card; it was solely for the purpose of providing information. Nonetheless, rumors began to circulate that American Express was offering a secret “Black Card” charge card to certain individuals. These rumors continued to circulate, including in a *Wall Street Journal* article, for more than a decade.

21. By the late 1990s, American Express decided to capitalize on the persistent rumors of a secret “Black Card” by the introduction of a brand new product which it called the Centurion Card – a black-colored charge card available by invitation only, offered only to existing American Express customers who possessed a high net worth and had exhibited a continued high level of spending with their existing American Express cards. American Express launched its Centurion Card in the United Kingdom in 1998 and in the United States in 1999.

22. In its 1999 initial letter inviting select U.S. card members to apply for the Centurion Card, American Express described the Centurion Card as “the black card,” referred to the persistent rumors of an American Express “black charge card,” and told invitees, “The black card may have started out as a rumor. However, now you have a chance to become one of the first, and I might add, one of the few, to actually carry the legendary black card – the Centurion Card from American Express.”

23. While American Express decided to officially call the card “Centurion Card” and to register that name as a service mark in 2001, it fully intended and indeed planned that the general public would refer to the card as “the Black Card”, both because of the long-standing

rumors of a black American Express card, and because other American Express charge cards are named after and frequently referred to by their respective colors.

**The Centurion Card Is Widely Known as the Black Card**

24. American Express's intent that the public would react proved correct: the Centurion Card did indeed become widely known as the Black Card, and is referred to in popular culture as the Black Card. For example:

- In Lauren Weisberger's 2005 novel *Everyone Worth Knowing*, a character pays for dinner with a Centurion Card, and the narrator comments: "There it was, the mythical American Express black card. Available by invitation only...."
- In the television series *Studio 60 on the Sunset Strip*, one character attempted to pay another character's bail with his "American Express Black."
- In the television series *Entourage*, one of the characters is described as "living off his Black Card."
- The song "Better Than Yours" by multi-Grammy-winning artist Kanye West features the lyrics: "Oh my God is that a Black Card? I turned around and replied, why yes but I prefer the term African American Express." In another song, "Who Gon Stop Me," Mr. West raps: "Extend the beat, Noah, two seats in the 911, no limit on the Black Card."
- The song "Kiss My Black AmEx" by Draft featuring F.R.E.A.K. contains the lyrics: "I got mad bucks I hit the stash up and spend that cash up and use my new black Amex card for backup."

25. Journalists also frequently refer to the Centurion Card as the Black Card. For example,

- On January 25, 2011, *Forbes* published a story titled “Amex Reveals Details About Its Secretive Centurion Card,” which began with the sentence, “The American Express Centurion Card (aka the Black Card) is the Bugatti of credit cards—few can afford it and if you see one in public you’ll probably stop and stare.”
- On January 24, 2011, *The New York Times* published an article by Paul Sullivan, entitled “American Express’s New Service for Its Wealthiest Cardholders” which reported: “Holders of the Centurion Card, more commonly known as the black card, will be able to negotiate the price of a car through the Centurion Website....”
- On July 8, 2011, *The Wall Street Journal* published an article by Mike Ramsey, titled “Have a Black Card? Buy a Hyundai” which reported “American Express Centurion Cardholders – those people who are rich enough that they are offered a “Back Card” with a nearly unlimited line of credit and a host of other niceties – buy Hyundais at a disproportionately high rate compared with other cars.”
- On October 5, 2010, the website [style.mtv.com](http://style.mtv.com) published an article called “Nelly Wants You To Know He Has Good Credit,” which included a photo of the rapper Nelly wearing necklaces made of American Express cards. As the article explained, “There was the invitation-only Black card, a Gold card, and the Platinum card.”

- On August 8, 2004, *BusinessWeek* magazine published an article about the Centurion Card titled “This Black Card Gives You Carte Blanche.”
- The Calcutta, India newspaper *Business Standard* published an article on June 19, 2013, that began with the line, “American Express Banking Corp, which offers the fabled ‘black card’ to the world’s wealthiest, plans to also introduce a credit card for mid-income groups in India by the end of this week.”

26. The Centurion Card is also widely referred to as the Black Card on websites, blogs, and fan pages. For example,

- A July 14, 2011 post on the website [www.dailyfinance.com](http://www.dailyfinance.com) appears under the headline, “American Express ‘Black’: The World’s Most Exclusive Charge Card.” <http://www.dailyfinance.com/2011/07/11/american-express-black-the-worlds-most-exclusive-charge-card/>
- A June 4, 2010 post on Yahoo! Finance is titled “How to Get the Amex Black Card.” [http://finance.yahoo.com/news/pf\\_article\\_109721.html](http://finance.yahoo.com/news/pf_article_109721.html)
- A post on a blog called CreditCardForum is titled “American Express Black Card Requirements,” and explains the fees and benefits associated with the Centurion Card. <http://creditcardforum.com/blog/american-express-black-card-requirements/>

27. American Express has also engaged in product placement of the “Black Card” in films.

28. As these many unsolicited references and purposeful American Express cultivation of those references suggest, the general public closely associates the term “Black

Card” with American Express, the Centurion Card, and the related services provided by American Express in association with that card.

29. Centurion card members themselves frequently refer to their cards as the “Black Card” when contacting American Express or its concierge service; representatives of the third-party vendor providing those concierge services to Centurion card holders also frequently refer to it as the Black Card; and American Express employees frequently refer to it as the Black Card, both internally and externally.

30. The fact that the general public calls the Centurion Card the “Black Card” gives rise to protectable trademark rights in “Black Card” that inure to American Express.

31. As a result of American Express’s activities as above-described, it has acquired common law trademark rights in the “Black Card” name and mark.

**AMEX’s Licensing of the BLACKCARD Mark**

32. In 2008, a company called Black Card LLC launched a black Visa card bearing the words “Black Card.” Black Card LLC’s predecessor in interest had applied for a trademark registration for the mark “BLACKCARD” in International Class 36 for credit and debit card services, and in April 2009, the PTO granted Trademark Registration No. 3613898 to Black Card LLC.

33. On February 26, 2010, American Express filed an action against Black Card LLC in the United States District Court for the Southern District of New York alleging, *inter alia*, trademark infringement and seeking cancellation of Black Card LLC’s registered mark.

34. On November 17, 2011, the United States District Court for the Southern District of New York rejected Black Card LLC’s counterclaim in that action, seeking a declaratory

judgment that American Express had never used the Black Card mark, expressly finding that American Express had used and had protectable rights in the BLACKCARD mark.

35. American Express and Black Card LLC subsequently entered a settlement agreement which provided, *inter alia*, for an assignment of the BLACKCARD name and mark and the goodwill therein to AMEX M&D, which assignment was duly recorded in the PTO for U.S. Trademark Registration No. 3613898 for the mark “BLACKCARD” in International Class 36 for credit and debit card services on February 17, 2012. AMEX M&D continues to be the owner of said Registration.

36. By means of the same written assignment, Black Card LLC assigned to AMEX M&D all right, title and interest in the following use-based trademark applications: Trademark Application No. 77654245 in International Classes 35, 36, 39, 41, 42, 43, 44, and 45 for the mark “Black Card Concierge”; Trademark Application No. 77627276 in International Classes 35, 36, 39, 41, 43, and 45 for the mark “Black Card”; and Trademark Application No. 77661119 in International Classes 35, 36, 39, 41, 42, 43, 44, and 45 for the mark “Black”.

37. As part of the aforesaid settlement agreement, AMEX M&D licensed, pursuant to certain conditions, the right to use the BLACKCARD mark to Black Card LLC, which continues to use that mark for credit card and concierge services under and pursuant to the terms of that license agreement to date.

38. Collectively, American Express’s registered trademarks, unregistered trademarks, trademark applications and the use by its licensee of the words “Black” or “Black Card”, constitute a family of marks all including the dominant words “Black Card”, and are referred to herein as the “Black Card Marks.”

**Defendants' Adoption and Purported Use of Infringing Marks**

39. Defendants have used and/or are using marks containing the words “Black Card” in interstate commerce by providing services over a number of websites accessible throughout the United States.

40. Defendant Blackcardstatus LLC operates the websites [www.blackcardstatus.com](http://www.blackcardstatus.com) (also accessible via the URL [www.blackcardlifestyle.com](http://www.blackcardlifestyle.com)) and [www.blackcardstatus.net](http://www.blackcardstatus.net). Prior to July 12, 2013, visitors to either website saw the words “On the jet. Be back later” in block capital letters. In smaller letters, the visitor was encouraged to “[e]nter your email [in a box] for early access to a private world of opulence and access,” and below that box were the words “blackcardstatus Access to a Private World of Opulence and Excess.” When that visitor typed in his or her email address, he or she received an email but no access to any content. A copy of the blackcardstatus.com website at that time is annexed hereto as Exhibit A.

41. Upon information and belief, defendant Blackcardstatus LLC owns and operates many other websites that contain “Black Card” in their name, including, but are not limited to:

- Blackcardvc.com
- Blackcardventurecapital.com
- Blackcardinvest.com
- Blackcardcares.com
- Blackcardcares.org
- Blackcardcollection.com
- Blackcardlifemag.com
- Blackcardpr.com
- Blackcardlifestyle.com
- Blackcardmail.com
- Blackcardpics.com
- Blackcardproperties.com
- Blackcardtweets.com
- Blackcardvideos.com
- Blackcardvids.com

Defendants' website at <http://blackcardcollection.com/> (also accessible using the URL [www.blackcardproperties.com](http://www.blackcardproperties.com)) until recently contained links to all of defendants' aforementioned "black card" websites.

42. Upon information and belief, on or about July 12, 2013, defendants for the first time placed original content on the blackcardstatus.com website. A copy of selected pages from the blackcardstatus.com website as of August 1, 2013 is annexed hereto as Exhibit B. On the "About" page of that website, defendant Graziano stated, "I am Founder/CEO of; BCPR®, a global innovation firm. I help create and bring to market meaningful products, services, and experiences. I'm a consultant to high-tech corporations, focused on business management, networking, and building brand awareness through strategic marketing. BCVC® a Venture Capital Firm with a proven management style to build successful companies and create exceptional shareholder value. BCC™ a charitable giving organization, we raise awareness for not-for-profit organizations that promote self-reliance and sustainability. Our work empowers the marginalized and the voiceless in society. Creator of BCMAG™, an eco-friendly online magazine featuring trending headlines from around the world; dedicated to European aesthetics, blackcardmag is an ongoing curation of art, design, photography, beauty and fashion." Ex. B at 22-23. Upon information and belief, defendants removed the ® and ™ symbols from the page on or about August 2, 2013.

43. Upon information and belief, the statements in the above paragraph regarding the existence and nature of defendant Graziano's purported businesses are entirely false, as are various other statements that have appeared on defendants' websites – all maintained under and trading upon AMEX's BLACKCARD name and mark – as detailed below.

### **False Statements and Misrepresentations on Defendants' Websites**

44. Until on or about August 2, 2013, the website at [www.blackcardvc.com](http://www.blackcardvc.com) (also accessible via the URLs [www.blackcardventurecapital.com](http://www.blackcardventurecapital.com) and [www.blackcardinvest.com](http://www.blackcardinvest.com)) claimed that defendants were in the business of providing venture capital to entrepreneurs, generally a high net worth business of the type that might be owned by AMEX Centurion Card holders. Relevant pages from the blackcardvc.com are annexed hereto as Exhibit C. Upon information and belief, defendants are not engaged in the venture capital business and this statement is consequently false and misleading.

45. Until on or about August 2, 2013, the "Meet the Team" page on that same website (<http://blackcardvc.com/executiveteam.html>) includes photographs and biographies of Graziano (listed only as "Joe") and several of his purported "team" members. Ex. C at 8-10. Upon information and belief, the photos and the copy on that page of the website had been lifted from other websites unaffiliated with defendants:

- The photo of the team member supposedly named "Jeremy" in fact depicts Tom Patterson, founder of a men's underwear company called Tommy John (<http://www.stanleykorshak.com/?id=94>). A copy of Mr. Patterson's profile on the website LinkedIn ([http://www.linkedin.com/profile/view?id=9776730&authType=NAME\\_SEA\\_RCH&authToken=Q4Fn&locale=en\\_US&srchid=197236591373397858654&srchindex=6&srchttotal=412&trk=vsrp\\_people\\_res\\_name&trkInfo=VSRPsearchId%3A197236591373397858654%2CVSRPtargetId%3A9776730%2CVSRPcmpt%3Aprimary](http://www.linkedin.com/profile/view?id=9776730&authType=NAME_SEA_RCH&authToken=Q4Fn&locale=en_US&srchid=197236591373397858654&srchindex=6&srchttotal=412&trk=vsrp_people_res_name&trkInfo=VSRPsearchId%3A197236591373397858654%2CVSRPtargetId%3A9776730%2CVSRPcmpt%3Aprimary)), featuring the identical photo, is annexed hereto as Exhibit D. That profile does not mention any connection between Mr. Patterson and BCVC, nor does any of Mr. Patterson's educational or employment history match that of "Jeremy" on defendants' website.
- The photo of the team member supposedly named "Anise" in fact depicts a Philadelphia real estate agent named Amber Kedar (<http://philadelphiarealestatehub.com/amber-kedar/>). A copy of Ms. Kedar's profiles from philadelphiarealestatehub.com and LinkedIn, both featuring the identical photo, are annexed hereto as Exhibit E. These profiles do not mention any connection with BCVC, nor does any of Ms. Kedar's educational or employment history match that of "Anise" on defendants' website.

- The team members' biographies appear to be copied in large part from the biographies of employees of Great Oaks Venture Capital ("GOVC") in New York, New York. "Matthew's" biography includes the education and work experience of GOVC partner John Philosophos; "Anise's" biography includes the education and work experience of GOVC principal, CFO, and investment analyst Celine Kwok; and "Jeremy's" biography includes the education and work experience of GOVC managing partner Ben Lin. Copies of the relevant GOVC biographies are annexed hereto as Exhibit F.
- All of the written material on the "Strategy" page of this website, as well as much of the material on the home page, appears to have been lifted wholesale from the website of a venture capital company called .406 Ventures, located in Boston, Massachusetts. Copies of the .406 Ventures pages on which the material originally appeared are annexed hereto as Exhibit G. (Indeed, although defendants changed references to ".406 Ventures" to "BCVC," they neglected to do so in one instance. See Ex. C at 7.)

46. The same evidence of fabrication and plagiarism appeared until on or about August 2, 2013, at defendants' website at [www.blackcardcares.org](http://www.blackcardcares.org) (also accessible via the URL [www.blackcardcares.com](http://www.blackcardcares.com)). At this website (selected pages from which are annexed hereto as Exhibit H), the home page and "Donate" page contained material that appears to have been copied verbatim from the website of an organization called the Black Card Circle Foundation (selected pages of which are annexed hereto as Exhibit I), and the "Charitable Fund Management" page (Ex. H at 4-5) contains material from the website of an organization called Eiris (relevant pages from which are annexed hereto as Exhibit J).

47. Until on or about August 2, 2013, another of defendants' websites, [www.blackcardpr.com](http://www.blackcardpr.com), described a venture called Black Card Media, which purports to offer to businesses a basket of services including industrial design and brand strategy. Pages from the [www.blackcardpr.com](http://www.blackcardpr.com) website are annexed hereto as Exhibit K. Almost all of the text that appeared on this website appears to be copied from a website for an industrial design company called "frog," headquartered in San Francisco, with offices in Amsterdam, Austin, Boston,

Johannesburg, Kiev, Milan, Munich, New York, Seattle, Shanghai, and Vinnytsya, and a website at [www.frogdesign.com](http://www.frogdesign.com). Selected pages from the frogdesign.com website are annexed hereto as Exhibit L. The video that appeared until on or about August 2, 2013 on the [www.blackcardpr.com](http://www.blackcardpr.com) home page falsely communicating that Black Card Media has done projects involving Bloomberg, Estee Lauder, Disney Baby, and Sephora, among many other companies) also appears to have been copied from the frog website at <http://www.frogdesign.com/work>.

48. Defendants also held themselves out as a 501(c)(3) charitable organization, soliciting tax deductible contributions on the web page at <http://blackcardcares.org/donate.html> (although the “Donate” button appears to be non-functional). Ex. H at 7-8. No organization called “Black Card Cares” or “Blackcardcares”, however, appears in the Internal Revenue Service’s “Select Check” database at <http://www.irs.gov/Charities-&-Non-Profits/Exempt-Organizations-Select-Check>.

49. Upon information and belief, as a direct result of a demand letter sent by American Express on August 1, 2013, defendants disabled access to the content on the blackcardvc.com, blackcardcares.org, blackcardpr.com, and related websites on or about August 2, 2013, and redirected visitors to those websites to the blackcardstatus.com website.

50. Until on or about August 2, 2013, Defendants were also misrepresenting on their website at blackcardstatus.com that they hold federal trademark registrations for “BCPR” and “BCVC,” neither of which is a live federal trademark registered to defendants or anyone else, as defendants well know. *See* Ex. B at 22.

**Defendants' Infringing Use of the BLACKCARD Mark is Likely to Injure American Express and Cause Public Deception**

51. Defendants also appear to be using marks confusingly similar to the Black Card Marks on social media, including

- a Facebook page at <https://www.facebook.com/blackcardstatus?fref=ts>
- a Twitter account at <https://twitter.com/blackcardstatus> (79,869 followers)
- an Instagram account at <http://instagram.com/blackcardstatus#> (428,262 followers)
- a YouTube page at <http://www.youtube.com/blackcardvids>

These pages link “Blackcardstatus” to luxury goods such as Lamborghini and Bentley automobiles, Moet and Dom Perignon champagne, Dolce & Gabbana and Saint Laurent clothing, and Hermes accessories – all highly priced goods connoting the self-same exclusivity associated with American Express Centurion Card holders.

52. Defendants’ use of the BLACKCARDSTATUS mark and domain name and the other domain names and marks described above, have damaged and injured American Express and, if permitted to continue, will further damage and injure American Express, its Black Card Marks, American Express’s reputation and the goodwill associated with the Black Card Marks, and the public interest in being free from confusion.

53. Defendants’ warehousing of multiple domain names incorporating the words “BLACKCARD”, their blatant copying from unrelated websites on their own websites, and their false claims on those websites, are all evidence of defendants’ bad faith intent to profit from the registration of the websites, rather than from the services, and all inure to the detriment of American Express.

54. Defendants' above-described uses of variants of American Express's BLACKCARD name and mark and the false and misleading statements on their various websites are likely to lead the general public to believe that defendants' websites emanate from, or are sponsored by or affiliated with American Express, when in truth and in fact that they are not.

55. The public is likely to believe that defendants' claimed charitable foundation emanates from or is sponsored by or affiliated with American Express.

56. That defendants claim to be venture capitalists and brand strategists for Fortune 500 companies, and that they have "black card *status*", all exacerbate the likely public association between the defendants and their activities on the one hand, and American Express and its Black Card or Centurion card, on the other.

**Defendants' Attempts to Register the BLACKCARDSTATUS Mark**

57. On December 12, 2012, defendant Blackcardstatus LLC applied to register the word mark "BLACKCARDSTATUS" in International Class 41 for "Entertainment in the nature of providing an informational and entertainment website in the fields of celebrity gossip, entertainment, sports and fitness," claiming it commenced use of that mark at least as early as November 26, 2012. The required specimen of use defendants submitted with their application was the "On the Jet. Be Back Later" homepage of [www.blackcardstatus.com](http://www.blackcardstatus.com). (Ex. A).

58. On February 14, 2013, the PTO notified defendants by Office Action that it appeared from the wording of the "On the Jet. Be Back Later" homepage, that defendants were not yet offering the identified entertainment services to consumers and that their use-based application was therefore defective. That same day, defendants responded claiming that "the website was undergoing a refresh; we are constantly working to update and provide new content. The services *were* being rendered in commerce . . . as of the filing date of the application."

The PTO accepted this submission and, on April 9, 2013, published the Blackcardstatus mark for opposition.

59. Upon information and belief, no content regarding celebrity gossip, entertainment, or sports and fitness appeared on the blackcardstatus.com website at the time of defendants' trademark application, as of the date that defendants represented to the PTO that they first began using the mark in commerce, or at the time that defendants informed the PTO that the website was "undergoing a refresh." Indeed, virtually no content at all appeared on this website prior to July 12, 2013, when the above-described false, misleading and imported content first appeared on any of defendants' "BLACKCARDSTATUS" websites.

60. Upon information and belief, several of the representations made by Mr. Graziano in materials he submitted to the Trademark Trial and Appeal Board on behalf of Blackcardstatus LLC – including his representation that he was using the mark BLACKCARDSTATUS in commerce – were false at the time submitted. Upon further information and belief, Mr. Graziano knew at the time that they were false and submitted the false information in order to mislead the Trademark Trial and Appeal Board. Thus, upon information and belief, the entire premise of Blackcardstatus LLC's use-based application is wholly false.

61. On May 1, 2013, plaintiffs requested and were granted an extension of time until August 7, 2013 to oppose defendants' application for the Blackcardstatus mark at the Trademark Trial and Appeal Board.

62. On August 7, 2013, plaintiffs filed and served an opposition to defendants' application for the Blackcardstatus mark with the Trademark Trial and Appeal Board.

**AMEX Demands Defendants Cease and Desist**

63. On February 20, 2013, plaintiffs' outside trademark counsel wrote to defendant Graziano expressing American Express's concern regarding defendants' activities using "BLACKCARDSTATUS" as a company name, trademark, domain name, and on the website blaccardstatus.com. The letter sought "further information regarding your company's purpose, its current or intended service or product offerings, and its target consumers," as well as any flyers, advertisements, newsletters, or mailings.

64. Defendant Graziano responded by email on behalf of himself and Blackcardstatus LLC that same day advising that "the purpose of the website will be to provide reviews on luxury goods. Including, but not limited to, expensive watches, sports cars, champagne, cigars, etc. It will also include photos and blog entries of opulent and decadent vacations and experiences that the average person might not experience in a lifetime." Graziano stated that "it is possible that some of the experiences we document [on the website] may involve" some of his friends using Centurion cards.

65. Graziano's explanation of his intent to link his websites to the American Express Centurion Card demonstrates that defendants' adoption of "black card" as the dominant part of their trade name, trademark, and domain names was not fortuitous, but rather that defendants consciously and intentionally chose "blackcardstatus" in order to capitalize on the name and reputation of American Express's BLACKCARD trademark and its related services offered under that name and mark.

66. By letter dated March 4, 2013, plaintiffs' counsel advised defendants that their use was precisely the type of use that was likely to cause public confusion and demanded that defendants refrain from launching their website, using the BLACKCARDSTATUS name and

mark or “anything else incorporating or confusingly similar” to American Express’s BLACKCARD trademark.

67. Plaintiffs’ counsel followed up by emails on March 18, March 25, April 1, April 8, and May 2, before Mr. Graziano finally replied on May 2, refusing to cease and desist or to withdraw defendants’ trademark application.

68. By a letter dated August 1, 2013, plaintiffs’ counsel advised defendants that their use of trademarks, trade names, and domain names containing the words “black card” infringed American Express’s rights under federal, state, and common law, and demanded that defendants cease and desist from all such uses and withdraw their trademark application. By an email dated August 7, 2013, plaintiffs’ counsel reiterated these demands. Defendants have not replied to that August 1, 2013 letter or that August 7, 2013 email to date.

**AS AND FOR A FIRST CLAIM FOR RELIEF  
(Trademark Infringement Under Section 32(a) of the Lanham Act)**

69. Plaintiffs repeat and reallege paragraphs 1 through and including 68 set forth hereinabove, as if the same were fully set forth herein.

70. American Express owns a valid and protectable federally registered trademark for “BLACKCARD”, Trademark Registration No. 3613898 in Class 36 for credit and debit card services.

71. The Black Card Marks have acquired secondary meaning.

72. Defendants are using in commerce in connection with services a number of marks that are confusingly similar in sound, appearance, and meaning to American Express’s federally registered “BLACKCARD” mark.

73. The services offered by defendants are competitive with and/or directly related to goods and services offered by American Express under its “BLACKCARD” mark, including American Express’s magazines and its entertainment-related and concierge services.

74. Defendants’ actions as alleged herein are likely to cause confusion or mistake or to deceive as to the origin, sponsorship, or approval of defendants’ services, and thus constitute infringement of American Express’s federally registered trademark in violation of Section 32(a) of the Lanham Act, 15 U.S.C. § 1114(1).

75. Defendants have acted and/or continue to act intentionally, willfully, and with full knowledge of American Express’s rights. This case is exceptional within the meaning of 15 U.S.C. § 1117.

76. As a direct and proximate result of defendants’ intentional acts as alleged herein, plaintiffs have been injured and/or will continue to be injured, in an amount presently unknown and to be determined at time of trial.

77. Plaintiffs are entitled to a preliminary and a permanent injunction because the injury that plaintiffs have suffered, are suffering, and will continue to suffer unless defendants’ acts of infringement are enjoined as requested herein is irreparable; plaintiffs have no adequate remedy at law; considering the balance of hardships between plaintiffs and defendants, a remedy in equity is warranted; and the public interest would not be disserved by a permanent injunction.

**AS AND FOR A SECOND CLAIM FOR RELIEF  
(Trademark Infringement, False Designation of Origin, and  
Unfair Competition Under Section 43(a) of the Lanham Act)**

78. Plaintiffs repeat and reallege paragraphs 1 through and including 68, and 70 through and including 77, set forth hereinabove, as if the same were fully set forth herein.

79. The Black Card Marks have acquired secondary meaning.

80. Defendants' actions as alleged herein are likely to confuse consumers as to the origin, sponsorship, or approval of defendants' services and commercial activities, and the affiliation, connection, or association between defendants' and plaintiffs' services, and thus constitute trademark infringement, false designation of origin, and unfair competition with respect to American Express's Black Card Marks in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1114(1).

81. As a direct and proximate result of defendants' intentional acts as alleged herein, plaintiffs have been injured and/or will continue to be injured, in an amount presently unknown and to be determined at time of trial.

82. Defendants acted and/or continue to act intentionally, willfully, and with full knowledge of American Express's rights. This case is exceptional within the meaning of 15 U.S.C. § 1117.

83. Plaintiffs are entitled to a preliminary and a permanent injunction because the injury that plaintiffs have suffered, are suffering, and/or will continue to suffer unless defendants' acts of infringement are enjoined as requested herein is irreparable; plaintiffs have no adequate remedy at law; considering the balance of hardships between plaintiffs and defendants, a remedy in equity is warranted; and the public interest would not be disserved by a permanent injunction.

**AS AND FOR A THIRD CLAIM FOR RELIEF  
(Trademark Cyberpiracy Under Section 43(d) of the Lanham Act)**

84. Plaintiffs repeat and reallege paragraphs 1 through and including 68 set forth hereinabove, as if the same were fully set forth herein.

85. Defendants' actions as alleged herein constitute cyberpiracy under the Lanham Act, 15 U.S.C. § 1125(d).

86. Defendants registered and are using domain names that are confusingly similar to American Express's Black Card Marks and that incorporate American Express's federally registered "BLACKCARD" mark in its entirety.

87. The Black Card Marks have acquired secondary meaning and are distinctive, and were distinctive and/or famous at the time Defendant registered each of the Infringing Domain Names.

88. Defendants' registration and use of the domain names hereinabove described are likely to cause consumers to believe erroneously that defendants' websites are sponsored, approved, or endorsed by, or otherwise affiliated with, American Express and its Centurion or "Black Card".

89. Defendants possess the bad faith intent to profit from the public's association of the Black Card Marks with American Express and its Centurion or Black Card. Defendants' bad faith intent is evidenced by their lack of rights in the marks at issue; their lack of prior use of the marks in any bona fide offering of goods and services; their admitted intent to associate their activities with the American Express Centurion or Black Card; and their registration of multiple domain names that they know are confusingly similar to American Express's Black Card Marks.

90. As a direct and proximate result of defendants' intentional acts as alleged herein, plaintiffs have been injured and/or will continue to be injured, in an amount presently unknown and to be determined at time of trial.

91. Defendants have acted and/or continue to act intentionally, willfully, and with full knowledge of American Express's rights. This case is exceptional within the meaning of 15 U.S.C. § 1117.

92. Plaintiffs are entitled to a preliminary and a permanent injunction restraining further acts of cyberpiracy and transferring defendants' domain names to plaintiffs, because the injury that plaintiffs have suffered, are suffering, and/or will continue to suffer unless defendants' acts of infringement are enjoined as requested herein is irreparable; plaintiffs have no adequate remedy at law; considering the balance of hardships between plaintiffs and defendants, a remedy in equity is warranted; and the public interest would not be disserved by a permanent injunction.

**AS AND FOR A FOURTH CLAIM FOR RELIEF  
(Common Law Trademark Infringement and Unfair Competition)**

93. Plaintiffs repeat and reallege paragraphs 1 through and including 68, set forth hereinabove, as if the same were fully set forth herein.

94. Defendants' actions as alleged herein constitute common law trademark infringement and common law unfair competition.

95. Defendants' actions as alleged herein are likely to cause confusion and deception in the consuming public and have caused and are likely to cause American Express actual injury or damage.

96. The Black Card Marks have acquired secondary meaning.

97. Defendants have used and/or continue to use in commerce marks that are confusingly similar in sound, appearance, and meaning to American Express's Black Card Marks, notwithstanding the fact that each of them knew that American Express is the rightful owner of those marks, in order to trade upon and profit from American Express's reputation and goodwill associated with the Black Card Marks.

98. Defendants have acted and/or are acting with predatory intent and in bad faith.

99. Plaintiffs are entitled to an award of actual damages in an amount presently unknown and to disgorgement of defendants' infringing profits.

100. Plaintiffs seek punitive damages for defendants' gross, wanton, and willful fraud and morally culpable conduct.

101. Plaintiffs are entitled to a preliminary and a permanent injunction because the injury that plaintiffs have suffered, are suffering, and/or will continue to suffer unless defendants' acts of infringement are enjoined as requested herein is irreparable; plaintiffs have no adequate remedy at law; considering the balance of hardships between plaintiffs and defendants, a remedy in equity is warranted; and the public interest would not be disserved by a permanent injunction.

**AS AND FOR A FIFTH CLAIM FOR RELIEF  
(Trademark Dilution Under N.Y. Gen. Bus. Law 360-l)**

102. Plaintiffs repeat and reallege paragraphs 1 through and including 68, set forth hereinabove, as if the same were fully set forth herein.

103. Defendants' actions as alleged herein constitute trademark dilution in violation of N.Y. Gen. Bus. Law § 360-l.

104. The Black Card Marks are well known and distinctive as indicators of source for American Express and its Centurion Card services.

105. Defendants' use of the Black Card Marks on their websites and for their venture capital and industrial design businesses is likely to and actually dilutes and blurs the distinctiveness of American Express's Black Card Marks.

106. Defendants' false statements on their "blackcard" websites and the business activities they claim to conduct on those websites are likely to and actually dilute and tarnish the American Express Black Card Marks.

107. As a direct and proximate result of defendants' intentional acts as alleged herein, plaintiffs have been injured and/or will continue to be injured, in an amount presently unknown and to be determined at time of trial.

108. Plaintiffs are entitled to a preliminary and a permanent injunction because the injury that plaintiffs have suffered, are suffering, and/or will continue to suffer unless defendants' acts of infringement are enjoined as requested herein is irreparable; plaintiffs have no adequate remedy at law; considering the balance of hardships between plaintiffs and defendants, a remedy in equity is warranted; and the public interest would not be disserved by a permanent injunction.

**AS AND FOR A SIXTH CLAIM FOR RELIEF  
(Trademark Dilution Under 54 Pa. Cons. Stat. § 1124)**

109. Plaintiffs repeat and reallege paragraphs 1 through and including 68, set forth hereinabove, as if the same were fully set forth herein.

110. Defendants' actions as alleged herein constitute trademark dilution in violation of 54 Pa. Cons. Stat. § 1124.

111. The Black Card Marks are famous in this Commonwealth as indicators of source for American Express and its Centurion Card services.

112. Defendants' use of the Black Card Marks on their websites and for their venture capital and industrial design businesses began after the Black Card Marks became famous in this Commonwealth.

113. Defendants' use of the Black Card Marks on their websites and for their venture capital and industrial design businesses causes dilution of and blurs the distinctive quality of American Express's Black Card Marks.

114. Defendants' false statements on their "blackcard" websites and the business activities they claim to conduct on those websites dilute and tarnish the American Express Black Card Marks.

115. Defendants willfully intended to trade on plaintiffs' reputation and to cause dilution of plaintiffs' famous mark

116. As a direct and proximate result of defendants' intentional acts as alleged herein, plaintiffs have been injured and/or will continue to be injured, in an amount presently unknown and to be determined at time of trial.

117. Plaintiffs are entitled to a preliminary and a permanent injunction because the injury that plaintiffs have suffered, are suffering, and/or will continue to suffer unless defendants' acts of infringement are enjoined as requested herein is irreparable; plaintiffs have no adequate remedy at law; considering the balance of hardships between plaintiffs and defendants, a remedy in equity is warranted; and the public interest would not be disserved by a permanent injunction.

**AS AND FOR A SEVENTH CLAIM FOR RELIEF  
(Fraud on the United States Patent and Trademark Office)**

118. Plaintiffs repeat and reallege paragraphs 1 through and including 68, set forth hereinabove, as if the same were fully set forth herein.

119. Defendants' actions as alleged herein constitute fraud on the United States Patent and Trademark Office.

120. In Trademark Application No. 85/801,419, submitted to the PTO on December 12, 2012, defendants falsely claimed that they were using the BLACKCARDSTATUS mark in commerce and had been doing so at least as early as November 26, 2012.

121. In their February 14, 2013 submission to the PTO, defendants reiterated their false claim that they were using the BLACKCARDSTATUS in commerce and had been doing so at least as early as November 26, 2012.

122. On information and belief, at no time prior to July 12, 2012 did defendants use the BLACKCARDSTATUS mark in connection with the offering of any goods or services in commerce.

123. Plaintiffs are entitled to a preliminary and a permanent injunction requiring defendants to withdraw their application, because the injury that plaintiffs have suffered, are suffering, and/or will continue to suffer unless defendants' actions are enjoined as requested herein is irreparable; plaintiffs have no adequate remedy at law; considering the balance of hardships between plaintiffs and defendants, a remedy in equity is warranted; and the public interest would not be disserved by a permanent injunction.

#### **PRAYER FOR RELIEF**

Wherefore, plaintiffs respectfully request that this Court enter judgment as follows:

1. Preliminarily and permanently enjoining defendants and all those acting at their direction or pursuant to their control from:

- a. Registering, applying to register, or maintaining a registration for the "BLACKCARDSTATUS" mark or domain name, or any mark or domain name relating to, containing, or suggesting the Black Card Marks, including but not limited to "BLACKCARDVC", "BLACKCARDVENTURECAPITAL", "BLACKCARDINVEST", "BLACKCARDCARES", "BLACKCARDCOLLECTION", "BLACKCARDLIFEMAG," "BLACKCARDPR", "BLACKCARDLIFESTYLE", "BLACKCARDMAIL",

“BLACKCARDPICS”, “BLACKCARDPROPERTIES”,  
“BLACKCARDTWEETS”, BLACKCARDVIDEOS”, or  
“BLACKCARDVID”, or any other mark belonging to American Express;

- b. Using the “BLACKCARDSTATUS” mark or domain name, or any mark or domain name relating to, containing, or suggesting the Black Card Marks, including but not limited to “BLACKCARDVC”, “BLACKCARDVENTURECAPITAL”, “BLACKCARDINVEST”, “BLACKCARDCARES”, “BLACKCARDCOLLECTION”, “BLACKCARDLIFEMAG,” “BLACKCARDPR”, “BLACKCARDLIFESTYLE”, “BLACKCARDMAIL”, “BLACKCARDPICS”, “BLACKCARDPROPERTIES”, “BLACKCARDTWEETS”, BLACKCARDVIDEOS”, or “BLACKCARDVID”, or any other mark belonging to American Express;
- c. Representing, by any means whatsoever, that any services offered, advertised, promoted, marketed, or sold by defendants are offered by or affiliated with American Express; or
- d. Doing any other act or thing calculated or likely to cause confusion or mistake in the minds of the public or prospective consumers of American Express’s services as to the source of defendants’ services;
- e. Otherwise unfairly competing with American Express.

2. Directing defendants to transfer to American Express ownership of the registrations for the domain name blackcardstatus.com and any other domain names containing the words “black card”;

3. Directing defendants to remove any social media account, username, nickname, or handle containing the words “Black Card”, or to rename such account, username, nickname, or handle to remove the words “Black Card”;

4. Directing defendants to take affirmative steps to dispel the false impressions that have been heretofore created by the use of marks and domain names confusingly similar to the Black Card Marks;

5. Directing defendants to withdraw their application for a federal trademark for the mark “BLACKCARDSTATUS”;

6. Awarding damages to plaintiffs in an amount to be ascertained at time of trial;

7. Ordering defendants to account and pay to plaintiffs all profits and advantages gained from defendants’ wrongful acts, and, in accordance with such accounting, award American Express three times such profits or three times American Express’s damages (whichever is greater), pursuant to 15 U.S.C. § 1117;

8. Awarding statutory damages to plaintiffs pursuant to 15 U.S.C. § 1117(d);

9. Awarding punitive damages to plaintiffs for defendants’ acts of common law trademark infringement and common law unfair competition;

10. Awarding to plaintiffs their reasonable attorneys’ fees and disbursements in this action, pursuant to 15 U.S.C. § 1117; and

11. Granting plaintiffs such other and further relief as to this Court shall seem just and proper.

Plaintiffs request a jury trial.

Dated: August 14, 2013

Respectfully submitted,

REED SMITH LLP  
Reed Smith Centre  
225 Fifth Avenue  
Pittsburgh, PA 15222

By: s/ David R. Cohen  
David R. Cohen (Pa I.D. No. 39540)

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Carolyn K. Foley (*pro hac vice* application forthcoming)

Camille Calman (*pro hac vice* application forthcoming)

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**EXHIBITS  
OMITTED**

# **EXHIBIT B**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

-----	x	
AMERICAN EXPRESS MARKETING & DEVELOPMENT CORP. and AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY, INC.,	:	Civil Action No. 13-cv-01177-DSC
	:	David S. Cercone
	:	United States District Judge
Plaintiffs,	:	
- against -	:	
BLACKCARDSTATUS LLC and JOSEPH GRAZIANO,	:	
	:	
Defendants.	:	
-----	x	

**REQUEST TO ENTER DEFAULT AGAINST  
DEFENDANT BLACKCARDSTATUS LLC**

To the Clerk of the U.S. District Court for the Western District of Pennsylvania

You will please enter the default of defendant Blackcardstatus LLC for failure to plead or otherwise defend as provided by the Federal Rules of Civil Procedure as appears from the affidavit of Camille Calman hereto attached.

Dated: Pittsburgh, Pennsylvania  
October 28, 2013

Respectfully submitted,

DAVIS WRIGHT TREMAINE LLP

By: /s/ Camille Calman  
Marcia B. Paul (admitted *pro hac vice*)  
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206718)

*Attorneys for American Express Marketing &  
Development Corp. and American Express  
Travel Related Services Company, Inc.*

AND NOW, THIS 29<sup>th</sup> DAY OF October, 2013 pursuant to request to enter default and affidavits filed, default is hereby entered against Defendant Blackcardstatus LLC for failure to plead or otherwise defend.

\_\_\_\_\_  
Clerk

*R.J. Barth*