

ESTTA Tracking number: **ESTTA575082**

Filing date: **12/06/2013**

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	David J Aiello Jr
Granted to Date of previous extension	12/07/2013
Address	36 Armand Way Hope, RI 02831 UNITED STATES
Party who filed Extension of time to oppose	DavidJ Aiello Jr
Relationship to party who filed Extension of time to oppose	Formatting Error. This is the same individual who filed for the extension.

Correspondence information	David J Aiello Jr 36 Armand Way Hope, RI 02831 UNITED STATES daiellojr@gmail.com Phone:4016998079
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**Applicant Information**

Application No	85892456	Publication date	10/08/2013
Opposition Filing Date	12/06/2013	Opposition Period Ends	12/07/2013
Applicant	Glaser, Lawrence F. 10705 Averett Drive Fairfax Station, VA 22039 USX		

**Goods/Services Affected by Opposition**

Class 036. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Electronic transfer of money; Electronic transfers of money; Exchanging money; Money transfer
Class 039. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Transport of money and valuables

**Grounds for Opposition**

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Other	Applicant is not the true owner of the mark.

### Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	BITCARD		
Goods/Services	Class 036. First Use: 2013/02/13. First Use In Commerce: 2013/02/13. Electronic transfer of money; Electronic transfers of money; Exchanging of money; Money transfer Class 039. First use: First Use: 2013/02/13. First Use In Commerce: 2013/02/13. Transport of money and valuables		

Attachments	Notice of Opposition Pleading1.pdf(3076563 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 USPS Express Mail Post Office to Addressee on this date.

Signature	/David J Aiello Jr/
Name	David J Aiello Jr
Date	12/06/2013



- 1 4. Opposer's use of Opposer's Mark has been valid and in continuous since at least  
2 February 13 of 2013 and has not been abandoned. Opposer's mark is symbolic of  
3 extensive goodwill and consumer recognition. As a result of the substantial amounts of  
4 time and effort in advertising and promotion, Opposer has developed an exceedingly  
5 valuable goodwill in respect to Opposer's mark.
- 6 5. Applicant's Mark and Opposer's Mark are identical in sound, appearance and  
7 meaning.
- 8 6. Applicant's services and Opposer's proposed services are very similar and related.
- 9 7. Applicant's services and Opposer's proposed services are likely to be marketed and  
10 sold together
- 11 8. On information and belief, Opposer alleges that the services of Opposer and  
12 Applicant are offered or are to be offered in similar channels of commerce and offered  
13 to similar customers
- 14 9. Applicant's use of and application to register BITCARD is without the consent or  
15 permission of Opposer
- 16 10. Applicant's Mark and Opposer's Mark are likely to be confused
- 17 11. On information and belief, Opposer's first use of Opposer's Mark precedes  
18 Applicant's first use of Applicant's Mark in commerce.
- 19 12. On information and belief, Opposer's first use of Opposer's mark precedes the  
20 filing of Applicant's application to register Applicant's Mark in the United States Patent  
21 and Trademark Office.
- 22 13. On information and belief, Applicant is not the true owner of the mark in  
23 Application Serial No. 85892456.
- 24 14. On information and belief, Applicant has committed fraud in the filing of  
25 Application Serial No. 85892456.
- 26 15. As a result of confusing similarity between Opposer's Mark and Applicant's Mark  
27 and because the goods and/or services of Applicant and Opposer are very similar, are in  
28 similar channels of commerce, and are directed to similar customers, registration of the  
proposed mark BITCARD in connection with Applicant's services is likely to deceive

1 purchasers as to the source or sponsorship of such services, to cause confusion, to cause  
2 mistake, or to deceive.

3 16. Consumers familiar with the Opposer's Mark are likely to mistakenly believe that  
4 Applicant's services are sponsored, authorized, associated with or otherwise approved  
5 by Opposer because the proposed mark is identical to Opposer's Mark. Deficiencies or  
6 faults in the quality of Applicant's services are likely to reflect negatively upon, tarnish  
7 and seriously injure the reputation which Opposer has established for services provided  
8 under Opposer's Mark. This confusion is likely to result in loss of revenues to Opposer  
9 and damage Opposer's reputation.

10 17. Applicant's use of the Applicant's Mark does or is likely to falsely suggest a  
11 relationship between Applicant's services and Opposer's. Such use of the BITCARD mark  
12 is likely to cause confusion, mistake or deception with respect to the source or  
13 sponsorship of Applicant's services. Such use is likely to cause a significant level of sales  
14 by Applicant to customers who would be confused by the use of the proposed mark into  
15 believing that Opposer is the source of Applicant's services, resulting in ill-gotten gains  
16 by Applicant.

17 18. Opposer is likely to be damaged by registration of Applicant's mark in that the  
18 prima facie effect of registration of Applicant's mark would tend to impair Opposer's  
19 right to use the wording contained in Applicant's mark.

20 19. Opposer is likely to be damaged by registration of Applicant's mark in that the  
21 prima facie effect of registration of Applicant's mark would tend to impair Opposer's  
22 right to register Opposer's Mark with the US Patent and Trademark Office.

23 20. For the foregoing reasons, the registration sought by the Applicant is contrary to  
24 the provisions of the Lanham Act, and Opposer would be damaged thereby.

25 WHEREFORE, Opposers pray that the application for registration of the  
26 mark BITCARD, Serial No. 85892456, be refused and that this Opposition be sustained in favor  
27 of Opposer.

28 The fee required by Sect. 2.6(a)(17) is enclosed herewith.

Respectfully submitted by Opposer,

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3 Dated this 6<sup>th</sup> of December, 2013  
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5  
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Opposer  
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