

ESTTA Tracking number: **ESTTA586611**

Filing date: **02/11/2014**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Wells Fargo & Company
Granted to Date of previous extension	02/26/2014
Address	1700 Wells Fargo Center MAC N9305-176 Minneapolis, MN 55479 UNITED STATES

Name	Wells Fargo Advisors LLC		
Entity	Corporation	Citizenship	Missouri
Address	1700 Wells Fargo Center MAC N9305-176 Minneapolis, MN 55402 UNITED STATES		

Attorney information	Felicia J. Boyd Barnes & Thornburg LLP 225 South Sixth Street, Suite 2800 Minneapolis, MN 55402-4662 UNITED STATES wellsfargofilings@btlaw.com, felicia.boyd@btlaw.com, carrie.hefte@wellsfargo.com, kerry.thompson@btlaw.com, heather.johnson@btlaw.com Phone:612-367-8729
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Applicant Information

Application No	86003425	Publication date	10/29/2013
Opposition Filing Date	02/11/2014	Opposition Period Ends	02/26/2014
Applicants	Doctor's Affiliates, Inc. 300 Shefwood Drive Easley, SC 29642 SEYCHELLES Kenneth Kopp 300 Shefwood Drive Easley, SC 29642 USX		

Goods/Services Affected by Opposition

Class 036. First Use: 2013/07/05 First Use In Commerce: 2013/07/05
All goods and services in the class are opposed, namely: Insurance consultation; real estate consultation, namely, consultation with respect to real estate acquisitions, divestitures, management and processes, real estate financing, and real estate appraisal; financial analysis and

consultation;actuarial services; financial valuationof business enterprises, tangible and intangible property and real estate; investment consultation services to government entities, private and public companies; capital investment consultation for private and public companies; risk management services; Real estate brokerage

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3149480	Application Date	02/10/2004
Registration Date	09/26/2006	Foreign Priority Date	NONE
Word Mark	AG EDWARDS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2003/09/23 First Use In Commerce: 2004/02/28 Financial services, namely, financial consultation, financial investment services in the field of securities, annuities, bonds, certificates of deposit, defined portfolios, futures, commodities, insurance, mutual funds, stocks, options, and other securities, and financial brokerage services in the nature of mutual fund, security,and stock brokerage services		

U.S. Registration No.	3086277	Application Date	02/10/2004
Registration Date	04/25/2006	Foreign Priority Date	NONE
Word Mark	AG EDWARDS		

Design Mark	
Description of Mark	The mark consists of the literal element AG EDWARDS and a design element with the letters A and G integrated into a stylized representation of a wing and flame.
Goods/Services	Class 036. First use: First Use: 2003/09/23 First Use In Commerce: 2004/02/28 Financial services, namely, financial consultation, financial investment services in the field of securities, annuities, bonds, certificates of deposit, defined portfolios, futures, commodities, insurance, mutual funds, stocks, options, and other securities, and financial brokerage services in the nature of mutual fund, security, and stock brokerage services

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	AG EDWARDS		
Goods/Services	Financial services, namely, financial consultation, financial investment services in the field of securities, annuities, bonds, certificates of deposit, defined portfolios, futures, commodities, insurance, mutual funds, stocks, options, and other securities, and financial brokerage services in the nature of mutual fund, security, and stock brokerage services		

Attachments	78365390#TMSN.jpeg(bytes) 78365388#TMSN.gif(bytes) Notice of Opposition.pdf(26329 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	/Felicia J. Boyd/
Name	Felicia J. Boyd
Date	02/11/2014

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

In the Matter of Application Serial No. 86/003,425
For the Mark: AG EDWARDS
Filed: July 5, 2013
Date of Publication: October 29, 2013

WELLS FARGO & COMPANY and WELLS
FARGO ADVISORS LLC,

Opposers,

v.

DOCTOR' S AFFILIATES, INC. AND KENNETH
KOPP,

Applicants.

Opposition No. _____

NOTICE OF OPPOSITION

Wells Fargo & Company and Wells Fargo Advisors, LLC (collectively “Wells Fargo” or “Opposers”) will be damaged by registration of the mark AG EDWARDS shown in Serial No. 86/003,425 (the “Opposed Application”) and hereby oppose registration of that mark. Serial No. 86/003,425 is an application of Doctor’ s Affiliates, Inc. and Kenneth Kopp filed July 5, 2013 and published for opposition in the Official Gazette on October 29, 2013. The period for filing a Notice of Opposition expires February 26, 2014, and therefore, this Notice of Opposition is timely filed. The grounds for this opposition are as follows:

INTRODUCTION

Opposers bring this action to stop Applicants’ illegitimate registration of the mark “AG EDWARDS” as part of a transparent attempt to build a new business based on misappropriation of brand recognition and deception of consumers. The AG EDWARDS mark is not Applicants’

to register or use. Wells Fargo acquired all legal rights to the AG EDWARDS mark in 2008 and continued to operate AG Edward' s business under the umbrella of Wachovia Coporation and Wachovia Securities, subsequently, Wells Fargo Advisors, LLC. AG Edwards was a very successful company with an excellent reputation. Rather than establish a brand and reputation of its own, Applicants are attempting to misappropriate the goodwill of a recognized brand and compete in a manner calculated to deceive consumers and irreparably harm Opposers.

Wells Fargo continues to use the AG EDWARDS name and benefit from the goodwill acquired in 2008 with the acquisition of all of the assets of AG Edwards. Applicants' improper attempt to register the AG EDWARDS mark threatens to misappropriate that goodwill and threatens to confuse, deceive, and mislead consumers.

BASIS OF OPPOSITION

1. Wells Fargo & Company is a diversified financial services company providing banking, insurance, trust and investments, mortgage banking, investment banking, retail banking, brokerage services, and consumer and commercial finance to individuals and businesses across the United States and internationally. Wells Fargo & Company is incorporated in Delaware and headquartered in San Francisco, California.

2. Wells Fargo Advisors LLC is a non-bank subsidiary of Wells Fargo, located in St. Louis, Missouri. It is the third largest full-service provider of retail brokerage services in the U.S. (based on the number of Financial Advisors as of June 30, 2013) and the third largest provider of managed accounts (based on assets as of June 30, 2013) with \$1.4 trillion retail client assets under management (as of December 31, 2013).

3. In 2008, Wells Fargo & Company acquired Wachovia Corporation and all of its assets. With this acquisition, Wells Fargo & Company acquired, *inter alia*, all of the assets of

AG Edwards including, but not limited to, the trademark AG EDWARDS, the federal registrations for the same, and all goodwill therein.

4. This acquisition was attractive in view of AG Edwards' s significant commercial success and its unparalleled reputation from 1887 through 2008. The company was founded in 1887 when Albert Gallatin Edwards and his son opened for business in St. Louis. It was the first St. Louis brokerage to handle transactions on the New York Stock Exchange, buying a seat on the NYSE in 1898. Because of increased capital needs for its branch system, A.G. Edwards was among the first brokerage firms to go public. On November 1971, 445,000 shares of stock were offered to the public at \$12 per share. As of March 29, 2007, the company had over 740 locations in 50 states, the District of Columbia, London, and Geneva. The company served its clients through its branch-office networks staffed with 6,618 financial consultants, managing \$374 billion in total client assets, and \$44 billion in fee-based accounts. During its fiscal year 2007, ending February 28th, A.G. Edwards had net revenues of \$3,110,500,000 and net earnings of \$331,400,000.

5. At the time of the acquisition, the AG Edwards brand had been continuously used for more than one hundred years in the insurance and financial services brokerage marketplace.

6. Throughout this period of use, Opposers' predecessors-in-interest expended significant resources to protect the AG EDWARDS brand and to increase the reputation and goodwill associated with the name and the services it provided.

7. When Wells Fargo & Company acquired Wachovia and all of the rights to the AG Edwards brand, Wells Fargo & Company and Wells Fargo Advisors, LLC continued to use the AG EDWARDS name because of the substantial goodwill it has. Indeed, Opposers continue to commercially use the AG EDWARDS name today.

8. Opposers and its predecessors-in-interest have continuously used the mark AG EDWARDS for more than 120 years.

9. Since long prior to the filing date of the Opposed Application, Opposers, and its predecessors in interest, have protected the AG EDWARDS brand and worked to maintain the reputation and goodwill associated with the same and the services provided thereunder.

10. As a result of Opposers' , and its predecessors in interest' s, continuous advertising, promotion, sale, and offering of commercial banking and insurance services under the AG EDWARDS mark, the AG EDWARDS mark became famous and well known to consumers as uniquely identifying Opposers, long prior to the filing date of the Application opposed herein.

11. On July 5, 2013, Applicants filed the Opposed Application based on an intent-to-use for AG EDWARDS, for “insurance consultation; real estate consultation, namely, consultation with respect to real estate acquisitions, divestitures, management and processes, real estate financing, and real estate appraisal; financial analysis and consultation; actuarial services; financial valuation of business enterprises, tangible and intangible property and real estate; investment consultation services to government entities, private and public companies; capital investment consultation for private and public companies; risk management services; real estate brokerage” in Class 036, respectively. Said application was assigned Serial No. 86/003,425.

12. The mark in the Opposed Application, AG EDWARDS, is identical to Opposers' mark AG EDWARDS.

13. Applicants have no rights in the mark AG EDWARDS prior to the filing date of its intent-to-use application on July 5, 2013.

14. Applicants have no rights in the mark AG EDWARDS prior to Opposers' common law trademark rights in the mark AG EDWARDS.

15. The services in the opposed application are identical to and directly related to Opposers' services offered and/or promoted under the mark AG EDWARDS. Applicants' use and attempted registration of the mark "AG EDWARDS" for the identified real estate risk management and investment consultation services is a deliberate attempt to capitalize on the goodwill established by Opposers in the AG EDWARDS name.

16. Upon information and belief, Applicants have falsely advertised to the public that it acquired the right to use the AG EDWARDS mark.

17. Applicants' use and registration of the mark AG EDWARDS for real estate risk management and investment consultation services is likely to cause confusion, mistake, or deception with Opposers' products and services. Consumers are likely to falsely believe that Applicants' real estate risk management and investment consultation services are Opposers' products and services or are sponsored, authorized, licensed or in some other way legitimately connected with Opposers.

18. Opposers have not consented to the use or registration of the mark AG EDWARDS by Applicants.

19. Upon information and belief, actual confusion has resulted from Applicants' use of the AG EDWARDS mark and is likely to continue.

20. Applicants' mark falsely suggests a connection with Opposers within the meaning of Section 2(a) of the Trademark Act, 15 U.S.C. § 1052(a), because (a) the Applicants' mark AG EDWARDS is the same as Opposers' mark AG EDWARDS, (b) Opposers have attained fame and reputation in the mark AG EDWARDS by virtue of over a century of exclusive use and significant generated revenue and marketing expenditures such that the mark AG EDWARDS when used on or in connection with the identified services would be recognized as pointing

uniquely and unmistakably to Opposers, (c) Applicants are not connected with the services offered in the past by Opposers under the AG EDWARDS mark, and (d) the mark AG EDWARDS has acquired sufficient fame and reputation that a connection with Opposers will be presumed when Applicants use the mark AG EDWARDS on Applicant' s services.

21. Applicants are seeking registration of AG EDWARDS in bad faith as part of an attempt to defraud consumers as to the source, reputation and history of the services they intend to offer to consumers.

22. Opposers would be injured by the grant to Applicants of the registration sought because Applicants' mark AG EDWARDS so resembles Opposers' mark as to be likely, when used on Applicants' services, to cause confusion, or to cause mistake, or to deceive, to falsely suggest a connection with Opposers, and to damage Opposers' goodwill in Opposers' mark.

WHEREFORE, Opposers believe that they will be damaged by the registration of AG EDWARDS by Applicants and pray that registration be denied.

Date: February 11, 2014

BARNES & THORNBURG LLP

By: s/ Felicia J. Boyd

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ATTORNEYS FOR OPPOSERS

CERTIFICATE OF TRANSMITTAL

I hereby certify that this correspondence is being electronically transmitted, in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trial and Appeals (ESTTA) on February 11, 2014.

By: s/ Felicia J. Boyd
Felicia J. Boyd

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served upon Attorney of Record for Applicant:

Doctor' s Affiliates, Inc.
300 Shefwood Drive
Easley, South Carolina 29642-3328
E-mail: allprointernet@gmail.com

via First Class mail, postage prepaid, on this 11th day of February, 2014.

/s/ Felicia J. Boyd