

ESTTA Tracking number: **ESTTA614595**

Filing date: **07/09/2014**

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 party opposes registration of the indicated application.

Opposer Information

Name	Visa International Service Association
Granted to Date of previous extension	07/09/2014
Address	900 Metro Center Blvd. Foster City, CA 94404 UNITED STATES
Attorney information	Beth M. Goldman and Betsy Wang Lee Orrick, Herrington & Sutcliffe LLP 405 Howard Street San Francisco, CA 94105 UNITED STATES ipprosecutionsf@orrick.com, blee@orrick.com Phone:415-773-5700

Applicant Information

Application No	85829275	Publication date	03/11/2014
Opposition Filing Date	07/09/2014	Opposition Period Ends	07/09/2014
Applicant	Infinity Financial Group, Inc. 2600 Westown Pkwy, Suite 101 West Des Moines, IA 50266 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. First Use: 2007/08/01 First Use In Commerce: 2007/08/01
All goods and services in the class are opposed, namely: Mortgage banking

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.	2559111	Application Date	11/12/1997
Registration Date	04/09/2002	Foreign Priority Date	NONE
Word Mark	INFINITE		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 036. First use: First Use: 2001/02/00 First Use In Commerce: 2001/02/00 Financial services, namely, banking, credit card, debit card, and bill payment services
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U.S. Registration No.	2464124	Application Date	11/20/1997
Registration Date	06/26/2001	Foreign Priority Date	NONE
Word Mark	VISA INFINITE		
Design Mark	VISA INFINITE		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2000/10/16 First Use In Commerce: 2000/10/16 Financial services, namely, banking, credit card, debit card, and bill payment services		

Attachments	75393689#TMSN.gif(bytes) NOO INFINITY FINANCIAL GROUP.pdf(144172 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	/Betsy Wang Lee/
Name	Betsy Wang Lee
Date	07/09/2014

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

In the Matter of Application Serial No. 85/829,275
Published in the *Official Gazette* on March 11, 2014
Trademark: INFINITY FINANCIAL GROUP & Design

Visa International Service Association,	
Opposer	
v.	
Infinity Financial Group, Inc.,	
Applicant.	

NOTICE OF OPPOSITION

Visa International Service Association (“Opposer”), a Delaware corporation having a principal place of business at 900 Metro Center Boulevard, Foster City, California 94404, believes it will be damaged by registration of the mark INFINITY FINANCIAL GROUP & Design shown in Serial No. 85/829,275 in International Class 36 and hereby opposes the same.

As grounds for opposition, Opposer alleges:

1. Opposer has obtained the necessary extension(s) of time in which to oppose the challenged trademark following publication on March 11, 2014 in the *Official Gazette*.
2. Infinity Financial Group, Inc. (“Applicant”) has filed an application to register the mark INFINITY FINANCIAL GROUP & Design for “mortgage banking” (hereinafter “Applicant’s Services”) in International Class 36 as evidenced by the publication of such mark in the *Official Gazette* on March 11, 2014.

3. Applicant is, upon information and belief, an Iowa corporation having a principal place of business at 2600 Westown Pkwy, Suite 101, West Des Moines, Iowa 50266.

4. Opposer is the owner of the following two incontestable federal trademark registrations for “financial services, namely, banking, credit card, debit card, and bill payment services” (hereinafter “Opposer’s Services”) in International Class 36:

REG. NO.	MARK	SERVICES	REG. DATE
2,559,111	INFINITE	“Financial services, namely, banking, credit card, debit card, and bill payment services” in International Class 36	April 9, 2002
2,464,124	VISA INFINITE	“Financial services, namely, banking, credit card, debit card, and bill payment services” in International Class 36	June 26, 2001

(collectively, the “INFINITE Marks”)

5. Opposer’s Registration Nos. 2,559,111 and 2,464,124 are valid, subsisting and incontestable pursuant to 15 U.S.C. §1065, and are conclusive evidence of the validity of each registered mark set forth therein and of Opposer’s exclusive right to use each registered mark set forth therein.

6. There is no issue as to priority. Upon information and belief, Applicant has not used the mark INFINITY FINANCIAL GROUP & Design in connection with Applicant’s Services prior to August 1, 2007, as evidenced by Applicant’s date of first use alleged in the subject application. The registration date of Opposer’s registrations for INFINITE and VISA INFINITE are April 9, 2002 and June 26, 2001 respectively.

7. Opposer has offered Opposer's Services under the INFINITE Marks throughout the United States and has developed exceedingly valuable goodwill with respect to the INFINITE Marks.

8. By virtue of its efforts and the expenditure of considerable sums for promotional and advertising activities and by virtue of the excellence of Opposer's Services, Opposer has gained for its INFINITE Marks a most valuable reputation and has created, in the minds of the buying public, an exclusive association between Opposer and its INFINITE Marks.

9. The trademark proposed for registration by Applicant, namely, INFINITY FINANCIAL GROUP & Design, is likely to be confused with Opposer's INFINITE Marks because it is similar in appearance, sound and overall commercial impression to Opposer's INFINITE Marks.

10. Applicant seeks to register INFINITY FINANCIAL GROUP & Design as a mark in connection with Applicant's Services which are related to Opposer's Services, and such use so nearly resembles Opposer's use as to be likely to cause confusion, to cause mistake or to deceive within the meaning of 15 U.S.C. §1052(d).

11. If Applicant is permitted to use and register the INFINITY FINANCIAL GROUP & Design mark for Applicant's Services, confusion in trade resulting in damage and injury to Opposer would be caused and would result by reason of the fact that Applicant's INFINITY FINANCIAL GROUP & Design mark is confusingly similar to Opposer's INFINITE Marks. Persons familiar with Opposer's INFINITE Marks may mistakenly use or purchase Applicant's Services marketed under its INFINITY FINANCIAL GROUP & Design mark as services offered by Opposer or its bank licensees. Furthermore, any defect, objection, or fault found with Applicant's Services marketed under its INFINITY FINANCIAL GROUP & Design mark would

be likely to reflect upon and seriously injure the reputation that Opposer has established for Opposer's Services offered under its INFINITE Marks.

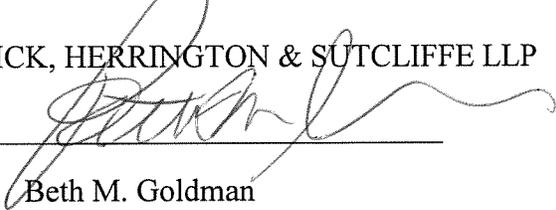
12. If Applicant is granted the registration herein opposed, such registration would be a source of damage and injury to Opposer.

WHEREFORE, Opposer prays that the opposition be sustained and that the application be refused for registration.

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP

Dated: July 9, 2014

By:  _____

Beth M. Goldman
Betsy Wang Lee
405 Howard Street
San Francisco, CA 94105

Attorneys for Opposer Visa International Service Association

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Notice of Opposition was served by First Class Mail, on July 9, 2014, on counsel for Applicant at the following address:

Matthew H. Swyers
The Trademark Company
344 Maple Ave. W., Ste. 151
Vienna, VA 22180-5612

Dated: July 9, 2014

By: Betsy Wang Lee
Betsy Wang Lee