

ESTTA Tracking number: **ESTTA711426**

Filing date: **11/30/2015**

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	Discover Financial Services
Granted to Date of previous extension	11/29/2015
Address	2500 Lake Cook Road Riverwoods, IL 60015 UNITED STATES

Correspondence information	Discover Financial Services 2500 Lake Cook Road Riverwoods, IL 60015 UNITED STATES tjb@cfl.com, trademark@cfl.com, fxm@cfl.com, dks@cfl.com, ame@cfl.com
----------------------------	--

Applicant Information

Application No	86500181	Publication date	06/02/2015
Opposition Filing Date	11/30/2015	Opposition Period Ends	11/29/2015
Applicant	RCGILTNER SERVICES, INC. 12700 Townepark Way Louisville, KY 40243 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. First Use: 2015/01/02 First Use In Commerce: 2015/01/02 All goods and services in the class are opposed, namely: Banking services; Providing personal loans and lines of credit

Grounds for Opposition

Other	Please see attached pleading.
-------	-------------------------------

Attachments	ZIPR- NOTICE OF OPPOSITION.pdf(95293 bytes)
-------------	--

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	/Timothy J. Buckley/
-----------	----------------------

Name	Discover Financial Services
Date	11/30/2015

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

In the Matter of Application Serial No. 86/500181
Filed: January 10, 2015
For Mark: ZIPR
Published in the Official Gazette: June 2, 2015

-----X		
DISCOVER FINANCIAL SERVICES,	:	
	:	Opposition No.
Opposer,	:	
	:	
v.	:	<u>NOTICE OF OPPOSITION</u>
	:	
RCGILTNER SERVICES, INC.,	:	
	:	
Applicant.	:	
-----X		

Opposer, Discover Financial Services (“Discover”), a Delaware corporation, with offices at 2500 Lake Cook Road, Riverwoods, Illinois 60015, believes that it will be damaged by registration of the mark ZIPR (“Applicant’s Mark”) for “banking services; Providing personal loans and lines of credit” in International Class 36, as shown in Application Serial No. 86/500181 (the “Application”), and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Since prior to January 10, 2015, the filing date of the Application, and January 2, 2015, the claimed date of first use in the Application, Discover, its predecessor, and affiliated and related entities (collectively referred to hereinafter as “Opposer”) have used the mark ZIP, alone or with design elements (the “Opposer’s Marks”), in connection with financial and electronic fund transfer services, credit card, debit card, and payment card payment processing services through wireless devices, and various related goods and services.

2. Opposer owns United States federal registrations for Opposer's Marks, namely Registration Nos. 3,640,199 and 3,640,200 both covering "radio frequency transponder encrypted with information for use with contactless payment; card readers for credit cards and debit cards; readers for contactless payment devices; wireless devices, namely mobile phones" in Class 9 and "provision of debit card and credit card services by means of radio frequency identification devices; providing credit card and debit card account information via hand-held devices; credit card, debit card and payment card payment services, namely, making and processing payments through wireless devices" in Class 36.

3. Since prior to January 10, 2015, the filing date of the Application, and January 2, 2015, the claimed date of first use in the Application, Opposer has promoted and advertised the sale and distribution of services and goods bearing or offered in connection with Opposer's Marks, and have rendered such services and offered such goods in commerce.

4. As a result of the sales and promotion of its services and goods bearing or offered in connection with Opposer's Marks, Opposer has built up highly valuable goodwill in Opposer's Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

5. On January 10, 2015, Applicant filed the Application for Applicant's Mark for "banking services; Providing personal loans and lines of credit" in International Class 36, claiming use in commerce.

6. Upon information and belief, Applicant did not offer or perform in commerce the services identified in the Application under Applicant's Mark prior to January 2, 2015.

7. The services covered by the Application are identical and/or closely related to the services rendered and goods offered in connection with Opposer's Marks.

8. Applicant's Mark so resembles Opposer's Marks as to be likely, when used in connection with Applicant's services, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's services have their origin with Opposer and/or that such services are approved, endorsed, or sponsored by Opposer or associated in some way with Opposer. Opposer would thereby be injured by the granting to Applicant of a certificate of registration for Applicant's Mark.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's Mark and requests that the opposition be sustained and said registration be denied. Please recognize as principal attorney for Opposer in this proceeding Deborah K. Squiers (member of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

Dated: New York, New York
November 30, 2015

Respectfully submitted,

COWAN LIEBOWITZ & LATMAN, P.C.
Attorneys for Opposer

By: /Timothy J. Buckley/

Deborah K. Squiers
Timothy J. Buckley
1133 Avenue of the Americas
New York, New York 10036
(212) 790-9200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on November 30, 2015, I caused a true and correct copy of the foregoing Notice of Opposition to be sent via First Class Mail, postage prepaid, to Applicant's attorneys of record addressed as follows: Rebecca Ann Krefft, Esq., Stoll Keenon Ogden Pllc, 300 W Vine Street, Suite 2100, Lexington, KY 40507.

/Timothy J. Buckley/
Timothy J. Buckley