

ESTTA Tracking number: **ESTTA707885**

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

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

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Edelman Financial Services, LLC		
Entity	LIMITED LIABILITY COM-PANY	Citizenship	Delaware
Address	4000 Legato Road Fairfax, VA 22033 UNITED STATES		

Attorney information	Paul F. Kilmer, Daniel C. Neustadt Holland & Knight LLP 800 17th Street NW Washington, DC 20006 UNITED STATES paul.kilmer@hklaw.com, dan.neustadt@hklaw.com, ptdocketing@hklaw.com, laurie.milton@hklaw.com Phone:2024695163
----------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Registration Subject to Cancellation

Registration No	4330450	Registration date	05/07/2013
Registrant	Marc S. Goldberg 33 Rock Hill Road, Suite 300 Bala Cynwyd, PA 19004 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 2000/10/31 First Use In Commerce: 2000/10/31 All goods and services in the class are cancelled, namely: tax preparation services, tax advisory services and accounting services
Class 036. First Use: 2000/10/31 First Use In Commerce: 2000/10/31 All goods and services in the class are cancelled, namely: financial and investment services, namely, management and brokerage in the fields of stocks, bonds, options, commodities, futures and other securities, and the investment of funds of others

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Mark Cited by Petitioner as Basis for Cancellation

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	BECAUSE MONEY DOESN'T COME WITH INSTRUCTIONS		

Goods/Services	financial and investment services and related advisory services
----------------	-----------------------------------------------------------------

Attachments	Petition to Cancel - Reg. No. 4330450 - BECAUSE MONEY DOESN'T COME WITH INSTRUCTIONS.pdf(93746 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	/Daniel C. Neustadt/
Name	Daniel C. Neustadt
Date	11/11/2015

4. The Registration claims the following Class 35 services: “tax preparation services, tax advisory services and accounting services” (the “Class 35 Services”).

5. The Registration claims October 31, 2001 as the date of first use of the Mark in connection with the Class 35 Services.

6. Petitioner, by and through its predecessors in interest, has continuously used an identical mark, BECAUSE MONEY DOESN'T COME WITH INSTRUCTIONS, for, *inter alia*, financial and investment services and related advisory services, since at least as early as 1997, throughout the United States.

7. Petitioner is in no way connected or affiliated with Respondent or his activities.

8. Until Petitioner received a demand notice from Respondent in September, 2015, Petitioner had no actual knowledge of Respondent's use or registration of the Mark.

9. Some of the financial and investment services and related advice in relation to which Petitioner uses its mark are identical or highly related to or directly overlap the Class 35 Services.

10. Petitioner continuously used its mark in connection with these services for at least four years prior to Respondent's use of the Mark in relation to the Class 35 Services.

11. Petitioner continuously used its mark in connection with these services for approximately 15 years prior to the filing date of Respondent's application.

12. Petitioner continuously used its mark in connection with these services for more than 15 years prior to the registration date of the Registration.

13. The Registration claims the following Class 36 services: “financial and investment services, namely, management and brokerage in the fields of stocks, bonds, options,

commodities, futures and other securities, and the investment of funds for others” (“Class 36 Services”).

14. The Registration claims October 31, 2001 as the date of first use of the Mark in connection with the Class 35 Services.

15. Some of the financial and investment services and related advisory services in relation to which Petitioner uses its identical mark are identical or highly related to or directly overlap the Class 36 Services.

16. Petitioner continuously used its mark in connection with these services for at least four years prior to Respondent’s use of the Mark in relation to the Class 36 Services.

17. Petitioner continuously used its mark in connection with these services for approximately 15 years prior to the filing date of Respondent’s application.

18. Petitioner continuously used its mark in connection with these services for more than 15 years prior to the registration date of the Registration.

19. Respondent’s demand notice to Petitioner of September, 2015 alleged a likelihood of confusion between the marks of the parties for their overlapping or highly related services. Respondent’s assertions in his September, 2015 demand notice support and substantiate a likelihood of confusion between the marks of the parties as used for their services.

20. Upon information and belief, the identity of the respective marks and the overlap and/or highly related nature of the respective services of the parties are such that continued registration of the Mark for the Class 35 and Class 36 Services will cause a likelihood of confusion, mistake or deception as to the source or sponsorship of the respective services of Petitioner and Respondent, to Petitioner’s damage in that Petitioner is the senior trademark user,

in violation of the provisions of Section 2(d) of the Trademark Act of 1946. 15 U.S.C. Section 1052(d).

The required fee has been provided.

WHEREFORE, Petitioner prays that its Petition be granted and the Registration cancelled.

EDELMAN FINANCIAL SERVICES, LLC

Date: November 11, 2015

By: s/Daniel C. Neustadt
Paul F. Kilmer
Daniel C. Neustadt
HOLLAND & KNIGHT LLP
800 17th Street, N.W., Suite 1100
Washington, D.C. 20006
202.469.5163
dan.neustadt@hkllaw.com

Attorneys for Petitioner

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing NOTICE OF OPPOSITION was sent by first class mail, postage pre-paid on this 11th day of November, 2015, to the following:

Marc S. Goldberg
DBA The Investment Center
33 Rock Hill Road, Suite 300
Bala Cynwyd, PA 19004

s/Daniel C. Neustadt