



provisions of Section 14 of the Trademark Act of July 5, 1946, as amended, 15 U.S.C. § 1064.

As grounds for this Petition, it is alleged that:

1. Petitioner is the owner of U.S. Registration No. 2,188,735 for the mark AMERICAN BUSINESS FINANCIAL SERVICES, filed on May 6, 1996; and U.S. Registration No. 1,905,909 for the mark AMERICAN BUSINESS FINANCIAL SERVICES INC. and Design, filed on September 30, 1993, both for "financial services, namely, providing loans, interest bearing accounts and securities brokering" (hereinafter, "Petitioner's Marks").

2. Petitioner's Marks have become incontestable in accordance with Section 15 of the Trademark Act of July 5, 1946, as amended, 15 U.S.C. § 1065.

**PETITIONER IS THE SENIOR USER OF THE MARK**

3. Petitioner has used Petitioner's Marks in commerce in the United States since at least as early as 1993 in connection with "financial services, namely, providing loans, interest bearing accounts and securities brokering."

4. Upon information and belief, Registrant first used the mark that is the subject of U.S. Registration No. 2,384,273 in interstate commerce in February of 1997 in connection with

"financial services, namely, factoring and financing of accounts receivable."

5. Registrant's right to use the mark that is the subject of U.S. Registration No. 2,384,273 is not and will not become incontestable in accordance with Section 15 of the Trademark Act of July 5, 1946, as amended, 15 U.S.C. § 1065, as it is registered on the Supplemental Register.

6. Upon information and belief, Petitioner used Petitioner's Marks in connection with financial services, prior to any use by Registrant of U.S. Registration No. 2,384,273 in connection with financial services.

7. Upon information and belief, based upon its use of Petitioner's Marks since at least as early as August 1, 1993, Petitioner's rights in Petitioner's Marks as used in connection with financial services are superior to Registrant's rights in U.S. Registration No. 2,384,273.

8. The continued existence of U.S. Registration No. 2,384,273 will damage Petitioner's rights in Petitioner's Marks.

9. Upon information and belief, Petitioner alleges that Registrant has committed fraud against the United States Patent and Trademark Office in obtaining U.S. Registration No. 2,384,273.

For the reasons set forth above, Petitioner believes that it is or will be damaged by the continued registration of U.S. Registration No. 2,384,273. Thus, the registration for U.S. Registration No. 2,384,273 should be cancelled.


WHEREFORE, Petitioner prays that U.S. Registration No. 2,384,273 be cancelled and that this Petition for Cancellation be sustained in favor of Petitioner.

Respectfully submitted,

Dated: July 9, 2004

AMERICAN BUSINESS FINANCIAL  
SERVICES, INC.

By:

  
Timothy D. Pecsénye  
Alison P. Grossman  
Its Attorneys

BLANK ROME LLP  
One Logan Square  
Philadelphia, Pennsylvania 19103  
(215) 569-5634

cc: Stephen M. Giroux, Esquire

CERTIFICATE OF MAILING

EXPRESS MAIL NO. ET319893569 US

I hereby certify that this document is being deposited in the United States Postal Service as express mail in an envelope addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514, on July 9, 2004.

  
Alison P. Grossman