

ESTTA Tracking number: **ESTTA4612**

Filing date: **01/13/2004**

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

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Name	NCE RESOURCES GROUP INC.
Granted to Date of previous extension	01/14/2004
Address	NCE RESOURCES GROUP INC. The Exchange Tower 130 King St. West, Suite 2850 Toronto, ONT M5X 1A4 CANADA

Attorney information	Stacey R. Halpern Knobbe, Martens, Olson & Bear, LLP 2040 Main Street, 14th Floor Irvine, CA 92614 UNITED STATES efiling@kmob.com Phone:949-760-0404
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Applicant Information

Application No	76458995	Publication date	09/16/2003
Opposition Filing Date	01/13/2004	Opposition Period Ends	01/14/2004
Applicant	OLYMPIC REALTY ADVISORS II, LLC		
Address	10900 WILSHIRE BLVD., SUITE 101 LOS ANGELES, CA 90024 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. First Use: 20021111 First Use In Commerce: 20021111

All goods and services in the class are opposed, namely: REAL ESTATE AND FINANCIAL SERVICES, NAMELY, PROVIDING INVESTMENT AND FINANCIAL SERVICES RELATED TO REAL ESTATE DEVELOPMENT

Attachments [Opposition.pdf \(4 pages \)](#)

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

NCE RESOURCES GROUP, INC.,

Opposer,

v.

OLYMPIC REALTY ADVISORS II, LLC

Applicant.

) Opposition No.: _____
)

) I hereby certify that this correspondence and all
) marked attachments are being electronically filed
) with the U.S. Patent and Trademark Office via
) their website located at <http://esta.uspto.gov/> on:

) 1/13/04
)

(Date)

) St R. Halpern
)

Stacey R. Halpern

NOTICE OF OPPOSITION

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

ATT: BOX TTAB FEE

Dear Sir:

NCE Resources Group, Inc., a corporation organized and existing under the laws of the Province of Alberta, located and doing business at the Exchange Tower, 130 King Street West, Suite 2850, P.O. Box 104, Toronto, Ontario, Canada M5X 1A4 (hereinafter referred to as "Opposer") believes that it will be damaged by registration of the mark shown in Application Serial No. 76/458,995, filed April 29, 2002, by Resmark Equity Partners, LLC and thereafter assigned to Olympic Realty Advisors II, LLC, a Delaware corporation, located and doing business at 10880 Wilshire Blvd., Suite 1420, Los Angeles, California 90024 ("hereinafter

referred to as “Applicant”), and hereby opposes the same. A description of Applicant’s mark is as follows:

Mark: INVESTING IN BUILDING RELATIONSHIPS
Serial No.: 76/458,995
Filed: October 17, 2002
Published: September 16, 2003
Services: Real estate and financial services, namely providing investment and financial services related to real estate development
Class: 36
Alleged Date of First Use: November 11, 2002

As grounds for opposition, Opposer alleges:

1. Opposer offers a variety of financial and investment services and investment opportunities in connection with the mark BUILDING RELATIONSHIPS.

2. Opposer is also the owner of and relies on United States Trademark Application Serial No. 75/604,636 (the “’636 Application”) for the mark BUILDING RELATIONSHIPS for geophysical exploration for the oil and gas industries in International Class 42; and financial investment in the field of real estate; financial investment in the field of utilities; investment services, namely, investment management relating to mining and metals and oil and gas exploration, development and production in International Class 36. The ’636 Application has a priority filing date of June 25, 1998. Thus, the priority filing date of the ’636 Application precedes Applicant’s filing date and Applicant’s alleged date of first use.

3. Upon registration of the ’636 Application, Opposer will be the owner of and rely upon the United States registration maturing from the ’636 Application. Opposer’s registration, once issued, will constitute constructive use of the mark, conferring rights of priority, nationwide in effect, as of the filing date pursuant to § 7(c), as well as prima facie evidence of the validity of the

registered mark and of the registration thereof, of Opposer's ownership of the mark shown therein and of Opposer's exclusive right to use the mark in commerce in connection with the services named therein, without condition or limitation as provided in Sections 7(b), 22 and 33 (a) of the Trademark Act of 1946 as amended.

4. The '636 Application was filed in the PTO prior to the filing of Applicant's application and prior to Applicant's alleged date of first use. In view of the similarity between the marks and related nature of the services of the respective parties, it is alleged that Applicant's mark so resembles Opposer's mark as to be likely to cause confusion or to cause mistake or to deceive the trade and purchasing public into believing that Applicant's services originate with Opposer or are otherwise authorized, licensed or sponsored by Opposer.

5. If Applicant is permitted to register the mark shown in its application, Applicant's corresponding prima facie exclusive right to use the INVESTING IN BUILDING RELATIONSHIPS mark in nationwide commerce will conflict with Opposer's lawful and prima facie exclusive right to use the BUILDING RELATIONSHIPS mark nationwide.

6. Opposer has invested substantial amounts of time, effort and money in the BUILDING RELATIONSHIPS mark. By reason of Opposer's widespread and continuous use of the BUILDING RELATIONSHIPS mark, in addition to the protection afforded that Opposer will acquire once its application proceeds to registration, Opposer has extensive, non-registered statutory and common law rights in the BUILDING RELATIONSHIPS mark.

7. In view of Opposer's prior rights in the BUILDING RELATIONSHIPS mark, Applicant is not entitled to registration of the INVESTING IN BUILDING RELATIONSHIPS mark pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

8. By reason of all the foregoing, Opposer will be gravely damaged by the registration of U.S. Trademark Application Serial No. 76/458,995 for the mark INVESTING IN BUILDING RELATIONSHIPS, because registration of this mark would be in violation of Opposer's trademark rights.

WHEREFORE, Opposer prays that U.S. Trademark Application Serial No. 76/458,995 be rejected and stricken, that no registration be issued thereon to Applicant, and this opposition be sustained in favor of Opposer.

Please charge Deposit Account No. 11-1410 for any additional fees which may be required, or credit any overpayment to this account.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 1/13/04

By: St R. Halpern

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