

ESTTA Tracking number: **ESTTA51709**

Filing date: **11/03/2005**

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	ACA Capital Holdings, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	140 Broadway , 47th Floor New York, NY 10005 UNITED STATES		

Attorney information	Valerie Brennan Hogan & Hartson L.L.P. 8300 Greensboro Drive, Suite 1100Box Intellectual Property McLean, VA 22102 UNITED STATES boxip@hhlaw.com Phone:703-610-6100		
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Applicant Information

Application No	76625360	Publication date	10/25/2005
Opposition Filing Date	11/03/2005	Opposition Period Ends	11/24/2005
Applicant	ACC CAPITAL HOLDINGS CORPORATION 1100 Town & Country Road, 11th Floor Orange, CA 92868 UNITED STATES		

Goods/Services Affected by Opposition

Class 036.

All goods and services in the class are opposed, namely: Mortgage lending and financial services, namely, loan processing, loan collections, and mortgage brokerage services; banking services; and, wholesale and retail mortgage services, namely purchasing mortgage loans from real estate and mortgage brokers and correspondent lenders, sale and servicing of mortgage loans to secondary mortgage lenders, and maintenance of mortgage escrow accounts; and mortgage banking, lending and brokerage services over the global computer network

Attachments	DOC032.PDF (4 pages)
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Signature	/valerie brennan/
Name	Valerie Brennan
Date	11/03/2005

NOTICE OF OPPOSITION

Opposer, ACA Capital Holdings, Inc., believes that it will be damaged by the registration of Application Serial Number 76/625,360, for the ACC CAPITAL HOLDINGS (Stylized) mark (the "Subject Mark"), filed on December 21, 2004, owned by ACC Capital Holdings Corporation ("Applicant"). The application for the Subject Mark was published in the Official Gazette of the PTO on October 25, 2005. Opposer hereby seeks to oppose registration of the Subject Mark.

Opposer believes that it will be damaged by the registration of the Subject Mark on the following grounds:

1. Opposer has used its ACA (& Design), ACA AMERICAN CAPITAL ACCESS (& Design), ACA CAPITAL, its trade name ACA Capital Holdings, Inc., and similar marks ("ACA Marks") in connection with providing specialized financial services since at least as early as October 1997, and has been using its ACA (& Design) mark in connection with such services since at least as early as April 2001. More specifically, since April 2001, Opposer has used the ACA Marks in the asset securitization market as a structurer and portfolio investment manager of collateralized debt obligation and collateralized bond obligation transactions that assemble pools of both residential and commercial mortgage-backed securities (among other financial assets) from which bonds ("collateralized debt obligations" or "collateralized bond obligations") are issued to the capital markets.

2. Opposer owns three registrations of its ACA marks: ACA AMERICAN CAPITAL ACCESS (& Design); ACA (& Design); and ACA INSURING FINANCIAL SOLUTIONS (&

Design) (Registration No. 2,531,234, Issued January 22, 2002; Registration No. 2,633,196, Issued October 8, 2002; and Registration No. 2,858,368, Issued June 9, 2004). These registrations are for use in connection with *underwriting, reinsurance, guarantee insurance, surety insurance, and insurance for transactions in new issue and for secondary market issuers of municipal, international, and specialty bonds, collateralized bond obligations, collateralized debt obligations, corporate and consumer debt, interest rate swaps, currency swaps, credit default swaps and other financial derivatives; investment and securities brokerage services; financial management services, namely, portfolio investment management and credit risk management; institutional structured finance transaction advisory services, namely, the creation and issuance of collateralized bond obligations, collateralized debt obligations, interest rate swaps, currency swaps, credit default swaps and other financial derivatives.*

3. Opposer owns three pending applications of its ACA marks: ACA; ACA CAPITAL; and ACA CAPITAL (& Design) (Application No. 78/515,359, Application No.78/515,375, and Application No.78/515,378, all filed on November 11, 2004), which cover the same services as claimed in its prior registrations.

4. On December 21, 2004, Applicant filed an application on Section 1(b) basis to register the Subject Mark in International Class 36, for intent to use in connection with *Mortgage lending and financial services, namely, loan processing, loan collections, and mortgage brokerage services; banking services; and, wholesale and retail mortgage services, namely purchasing mortgage loans from real estate and mortgage brokers and correspondent lenders, sale and servicing of mortgage loans to secondary mortgage lenders, and maintenance of mortgage escrow accounts; and mortgage banking, lending and brokerage services over the global computer network.* Applicant has not yet alleged use of the Subject Mark.

5. Opposer, ACA Capital Holdings, Inc. has numerous affiliates, including, but not limited to, ACA Securities, L.L.C., ACA Management, L.L.C., ACA Service L.L.C., and ACA Financial Guaranty Corporation (collectively, "ACA"). The ACA companies provide a wide range of services to a variety of clients in the financial and insurance markets. ACA maintains several offices throughout the United States and operates a web site at www.aca.com. ACA Financial Guaranty Corporation, which has been operating since 1997, is licensed to transact business in all 50 states. Through these activities, and significant promotional activities, the ACA CAPITAL, ACA (& Design), and ACA AMERICAN CAPITAL ACCESS (& Design) marks have become synonymous in the minds of the relevant consuming public with ACA.

6. Opposer's priority rights in the ACA marks in the United States (based on a use date of October 1997) have been established in the United States over the past eight years.

7. The Subject Mark, as used in connection with the services described in Application Serial Number 76/625,360, is likely to cause confusion with Opposer's ACA marks, as used in connection with the services claimed in U.S. Registration Nos. 2,531,234; 2,633,196; and 2,858,368; and Application Serial Nos. 78/515,359; 78/515,375; and 78/515,378, and in connection with the other services in connection with which the ACA Marks are used. Applicant's proposed "purchasing mortgage loans" and "sale and servicing of mortgage loans," for example, are crucial activities in the asset securitization process that renders mortgage-backed bonds. As such, mortgage-backed bonds are often selected and managed by Opposer in the course of the collateralized debt obligation and collateralized bond obligation transactions in which it participates. There is significant risk that confusion could arise among other participants in the asset securitization market, particularly among the financial institutions and banks (and their respective employees and representatives) that comprise key target consumers

of each of Applicant and Opposer, concerning the origin of Applicant's services. Such services could be misconstrued as being among Opposer's activities connected to the current services offered by Opposer in connection with its collateralized debt obligation and collateralized bond obligation transactions and other specialized financial services.

8. Applicant's use and/or registration of the Subject Mark is thus likely to cause confusion, mistake, or deception with the ACA Marks, or to cause the mistaken belief by consumers of the parties' respective services and by others that Applicant or its services are in some way legitimately connected with, sponsored by, or approved by Opposer.

9. Opposer believes, and therefore states, that it will be damaged by registration of the Subject Mark.

WHEREFORE, Opposer prays that this opposition be sustained and that no registration be issued to Applicant on Application Serial Number 76/625,360.