

ESTTA Tracking number: **ESTTA201361**

Filing date: **03/28/2008**

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	Invicta Capital Limited
Granted to Date of previous extension	03/30/2008
Address	80 Brook Street London, W1K5DD UNITED KINGDOM

Attorney information	Mark D. Schneider Gifford, Krass, Sprinkle, Anderson & Citkowski PC 2701 Troy Center Drive, Ste. 330, , P.O. Box 7021 Troy, MI 48007 UNITED STATES doctet@patlaw.com Phone:248-647-6000
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**Applicant Information**

Application No	78938798	Publication date	10/02/2007
Opposition Filing Date	03/28/2008	Opposition Period Ends	03/30/2008
Applicant	Invicta Holdings LLC 1295 State Street Springfield, MA 01111 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 036. All goods and services in the class are opposed, namely: Financial services, namely, assuming financial risk of others by entering into options and swaps, credit risk management, and financial risk management
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**Applicant Information**

Application No	78938786	Publication date	10/02/2007
Opposition Filing Date	03/28/2008	Opposition Period Ends	
Applicant	Invicta Holdings LLC 1295 State Street Springfield, MA 01111 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 036.
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All goods and services in the class are opposed, namely: Financial services, namely, assuming financial risk of others by entering into options and swaps, credit risk management, and financial risk management

### Applicant Information

Application No	78938774	Publication date	10/02/2007
Opposition Filing Date	03/28/2008	Opposition Period Ends	
Applicant	Invicta Holdings LLC 1295 State Street Springfield, MA 01111 UNITED STATES		

### Goods/Services Affected by Opposition

Class 036.  
All goods and services in the class are opposed, namely: General financial holding company services for companies assuming credit and financial risks, namely, providing financial control and reporting services for financial institutions

### Applicant Information

Application No	78938761	Publication date	10/02/2007
Opposition Filing Date	03/28/2008	Opposition Period Ends	
Applicant	Invicta Holdings LLC 1295 State Street Springfield, MA 01111 UNITED STATES		

### Goods/Services Affected by Opposition

Class 036.  
All goods and services in the class are opposed, namely: Financial services, namely, assuming financial risk of others by entering into options and swaps, credit risk management and financial risk management

### Applicant Information

Application No	78938803	Publication date	10/02/2007
Opposition Filing Date	03/28/2008	Opposition Period Ends	
Applicant	Invicta Holdings LLC 1295 State Street Springfield, MA 01111 UNITED STATES		

### Goods/Services Affected by Opposition

Class 036.  
All goods and services in the class are opposed, namely: Financial services, namely, credit risk and financial management

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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## Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	77099007	Application Date	02/05/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	INVICTA CAPITAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2001/05/30 First Use In Commerce: 2002/03/28 FINANCIAL SERVICES, NAMELY, TRADING AND INVESTMENT ADVISING, STRUCTURING AND BROKERING FOR OTHERS; INVESTMENT AND TRADING IN THE FIELD OF MOTION PICTURE FINANCING, DISTRIBUTION, PRODUCTION, PRINT AND ADVERTISING; SALE-LEASEBACK TRANSACTIONS; PROJECT FINANCING Class 041. First use: First Use: 2001/05/30 First Use In Commerce: 2002/03/28 ENTERTAINMENT SERVICES, NAMELY, MOTION PICTURE PRODUCTION SERVICES		

Attachments	77099007#TMSN.jpeg ( 1 page )( bytes ) Notice.of.Opposition.pdf ( 7 pages )(162916 bytes )
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## 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	/s/Mark D. Schneider
Name	Mark D. Schneider
Date	03/28/2008

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

INVICTA CAPITAL LIMITED,

Opposer,

Opposition No.

vs.

INVICTA HOLDINGS LLC,

Applicant.

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**NOTICE OF OPPOSITION**

Invicta Capital Limited., Opposer herein, a corporation organized under the laws of United Kingdom an address at 80 Brook Street, London, United Kingdom believes that, absent agreement between the parties, it has and will be damaged by registration of the followings marks that the Applicant, Invicta Holdings LLC, seeks to register:

<b>Serial Number</b>	<b>Word Mark</b>	<b>Filed</b>	<b>Services</b>
78938803	INVICTA ADVISORS LLC	7/27/06	Financial services, namely, credit risk and financial management.
78938798	INVICTA CREDIT LLC	7/27/06	Financial services, namely, assuming financial risk of others by entering into options and swaps, credit risk management, and financial risk
78938786	INVICTA CAPITAL LLC	7/27/06	Financial services, namely, assuming financial risk of others by entering into options and swaps, credit risk management, and financial risk
78938774	INVICTA HOLDINGS LLC	7/27/06	General financial holding company services for companies assuming credit and financial risks, namely, providing financial control and reporting services for financial institutions.
78938761	INVICTA FINANCIAL GROUP	7/27/06	Financial services, namely, assuming financial risk of others by entering into options and swaps, credit risk management and financial risk management.

1. The above marks have been published in the Official Gazette of the United States Patent and Trademark Office on page TM 968 of the October 2, 2007 issue (Exhibit A). Applicant's trademark applications were filed on July 27, 2007 as intent to use applications.

2. The Opposer has used the nearly identical mark INVICTA CAPITAL in connection with substantially similar services as to those of the Applicant's, and/or has used the mark in a manner analogous to trademark use, since May 30, 2001 and a date of first use in commerce of March 28, 2002, prior to that of the Applicant's.

3. Opposer has a pending application bearing Serial No. 77/099,007 which was filed on February 5, 2007 for the mark INVICTA CAPITAL for Financial Services, namely, trading and investment advising, structuring and brokering for others; Investment and trading in the field of motion picture financing, distribution, production, print and advertising; Sale-leaseback transactions; Project financing, all in International Class 36; and Entertainment services, namely, motion picture production services, in International Class 41 and has been refused registration by the PTO based on a likelihood of confusion with the Invicta Holding LLC Marks.

4. Opposer has invested substantial resources in connection with the promotion and development of the mark INVICTA CAPITAL and the goodwill associated therewith, and considers the mark to constitute a valuable asset.

5. Opposer's first use of the INVICTA CAPITAL mark predates Applicant's filing date by many years.

6. If the Applicant is permitted to use and register its INVICTA ADVISORS LLC, INVICTA CREDIT LLC, INVICTA CAPITAL LLC, INVICTA HOLDINGS LLC and INVICTA FINANCIAL GROUP marks for its services, specified in the applications herein opposed. Absent

some manner of consent or use agreement between the parties, confusion in trade resulting in damage and injury to the Opposer would be caused and would result by reason of use of the nearly identical mark on identical or closely related services by both Applicant and Opposer. Persons familiar with Opposer's use of the INVICTA CAPTIAL mark would be likely to use Applicant's services as and for services offered by the Opposer. Any such confusion in trade inevitably would result in loss of sales for services to the Opposer. Furthermore, any defect, objection or fault found with Applicant's services marketed under its mark would necessarily reflect upon and seriously injure the reputation which the Opposer has established for its services sold under its INVICTA CAPITAL mark.

7. If the Applicant is granted the registrations herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of its marks, in direct conflict with Opposer's rights deriving from its own common law and statutory rights for use of the INVICTA CAPITAL Mark, for identical or closely related service. Such a conflicting registration would be a source of damage and injury to the Opposer.

WHEREFORE, the Opposer prays that the applications for Serial Nos. 78/938,786, 78/938,761, 78/938,798, 78/938,774 and 78/938,803 be rejected, that no notice of allowance or registration be issued thereon to Applicant, and that this opposition be sustained in favor of the Opposer. Opposer hereby gives notice that after hearing and in appeal on this opposition proceeding, it will rely on its exhibits annexed to this notice of opposition as evidence in support of this notice of opposition.

The filing fee of this opposition in the amount of \$300.00 is enclosed.

Opposer hereby appoints the attorneys of Gifford, Krass, Sprinkle, Anderson & Citkowski, P.C., a law firm having a place of business at 2701 Troy Center Drive, Suite 330, P.O. Box 7021,

Troy, MI 48007-7021, to act as attorneys for Opposer herein, with full power to prosecute said opposition, to transact all relative business in the United States Patent and Trademark Office and in the United States courts, and to receive all official communications in connection with this opposition

Respectfully submitted,

/s/Mark D. Schneider

Mark D. Schneider  
GIFFORD, KRASS, SPRINKLE,  
ANDERSON & CITKOWSKI, P.C.  
2701 Troy Center Drive, Suite 330  
P.O. Box 7021  
Troy, MI 48007-7021  
(248) 647-6000  
(248) 647-5210 (Fax)  
docket@patlaw.com

*Attorneys for Opposer*

Date: March 28, 2008

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing NOTICE OF OPPOSITION was deposited as First Class Mail, postage prepaid in an envelope addressed to:

Richard P. Ferrara  
FISH & RICHARDSON PC  
P.O. Box 1022  
Minneapolis, MN 55440-1022

on this 28th day of March, 2008.

/s/Mark D. Schneider  
Mark D. Schneider  
GIFFORD KRASS, SPRINKLE,  
ANDERSON & CITKOWSKI, P.C.  
2701 Troy Center Drive, Ste. 330  
P.O. Box 7021  
Troy, Michigan 48007-7021  
(248) 647-6000  
(248) 647-5210 – Facsimile

**CERTIFICATE OF MAILING**

I hereby certify that the foregoing NOTICE OF OPPOSITION was electronically filed with the TTAB on this 28th day of March, 2008.

/s/Mark D. Schneider  
Mark D. Schneider  
GIFFORD KRASS, SPRINKLE,  
ANDERSON & CITKOWSKI, P.C.  
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Troy, Michigan 48007-7021  
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# EXHIBIT A

**CLASS 36—(Continued).**

SN 78-936,063. SCHLESINGER, ROGER, SHEMAN OAKS, CA. AND SCHLESINGER, ALCYIA, SANTA MONICA, CA. FILED 7-24-2006.

**MANHATTAN WEST**

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

FOR REAL ESTATE FINANCING, NAMELY, MORTGAGE LENDING (U.S. CLS. 100, 101 AND 102).  
FIRST USE 8-27-1997; IN COMMERCE 8-27-1997.  
ELLEN PERKINS, EXAMINING ATTORNEY

SN 78-938,761. INVICTA HOLDINGS LLC, SPRINGFIELD, MA. FILED 7-27-2006.

**INVICTA FINANCIAL GROUP**

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FINANCIAL GROUP", APART FROM THE MARK AS SHOWN.

FOR FINANCIAL SERVICES, NAMELY, ASSUMING FINANCIAL RISK OF OTHERS BY ENTERING INTO OPTIONS AND SWAPS, CREDIT RISK MANAGEMENT AND FINANCIAL RISK MANAGEMENT (U.S. CLS. 100, 101 AND 102).

SANDRA MANIOS, EXAMINING ATTORNEY

SN 78-938,774. INVICTA HOLDINGS LLC, SPRINGFIELD, MA. FILED 7-27-2006.

**INVICTA HOLDINGS LLC**

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HOLDINGS LLC", APART FROM THE MARK AS SHOWN.

FOR GENERAL FINANCIAL HOLDING COMPANY SERVICES FOR COMPANIES ASSUMING CREDIT AND FINANCIAL RISKS, NAMELY, PROVIDING FINANCIAL CONTROL AND REPORTING SERVICES FOR FINANCIAL INSTITUTIONS (U.S. CLS. 100, 101 AND 102).

SANDRA MANIOS, EXAMINING ATTORNEY

**CLASS 36—(Continued).**

SN 78-938,786. INVICTA HOLDINGS LLC, SPRINGFIELD, MA. FILED 7-27-2006.

**INVICTA CAPITAL LLC**

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CAPITAL LLC", APART FROM THE MARK AS SHOWN.

FOR FINANCIAL SERVICES, NAMELY, ASSUMING FINANCIAL RISK OF OTHERS BY ENTERING INTO OPTIONS AND SWAPS, CREDIT RISK MANAGEMENT, AND FINANCIAL RISK MANAGEMENT (U.S. CLS. 100, 101 AND 102).

SANDRA MANIOS, EXAMINING ATTORNEY

SN 78-938,798. INVICTA HOLDINGS LLC, SPRINGFIELD, MA. FILED 7-27-2006.

**INVICTA CREDIT LLC**

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CREDIT LLC", APART FROM THE MARK AS SHOWN.

FOR FINANCIAL SERVICES, NAMELY, ASSUMING FINANCIAL RISK OF OTHERS BY ENTERING INTO OPTIONS AND SWAPS, CREDIT RISK MANAGEMENT, AND FINANCIAL RISK MANAGEMENT (U.S. CLS. 100, 101 AND 102).

SANDRA MANIOS, EXAMINING ATTORNEY

SN 78-938,803. INVICTA HOLDINGS LLC, SPRINGFIELD, MA. FILED 7-27-2006.

**INVICTA ADVISORS LLC**

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ADVISORS LLC", APART FROM THE MARK AS SHOWN.

FOR FINANCIAL SERVICES, NAMELY, CREDIT RISK AND FINANCIAL MANAGEMENT (U.S. CLS. 100, 101 AND 102).

SANDRA MANIOS, EXAMINING ATTORNEY