

ESTTA Tracking number: **ESTTA232330**

Filing date: **08/22/2008**

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	BioStar Managers, L.L.C.
Granted to Date of previous extension	08/24/2008
Address	560 W. Mitchell Street #480 Petoskey, MI 49770 UNITED STATES
Attorney information	Nishan Kottahachchi Cooley Godward Kronish LLP 777 6th St., N.W., Suite 1100 Washington, DC 20001 UNITED STATES trademarks@cooley.com, nkottahachchi@cooley.com, pwillsey@cooley.com, smobley@cooley.com Phone:202.842.7886

Applicant Information

Application No	77268925	Publication date	02/26/2008
Opposition Filing Date	08/22/2008	Opposition Period Ends	08/24/2008
Applicant	BioStar Asset Management, LLC Suite 900 20 West 20th Street New York, NY 10011 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. All goods and services in the class are opposed, namely: Financial services, namely, financial funds 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/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	BIO-STAR, BIOSTAR, BIOSTAR FUND, BIO-STAR PRIVATE EQUITY FUND, BIO-STAR MANAGEMENT COMPANY, BIOSTAR VENTURES, BIO-STAR PRIVATE EQUITY FUND and Design, and		

	BIOSTARVENTURES and Design (collectively, the #BIOSTAR Marks#).
Goods/Services	venture capital and private equity fund investment services

Attachments	Notice of Opposition.BIOSTAR.pdf (4 pages)(130086 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 Overnight Courier on this date.

Signature	/Nishan Kottahachchi/
Name	Nishan Kottahachchi
Date	08/22/2008

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

In re Application of

BioStar Asset Management, LLC

Serial No.: 77/268,925

Filed: August 30, 2007

Mark: BIOSTAR

NOTICE OF OPPOSITION

BioStar Managers, LLC (“Opposer”), a Delaware limited liability company with its principal office at 560 W. Mitchell Avenue, Suite 480, Petoskey, Michigan 48603, believes it will be damaged by registration of the pending application for the mark BIOSTAR (Serial No. 77/268,925), filed by BioStar Asset Management, LLC (“Applicant”), a Delaware limited liability company with its principal office at 20 West 20th Street, Suite 900, New York, NY 10011, and opposes the registration of Applicant’s BIOSTAR mark. In support of its notice of opposition, Opposer states as follows:

1. Opposer is the owner of a family of trademarks incorporating the term “BIOSTAR,” including but not limited to BIO-STAR, BIOSTAR, BIOSTAR FUND, BIO-STAR PRIVATE EQUITY FUND, BIO-STAR MANAGEMENT COMPANY, BIOSTAR VENTURES, BIO-STAR PRIVATE EQUITY FUND and Design, and BIOSTARVENTURES and Design (collectively, the “BIOSTAR Marks”). Opposer has used the BIOSTAR Marks in U.S. commerce in connection with venture capital and private equity fund investment services since at least as early as 2003.

2. On August 30, 2007, Applicant filed an intent-to-use application for the mark BIOSTAR in connection with “financial services, namely financial funds management” in Class 36.

3. On information and belief, Applicant has not yet begun use of the BIOSTAR mark in connection with financial services in the United States.

4. Opposer has been using the BIOSTAR Marks exclusively and continuously in connection with the advertising and rendering of venture capital and private equity fund investment services to customers in the United States since long prior to the filing date of Applicant’s BIOSTAR application.

5. As a result of Opposer’s advertising and the high quality of the financial services rendered by Opposer to consumers in the United States, Opposer enjoys considerable goodwill in the BIOSTAR Marks. The BIOSTAR Marks are inherently distinctive and strong marks that are associated with Opposer and its venture capital and private equity fund investment services.

6. Applicant’s BIOSTAR mark is identical to Opposer’s BIOSTAR Marks.

7. The “financial services, namely, financial funds management” that Applicant intends to offer under the BIOSTAR mark are similar and related to the venture capital and private equity fund investment services that Opposer has been offering to consumers in the United States since 2003.

8. Applicant’s intended use of the BIOSTAR mark in connection with “financial services, namely financial funds management” is likely to confuse the public as to the source and origin of Applicant’s financial services, and/or falsely suggests an association, connection, sponsorship, or relationship between Opposer and Applicant.

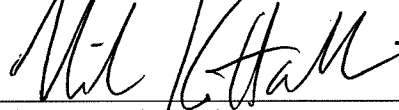
9. By reason of Opposer's longstanding, continued, and exclusive use of its BIOSTAR Marks prior to the filing date of Applicant's BIOSTAR application, Opposer has prior and superior rights to Applicant in the BIOSTAR Marks.

10. Registration of Applicant's BIOSTAR mark will cause substantial damage to Opposer's prior existing, superior, and valuable rights in the BIOSTAR Marks, and will interfere with Opposer's enjoyment of those rights.

WHEREFORE, Opposer believes it will be damaged by the registration of Applicant's BIOSTAR mark in Class 36 and requests that the Board deny registration of Applicant's mark.

Respectfully submitted,

COOLEY GODWARD KRONISH LLP



By:

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Counsel for BioStar Managers, LLC

Date: August 22, 2008

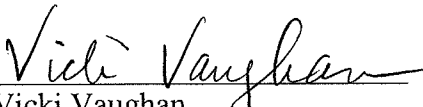
CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing Notice of Opposition to be mailed via Federal Express, overnight mail, prepaid to the following:

L. Donald Prutzman
Tannenbaum Helpert Syracuse & Hirschtitt LLP
900 Third Avenue
New York, NY 10022

Counsel for BioStar Asset Management, LLC

Dated: August 22, 2008


Vicki Vaughan