

ESTTA Tracking number: **ESTTA355124**

Filing date: **06/28/2010**

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	COFRA HOLDING AG
Granted to Date of previous extension	06/27/2010
Address	GRAFENAUWEG 10 ZUG, 6300 SWITZERLAND

Attorney information	Howard J. Shire, Esq. Kenyon and Kenyon LLP One Broadway New York, NY 10004 UNITED STATES tmdocketny@kenyon.com Phone:212-425-7200
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Applicant Information

Application No	77504948	Publication date	12/29/2009
Opposition Filing Date	06/28/2010	Opposition Period Ends	06/27/2010
Applicant	Good Energy L.P. Suite 405 232 Madison Avenue New York, NY 10016 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2000/12/01 First Use In Commerce: 2000/12/01 All goods and services in the class are opposed, namely: Energy management services, namely, providing a service that allows customers to purchase energy, namely, electricity, natural gas, fuel oil and renewable energy at a fixed price; energy price comparison services and information in the field of energy efficiency


Grounds for Opposition

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

U.S. Registration No.	3222100	Application Date	02/28/2006
Registration Date	03/27/2007	Foreign Priority Date	NONE
Word Mark	GOOD ENERGIES POWER FOR A BETTER WORLD		

Design Mark	GOOD ENERGIES POWER FOR A BETTER WORLD
Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 2005/11/00 First Use In Commerce: 2005/11/00 Investment services, namely, asset acquisition, consultation, advisory, development and management services; and related financial services, namely, financial analysis and consultation, financial forecasting, financial management, financial planning and financial research; all of said services in the field of renewable energy

U.S. Registration No.	3290572	Application Date	02/27/2006
Registration Date	09/11/2007	Foreign Priority Date	NONE
Word Mark	GOOD ENERGIES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2005/11/00 First Use In Commerce: 2005/11/00 Investment services, namely, asset acquisition, consultation, advisory, development and management services; and related financial services, namely, financial analysis and consultation, financial forecasting, financial management, financial planning and financial research; all of said services in the field of renewable energy		

U.S. Registration No.	3548776	Application Date	02/26/2007
Registration Date	12/23/2008	Foreign Priority Date	01/29/2007
Word Mark	GOOD ENERGIES POWER FOR A BETTER WORLD		




Description of Mark	The mark consists of the words "GOOD ENERGIES", in blue letters, below a design in blue and grey, and the words "POWER FOR A BETTER WORLD", in grey letters, below the words "GOOD ENERGIES".
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Goods/Services	<p>Class 035. First use: business management services and business management consultancy in the field of renewable energy production; providing business information relating to renewable energy production; procurement services for others, namely, purchase of goods for use in production of solar energy</p> <p>Class 036. First use: investment services, namely, asset acquisition, consultation, advisory, development and management services; and related financial services, namely, financial analysis and consultation, financial forecasting, financial management, financial planning and financial research; all of said services in the field of renewable energy</p> <p>Class 040. First use: environmental consultation in the field of renewable energy production</p> <p>Class 041. First use: educational services in the field of renewable energy production, namely, seminars, conferences, workshops and classes in the field of renewable energy production</p> <p>Class 042. First use: research for others in the field of renewable energy production; product and system research and development for others in the field of renewable energy production</p>
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U.S. Registration No.	3555783	Application Date	10/17/2006
Registration Date	01/06/2009	Foreign Priority Date	NONE

Word Mark	GOOD ENERGIES
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Design Mark	
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Description of Mark	NONE
Goods/Services	<p>Class 035. First use: Business management services and business management consultancy in the field of renewable energy production; providing business information relating to renewable energy production; procurement services for others, namely, purchase of goods for use in production of solar energy</p> <p>Class 040. First use: environmental consultation in the field of renewable energy production</p> <p>Class 041. First use: Educational services in the field of renewable energy production, namely, seminars, conferences, workshops and classes in the field of renewable energy production</p> <p>Class 042. First use: Research for others in the field of renewable energy production; product and system research and development for others in the field of renewable energy production</p>

Attachments	<p>78825191#TMSN.gif (1 page)(bytes) 78824446#TMSN.jpeg (1 page)(bytes) 77116423#TMSN.jpeg (1 page)(bytes) 77023049#TMSN.jpeg (1 page)(bytes) Notice of Opposition - GOOD ENERGY A SMARTER WAY TO BUY ENERGY _2_.pdf (4 pages)(19206 bytes)</p>
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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	/Howard J. Shire/
Name	Howard J. Shire, Esq.
Date	06/28/2010

Mark”) in International Class 35 for “energy management services, namely, providing a service that allows customers to purchase energy, namely, electricity, natural gas, fuel oil and renewable energy at a fixed price; energy price comparison services and information in the field of energy efficiency” (hereinafter referred to as the “Applicant’s Mark”). The Application was filed on June 22, 2008 pursuant to Section 1(a) of the Lanham Act. The Application was published for opposition on December 29, 2009.

3. Opposer is the owner of the following federal trademark registrations:

MARK	REG. NO.	CLASS/SERVICES
GOOD ENERGIES POWER FOR A BETTER WORLD	3,222,100	Class 36 - investment services, namely, asset acquisition, consultation, advisory, development and management services; and related financial services, namely, financial analysis and consultation, financial forecasting, financial management, financial planning and financial research; all of said services in the field of renewable energy
GOOD ENERGIES POWER FOR A BETTER WORLD	3,290,572	Class 36 - investment services, namely, asset acquisition, consultation, advisory, development and management services; and related financial services, namely, financial analysis and consultation, financial forecasting, financial management, financial planning and financial research; all of said services in the field of renewable energy
GOOD ENERGIES POWER FOR A BETTER WORLD and Design	3,548,776	Class 35 - business management services and business management consultancy in the field of renewable energy production; providing business information relating to renewable energy production; procurement services for others, namely, purchase of goods for use in production of solar energy Class 36 - investment services, namely, asset acquisition, consultation, advisory, development and management services; and related financial services, namely, financial analysis and consultation, financial forecasting, financial management, financial planning and financial research; all of said services in the field of renewable energy Class 40 - environmental consultation in the field of renewable energy production Class 41 - educational services in the field of renewable energy production, namely, seminars, conferences, workshops and classes in the field of renewable energy production Class 42 - research for others in the field of renewable energy production; product and system research and development for others in the field of renewable energy production
GOOD ENERGIES	3,555,783	Class 35 - business management services and business management consultancy in the field of renewable energy production; providing business information relating to renewable energy production; procurement services for others, namely, purchase of goods for use in production of solar energy

	<p>Class 36 - investment services, namely, asset acquisition, consultation, advisory, development and management services; and related financial services, namely, financial analysis and consultation, financial forecasting, financial management, financial planning and financial research; all of said services in the field of renewable energy</p> <p>Class 40 - environmental consultation in the field of renewable energy production</p> <p>Class 41 - educational services in the field of renewable energy production, namely, seminars, conferences, workshops and classes in the field of renewable energy production</p> <p>Class 42 - research for others in the field of renewable energy production; product and system research and development for others in the field of renewable energy production</p>
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The above marks are collectively referred to herein as the “GOOD ENERGIES Marks” or “Opposer’s Marks.” The applications which led to these registrations were filed on February 27, 2006 (Reg. No. 3,290,572), February 28, 2006 (Reg. No. 3,222,100), October 17, 2006 (Reg. No. 3,555,783) and February 26, 2007 (Reg. No. 3,548,776), all of which predate the Applicant’s filing date of June 22, 2008.

4. Opposer has superior rights in and to its GOOD ENERGIES Marks because the filing dates for the applications which led to registration Nos. 3,222,100, 3,290,572, 3,548,776 and 3,555,783 pre-date Applicant’s filing date.

5. Opposer, by virtue of its use of the GOOD ENERGIES Marks, and advertising and promotional efforts connected therewith, as well as a long-standing public association of the GOOD ENERGIES Marks with Opposer, has built up valuable goodwill associated with said marks. Additionally, as a result of its use, advertising, and promotion, Opposer’s GOOD ENERGIES Marks are not only inherently distinctive, but have acquired a substantial secondary meaning in the minds of both the trade and the public in connection with Opposer and its services.

6. Applicant’s Mark incorporates both identical elements and the same overall commercial impression of Opposer’s Marks, and is likely, when used in connection with the services

specified in the application for Applicant's Mark, to cause confusion, or cause mistake, or to deceive, by falsely suggesting that Opposer is the source of such services, or that Opposer has authorized, sponsored, approved of, or in some manner associated itself with the services of Applicant, thereby creating a likelihood of confusion, deception, or mistake, all to the damage of Opposer.

7. Any such confusion, deception, or mistake in the trade and among the public inevitably would result in loss of sales, damage, and injury to Opposer.

8. By reason of the foregoing, Applicant's registration of the mark herein opposed would cause significant damage and injury to Opposer and to Opposer's rights in Opposer's Marks. Thus, Applicant's mark should be denied registration under Section 2(d) of the Trademark Act (15 U.S.C. § 1052(d)).

9. The statutory fee of \$300, and any additional required fees, should be charged to the undersigned's Deposit Account No. 11-0600.

WHEREFORE, Opposer requests that the opposition to Application Serial No. 77/504,948 for the registration of GOOD ENERGY A SMARTER WAY TO BUY ENERGY be sustained and the registration sought by Applicant be refused.

Respectfully submitted,

KENYON & KENYON LLP

Dated: June 28, 2010

/Howard J. Shire/
Howard J. Shire

One Broadway
New York, New York 10004
(212) 425-7200
tmdocketny@kenyon.com

Attorneys for Opposer
Cofra Holding AG