

ESTTA Tracking number: **ESTTA383654**

Filing date: **12/14/2010**

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	Just Energy Income Fund
Granted to Date of previous extension	12/15/2010
Address	6345 Dixie Road, Suite 200 Mississauga, L5T2E6 CANADA

Attorney information	Christina L. Martini DLA Piper LLP (US) P.O. Box 64807 Chicago, IL 60664-0807 UNITED STATES ch.tm@dlapiper.com, nicole.chaudhari@dlapiper.com, christina.martini@dlapiper.com Phone:312-368-4000
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Applicant Information

Application No	85001067	Publication date	08/17/2010
Opposition Filing Date	12/14/2010	Opposition Period Ends	12/15/2010
Applicant	SGE Management, LLC 3232 McKinney Avenue, Suite 1400 Dallas, TX 75204 UNITED STATES		

Goods/Services Affected by Opposition

Class 039. All goods and services in the class are opposed, namely: electricity and natural gas services, namely, the transmission and distribution of electricity and gas

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Void ab initio

Marks Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	MOMENTIS		
Goods/Services	"Business development services, namely, providing start-up support		

	<p>for businesses of others; providing promotional materials to independent salespersons in the field of energy, electricity and natural gas; consulting services in the field of energy, electricity and natural gas; providing the services of rendering aid and assistance to independent business persons engaged in the sale of energy, electricity and natural gas, specifically the compilation and maintenance of customer lists for such business persons and the mailing of publications containing topics of interest to the customers or such independent business persons; rendering technical aid and assistance in the establishment and/or operation of a business specializing in the sale of energy, electricity and natural gas; and retail services by direct solicitation by independent sales representatives in the field of energy, electricity, natural gas, energy brokerage and brokerage of carbon offset credits" in International Class 35; "providing financial advice to independent sales persons engaged in the sale of energy, electricity, natural gas, sale and purchase of carbon offset credits" in International Class 36; and "educational services in the field of energy, electricity, natural gas, energy brokerage and brokerage of carbon offset credits" in International Class 41</p>
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U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	MOMENTIS BY JUST ENERGY		
Goods/Services	<p>"Business development services, namely, providing start-up support for businesses of others; providing promotional materials to independent salespersons in the field of energy, electricity and natural gas; consulting services in the field of energy, electricity and natural gas; providing the services of rendering aid and assistance to independent business persons engaged in the sale of energy, electricity and natural gas, specifically the compilation and maintenance of customer lists for such business persons and the mailing of publications containing topics of interest to the customers or such independent business persons; rendering technical aid and assistance in the establishment and/or operation of a business specializing in the sale of energy, electricity and natural gas; and retail services by direct solicitation by independent sales representatives in the field of energy, electricity, natural gas, energy brokerage and brokerage of carbon offset credits" in International Class 35; "providing financial advice to independent sales persons engaged in the sale of energy, electricity, natural gas, sale and purchase of carbon offset credits" in International Class 36; and "educational services in the field of energy, electricity, natural gas, energy brokerage and brokerage of carbon offset credits" in International Class 41</p>		

Attachments	Notice of Opposition - MOMENTAS.pdf (7 pages)(1107483 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	/CL Martini/
Name	Christina L. Martini
Date	12/14/2010

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

In re Serial No. 85/001,067
Mark: MOMENTAS
Published: August 17, 2010

JUST ENERGY INCOME FUND,)	
)	
Opposer,)	
)	Opposition No.:
v.)	
)	Mark: MOMENTAS
SGE MANAGEMENT, LLC,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

U. S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

Sir:

JUST ENERGY INCOME FUND, a trust organized under the laws of Canada, located at 6345 Dixie Road, Suite 200, Mississauga L5T2E6, Canada ("Opposer"), believes that it would be damaged by registration of the mark shown in Application Serial No. 85/001,067 (the "'067 Application"), filed March 29, 2010 by SGE Management, LLC ("Applicant"), published in the Official Gazette of the United States Patent and Trademark Office (the "USPTO") on August 17, 2010, and hereby opposes the registration of such mark. The time to oppose was extended by timely requests for extension of time to file this opposition.

The grounds for the opposition are as follows:

1. Opposer offers a variety of energy-related services in several jurisdictions, including the United States and Canada.

2. Opposer owns pending U.S. trademark applications for marks which incorporate the designation MOMENTIS, including:

(a) MOMENTIS, Application Serial No. 85/008,668 (the "'668 Application"), which currently covers "energy management services, namely, providing a service that allows customers to purchase energy, namely, electricity and natural gas, at a fixed price; business development services, namely, providing start-up support for businesses of others; providing promotional materials to independent salespersons in the field of energy, electricity and natural gas; consulting services in the field of energy, electricity and natural gas; providing the services of rendering aid and assistance to independent business persons engaged in the sale of energy, electricity and natural gas, specifically the compilation and maintenance of customer lists for such business persons and the mailing of publications containing topics of interest to the customers or such independent business persons; rendering technical aid and assistance in the establishment and/or operation of a business specializing in the sale of energy, electricity and natural gas; and retail services by direct solicitation by independent sales representatives in the field of energy, electricity, natural gas, energy brokerage and brokerage of carbon offset credits" in International Class 35; "brokerage of carbon offset credits on behalf of offset producers, namely, arranging the purchase and offer of carbon offset credits; financial brokerage services, namely, providing for the exchange of carbon offset products and services; energy brokerage services, namely, natural gas and electricity for residential and commercial customers; providing

financial advice to independent sales persons engaged in the sale of energy, electricity, natural gas, sale and purchase of carbon offset credits; financial brokerage services, namely, providing for the exchange of carbon offset products and services" in International Class 36; and "educational services in the field of energy, electricity, natural gas, energy brokerage and brokerage of carbon offset credits" in International Class 41 (collectively referred to as "Opposer's Services"); and

(b) MOMENTIS BY JUST ENERGY, Application Serial No. 85/008,661 (the "'661 Application"), which currently covers Opposer's Services.

Opposer's MOMENTIS and MOMENTIS BY JUST ENERGY marks are collectively referred to as "Opposer's MOMENTIS Marks".

3. The '668 Application and the '661 Application are currently pending in the USPTO.

4. Opposer has used its MOMENTIS trademark in commerce since at least as early as March 27, 2010, and it has used its MOMENTIS BY JUST ENERGY trademark in commerce since at least as early as March 27, 2010, in connection with "business development services, namely, providing start-up support for businesses of others; providing promotional materials to independent salespersons in the field of energy, electricity and natural gas; consulting services in the field of energy, electricity and natural gas; providing the services of rendering aid and assistance to independent business persons engaged in the sale of energy, electricity and natural gas, specifically the compilation and maintenance of customer lists for such business persons and the mailing of publications containing topics of interest to the customers or such independent business persons; rendering technical aid and assistance in the establishment and/or operation of

a business specializing in the sale of energy, electricity and natural gas; and retail services by direct solicitation by independent sales representatives in the field of energy, electricity, natural gas, energy brokerage and brokerage of carbon offset credits" in International Class 35; "providing financial advice to independent sales persons engaged in the sale of energy, electricity, natural gas, sale and purchase of carbon offset credits" in International Class 36; and "educational services in the field of energy, electricity, natural gas, energy brokerage and brokerage of carbon offset credits" in International Class 41 (collectively referred to as "Opposer's Initial Services").

5. On March 29, 2010, Applicant filed the '067 Application for the mark MOMENTAS for "electricity and natural gas services, namely, the transmission and distribution of electricity and gas" in International Class 39 ("Applicant's Services").

6. Opposer's rights in Opposer's MOMENTIS Marks pre-date the priority date of the '067 Application.

7. The grant of a registration to Applicant for its MOMENTAS mark as sought in the '067 Application should be denied on the grounds of Opposer's prior adoption and use of Opposer's MOMENTIS Marks for Opposer's Initial Services. The mark sought to be registered by Applicant is confusingly similar to Opposer's MOMENTIS Marks, and use of the MOMENTAS mark by Applicant is likely to cause confusion or mistake in the minds of the public and to lead the public and prospective purchasers to mistakenly believe that Applicant's services are those of Opposer or are endorsed, sponsored or otherwise affiliated or connected with Opposer, or that Opposer's services are associated with Applicant, all to the damage and injury of the purchasing public and to the damage and injury of Opposer.

8. The grant of a registration to Applicant for its MOMENTAS mark as sought in the '067 Application should be denied based on a likelihood of confusion with Opposer's MOMENTIS Marks.

9. On information and belief, prior to the time that Applicant filed the '067 Application, it had actual knowledge of Opposer's adoption and use of Opposer's MOMENTIS Marks for Opposer's Initial Services.

10. Applicant is not, and was not at the time of filing of the '067 Application, the rightful owner of all rights in and to the MOMENTAS mark in the United States.

11. Opposer is, and was at the time of filing of Applicant's '067 Application, the owner of all rights in and to Opposer's MOMENTIS Marks in the United States.

12. Upon information and belief, Applicant did not have a *bona fide* intention to use the MOMENTAS mark in commerce on or in connection with the services listed in the '067 Application, as required under Section 1(b) of the Trademark Act.

13. The grant of a registration to Applicant for its MOMENTAS mark as sought in the '067 Application should likewise be denied because the '067 Application is *void ab initio*.

WHEREFORE, Opposer files this Notice of Opposition and prays that the aforesaid application of SGE MANAGEMENT, LLC, herein opposed, be rejected; that no registration be issued thereon to Applicant; and for such other and further relief as may be deemed just and proper.

The Deposit Account No. 18-2284 should be charged the amount of \$300.00 to cover the filing fees of this notice of opposition against the '067 Application. Please charge any additional

fees to Deposit Account No. 18-2284, and address all correspondence regarding this opposition
to:

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December 14, 2010

Respectfully submitted,

JUST ENERGY INCOME FUND

By: 

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this correspondence is being deposited with the United States Postal Service as First-Class Mail in an envelope addressed to the correspondent of record Danica L. Mathes, Bell Nunnally & Martin LLP, 3232 McKinney Avenue, Suite 1400, Dallas, Texas 75204-7422 on December 14, 2010.



Signature



Name



Date of Signature