

ESTTA Tracking number: **ESTTA457404**

Filing date: **02/20/2012**

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	MyPoints.com, Inc.
Granted to Date of previous extension	05/09/2012
Address	50 California Street, 3rd Floor San Francisco, CA 94111-4632 UNITED STATES

Attorney information	Robert C. Cumbow and Daniel J. Oates Graham & Dunn PC 2801 Alaskan Way, Suite 300 - Pier 70 Seattle, WA 98121-1128 UNITED STATES ip@grahamdunn.com
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Applicant Information

Application No	85054475	Publication date	01/10/2012
Opposition Filing Date	02/20/2012	Opposition Period Ends	05/09/2012
Applicant	Value Suisse International Investments, Inc. Suite 1200 1000 N. West St. Wilmington, DE 19801 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. All goods and services in the class are opposed, namely: Arranging and conducting incentive rewards program to promote the sale of goods and services related to health, wellness and entertainment of third parties
Class 036. All goods and services in the class are opposed, namely: Financial services, namely, management of on-line virtual points in the nature of issuing virtual points to be redeemed for currency earned by consumers of third party goods and services related to health, wellness and entertainment

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.	2119246	Application Date	08/07/1996
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Registration Date	12/09/1997	Foreign Priority Date	NONE
Word Mark	MYPOINTS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1996/07/08 First Use In Commerce: 1996/07/08 promoting the goods and services of others through the administration of an on-line business program and award program for visiting web sites on global computer networks and the intranet		

U.S. Registration No.	2788641	Application Date	01/17/2003
Registration Date	12/02/2003	Foreign Priority Date	NONE
Word Mark	MYPOINTS REWARDS		
Design Mark	MYPOINTS REWARDS		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2001/05/24 First Use In Commerce: 2001/08/01 credit card services		

U.S. Registration No.	3668584	Application Date	08/19/2008
Registration Date	08/18/2009	Foreign Priority Date	NONE
Word Mark	MYPOINTS		
Design Mark			
Description of Mark	The mark consists of the wording "MYPOINTS" to the right of a grouping of three small right diagonal angled triangles which form a larger right diagonal angled triangle.		
Goods/Services	Class 035. First use: First Use: 2007/08/16 First Use In Commerce: 2007/08/16 promoting the goods and services of others through the administration of an on-line business program and award program which rewards users for visiting the web sites of others on global computer networks and the Internet; promoting the goods and services of others through electronic direct mail advertising offering incentives to loyalty customers		

U.S. Registration No.	3682280	Application Date	09/04/2008
Registration Date	09/15/2009	Foreign Priority Date	NONE
Word Mark	MAXPOINTS		

Design Mark	MAXPOINTS
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2008/07/02 First Use In Commerce: 2008/07/02 Promoting the goods and services of others through the administration of an on-line business program and award program which rewards users for visiting the web sites of others on global computer networks and the Internet; promoting the goods and services of others through electronic direct mail advertising offering incentives to loyalty customers

Attachments	76484200#TMSN.gif (1 page)(bytes) 77550290#TMSN.jpeg (1 page)(bytes) 77562697#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (4 pages)(47948 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/ Daniel J. Oates
Name	Robert C. Cumbow and Daniel J. Oates
Date	02/20/2012

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

In the Matter of
Trademark Application Serial No. 85/054,475
For the Mark V-POINTS
Published in the Official Gazette on January 10, 2012
Time to Oppose Extended to May 9, 2012

MYPOINTS.COM, INC.,

Opposer,

v.

VALUE SUISSE INTERNATIONAL
INVESTMENTS, INC.,

Applicant.

Opposition No.

NOTICE OF OPPOSITION

MyPoints.com, Inc., a Delaware Corporation with its principal place of business located at 50 California St., 3rd Floor, San Francisco, CA 94111-4632 ("Opposer"), believes that it will be damaged if a registration is granted on the above-captioned trademark application of Value Suisse International Investments, Inc., a Delaware Corporation with its principal place of business located at 1000 N. West Street, Ste. 1200, Wilmington, DE 19801 ("Applicant"), and hereby opposes such registration.

As grounds for its opposition, Opposer alleges that:

Opposer's Trademarks

1. Opposer owns U.S. Reg. No. 2119246 for MYPOINTS in International Class 35 for "promoting the goods and services of others through the administration of an on-line business program and award program for visiting web sites on global computer networks and the intranet" (first used in commerce at least as early as July 8, 1996); U.S.

Reg. No. 3668584 for MYPOINTS in International Class 35 for “promoting the goods and services of others through the administration of an on-line business program and award program which rewards users for visiting the web sites of others on global computer networks and the Internet; promoting the goods and services of others through electronic direct mail advertising offering incentives to loyalty customers (first use in commerce at least as early as August 16, 2007); U.S. Reg. No. 2788641 for MYPOINTS REWARDS in the United States in International Class 36 for “credit card services” (first use in commerce at least as early as May 24, 2001); and U.S. Reg. No. 3682280 for MAXPOINTS in International Class 35 for “Promoting the goods and services of others through the administration of an on-line business program and award program which rewards users for visiting the web sites of others on global computer networks and the Internet; promoting the goods and services of others through electronic direct mail advertising offering incentives to loyalty customers” (first use in commerce at least as early as July 2, 2008) (collectively “Opposer’s Marks”). Opposer also has common law rights in Opposer’s Marks in commerce in the United States in connection with the services described above from the dates at least as early as described above.

Applicant’s Application to Register V-POINTS

2. On June 3, 2010, Applicant filed with the United States Patent and Trademark Office an Intent to Use Application, Serial No. 85054475 for V-POINTS in International Class 35 for “Arranging and conducting incentive rewards program to promote the sale of goods and services related to health, wellness and entertainment of third parties,” and International Class 36 for “Financial services, namely, management of on-line virtual points in the nature of issuing virtual points to be redeemed for currency earned by consumers of third party goods and services related to health, wellness and entertainment.”

Likelihood of Confusion

3. Opposer believes that Applicant's registration of V-POINTS for the services set forth in Applicant's application will create a likelihood of confusion, mistake and/or deception among consumers, all to Opposer's detriment.

Opposer's Priority and Standing

4. Opposer's trademark rights in Opposer's Marks have priority over Applicant's trademark rights in V-POINTS.

5. Opposer has spent significant amounts of money and other resources marketing, promoting, and advertising its services under Opposer's Marks. Through these efforts, these marks now enjoy valuable consumer recognition and goodwill.

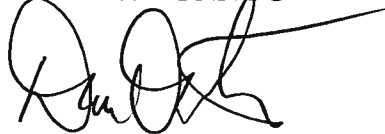
6. Under 15 U.S.C. § 1063, Opposer believes that Applicant's registration of V-POINTS would damage Opposer's business and the goodwill symbolized and recognized by Opposer's Marks.

WHEREFORE, Opposer Mypoints.com, Inc. prays that this opposition be sustained and that Application Serial No. 85054475 be denied.

Dated this 20th day of February, 2012.

Respectfully submitted,

GRAHAM & DUNN PC



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Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of February, 2012, I served a copy of the attached document by first-class mail upon:

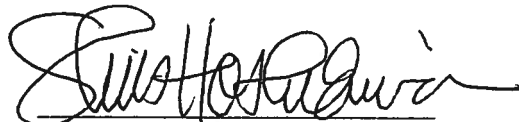
Value Suisse International Investments, Inc.
1000 N. West St., Ste. 1200
Wilmington, DE 19801

Hani Z. Sayed
Rutan & Tucker, LLP
611 Anton Blvd. Ste. 1400
Costa Mesa, CA 92626-1931

/s/ Daniel J. Oates
Daniel J. Oates

CERTIFICATE OF ELECTRONIC FILING

I CERTIFY that on February 20, 2012, the forgoing NOTICE OF OPPOSITION regarding the mark "V-POINTS" (Serial No.: 85/054,475) is being electronically filed:



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