

ESTTA Tracking number: **ESTTA464251**

Filing date: **03/28/2012**

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	Tata Sons LTD
Granted to Date of previous extension	03/28/2012
Address	Bombay House, 24 Homi Mody Street Mumbai, 400001 INDIA

Attorney information	MATTHEW D MARCOTTE KELLEY DRYE & WARREN LLP 101 PARK AVENUE NEW YORK, NY 10178 UNITED STATES mmarcotte@kelleydrye.com, ccastro@kelleydrye.com Phone:(212) 808-7800
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### Applicant Information

Application No	79091228	Publication date	11/29/2011
Opposition Filing Date	03/28/2012	Opposition Period Ends	03/28/2012
International Registration No.	1061627	International Registration Date	06/04/2010
Applicant	The Baltic Exchange Limited St Mary Axe London EC3A 8BH UNITED KINGDOM		

### Goods/Services Affected by Opposition

<p>Class 009. All goods and services in the class are opposed, namely: Data media in the form of pre-recorded magnetic computer tapes, pre-recorded floppy computer discs and pre-recorded hard computer discs, all featuring trade information, business information, business price information and statistical information, all relating to sea-borne cargoes, ship broking, sea-borne bulk cargo transport and the sale and purchase of vessels; downloadable publications in electronic form supplied on-line from a computer database or the Internet in the form of magazines, newsletters, press releases, business reports, market reports, cargo fixture lists, all relating to sea-borne cargoes, ship broking, sea-borne bulk cargo transport and the sale and purchase of vessels</p>
<p>Class 035. All goods and services in the class are opposed, namely: Compilation and provision of trade information, business information, business price information and statistical information, offered or provided on-line from a computer database or the Internet; providing online computer databases, all in the field of trade information, business information, business price information and statistical information, all relating to sea-borne cargoes, ship broking, the chartering and leasing of transport for</p>

the carriage of bulk goods and cargoes by sea, and the sale and purchase of vessels; computerised database management; provision of business information relating to ship broking, chartering and leasing of transport for the carriage of bulk goods and cargoes by sea, and the sale and purchase of vessels; provision of business information relating to ship broking, chartering and leasing of transport for the carriage of bulk goods and cargoes by sea, and the sale and purchase of vessels, offered or provided on-line from a computer database or the Internet; preparation and compilation of business reports; preparation and compilation of financial reports for others, preparation and compilation of market reports; preparation and compilation of business reports, preparation and compilation of financial reports for others, preparation and compilation of market reports, offered or provided on-line from a computer database or the Internet; business information services relating to sea-borne cargoes, ship broking, the chartering and leasing of transport for the carriage of bulk goods and cargoes by sea, and the sale and purchase of vessels; business information services relating to sea-borne cargoes, ship broking, the chartering and leasing of transport for the carriage of bulk goods and cargoes by sea, and the sale and purchase of vessels, offered or provided on-line from a computer database or the Internet

Class 036.

All goods and services in the class are opposed, namely: Operation, administration and organization of financial indices, relating to ship broking and shipping cargo rates; operation, administration and organization of financial indices, relating to ship broking and shipping cargo rates, offered or provided on-line from a computer database or the Internet; provision of financial information relating to shipping cargo; provision of financial information relating to shipping cargo, offered provided on-line from a computer database or the Internet; provision of financial information; provision of financial information, offered or provided on-line from a computer database or the Internet; preparation of financial reports; preparation of financial reports, offered or provided online from a computer database or the Internet; preparation of financial analyses; preparation of financial analyses, offered or provided online from a computer database or the Internet; provision of financial information relating to ship broking, chartering and leasing of transport for the carriage of bulk goods and cargoes by sea, and for the sale and purchase of vessels; provision of financial information relating to ship broking, chartering and leasing of transport for the carriage of bulk goods and cargoes by sea, and the sale and purchase of vessels, offered or provided on-line from a computer database or the Internet

## 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.	2988847	Application Date	11/21/2001
Registration Date	08/30/2005	Foreign Priority Date	NONE
Word Mark	TCS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 1975/11/00 First Use In Commerce: 1975/11/00            Business consulting services in the fields of utilities, health care, transportation, retail and distribution, telecommunications, insurance, financial services, banking, manufacturing and process industries, and electronic commerce</p> <p>Class 037. First use: First Use: 1975/11/00 First Use In Commerce: 1975/11/00            maintenance and repair of computer hardware</p> <p>Class 042. First use: First Use: 1975/11/00 First Use In Commerce: 1975/11/00            Database development services, namely, information technology infrastructure development; computer project management services featuring the development of information technology infrastructures; computer network design for others; computer technology consultation; computer programming for others; computer</p>		

	software design for others; and mechanical, electrical, and systems engineering services for others
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U.S. Registration No.	3022846	Application Date	11/21/2001
Registration Date	12/06/2005	Foreign Priority Date	NONE
Word Mark	TCS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1975/11/00 First Use In Commerce: 1975/11/00  Computer software for use in hospital facilities administration, namely, for compiling medical intensive care unit patient data and conducting treatment cost analysis, and for use in automated medical patient records systems; computer software for use in database management and records consolidation, software development, computer source code review, and software modeling; computer software for facilitating integrated transaction-handling and supporting management-reporting applications in the banking industry; computer software for use in systems management applications in the banking industry including foreign exchange and domestic treasury operations and transactions, securities trading, payments and funds transfer, and portfolio management, risk management applications in the banking industry, on-line consumer banking, integrating back-office reporting functions for banks, reconciliation of banking transactions, and resource and performance analysis functions for banks; computer software for business accounting; computer software for performing billing and accounts receivable applications in the insurance industry; computer software for the design and implementation of insurance policies; computer software for use in on-line securities trading applications for brokerage firms and custodial services relating to securities; and computer software for use in the management of manufacturing processes, and maintenance management in the manufacturing and process industries</p>		

Attachments	Scan_Attachment.PDF ( 9 pages )(172780 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	/Matthew D. Marcotte/
Name	MATTHEW D MARCOTTE
Date	03/28/2012

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

**NOTICE OF OPPOSITION**

**In the Matter of Application  
Serial No. 79/091,228 Published  
in the Official Gazette of November 29, 2011**

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<b>TATA SONS, LTD.,</b>	:	
<b>Opposer,</b>	:	
<b>v.</b>	:	
<b>THE BALTIC EXCHANGE LIMITED,</b>	:	<b>Opposition No.</b>
<b>Applicant.</b>	:	
-----	:	
	X	

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

TATA SONS, LTD., a corporation organized and existing under the laws of India with a place of business at Bombay House, 24 Homi Mody Street, Mumbai, India 400001 (hereinafter "Opposer") believes that it will be damaged by registration of the designation TC5 for "Data media in the form of pre-recorded magnetic computer tapes, pre-recorded floppy computer discs and pre-recorded hard computer discs, all featuring trade information, business information, business price information and statistical information, all relating to sea-borne cargoes, ship broking, sea-borne bulk cargo transport and the sale and purchase of vessels; downloadable publications in electronic form supplied on-line from a computer database or the Internet in the form of magazines, newsletters, press releases, business reports, market reports, cargo fixture lists, all relating to sea-borne cargoes, ship broking, sea-borne bulk cargo transport and the sale and purchase of vessels," in International Class 9, "Compilation and provision of trade information, business information, business price information and statistical information,

offered or provided on-line from a computer database or the Internet; providing online computer databases, all in the field of trade information, business information, business price information and statistical information, all relating to sea-borne cargoes, ship broking, the chartering and leasing of transport for the carriage of bulk goods and cargoes by sea, and the sale and purchase of vessels; computerised database management; provision of business information relating to ship broking, chartering and leasing of transport for the carriage of bulk goods and cargoes by sea, and the sale and purchase of vessels; provision of business information relating to ship broking, chartering and leasing of transport for the carriage of bulk goods and cargoes by sea, and the sale and purchase of vessels, offered or provided on-line from a computer database or the Internet; preparation and compilation of business reports, preparation and compilation of financial reports for others, preparation and compilation of market reports; preparation and compilation of business reports, preparation and compilation of financial reports for others, preparation and compilation of market reports, offered or provided on-line from a computer database or the Internet; business information services relating to sea-borne cargoes, ship broking, the chartering and leasing of transport for the carriage of bulk goods and cargoes by sea, and the sale and purchase of vessels; business information services relating to sea-borne cargoes, ship broking, the chartering and leasing of transport for the carriage of bulk goods and cargoes by sea, and the sale and purchase of vessels, offered or provided on-line from a computer database or the Internet” in International Class 35, and “Operation, administration and organization of financial indices, relating to ship broking and shipping cargo rates; operation, administration and organization of financial indices, relating to ship broking and shipping cargo rates, offered or provided on-line from a computer database or the Internet; provision of financial information relating to shipping cargo; provision of financial information relating to shipping cargo, offered provided on-line from a computer database or the Internet; provision of financial

information; provision of financial information, offered or provided on-line from a computer database or the Internet; preparation of financial reports; preparation of financial reports, offered or provided online from a computer database or the Internet; preparation of financial analyses; preparation of financial analyses, offered or provided online from a computer database or the Internet; provision of financial information relating to ship broking, chartering and leasing of transport for the carriage of bulk goods and cargoes by sea, and for the sale and purchase of vessels; provision of financial information relating to ship broking, chartering and leasing of transport for the carriage of bulk goods and cargoes by sea, and the sale and purchase of vessels, offered or provided on-line from a computer database or the Internet” in International Class 36 shown in Application Ser. No. 79/091,228 filed by THE BALTIC EXCHANGE LIMITED, a United Kingdom Incorporated Limited Company with an address of St. Mary Axe London EC3A 8BH United Kingdom (hereinafter “Applicant”), and hereby opposes the same.

As grounds therefor, it is alleged that:

1. Since long prior to the acts of Applicant alleged herein, Opposer, both directly and through its subsidiaries and affiliated companies, has been engaged and now is engaged in the business of rendering computer software services and general business consultation under the name and mark TCS. Such computer software and business consultation services have been rendered by the Opposer and its subsidiaries and affiliates, under license, under the name and mark TCS throughout the United States and the world.
2. Since at least as early as November 1975, and long prior to the January 13, 2011 filing date and December 11, 2009 claimed priority date of the application herein opposed, Opposer and its subsidiaries adopted, have used, and are using the mark TCS for business consultation and computer software products and services and related goods and services. Opposer has prior use in interstate commerce of the TCS mark for business consultation and

computer software products and services, and related goods and services, and since the adoption and first use of the TCS mark as aforesaid, Opposer has continuously used the TCS mark on and in connection with the production, advertising, promotion, distribution, and sale of business consultation and computer software products and services, and related goods and services, in interstate commerce in the United States.

3. The TCS mark is now and ever since its first use as aforesaid has been applied to products, package materials, advertisements, and product literature for the aforesaid business consultation and computer software products and services and related goods and services. Products and materials so marked are now and for many years have been advertised and promoted, and widely shipped, distributed, and sold in interstate commerce in the United States. The TCS mark has come to be and is famous and favorably known, and of great value to Opposer, and in the mind of the trade and public, identifies Opposer's goods and services and distinguishes them from the goods and services of others.

4. Opposer is the owner in the United States of all right, title, and interest, in and to the following trademarks registered with the United States Patent and Trademark Office ("PTO"):

- Reg. No. 2,988,847 for the mark TCS for "Business consulting services in the fields of utilities, health care, transportation, retail and distribution, telecommunications, insurance, financial services, banking, manufacturing and process industries, and electronic commerce" in International Class 35, "maintenance and repair of computer hardware" in International Class 37, and "Database development services, namely, information technology infrastructure development; computer project management services featuring the development of information technology infrastructures; computer network design for others; computer technology consultation; computer programming for others; computer software design for others; and mechanical, electrical, and systems engineering services for others" in International Class 42, which issued in 2005; and
- Reg. No. 3,022,846 for the mark TCS for "Computer software for use in hospital facilities administration, namely, for compiling medical intensive care unit patient data and conducting treatment cost analysis, and for use in automated medical patient records systems; computer software for use in database management and records consolidation, software development, computer source code review, and software modeling; computer software for

facilitating integrated transaction-handling and supporting management-reporting applications in the banking industry; computer software for use in systems management applications in the banking industry including foreign exchange and domestic treasury operations and transactions, securities trading, payments and funds transfer, and portfolio management, risk management applications in the banking industry, on-line consumer banking, integrating back-office reporting functions for banks, reconciliation of banking transactions, and resource and performance analysis functions for banks; computer software for business accounting; computer software for performing billing and accounts receivable applications in the insurance industry; computer software for the design and implementation of insurance policies; computer software for use in on-line securities trading applications for brokerage firms and custodial services relating to securities; and computer software for use in the management of manufacturing processes, and maintenance management in the manufacturing and process industries” in International Class 9, which issued in 2005.

5. The aforesaid registrations are valid and subsisting and unrevoked and uncanceled, and Opposer’s right to exclusive use of the mark TCS in connection with the services described in Registrations No. 2,988,847 has become incontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065, by virtue of filing the requisite affidavits under Sections 8 and 15 of the Lanham Act. Opposer owns said registrations for the mark TCS and the trademarks shown thereby and all the business and goodwill symbolized thereby and associated therewith in the United States.

6. By the application herein opposed, Applicant seeks to register the designation TC5 as a trademark for “Data media in the form of pre-recorded magnetic computer tapes, pre-recorded floppy computer discs and pre-recorded hard computer discs, all featuring trade information, business information, business price information and statistical information, all relating to sea-borne cargoes, ship broking, sea-borne bulk cargo transport and the sale and purchase of vessels; downloadable publications in electronic form supplied on-line from a computer database or the Internet in the form of magazines, newsletters, press releases, business reports, market reports, cargo fixture lists, all relating to sea-borne cargoes, ship broking, sea-borne bulk cargo transport and the sale and purchase of vessels,” in International Class 9, “Compilation and provision of trade information, business information, business price



information and statistical information, offered or provided on-line from a computer database or the Internet; providing online computer databases, all in the field of trade information, business information, business price information and statistical information, all relating to sea-borne cargoes, ship broking, the chartering and leasing of transport for the carriage of bulk goods and cargoes by sea, and the sale and purchase of vessels; computerised database management; provision of business information relating to ship broking, chartering and leasing of transport for the carriage of bulk goods and cargoes by sea, and the sale and purchase of vessels; provision of business information relating to ship broking, chartering and leasing of transport for the carriage of bulk goods and cargoes by sea, and the sale and purchase of vessels, offered or provided on-line from a computer database or the Internet; preparation and compilation of business reports, preparation and compilation of financial reports for others, preparation and compilation of market reports; preparation and compilation of business reports, preparation and compilation of financial reports for others, preparation and compilation of market reports, offered or provided on-line from a computer database or the Internet; business information services relating to sea-borne cargoes, ship broking, the chartering and leasing of transport for the carriage of bulk goods and cargoes by sea, and the sale and purchase of vessels; business information services relating to sea-borne cargoes, ship broking, the chartering and leasing of transport for the carriage of bulk goods and cargoes by sea, and the sale and purchase of vessels, offered or provided on-line from a computer database or the Internet” in International Class 35, and “Operation, administration and organization of financial indices, relating to ship broking and shipping cargo rates; operation, administration and organization of financial indices, relating to ship broking and shipping cargo rates, offered or provided on-line from a computer database or the Internet; provision of financial information relating to shipping cargo; provision of financial information relating to shipping cargo, offered provided on-line from a computer database or the Internet;

provision of financial information; provision of financial information, offered or provided on-line from a computer database or the Internet; preparation of financial reports; preparation of financial reports, offered or provided online from a computer database or the Internet; preparation of financial analyses; preparation of financial analyses, offered or provided online from a computer database or the Internet; provision of financial information relating to ship broking, chartering and leasing of transport for the carriage of bulk goods and cargoes by sea, and for the sale and purchase of vessels; provision of financial information relating to ship broking, chartering and leasing of transport for the carriage of bulk goods and cargoes by sea, and the sale and purchase of vessels, offered or provided on-line from a computer database or the Internet” in International Class 36.

7. Applicants’ designation TC5 in application Serial No. 79/091,228 so resembles Opposer’s previously used names and marks and registered TCS trademarks as to be likely, when used in connection with Applicant’s goods, to cause confusion, to cause mistake, and to deceive with consequent injury to Opposer and the public.

8. Additionally, Applicant’s designation TC5 in application Serial No. 79/091,228 so resembles Opposer’s famous TCS trademarks as to be likely, when used on and in connection with Applicant’s goods, to cause or result in dilution of Opposer’s TCS trademarks.

9. Opposer will be damaged by the registration sought by Applicant because such registration would support and assist Applicant in the confusing and misleading use of Applicant’s trademark and would give to Applicant color of exclusive statutory rights to such designation in violation and derogation of the prior and superior rights of Opposer.

10. Registration of application Serial No 79/091,228 should also be refused on the grounds that Opposer will be damaged by the registration sought by Applicant because such registration will dilute the distinctive and famous quality of Opposer’s TCS trademarks.

WHEREFORE, Opposer believes that it would be damaged by registration of Applicant's mark and prays that it be denied.

Please recognize as attorneys for Opposer William R. Golden, Jr., Matthew D. Marcotte, and Deepak Nambiar (members of the Bar of the State of New York) and the firm of Kelley Drye & Warren LLP, 101 Park Avenue, New York, New York 10178. Please address all communications to Matthew D. Marcotte, Esq. of said firm and address.

Dated: New York, New York  
March 28, 2012

KELLEY DRYE & WARREN LLP  
Attorneys for Opposer  
TATA SONS LIMITED

By:   
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William R. Golden, Jr.  
Matthew D. Marcotte  
Deepak Nambiar  
101 Park Avenue  
New York, New York 10178  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing NOTICE OF OPPOSITION has been served upon Applicant at the following address of record by Federal Express, this 28th day of March 2012:

Baron Warren Redfern  
19 South End  
Kensington  
London W8 5BU  
UNITED KINGDOM



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Matthew D. Marcotte