

ESTTA Tracking number: **ESTTA472727**

Filing date: **05/16/2012**

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	Attorneys Liability Protection Society, Inc.		
Entity	a Risk Retention Group	Citizenship	Montana
Address	111 N. Higgins Avenue Missoula, MT 59807 UNITED STATES		

Attorney information	Natalma M. McKnew Smith Moore Leatherwood LLP P.O. Box 87 Greenville, SC 29602 UNITED STATES tami.mcknew@smithmoorelaw.com, barbara.ballew@smithmoorelaw.com Phone:864-242-6440
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**Applicant Information**

Application No	79097967	Publication date	04/17/2012
Opposition Filing Date	05/16/2012	Opposition Period Ends	05/17/2012
International Registration No.	1078955	International Registration Date	05/04/2011
Applicant	Alpstar Capital UK Limited 67 Grosvenor Street London W1K 3JN UNITED KINGDOM		

**Goods/Services Affected by Opposition**

<p>Class 009. All goods and services in the class are opposed, namely: Computer software for use in the financial industries, for business management, for electronically trading financial securities, for financial investment analysis, and for financial services risk analysis; Downloadable digital materials available via an Internet-based platform, namely, multimedia files, text files, written document files and audio/video files featuring financial and business information</p>
<p>Class 035. All goods and services in the class are opposed, namely: Business data and management analysis and appraisals for financial services and investments; Business management services that facilitate company business restructuring programs; Business management services; Business asset management services; Business asset management services, namely, asset auditing services and the maintenance of asset registers; Providing office functions; Professional business consultancy; Business risk analysis; Preparation of financial business reports; Conducting business investigations; Compilation and maintenance of computer databases in the field of business financial assets and business information; Accountancy services; Tax advice; Tax planning services; Information, consultancy and advice relating to all the aforesaid services</p>

Class 036.

All goods and services in the class are opposed, namely: Insurance brokerage, administration, and consultation services; Financial and monetary affairs, namely, financial information management and analysis services; Real estate services, namely, valuation and risk analysis; Financial risk and securities portfolio management services; Hedge fund investment services; Financial asset and investment analysis and management, namely, stock research; Financial asset and investment consultancy and evaluation services; Credit fund advisory and credit risk management services; Electronic financial trading; Financial services, namely, conducting a securities and derivatives exchange for assisting others with completing foreign exchange transactions bonds and the brokerage of securities and equities, commodity futures, shares, stock options, currencies and contracts on stocks or securities for others; Financial brokerage services; Financial analysis; Financial appraisal, namely, providing financial valuation of stocks, securities, bonds, and equities; Financial risk management analysis

## Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

## Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2125404	Application Date	11/29/1996
Registration Date	12/30/1997	Foreign Priority Date	NONE
Word Mark	ALPS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1990/04/30 First Use In Commerce: 1993/05/01 insurance services, namely, professional liability insurance for attorneys, risk management assessment services for attorneys and law firms, claims adjusting and auditing, and insurance management		

Attachments	ALPSTAR Opposition (79097967).pdf ( 6 pages )(200963 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	/Natalma M. McKnew/
Name	Natalma M. McKnew
Date	05/16/2012

THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Application Serial No. 79/097,967  
Filed: May 4, 2011  
For the Mark: "ALPSTAR"  
Published in the *Official Gazette* on April 17, 2012

Attorneys Liability Protection Society, Inc., a Risk Retention Group,

Opposer,

vs.

Alpstar Capital UK,

Applicant.

Opposition No. \_\_\_\_\_

**NOTICE OF OPPOSITION**

Attorney Ref. No.: 133783

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
BOX: TTAB-FEE  
P.O. Box 1451  
Alexandria, VA 22313-1451

Dear Sir or Madam:

Opposer, Attorneys Liability Protection Society, Inc., a Risk Retention Group, a Montana stock insurance company (hereinafter "Opposer"), having an address of 111 N. Higgins Avenue, Suite 200, Missoula Montana 59807, believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes same.

As grounds for support of its opposition, Opposer alleges that:

1. Opposer is the owner of U.S. Registration No. 2,125,404, registered on December 30, 1997 (“Opposer’s Registration”) for the mark, “ALPS” (“Opposer’s Mark”).

2. Since at least as early as 1993, well prior to the May 4, 2011 filing date of Applicant’s application No. 79/097,967 (“Applicant’s Application”) for the mark “ALPSTAR” (“Applicant’s Mark”), Opposer and/or its predecessor adopted and has continuously used thereafter, without abandonment, its mark “ALPS” as a mark in connection with services, including, but not limited to: “insurance services, namely professional liability insurance for attorneys, risk management assessment services for attorneys and law firms, claims adjusting and auditing, and insurance management,” in International Class 036 (collectively, “Opposer’s Services”).

3. Opposer’s Registration is valid and uncancelled, in full force and effect and is *prima facie* evidence of Opposer’s exclusive right to use Opposer’s Mark in commerce in connection with Opposer’s Services. Opposer’s Mark is incontestable, as acknowledged by Opposer’s Section 8 and 15 declarations, filed September 7, 2007.

4. Opposer’s Mark is further used to identify services provided by Opposer collateral and complementary to the services identified above, including financial management, software applications, trust services, and collateral property and casualty insurance services.

5. Opposer’s Mark is of great value, indicates services originating with Opposer, distinguishes the goods and services of the Opposer from all similar services of others, and the Opposer has built up a large and considerably valuable business and goodwill under Opposer’s Mark.

6. On information and belief, Applicant, Alpstar Capital UK is a foreign corporation, with an address of 67 Grosvenor Street, London W1K 3JN United Kingdom.

7. Applicant's Application was filed on May 4, 2011 for use in connection with: "computer software for use in the financial industries, for business management, for electronically trading financial securities, for financial investment analysis, and for financial services risk analysis; downloadable digital materials available via an Internet-based platform, namely, multimedia files, text files, written document files and audio/video files featuring financial and business information" in International Class 009; "business data and management analysis and appraisals for financial services and investments; business management services that facilitate company business restructuring programs; business management services; Business asset management services; business asset management services, namely, asset auditing services and the maintenance of asset registers; providing office functions; professional business consultancy; business risk analysis; preparation of financial business reports; conducting business investigations; compilation and maintenance of computer databases in the field of business financial assets and business information; accountancy services; tax advice; tax planning services; information, consultancy and advice relating to all the aforesaid services" in International Class 035; and "insurance brokerage, administration, and consultation services; financial and monetary affairs, namely, financial information management and analysis services; real estate services, namely, valuation and risk analysis; financial risk and securities portfolio management services; hedge fund investment services; financial asset and investment analysis and management, namely, stock research; financial asset and investment consultancy and evaluation services; credit fund advisory and credit risk management services; electronic financial trading; financial services, namely, conducting a securities and derivatives exchange for assisting others with completing foreign exchange transactions bonds and the brokerage of securities and equities, commodity futures, shares, stock options, currencies and contracts on

stocks or securities for others; financial brokerage services; financial analysis; financial appraisal, namely, providing financial valuation of stocks, securities, bonds, and equities; Financial risk management analysis” in International Class 036 (collectively, “Applicant’s Services”).

8. Applicant’s Mark, ALPSTAR, is so similar to Opposer’s ALPS mark that confusion will result between the use of Opposer’s Mark in connection with Opposer’s Services and the use by Applicant of Applicant’s Mark in connection with Applicant’s Services. Therefore, Opposer will be harmed by the registration of Applicant’s Mark.

9. In view of Opposer’s Mark and Opposer’s Services, use and registration by the Applicant of Applicant’s Mark in connection with Applicant’s Services is likely to deceive purchasers into believing that Applicant’s Services emanate from Opposer, which in turn will cause great damage to Opposer.

10. According rights of federal registration to Applicant’s Mark would be inimical to an equal or superior right of Opposer to use the same or similar term in connection with similar or commercially-related services.

11. Opposer’s mark has become famous.

12. The registration of Applicant’s Mark is likely to cause dilution pursuant to Trademark Act Section 43(c).

13. If there is any doubt as to the possibility of confusion among consumers, that doubt must be resolved in favor of the Opposer.

14. For the reasons set forth above, Opposer will be damaged by registration of Applicant’s Mark.

WHEREFORE, Opposer prays that said Application No. 79/097,967 be refused registration and that this Opposition be sustained in favor of Opposer.

This Opposition is submitted together with the statutory filing fee of \$300 (International Class 036). Should any additional fee be required, please charge the same to Deposit Account No. 50-2190.

SMITH MOORE LEATHERWOOD LLP, whose address is 300 E. McBee Avenue, Suite 500, Greenville, South Carolina 29601, is hereby designated Opposer's representative upon whom notices or process in these proceedings may be served.

Opposer appoints Thomas W. Epting and Natalma M. McKnew, along with the law firm of Smith Moore Leatherwood LLP, having as one of its offices located at 300 E. McBee Avenue, Suite 500, Greenville, South Carolina 29601, to transact all business on its behalf in connection with this Opposition.

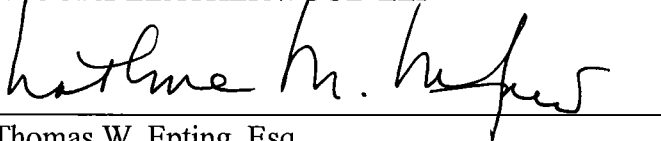
CURRENT ADDRESS OF APPLICANT

To the best of Opposer's knowledge, the current address of the Applicant is 67 Grosvenor Street, London W1K 3JN United Kingdom.

Respectfully submitted,

SMITH MOORE LEATHERWOOD LLP

By:



Thomas W. Epting, Esq.  
Natalma M. McKnew, Esq.  
300 E. McBee Avenue, Suite 500  
Greenville, South Carolina 29601  
(864) 242-6440  
(864) 240-2477 (facsimile)  
Attorney for Opposer

Date: May 15, 2012

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

In the matter of Trademark Application Serial No. 79/097,967  
Filed: May 4, 2011  
For the Mark: "ALPSTAR"  
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Attorneys Liability Protection Society, Inc., a Risk Retention Group,

Opposer,

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Alpstar Capital UK,

Applicant.

Opposition No. \_\_\_\_\_

**PROOF OF SERVICE**

I hereby certify that this correspondence is being deposited with the United States Postal Service First Class Mail service under 37 CFR 1.8 in an envelope addressed to:

Alpstar Capital UK  
67 Grosvenor Street  
London W1K 3JN  
United Kingdom

Keith R. Haupt, Esq.  
Wood Herron & Evans  
2700 Carew Tower  
441 Vine Street  
Cincinnati, OH 45202

on this 15<sup>th</sup> day of May 2012.

Name of person mailing correspondence:

  
\_\_\_\_\_  
Barbara H. Ballew