

ESTTA Tracking number: **ESTTA888570**

Filing date: **04/09/2018**

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	Omega Capital Management, LLC
Granted to Date of previous extension	04/07/2018
Address	4124 S. Rockford Ave Suite 201 Tulsa, OK 74105 UNITED STATES

Attorney information	Penina Michlin Chiu Frederic Dorwart, Lawyers PLLC Old City Hall 124 East Fourth Street Tulsa, OK 74103 UNITED STATES Email: pchiu@fdlaw.com Phone: 918-583-9922
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Applicant Information

Application No	86883902	Publication date	02/06/2018
Opposition Filing Date	04/09/2018	Opposition Period Ends	04/07/2018
Applicant	F.N.B. Corporation 3838 Tamiami Trail North, Suite 310 c/o WHITELAW LEGAL GROUP Naples, FL 34103 UNITED STATES		


Goods/Services Affected by Opposition

<p>Class 036. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Banking services, automated teller machine services; consumer and commercial lending services; administration of deposit and savings accounts; electronic interactive banking services; mobile and online banking services; financial analysis and consultation; financial clearing house services; financial services, namely, wealth management services and trust services in the nature of estate trust planning and financial trust operations; automobile lease financing; lease-purchase financing; insurance information; investment advisory services; financial exchange; financial information provided by electronic means; financial management services; financial planning; financial portfolio management; financing services; financial services, namely, money lending; financial services, namely, providing Individual Retirement Accounts, Self Employed Qualified Retirement Plans; internet banking services; money transfer, electronic transfer of money, electronic funds transfer; information services for all for the foregoing provided via a global computer network</p>
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Grounds for Opposition

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


U.S. Registration No.	4654265	Application Date	01/07/2014
Registration Date	12/09/2014	Foreign Priority Date	NONE
Word Mark	OMEGA CAPITAL		
Design Mark			
Description of Mark	The mark consists of the stylized words "OMEGA CAPITAL". In between "OMEGA" and "CAPITAL" is a stylized omega character located in a shaded circle.		
Goods/Services	Class 036. First use: First Use: 2014/04/18 First Use In Commerce: 2014/04/18 Management of private equity funds; Private equity fund investment services; Providing venture capital, development capital, private equity and investment funding		

Attachments	86159761#TMSN.png(bytes) 20180409NoticeofOppositionOmegaBank.pdf(252240 bytes)
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Signature	/Penina Michlin Chiu/
Name	Penina Michlin Chiu
Date	04/09/2018

services, financial analysis and consultation, wealth management, and other similar financial services.

3. In addition to its extensive common law rights, Opposer is the owner of a U.S. Registration as follows:

Mark	Reg No.	Reg Date	Filing Date	Services
	4,654,265	Dec. 9, 2014	Jan. 7, 2014	Management of private equity funds; Private equity fund investment services; Providing venture capital, development capital, private equity and investment funding in Class 36.

4. Attached as **EXHIBIT A** are true and correct copies of the TSDR status and assignment records from the U.S. Patent and Trademark Office database showing the current status and title of the registration listed above. The registration listed above (the “*Omega Capital Registration*”) is valid and subsisting.
5. The marks described in Paragraphs 2-4 herein are collectively referred to herein as the “*OMEGA CAPITAL Mark*”.
6. The Omega Capital Registration entitles Opposer to the exclusive right to use the mark shown therein in commerce throughout the United States and its territories. 15 U.S.C. §1115.
7. Opposer’s OMEGA CAPITAL Mark is inherently distinctive, serving to identify and indicate the source of Opposer’s services to the consuming public, and to distinguish Opposer’s services from those of others.

8. Additionally, as a result of Opposer's use and promotion of its OMEGA CAPITAL Mark, the marks have become distinctive and are recognized by consumers. Opposer has invested significant effort and resources in advertising and promoting its OMEGA CAPITAL Mark and the services sold under the mark, with the result that the purchasing public has come to know, rely on, and recognize the goods of Opposer by such OMEGA CAPITAL Mark. Opposer has established valuable goodwill in its OMEGA CAPITAL Mark.
9. Applicant F.N.B. Corporation is a Florida corporation having an address c/o Whitelaw Legal Group, 3838 Tamiami Trail North, Suite 310, Naples, Florida 34103.
10. Applicant filed Application Serial Number 86/883,902 (the "**'902 Application**") based on Section 1(b) of the Trademark Act on January 22, 2016 for the mark OMEGA BANK (hereinafter referred to as "**Applicant's Mark**"). The '902 Application for OMEGA BANK recites "Banking services, automated teller machine services; consumer and commercial lending services; administration of deposit and savings accounts; electronic interactive banking services; mobile and online banking services; financial analysis and consultation; financial clearing house services; financial services, namely, wealth management services and trust services in the nature of estate trust planning and financial trust operations; automobile lease financing; lease-purchase financing; insurance information; investment advisory services; financial exchange; financial information provided by electronic means; financial management services; financial planning; financial portfolio management; financing services; financial services, namely, money lending; financial services, namely, providing Individual Retirement Accounts, Self Employed Qualified Retirement Plans; internet banking services; money transfer, electronic transfer of money, electronic funds

transfer; information services for all for the foregoing provided via a global computer network” in Class 36, as evidenced by the publication of the mark in the Official Gazette on February 6, 2018.

11. Opposer has priority based on its prior use and registration of its OMEGA CAPITAL Mark in the United States. Opposer used its OMEGA CAPITAL Mark in commerce and obtained a registration for same well before the filing date of the ‘902 Application and well before Applicant’s first use of Applicant’s Mark in connection with Applicant’s recited services within the United States.
12. Applicant’s Mark is confusingly and deceptively similar to Opposer’s OMEGA CAPITAL Mark, and the services recited in the Application are closely related to the services for which Opposer uses and has registered its OMEGA CAPITAL Mark.
13. Applicant’s channels of trade and class of purchasers are likely to be very similar or identical to those of Opposer. Opposer caters to, and Applicant intends to cater to, those seeking investment management and other related financial products and services.
14. Opposer has not given Applicant permission or approval to use or register Applicant’s Mark.
15. Applicant’s Mark so resembles Opposer’s OMEGA CAPITAL Mark as to be likely, when used on or in connection with the identified services of Applicant, to cause confusion, or to cause mistake, or to deceive. Registration therefore should be refused under 15 U.S.C. §1052(d).
16. Registration of Applicant’s Mark on the Principal Register would be inconsistent with Opposer’s rights under the aforementioned registration and common law, and would be damaging to Opposer.

WHEREFORE, Opposer prays that Application Serial No. 86/883,902 be rejected, and that registration of the mark therein be refused.

This Notice of Opposition is being filed electronically, along with the filing fee required by 37 CFR 2.6(a)(17). The Commissioner is authorized to draw on the Deposit Account of Frederic Dorwart, Lawyers PLLC, Account No. 506040 in the instance there is any problem with the processing of the electronically submitted fee.

Respectfully submitted,

Date: April 9, 2018

/Penina Michlin Chiu/

Penina Michlin Chiu
Frederic Dorwart, Lawyers PLLC
Old City Hall
124 East Fourth Street
Tulsa, OK 74103
(918) 583-9922
pchiu@fdlaw.com
ATTORNEYS FOR OPPOSER

EXHIBIT A

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Mark: OMEGA CAPITAL



US Serial Number: 86159761

Application Filing Date: Jan. 07, 2014

US Registration Number: 4654265

Registration Date: Dec. 09, 2014

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Service Mark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Dec. 09, 2014

Publication Date: Jun. 03, 2014

Notice of Allowance Date: Jul. 29, 2014

Mark Information

Mark Literal Elements: OMEGA CAPITAL

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Description of Mark: The mark consists of the stylized words "OMEGA CAPITAL". In between "OMEGA" and "CAPITAL" is a stylized omega character located in a shaded circle.

Color(s) Claimed: Color is not claimed as a feature of the mark.

Disclaimer: "CAPITAL"

Design Search Code(s): 26.01.21 - Circles that are totally or partially shaded.

28.01.05 - Greek characters; Omega (Greek letter); Alpha (Greek letter)

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Management of private equity funds; Private equity fund investment services; Providing venture capital, development capital, private equity and investment funding

International Class(es): 036 - Primary Class

U.S Class(es): 100, 101, 102

Class Status: ACTIVE

Basis: 1(a)

First Use: Apr. 18, 2014

Use in Commerce: Apr. 18, 2014

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: Yes

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No
Filed 66A: No
Filed No Basis: No

Currently 44E: No
Currently 66A: No
Currently No Basis: No

Amended 44E: No

Current Owner(s) Information

Owner Name: Omega Capital Management, LLC

DBA, AKA, Formerly: AKA Omega Capital

Owner Address: Suite 201
4124 S. Rockford Ave
Tulsa, OKLAHOMA UNITED STATES 74105

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: DELAWARE

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Penina Michlin Chiu
Attorney Primary Email Address: pchiu@fdlaw.com
Docket Number: 6858.01
Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Penina Michlin Chiu
Frederic Dorwart, Lawyers
124 East Fourth Street
Old City Hall
Tulsa, OKLAHOMA UNITED STATES 74103
Phone: 918-583-9922
Fax: 918-583-8251
Correspondent e-mail: pchiu@fdlaw.com
Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Dec. 09, 2014	REGISTERED-PRINCIPAL REGISTER	
Nov. 04, 2014	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Nov. 03, 2014	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Oct. 31, 2014	STATEMENT OF USE PROCESSING COMPLETE	61813
Oct. 08, 2014	USE AMENDMENT FILED	61813
Oct. 30, 2014	CASE ASSIGNED TO INTENT TO USE PARALEGAL	61813
Oct. 08, 2014	TEAS STATEMENT OF USE RECEIVED	
Jul. 29, 2014	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Jun. 03, 2014	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Jun. 03, 2014	PUBLISHED FOR OPPOSITION	
May 14, 2014	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Apr. 30, 2014	LAW OFFICE PUBLICATION REVIEW COMPLETED	70138
Apr. 29, 2014	APPROVED FOR PUB - PRINCIPAL REGISTER	
Apr. 28, 2014	TEAS/EMAIL CORRESPONDENCE ENTERED	70138
Apr. 28, 2014	CORRESPONDENCE RECEIVED IN LAW OFFICE	70138
Apr. 16, 2014	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Apr. 15, 2014	NOTIFICATION OF EXAMINER'S AMENDMENT/PRIORITY ACTION E-MAILED	6326
Apr. 15, 2014	EXAMINER'S AMENDMENT/PRIORITY ACTION E-MAILED	6326
Apr. 15, 2014	COMBINED EXAMINER'S AMENDMENT/PRIORITY ACTION AUTOMATIC ENTRY	90287
Apr. 15, 2014	EXAMINERS AMENDMENT AND/OR PRIORITY ACTION - COMPLETED	90287
Apr. 08, 2014	ASSIGNED TO EXAMINER	90287
Feb. 20, 2014	APPLICANT AMENDMENT PRIOR TO EXAMINATION - ENTERED	70138
Feb. 13, 2014	ASSIGNED TO LIE	70138

Feb. 10, 2014 TEAS VOLUNTARY AMENDMENT RECEIVED
Feb. 07, 2014 ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED
Feb. 07, 2014 TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED
Jan. 21, 2014 NOTICE OF DESIGN SEARCH CODE E-MAILED
Jan. 18, 2014 NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM
Jan. 10, 2014 NEW APPLICATION ENTERED IN TRAM

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Nov. 03, 2014



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No assignment has been recorded at the USPTO

For Serial Number: 86159761

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.6
Web interface last modified: August 25, 2017 v.2.6

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