

ESTTA Tracking number: **ESTTA1279486**

Filing date: **04/19/2023**

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	MOBILEMONEY, Inc.		
Entity	Corporation	Citizenship	California
Address	941 CALLE NEGOCIO SAN CLEMENTE, CA 92673 UNITED STATES		

Attorney information	RONALD P. OINES RUTAN & TUCKER, LLP 18575 JAMBOREE RD., 9TH FLOOR IRVINE, CA 92612 UNITED STATES Primary email: roines@rutan.com Secondary email(s): lhulley@rutan.com, csolorzano@rutan.com, trademarks@rutan.com 714-641-5100		
Docket no.			

Applicant information

Application no.	97056344	Publication date	03/21/2023
Opposition filing date	04/19/2023	Opposition period ends	04/20/2023
Applicant	REVERSE ATM LLC 10340 VIKING DRIVE, SUITE 125 EDEN PRAIRIE, MN 55344 UNITED STATES		

Goods/services affected by opposition

Class 036. First Use: None First Use In Commerce: None All goods and services in the class are opposed, namely: Credit card and debit card services, namely, pre-paid purchase card services in the nature of processing electronic financial transactions by issuing and reloading stored value cards by converting money into pre-paid debit cards and gift card provided through individual kiosks
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Grounds for opposition

The mark is merely descriptive	Trademark Act Section 2(e)(1)
The mark is generic	Trademark Act Sections 1, 2 and 45

Attachments	Notice of Opposition - REVERSE ATM.pdf(130183 bytes)
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Signature	/Ronald P. Oines/
Name	Ronald P. Oines
Date	04/19/2023

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

MOBILEMONEY, INC.,

Opposer,

v.

REVERSE ATM LLC,

Applicant.

Opposition No.: TO BE ASSIGNED

Application Serial No. 97/056,344

Trademark: REVERSE ATM

NOTICE OF OPPOSITION

Opposer, MOBILEMONEY, Inc. (“Opposer”), a California corporation having a place of business at 941 Calle Negocio, San Clemente, CA 92673, believes that it will be damaged by registration of the mark REVERSE ATM shown in U.S. Trademark Application Serial No. 97/056,344 (the “Application”) filed by Reverse ATM LLC (“Applicant”), and hereby opposes the same.

As grounds for opposition, Opposer alleges:

1. For more than 25 years, Opposer has been providing financial services, technology and solutions to companies throughout the United States in various industries. Among other things, Opposer provides automated teller machines (“ATMs”) and related software and hardware to customers, including casinos, retail establishments, sports and concert venues, and state and county fairs.
2. Opposer also provides its services and equipment to customers that do not wish to accept cash, so-called “cashless venues.” Unlike traditional ATMs that dispense cash, these cashless venues want ATMs that accept cash and dispense a prepaid card, for example. ATMs that accept cash and dispense a prepaid card are known as “reverse ATMs.”
3. Opposer has used and continues to use the term “reverse ATM” to describe the above-referenced machines since before October 1, 2021, the date on which Applicant filed its Application. Numerous others have also used the term “reverse ATM,” including before October

1, 2021. On information and belief, Applicant was aware of such uses before it filed its Application.

Applicant's Trademark Application

4. Applicant seeks registration of the mark REVERSE ATM (“Applicant’s Mark”) on the basis of its Application filed on October 1, 2021 (“Applicant’s Filing Date”). The Application is filed under section 1(b) as an intent to use Application.

5. As published on March 21, 2023, the Application covers: “Credit card and debit card services, namely, pre-paid purchase card services in the nature of processing electronic financial transactions by issuing and reloading stored value cards by converting money into pre-paid debit cards and gift card provided through individual kiosks” in International Class 036.

6. On July 12, 2022, the USPTO issued a rejection of the Application, finding that Applicant’s Mark is merely descriptive. The USPTO also provided a “Generic Advisory” in which the USPTO stated “[i]n addition to being merely descriptive, the applied-for mark appears to be generic in connection with the identified goods and/or services.”

7. In response to the USPTO’s rejection, Applicant argued that it coined the term “reverse ATM” and no others were using that term. These statements were false, and Applicant knew they were false.

8. In fact, the term “reverse ATM” was and is being used generically by Opposer and many others to refer to, for example, a kiosk that allows users to turn cash into a card.

9. Opposer would be harmed by registration of Applicant’s Mark because Opposer has used and wishes to continue using “reverse ATM” in connection with its goods and services offered to cashless venues.

CLAIMS FOR RELIEF

Merely Descriptive

Section 2(e)(1) of The Lanham Act; 15 U.S.C. §1052(e)(1)

10. Opposer hereby incorporates the foregoing paragraphs as fully set forth herein.

11. Section 2(e)(1) of the Lanham Act, 15 U.S.C. §1052(e)(1), prohibits registration on the principal register of a mark that when used on or in connection with the goods of the applicant is merely descriptive of them.

12. In initially rejecting the Application, the USPTO correctly found that the term “reverse ATM” is merely descriptive of Applicant’s goods and services, including because “reverse ATM” refers to the fact that Applicant’s kiosks provide the opposite of what a traditional ATM provides. That is, the traditional ATM accepts a card and dispenses cash, while a “reverse ATM” accepts cash and dispenses a card.

13. The Trademark Trial and Appeal Board should refuse to register the Application.

Generic

Section 2(d) of The Lanham Act; 15 U.S.C. §1052(d)

14. Opposer hereby incorporates the foregoing paragraphs as fully set forth herein.

15. A generic mark can never obtain trademark protection because it is understood to refer to a class of goods or services, and does not refer to a particular source of the goods or services. See, e.g., *Interprofession Du Gruyere v. U.S. Dairy Export Council*, 575 F.Supp.3d 627 (E.D. Va. 2021).

16. The term “reverse ATM” has been and continues to be used generically to refer to a machine that accepts cash and dispenses a card. On information and belief, Applicant itself has used and continues to use “reverse ATM” generically, as does the general public.

17. The Trademark Trial and Appeal Board should refuse to register the Application because “reverse ATM” is generic.

WHEREFORE, Opposer prays that Application Serial No. 97/056,344 be rejected, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Opposer.

Please recognize Ronald P. Oines, Lindsay J. Hulley, and the law firm of Rutan & Tucker, LLP, as attorneys for Opposer in this proceeding and address all communications to Mr. Oines at the address below. This Notice of Opposition is being submitted electronically

through ESTTA. The required fee is authorized to be charged against the Deposit Account of the Attorney for Opposer.

Dated: April 19, 2023

Respectfully submitted,

By: /Ronald P. Oines/
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Attorneys for Opposer,
MOBILEMONEY, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he is one of the attorneys for Opposer MobileMoney, Inc., in the above-captioned Opposition proceeding and that on the date which appears below, he caused a copy of the foregoing **NOTICE OF OPPOSITION** to be served on Applicant's counsel below by email:

Applicant's Attorney of Record:

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Dated: April 19, 2023
Irvine, California

/Ronald P. Oines/
Ronald P. Oines