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Filing date: **04/21/2014**

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

Proceeding	91215408
Party	Defendant Miller/Howard Investments, Inc.
Correspondence Address	RAJ ABHYANKER RAJ ABHYANKER PC 1580 W EL CAMINO REAL, STE 8 MOUNTAIN VIEW, CA 94040-2462 UNITED STATES trademarks@rajpatent.com
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Date	04/21/2014
Attachments	Part 1 Answer.pdf(323564 bytes) Part 2 Answer.pdf(1369975 bytes) Part 3 Answer.pdf(5446066 bytes)

Registrations Subject to the filing

Registration No	3286704	Registration date	08/28/2007
Registrant	Research Affiliates, LLC 620 Newport Center Drive, Suite 900 Newport Beach, CA 92660 UNITED STATES		
Grounds for filing	The registered mark has become the generic name for the goods.		

Goods/Services Subject to the filing

Class 036. First Use: 2004/10/00 First Use In Commerce: 2004/10/00
All goods and services in the class are requested, namely: index-based portfolio of securities and mutual funds portfolio management

Registration No	3734868	Registration date	01/05/2010
Registrant	Research Affiliates, LLC Suite 900 Newport Beach, CA 92660 UNITED STATES		

Goods/Services Subject to the filing

Class 036. First Use: 2008/05/31 First Use In Commerce: 2008/05/31
All goods and services in the class are requested, namely: Index-based portfolio of securities and mutual funds portfolio management

Class 042. First Use: 2008/05/31 First Use In Commerce: 2008/05/31
All goods and services in the class are requested, namely: Providing temporary use of on-line non-downloadable computer software for the management and administration of index-based portfolios of securities and mutual funds portfolio management

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

Research Affiliates, LLC. Opposers, v. Miller/Howard Investments, Inc. Applicant.	Opposition No. 91215408 Mark(s): Miller/Howard MLP Fundamental Index Serial No. 85/947,010 Published: November 05, 2013
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**APPLICANT'S ANSWER TO OPPOSERS' NOTICE OF OPPOSITION AND
COUNTERCLAIM TO CANCEL U.S. REGISTRATION NOS. 3,286,704 and 3,734,868**

Applicant Miller/Howard Investments, Inc. (hereinafter "Applicant" or "Miller") through its undersigned attorneys, submits its Answer, Affirmative Defenses, and Counterclaim to Cancel U.S. Registration No. 3,286,704 to the Notice of Opposition ("Opposition") filed by Research Affiliates, LLC. (hereinafter "Opposer" or "Affiliates") dated February 5, 2014 and as follows:

In response to the grounds for opposition enumerated in Opposer's Electronic System for Trademark Trials and Appeals ("ESTTA") Notice of Opposition form, Applicant denies that there are any grounds to sustain the opposition and denies that Opposer owns any trademarks sufficient to constitute a basis for this opposition.

In response to the unnumbered introductory paragraph 2, Applicant denies that Opposer will be damaged by the registration of Application Serial No. 85/947,010.

1. In response to paragraph 1, Applicant responds that Applicant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 1 and, therefore, denies each and every allegation in paragraph 1 of the notice of Opposition.
2. In response to paragraph 2, Applicant responds that Applicant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 2 and, therefore, denies each and every allegation in paragraph 2 of the notice of Opposition.
3. In response to paragraph 3, Applicant admits that the records of the Trademark Status and Document Retrieval (“TSDR”) of the United States Patent and Trademark Office (“USPTO”) reflect that Opposer is the owner of U.S. Trademark Registration for the mark FUNDAMENTAL INDEX in connection with “index-based portfolio of securities and mutual funds portfolio management” in International Class 036, issued on August 28, 2007. Except as expressly admitted, Applicant denies each and every remaining allegation in paragraph 3 of the notice of Opposition.
4. In response to paragraph 4, Applicant responds that Applicant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 4 and, therefore, denies each and every allegation in paragraph 4 of the notice of Opposition.
5. In response to paragraph 5, Applicant admits that the records of the TSDR of the USPTO reflect that Applicant is seeking to register the trademark MILLER/HOWARD MLP FUNDAMENTAL INDEX in connection with

- “Providing and updating a financial index of securities values and classification, analysis, and reporting thereof; Providing financial indices based on selected groups of securities; Providing and updating a financial index” in International Class 035. Except as expressly admitted, Applicant denies each and every remaining allegation in paragraph 5 of the notice of Opposition.
6. In responses to paragraph 6, Applicant denies each and every allegation contained in paragraph 6.
 7. In responses to paragraph 7, Applicant denies each and every allegation contained in paragraph 7.
 8. In responses to paragraph 8, Applicant denies each and every allegation contained in paragraph 8.
 9. In responses to paragraph 9, Applicant denies each and every allegation contained in paragraph 9.
 10. In response to paragraph 10, Applicant submits that the records of the TSDR of the USPTO reflect that on September 16, 2013, the U.S. Patent and Trademark Office Examining attorney handling Applicant’s application, issued an Examiner’s Amendment disclaiming Applicant’s exclusive right to use the terms “MLP” and “INDEX” apart from the mark as shown. Except as expressly admitted, Applicant denies each and every remaining allegation in paragraph 10 of the notice of Opposition.
 11. In response to paragraph 11, Applicant submits that the records of the TSDR of the USPTO reflect that on September 16, 2013, the U.S. Patent and

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