

Attorney Ref. No. 24430.01

TRADEMARK LAW OFFICE 101
Serial No. 76/274228
Mark: IQ

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

----- X
In re Application of Morgan Stanley :
Dean Witter & Co. :
Serial No. 76/274228 :
Filed: June 19, 2001 :
For Mark: IQ :
----- X

**RESPONSE TO PRIORITY OFFICE
ACTION DATED SEPTEMBER 13,
2001**

Box RESPONSES - NO FEE
Assistant Commissioner of Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Attention: Carol Spils, Trademark Examining Attorney
Law Office 101

This is Applicant's Response to the Office Action dated September 13, 2001, in
connection with the above-identified trademark application.

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I hereby certify that this paper or fee is being deposited with the United States
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(Date of Deposit)

(Typed or printed name of
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AMENDMENTS

Please amend the application by deleting the recitation of services and substituting the following:

-- FINANCIAL SERVICES, NAMELY THE ISSUANCE AND SALE OF COMMERCIAL MORTGAGE-BACKED SECURITIES in International Class 36 --

REMARKS

1. Amendments

Applicant acknowledges that the Examining Attorney has issued an Examiner's Amendment for the application. Applicant respectfully believes that the above amendment more accurately describes Applicant's services. Accordingly, Applicant requests that the Trademark Examiner adopt the above amendment.

2. Likelihood of Confusion

The Examining Attorney has cited two registrations (the "Cited Registrations") as potential bars to Applicant's application under Trademark Act Section 2(d) on the grounds of likelihood of confusion. The specifics of the Cited Registrations are as follows:

<u>Mark</u>	<u>Registration Number</u>	<u>Description of Goods or Services</u>
I.Q.	1711645	Class 16: Periodical newsletter on investment.
IQ ACCOUNT	2288577	Class 36: Providing discretionary advisory investment services for individuals.

The Examining Attorney has cited four pending applications¹ as potential bars to Applicant's application if they mature to registration under Trademark Act Section 2(d) on the grounds of likelihood of confusion. Applicant respectfully submits that Application Serial No. 76/277841 should not bar Applicant's mark because Applicant's filing date of June 19, 2001, predates the cited application's June 28, 2001 filing date. The specifics of the three remaining applications (the "Cited Applications") are as follows:

Mark	Serial No.	Description of Goods or Services
CAPITAL IQ	76/139881	<p>Class 9: Financial management software.</p> <p>Class 16: Magazines, newsletters and books in the field of financial-related data; publishing financial books, magazines and newsletters in printed form.</p> <p>Class 35: Providing on-line retail services in the field of financial-related data and company data over a global computer network.</p> <p>Class 36: Financial services provided over a global computer network, namely, commercial and investment banking, processing, funding and underwriting; investment consultation, namely, financial and investment planning and consulting; private equity and venture capital funding; real estate financing, namely, mortgage lending, home equity loans, and commercial equity financing; investment services, namely, financial investment and investment consultation in the fields of funds, mutual funds, real estate, commodity, capital, securities, bonds, annuities; investment advice and investment management; investment brokerage; and private equity and venture capital financing, strategy and management; providing merger and acquisition support services.</p> <p>Class 42: Selling and leasing of financial-related data and company data over a global computer network; providing online financial books, magazines and newsletters.</p>
CAPITAL IQ	76/156865	<p>Class 9: Financial management software.</p> <p>Class 35: Providing on-line retail services in the field of financial-related data and company data over a global</p>

¹ Applicant notes that Application Serial No. 76/277841 was listed twice in the office action.

		<p>computer network. Class 36: Financial services provided over a global computer network, namely, commercial and investment banking, processing, funding and underwriting; investment consultation, namely, financial and investment planning and consulting; private equity and venture capital funding; real estate financing, namely, mortgage lending, home equity loans, and commercial equity financing; investment services, namely, financial investment and investment consultation in the fields of funds, mutual funds, real estate, commodity, capital, securities, bonds, annuities; investment advice; investment management; investment brokerage; and private equity and venture capital financing, strategy and management; providing merger and acquisition support services. Class 42: Selling and leasing of financial-related data and company data over a global computer network; providing online financial books, magazines and newsletters.</p>
IQ WATCH	76/233904	<p>Class 36: Financial services provided over a global computer network, namely, commercial and investment banking, processing, funding and underwriting; investment consultation, namely, financial and investment planning and consulting; private equity and venture capital funding; real estate financing, namely, mortgage lending, home equity loans, and commercial equity financing; investment services, namely, financial investment and investment consultation in the fields of funds, mutual funds, real estate, commodity, capital, securities, bonds, annuities; investment advice; investment management; investment brokerage; and private equity and venture capital financing, strategy and management; providing merger and acquisition support services.</p>

As amended, Applicant's services under the mark IQ are "financial services, namely the issuance and sale of commercial mortgage-backed securities". Applicant respectfully submits that the Cited Registrations and the Cited Applications should not bar Applicant's application and that further consideration of the differences in (a) goods and services, (b)

channels of trade and potential customers, and (c) commercial impressions created by the marks, show that Applicant is entitled to registration of its mark IQ.

I. There Is No Likelihood of Confusion between Applicant's Mark and the Cited Registrations or the Cited Applications

(a) The Marks Designate Different Goods and Services

A likelihood of confusion exists only where there is a "real connection" between the respective goods and services. Saks & Co. v. Snack Food Assoc., 12 U.S.P.Q.2d 1833, 1835 (T.T.A.B. 1989). Because of differences between the services offered by Applicant under its mark, and the goods and services identified with the marks on the Cited Registrations and the Cited Applications, confusion between the marks is not likely.

(i) Applicant's Services

Applicant provides very narrow and specific financial services in connection with its mark IQ: financial services consisting of the issuance and sale of commercial mortgage-backed securities sold to highly sophisticated institutional clients. As shown below, there is no relationship between Applicant's services and any of the goods and services in the Cited Registrations and the Cited Applications.

(ii) Registration No. 1711645

Registration 1711645 identifies a mark for a periodical newsletter containing general articles on investment for the general public. There is no relationship between these goods and Applicant's issuance and sale of commercial mortgage-backed securities. Applicant does not provide newsletters on general investment topics or any other topics in connection with its mark IQ. The registrant is not offering a security.

(iii) Registration 2288577

The mark in Registration 2288577 is for advisory investment services for individuals. These services are unrelated to Applicant's services because Applicant's issuance and sale of commercial mortgage-backed securities does not include the provision of advisory services of any kind in connection with its mark IQ. Moreover, Applicant's services are not for individuals, but for institutional clients, as discussed below in further detail.

(iv) Application Serial Nos. 76/139881 and 76/156865

Application Serial Numbers 76/139881 and 76/156865 cover a variety of goods and services in the finance industry, none of which include or approximate Applicant's services, the issuance or sale of commercial mortgage-backed securities (or any other securities). Applicant does not use its mark IQ in connection with any of the goods or services described in either of Application Serial Numbers 76/139881 or 76/156865. Therefore, Applicant's services are distinct from the goods and services described in these applications.

(v) Application Serial No. 76/233904

Application Serial Number 76/233904 covers a variety of class 36 services. However, none of these services includes the issuance or sale of commercial mortgage-backed securities (or any other securities), and Applicant does not provide any of the services described in this application in connection with its mark IQ. Thus, there is no overlap between Applicant's services and the services indicated on Application Serial Number 76/233904.

(b) The Marks Travel in Different Channels of Trade and Target Different Potential Customers

Even when marks are identical, which is not the case here, no likelihood of confusion exists where the respective goods and services are sufficiently unrelated and are directed to different potential customers.² As described in detail below, because of differences in the goods and services, Applicant's services travel in different channels of trade and are targeted to different consumers than the goods and services described in the Cited Registrations and Cited Applications. In situations where, as here, non-identical goods or services travel in distinct channels of trade to different classes of customers, confusion is not likely to occur.³

(i) Applicant's Potential Customers

Applicant's services are offered and sold to a very specific class of potential customers: institutional clients interested in purchasing commercial mortgage-backed securities. [These securities are not offered to the general public] [Jeff, please confirm this is correct] The investment decisions of Applicant's institutional clients are made by

² See, e.g., *Saks & Co.*, 12 U.S.P.Q.2d at 1835 (services in the nature of promoting the interests of the snack food industry not sufficiently related to retail food store and department store services and various snack foods sold therein); *In re Shipp*, 4 U.S.P.Q.2d 1174 (T.T.A.B. 1987) (PURITAN and Design for laundry and dry cleaning services not confusingly similar to PURITAN for dry cleaning machine parts or to PURITAN for dry cleaning preparations); *Triumph Mach. Co. v. Kentmaster Mfg. Co.*, 1 U.S.P.Q.2d 1826 (HYDRO-CLIPPER for power operated cattle de-horning shears not confusingly similar to HYDRO-CLIPPER and HYDRO-CLIPPER & Design for power mower attachment for controlling vegetation).

³ See e.g., *In re Fesco, Inc.*, 219 U.S.P.Q. 437 (T.T.A.B. 1983) (FESCO & Design for distribution of farm equipment and machinery not confusingly similar to FESCO for fertilizer, foundry processing equipment and machinery and fertilizer processing equipment and machinery); *Triumph Mach. Co., supra*, (power cattle dehorning shears used in slaughterhouse did not travel in same channels of trade or to same classes of purchasers as power mower attachments used to remove vegetation).

extremely sophisticated, highly-trained professionals who represent corporate entities with extensive and diversified portfolios. These professionals exercise extreme care in making investment decisions, and purchase securities and other investment vehicles on behalf of the corporate entities they represent only after carefully verifying and thoroughly studying the entity offering each security. In this market, who the issuer of the security is, is of critical importance.

Confusion is unlikely where, as here, the potential purchasers of the goods and services are highly sophisticated professional purchasers.⁴ Consumers making expensive and/or deliberative purchases, such as the ones considering the purchase of services offered by Applicant in connection with its mark IQ, exercise a greater level of care, thus minimizing a likelihood of confusion as to source.⁵

As shown below, there is no overlap between Applicant's potential customers and any potential customer of the goods or services offered in connection with the marks in the Cited Registrations or the Cited Applications. Moreover, because the potential customers of Applicant's services are highly skilled professionals making deliberative, careful decisions, confusion is not likely here.

⁴ See Electronic Design & Sales, Inc. v. Electronic Data Sys. Corp., 21 U.S.P.Q.2d 1388, 1392 (Fed. Cir. 1992) (emphasizing that purchasers' "sophistication is important and often dispositive" because they are expected to use greater care); 3 J. Thomas McCarthy § 23:101; TMEP § 1207.01.

⁵ See, e.g., Amalgamated Bank v. Amalgamated Trust & Savings Bank, 6 U.S.P.Q.2d 1305, 1308 (Fed. Cir. 1988) (reversing the T.T.A.B. finding of likelihood of confusion between the marks AMALGAMATED and AMALGAMATED BANK and remanding, the Federal Circuit noted that "one would expect [consumers] to select their bank after long and careful consideration"); Exxon Corp. v. Xoil Energy Res., Inc., 216 U.S.P.Q. 634, 647 (S.D.N.Y. 1981) (finding no likelihood of confusion when investments in energy resources required an expenditure between \$5,000-\$60,000).

(ii) Registration No. 1711645

The goods in Registration No. 1711645 are periodical newsletters on investment, whose general articles cover a wide variety of newsworthy investment tools and strategies. The reader of these newsletters is typically an individual with an interest in keeping up to date on new investment tools and strategies. A highly trained professional who represents an entity interested in purchasing a commercial mortgage-backed security offered in connection with Applicant's mark IQ would not likely be interested in such a newsletter. Thus, there is no overlap between the institutional clients of Applicant's services and the readers of the newsletters covered in Registration No. 1711645.

(iii) Registration No. 2288577

The description of services in Registration No. 2288577 specifically states that the mark is used in connection with advisory investment services for individuals. Thus, the registration on its face disavows any potential overlap between the individuals to whom its services are aimed, and the institutional clients interested in the services associated with Applicant's mark. Therefore, there is no overlap between Applicant's institutional clients and the individuals who may be interested in the services covered by Registration 2288577.

(iv) Application Serial Nos. 76/139881 and 76/156865

The marks in Application Serial Numbers 76/139881 and 76/156865 cover a variety of goods and services in the finance industry. Some of the services, such as mortgage lending and home equity loans, are clearly aimed solely at individuals. The remainder of the goods and services also seem to be aimed at individuals. For example, Applicant's

institutional clients would not likely be interested in the software, publications or services described in these applications. Moreover, none of the services come close to Applicant's issuance and sale of commercial mortgage-backed securities. Therefore, there is no overlap between the institutional clients interested in Applicant's services and the potential customers of the goods and services described in these applications.

(v) Application Serial No. 76/233904

The mark in Application Serial Number 76/233904 covers a variety of class 36 services in the finance industry. These services are aimed at individuals, and do not include the issuance and sale of commercial mortgage-backed securities. Therefore, there is no overlap between the intended customers of Applicant's services and of the services described in this application.

(c) The Marks Are Different and Create Distinct Commercial Impressions

When considering likelihood of confusion, the marks involved must be considered in their entireties. Marks tend to be perceived in their entireties, and all components thereof must be given appropriate weight. In re Hearst Corp., 25 U.S.P.Q.2d 1238, 1239 (Fed. Cir. 1992). Moreover, even where marks are similar, they must be considered in the way they are used and perceived. See In re National Data Corp., 224 U.S.P.Q. 749 (Fed. Cir. 1985). A design is viewed, not spoken, and a stylized letter design cannot be treated simply as a word mark. See In re Burndy Corp., 300 F.2d 938, 940 (Fed. Cir. 1985). Both visual and oral indicia must be weighed in the case of stylized letter marks. See In re Electrolyte Laboratories Inc., 16 U.S.P.Q.2d 1239, 1240 (Fed. Cir. 1990). In Electrolyte, the court held

that the mark K+EFF (combining K+, the chemical symbol for potassium, with "EFF" an abbreviation for "effervescent") for an effervescent dietary potassium supplement and the mark K+ and Design for a non-effervescent dietary potassium supplement were not confusingly similar even when used in similar channels of trade, based on distinct differences in their overall commercial impressions. Id. at 1240.

Moreover, where, as here, marks incorporate common elements, the marks may nevertheless have very distinct commercial connotations and there is no likelihood of confusion. For example, in Colgate-Palmolive Co., the court held that the mark PEAK PERIOD (for deodorants) was not similar to the mark PEAK (for dentifrice) because PEAK PERIOD "conveys the meaning of reaching the high point or maximum of an activity during a specified portion of time, a meaning which is substantially different than that elicited by the word 'peak' alone." 167 U.S.P.Q. at 530 (quoting the Trademark Trial and Appeal Board ("T.T.A.B.")). The court affirmed the T.T.A.B. below in finding no likelihood of confusion. Id. See also In re Commerce Bancorp, Inc., Serial No. 75/422,600, 2001 TTAB LEXIS 753 (T.T.A.B. October 3, 2001) (COMMERCE CAPITAL MARKETS for financial services not confusingly similar to FOR MY MONEY IT'S COMMERCE for financial services). Likewise, the marks at issue here create distinct commercial impressions and confusion is therefore unlikely.

(i) **Applicant's Mark**

Applicant's IQ mark consists of two letters without any punctuation. The mark may stand alone, for example as an adjective to describe "the IQ brand" or "IQ transactions," and

may be used in a serial number, such as "MSCI 2001-IQ1", as evidenced by the specimen submitted herewith. Furthermore, it is clear from the specimen that IQ stands for "Institutional Quality" when used in connection with Applicant's services.

(ii) Registration No. 1711645

The mark in Registration Number 1711645 is "I.Q." with periods after each letter. The use of periods creates a distinct visual impression, and the periods emphasize the individuality of each letter, implying that they are abbreviations for words. When used in connection with a periodical newsletter which disseminates information and knowledge on investments, I.Q. calls to mind "Intelligence Quotient". Thus, the commercial impression created by this mark is very different from Applicant's mark IQ which is used to describe commercial mortgage-backed securities and stands for "Institutional Quality".

(iii) Registration No. 2288577

IQ ACCOUNT, the mark in Registration Number 2288577, also creates a distinct commercial impression from Applicant's Mark. The mark is visually and phonetically different from Applicant's mark because it contains the word ACCOUNT following IQ. The combination of two words creates a different commercial impression from IQ standing alone, and the use of the longer word ACCOUNT takes emphasis away from the abbreviation IQ. Moreover, the use of IQ as an adjective modifying ACCOUNT brings to mind its customary abbreviation for "Intelligence Quotient", suggesting a specific type of investment account which is created using intelligence, a "smart account". Therefore, the commercial

impression created by the mark IQ ACCOUNT is very different from the commercial impression created by Applicant's mark IQ.

(iv) Application Serial Nos. 76/139881 and 76/156865

The mark in Application Serial Numbers 76/139881 and 76/156865 is CAPITAL IQ. This mark creates a distinct commercial impression from Applicant's mark for several reasons. The mark in these applications consists of two words, the adjective CAPITAL which modifies IQ. When presented in this manner, it is natural to think of IQ as an abbreviation for "Intelligence Quotient" and of the entire mark as another way of saying "smart money" or "intelligent money." Therefore, the mark CAPITAL IQ creates a distinct commercial impression from Applicant's mark IQ.

(v) Application Serial No. 76/233904

The mark in Application Serial Number 76/233904 is IQ WATCH. The use of IQ as part of a two-word mark again calls to mind its abbreviation for "Intelligence Quotient." As used in this mark, the letters IQ create a distinct commercial impression from Applicant's mark. Especially because this applicant's services include services provided via the Internet, this mark connotes an impression akin to a watch service which tracks investment tools and notifies customers, similar to a news watch which picks up names of a corporation or an individual and notifies a user when that name appears in a new news article. Therefore, this mark creates a commercial impression very distinct from that created by Applicant's mark IQ.

CONCLUSION

Based upon the foregoing amendments and remarks, Applicant respectfully requests that the current Application be passed to publication.

Dated: New York, New York
November __, 2001

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.
Attorneys for Applicant

By: _____
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We are now entering the last phase of registering the IQ brand of CMBS (representing Institutional Quality) as a service mark of Morgan Stanley. If there is no opposition to our registration, the final certificate of registration will be issued in January 2003. In the interim, we are able to report the IQ brand as a Morgan Stanley service mark in our prospectus supplements -- after registration, we then report it as a "registered service mark", which provides greater legal protections to Morgan Stanley in the exclusive use of this CMBS deal moniker. As you know, the IQ brand has proved to be a magnet for high quality CMBS issuers. Thank you.

10/25/02 4:07 PM Note

Jeff sent the following email to outside counsel:

Baila: Please update us on the status of the IQ application and possible future timing.

10/25/02 2:56 PM Note

I called and left message with Jeff to check if we received the registration of the IQ service mark.

7/24/02 11:52 AM Note

I connected with Jeff and approved the language -- Next steps the Examiner will accept the request for registering the IQ service mark. It will be published for public comment for the next 3 months. If not challenged, it will become a registered service mark and will be reported as follows. The prosups now only say IQ is a service mark of Morgan Stanley -- once registered we can say it is a REGISTERED service mark and/or include a little "R" with it.

7/24/02 11:48 AM Note

Jeff sent me the following email:

Spencer: FYI, please let me know if this minor change is okay. Thanks,
Jeff

Jeff,

I need to speak with you. As I said on my voice mail, I finally heard back

from the Examiner, after she spoke to her supervisor. They want another minor change (underlined) "financial services, namely the issuance, investment and brokerage of commercial mortgage-backed securities for others." At a minimum the term "for others" must modify "issuance", the English is better if the "for others" goes at the end. From a protection point of view, it makes no difference. Call me so we can finalize this.
Thanks.

Baila

6/25/02 9:58 AM Note

Jeff left a vmail concerning the final filing for the IQ brand service mark. I had him add "commercial" to mortgage-backed securities and asked that it clarify that IQ stands for "institutional quality".

5/30/02 1:08 PM Note

I forwarded Anna Glick 's vmail on the wording for the IQ brand description on the prospectus supplement -- want to keep the description "Institutional Quality".

5/19/02 10:58 AM Note

Jeff left a detailed vmail on the trademarking of the IQ service mark -- "everything is in motion" -- it will be probably 3 months before it is published for opposition -- it will then be put in federal register -- others could object then -- not likely -- if no objection -- 30 days later -- then another 2 -3 months are allowed to pass before it is formally registered. All told 6-7 months away before we put the "R mark" on it. An objection could drag this out further.

5/14/02 7:07 AM Note

I left a vmail and sent Jeff the following email:

I think I successfully left you a voicemail, but there was no greeting that confirms your name. As a result, I am sending you this email. What are the next steps in the service mark registration process for the IQ service mark? Thank you.

3/12/02 3:08 PM Note

Jeff Stern sent the following email -- I forwarded to Anna Glick for advice. Spencer: Good news. Our brief to the Trademark Office addressing its objections was effective. Per the attached notice re our IQ application, if we agree to change the services description of the IQ mark to "Financial investment in the field of commercial-mortgage backed securities", the Examiner will withdraw its objections and approve the application for publication (if there are no valid objections by third parties, the mark will be registered). As a reminder, the services description is currently "financial services, namely the issuance and sale of commercial mortgage-backed securities."

Please confirm that the Examiner's proposed change in the description is okay and that you would like us to move to the next step in the registration process.

Thank you for your help.

10/15/01 3:24 PM Note

Jeff called -- he will file the Statement of Use Application on our behalf to the US Patent and Trademark Office -- this will represent ownership of the IQ brand for the foreseeable future. Official registration may take up to a year or more. Until then the IQ brand will be a service mark of Morgan Stanley. When the US Patent and Trademark Office officially registers the service mark, we can describe it as a "registered" service mark of Morgan Stanley.

10/15/01 11:58 AM Note

I called Jeff to let him know that he's got the green light to proceed with the service mark registration -- the cost will be roughly \$10,000 and will take 6 months to a year to complete.

10/12/01 2:35 PM Note

Jeff called and confirmed that IQ is now a service mark of Morgan Stanley, as to be evidenced by the black prosup when the IQ deal closes. He will use the wording in the roadshow presentation for the registered filing. If it pertains to a service that is provided, the name is a Servicemark, and if it is a product, it would be referred to as a trademark. Jeff will coordinate with Anna Glick, to have the appropriate wording included in the final black. By using the name publicly, we convey ownership, by registering the name, we are asserting its validity and enforceability.

10/10/01 4:40 PM Note

Jeff left a vmail indicating that we can have IQ be a service mark for the IQ deal -- he will coordinate with Anna Glick -- we will now register this nationally -- will take 6 months to a year. We will set up a call with our trademark lawyer.

10/10/01 1:23 PM Note

I forwarded vmail from Anna Glick to Jeff for his response:

Anna said she was not aware that we were trademarking IQ, and it was not a problem to include it in the "Black" prosupp, and footnote what the service mark means -- she added "indeed we should do this". She asked that we let her know when we have the final clearance from MS Legal - Intellectual Property, and she will take care of this.

10/9/01 5:01 PM Note

Jeff called to follow up on the IQ brand service mark -- I left a vmail back indicating that we are in the market with the deal and would like to now formally file the service mark.

6/26/01 12:05 PM Note

I connected with Jeff -- he said that the intent to use has been filed with the US Patent and Trademark Office last week. He suggested that we seek registration of the name

6/13/01 12:04 PM Note

I sent the an email to the IQ team summarizing various matters including deal name as follows:

Deal Name -- We received the final OK from Morgan Stanley Legal (Jeff Stern - Intellectual Property Counsel) to use the deal moniker "IQ" (representing Institutional Quality) for the transaction which will serve as a service mark owned by Morgan Stanley. An "Intent to Use" application will be filed with the U.S. Patent and Trademark Office for a nominal fee. Once the transaction is completed and the public is put on notice via the prospectus supplement, Morgan Stanley will in effect own the "IQ" service mark in the context of it representing "institutional quality".

6/12/01 8:27 AM Note

Sent Jeff a follow up email to get a final decision on the use of the IQ brand.

5/5/01 4:17 PM Note

Jeff left a vmail concerning the IQ deal suffixes -- from "an initial knockout search", he found that IQ and ICQ are commonly used -- IQC is used by Morgan Stanley already, which he will be happy to talk to me about. The upshot of all this is that "you will have the freedom to use these and claim ownership". It will help that you explain what IQ means, which would help you to claim ownership -- you may have difficulty in enforcing this though. They will complete the full search by the early next week, and it will cost \$300.

RELEVANT NOTES AND EMAILS WITH ANNA GLICK

4/2/02 8:36 AM Note

I sent Anna the following email:

In response to your earlier voicemail message, the description appears to be word-smithing, but still accomplishes our objective to own the service mark to "IQ" in CMBS primary issuances. Unless you feel strongly otherwise, I recommend accepting the Trademark Office's suggested compromise. Thank you.

3/13/02 7:16 AM Note

Jeff Stern sent the following email -- I forwarded to Anna Glick for advice.

Spencer: Good news. Our brief to the Trademark Office addressing its objections was effective. Per the attached notice re our IQ application, if we agree to change the services description of the IQ mark to "Financial investment in the field of commercial-mortgage backed securities", the Examiner will withdraw its objections and approve the application for publication (if there are no valid objections by third parties, the mark will be registered). As a reminder, the services description is currently "financial services, namely the issuance and sale of commercial mortgage-backed securities."

Please confirm that the Examiner's proposed change in the description is okay and that you would like us to move to the next step in the registration process.

Thank you for your help.

10/18/01 8:31 AM Note

I left vmail for Anna concerning the IQ service mark definition asking if we should have IQ stand for institutional quality collateral assets in lie of whole loans.

10/10/01 1:15 PM Note

Anna returned my call -- she was not aware that we were trademarking IQ, and it was not a problem to include it in the "Black" prosupp, and footnote what the service mark means -- she added "indeed we should do this". She asked that we let her know when we have the final clearance from MS Legal - Intellectual Property, and she will take care of this.

10/9/01 5:17 PM Note

I called and left message with Anna asking if it were feasible to have IQ be defined as "institutional quality" loans in the prosup