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Subject: U.S. TRADEMARK APPLICATION NO. 86366618 - BATTLEBORNIP.COM - N/A - EXAMINER BRIEF

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UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

U.S. APPLICATION SERIAL NO. 86366618

MARK: BATTLEBORNIP.COM



CORRESPONDENT ADDRESS:

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GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/trademarks/index.jsp>

TTAB INFORMATION:

<http://www.uspto.gov/trademarks/process/appeal/index.jsp>

APPLICANT: Abbott Law Chartered

CORRESPONDENT'S REFERENCE/DOCKET NO:

N/A

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EXAMINING ATTORNEY'S APPEAL BRIEF

INTRODUCTION

The applicant, Abbott Law Chartered, has appealed the Trademark Examining Attorney's refusal to register the proposed mark, "BATTLEBORNIP.COM", on the ground that the mark for which registration is sought so resembles the mark shown in U.S. Registration No. 4604101 as to be likely, when used in connection with the identified services, to cause confusion, or to cause mistake, or to deceive, pursuant to Trademark Act Section 2(d), 15 U.S.C. §1052(d).

FACTS

On August 14, 2014, Abbott Law Chartered (hereinafter “applicant”), applied for registration on the Principal Register for the proposed mark, “BATTLEBORNIP.COM”, in standard characters, for “Legal services” in International Class 042. On September 9, 2014, applicant submitted a Voluntary Amendment, whereby it amended the identification and classification of services to “Legal services, namely, providing customized documentation, information, counseling, advice and consultation services in all areas of business law and intellectual property” in International Class 045.

In an Office Action dated December 2, 2014, the Trademark Examining Attorney refused registration on the Principal Register under Trademark Act Section 2(d), 15 U.S.C. §1052(d) based on likelihood of confusion, citing U.S. Registration No. 4604101 for the stylized with design mark, BATTLEBORN INJURY LAWYERS for “Legal consulting services in the field of personal injury; Litigation services” in International Class 045, owned by Atkinson & Watkins, LLP. Evidence in the form of third-party registrations and websites was attached to demonstrate the relatedness of applicant’s and registrant’s services.

In a Response to Office Action filed on February 6, 2015, applicant submitted arguments, a declaration, third-party registrations and other evidence, stating that applicant’s mark is not confusingly similar to the registered mark cited by the Trademark Examining Attorney.

After careful consideration of applicant’s response, in an Office Action dated March 30, 2015, the Trademark Examining Attorney, not persuaded by applicant’s arguments, made final the refusal to register the proposed mark under Trademark Act Section 2(d), 15 U.S.C. §1052(d). Additional evidence in the form of third-party registrations and websites was attached to demonstrate the relatedness of applicant’s and registrant’s services.

On September 28, 2015, applicant filed a Notice of Appeal and filed an Appeal Brief on November 25, 2015.

For the reasons set forth below, the Trademark Examining Attorney respectfully requests that the Trademark Trial and Appeal Board AFFIRM the refusal to register the proposed mark under Trademark Act Section 2(d), 15 U.S.C. §1052(d).

ISSUE

The sole issue on appeal is whether applicant's proposed mark, "BATTLEBORNIP.COM", when used in connection with "Legal services, namely, providing customized documentation, information, counseling, advice and consultation services in all areas of business law and intellectual property" in International Class 045, so resembles registrant's mark, "BATTLEBORN INJURY LAWYERS" and design, used in connection with "Legal consulting services in the field of personal injury; Litigation services" in International Class 045, that it is likely to cause confusion, or to cause mistake, or to deceive and thus should be refused registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d).

ARGUMENT

- I. **APPLICANT'S AND REGISTRANT'S MARKS ARE HIGHLY SIMILAR IN SOUND, APPEARANCE, CONNOTATION AND COMMERCIAL IMPRESSION AND THE SERVICES ARE CLOSELY RELATED SUCH THAT A LIKELIHOOD OF CONFUSION, MISTAKE, OR DECEPTION EXISTS UNDER TRADEMARK ACT SECTION 2(d), 15 U.S.C. §1052(d).**

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely a potential consumer would be confused, mistaken, or deceived as to the source of the goods and/or services of the applicant and registrant. See 15 U.S.C. §1052(d). A determination of likelihood of confusion under Section 2(d) is made on a case-by case basis and the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973) aid in this determination. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344,

1349, 98 USPQ2d 1253, 1256 (Fed. Cir. 2011) (citing *On-Line Careline, Inc. v. Am. Online, Inc.*, 229 F.3d 1080, 1085, 56 USPQ2d 1471, 1474 (Fed. Cir. 2000)). Not all the *du Pont* factors, however, are necessarily relevant or of equal weight, and any one of the factors may control in a given case, depending upon the evidence of record. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d at 1355, 98 USPQ2d at 1260; *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); see *In re E. I. du Pont de Nemours & Co.*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity and nature of the goods and/or services, and similarity of the trade channels of the goods and/or services. See *In re Viterra Inc.*, 671 F.3d 1358, 1361-62, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593, 1595-96 (TTAB 1999); TMEP §§1207.01 *et seq.* That is, the marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973)); TMEP §1207.01(b)-(b)(v). Additionally, the goods and/or services are compared to determine whether they are similar or commercially related or travel in the same trade channels. See *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-71, 101 USPQ2d 1713, 1722-23 (Fed. Cir. 2012); *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165, 64 USPQ2d 1375, 1381 (Fed. Cir. 2002); TMEP §1207.01, (a)(vi).

The overriding concern is not only to prevent buyer confusion as to the source of the goods and/or services, but to protect the registrant from adverse commercial impact due to use of a similar mark by a newcomer. See *In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993). Therefore, any doubt regarding a likelihood of confusion determination is resolved in favor of the registrant. TMEP §1207.01(d)(i); see *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265, 62

USPQ2d 1001, 1003 (Fed. Cir. 2002); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 464-65, 6 USPQ2d 1025, 1026 (Fed. Cir. 1988).

A. THE MARKS ARE CONFUSINGLY SIMILAR

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F. 3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); TMEP §1207.01(b)-(b)(v). “Similarity in any one of these elements may be sufficient to find the marks confusingly similar.” *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014) (citing *In re 1st USA Realty Prof’ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007)); *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988)); TMEP §1207.01(b).

The Trademark Examining Attorney maintains that the marks, **BATTLEBORNIP.COM** and **BATTLEBORN INJURY LAWYERS**, are similar in appearance, sound, connotation and commercial impression. The literal elements of the marks are identical in that both marks begin with the term “BATTLEBORN” and differ only by the wording which follows, “IP.COM” in applicant’s mark, and “INJURY LAWYERS” in registrant’s mark. The Trademark Examining Attorney included dictionary evidence showing that the letters “IP”, as they relate to law, are an abbreviation for “intellectual property,” which is generic or merely descriptive of a feature of applicant’s services. Additionally, the generic top-level domain “.COM” has no meaningful source-identifying significance. *See Apple Computer v. TVNET.net, Inc.*, 90 USPQ2d 1393, 1397 (TTAB 2007); TMEP §§1215.01, 1215.02, 1215.09; *cf. In re Hotels.com, L.P.*, 573 F.3d 1300, 1301, 1304, 91 USPQ2d 1532, 1533, 1535 (Fed. Cir. 2009).

Similarly, the wording “INJURY LAWYERS” in registrant’s mark is disclaimed because it is generic or merely descriptive of registrant’s services. Disclaimed matter that is descriptive of or generic for a party’s services is typically less significant or less dominant in relation to other wording in a mark and

when comparing marks. See *In re Dixie Rests., Inc.*, 105 F.3d 1405, 1407, 41 USPQ2d 1531, 1533-34 (Fed. Cir. 1997); *In re Nat'l Data Corp.*, 753 F.2d at 1060, 224 USPQ at 752; *Anheuser-Busch, LLC v. Innvopak Sys. Pty Ltd.*, 115 USPQ2d 1816, 1824-25 (TTAB 2015) (citing *In re Chatam Int'l Inc.*, 380 F.3d 1340, 1342-43, 71 USPQ2d 1944, 1946 (Fed. Cir. 2004)); TMEP §1207.01(b)(viii), (c)(ii).

Although marks must be compared in their entireties, the word portion generally may be the dominant and most significant feature of a mark because consumers will request the goods and/or services using the wording. See *In re Viterra Inc.*, 671 F.3d 1358, 1362, 1366, 101 USPQ2d 1905, 1908, 1911 (Fed. Cir. 2012); *In re Davia*, 110 USPQ2d 1810, 1813 (TTAB 2014). For this reason, greater weight is often given to the word portion of marks when determining whether marks are confusingly similar. *Joel Gott Wines, LLC v. Rehoboth Von Gott, Inc.*, 107 USPQ2d 1424, 1431 (TTAB 2013) (citing *In re Dakin's Miniatures, Inc.*, 59 USPQ2d 1593, 1596 (TTAB 1999)); TMEP §1207.01(c)(ii). The word portions of the marks are nearly identical in appearance, sound, connotation, and commercial impression; therefore, the addition of a design element does not obviate the similarity of the marks in this case. See *In re Shell Oil Co.*, 992 F.2d 1204, 1206, 26 USPQ2d 1687, 1688 (Fed. Cir. 1993); TMEP §1207.01(c)(ii).

Applicant has asserted that the marks are dissimilar because the dominant feature of registrant's mark is a design, while applicant's mark does not have a design. Applicant's argument is based on the analysis in *In Re 1st USA Realty Professionals, Inc.*, 84 USPQ2d 1581 (TTAB 2007), where the Trademark Trial and Appeal Board held that there was a likelihood of confusion between an applicant's mark, "1st USA", stylized with design, for real estate brokerage and listing services, and a registered mark, "FIRST USA", stylized, for various financial services. Regarding the similarity of the marks, the Board found that the literal elements were identical in pronunciation and connotation. The Board noted that the applicant's mark differed in appearance because of its background design, which consisted of stars. However, the Board did not consider this design to be sufficient to distinguish the marks because "a stars motif is often associated with the United States, the stars design tends to simply reinforce the

component USA in applicant's mark, rather than having a separate connotation or making a separate impression." Applicant attempted to distinguish the instant case, stating that the design of gold and silver ram heads in registrant's mark is not a background design and does not relate to the wording "BATTLE BORN", so the design is dominant and distinguishes the marks, unlike in *In Re 1st USA Realty*.

Applicant also argued that the term "BATTLE BORN" is weak because it is commonly used in business. To support this argument, applicant provided evidence from the Yellow Pages showing that there are various other businesses in the state of Nevada with the term "BATTLE BORN" in their names. Additionally, applicant included registrations for marks on the Principal Register including the term "BATTLE BORN."

Lastly, applicant argued that the letters "IP" are a double entendre and are only suggestive, not descriptive, of applicant's services. Applicant included a definition of "double entendre" and "IP", explaining that "IP" can also mean "Internet protocol," which is not descriptive of legal services.

The Trademark Examining Attorney finds applicant's arguments to be unpersuasive. With regards to applicant's reliance on the decision in *In Re USA Realty Professionals*, even though the Trademark Trial and Appeal Board found that the design in applicant's mark was background material and did not distinguish the marks, it does not mean a design which is not background material automatically becomes the dominant feature of a mark. The determination of likelihood of confusion is still made on a case by case basis. In this case, only registrant's mark contains a design, however, the design is the same size, if not smaller than the wording "BATTLEBORN." Additionally, the wording in the marks is identical except for generic or descriptive matter, and the design element does not sufficiently affect the similarities in appearance, sound, connotation and commercial impression between the marks.

Furthermore, when comparing marks, the test is not whether the marks can be distinguished in a side-by-side comparison, but rather whether the marks are sufficiently similar in terms of their overall commercial impression that confusion as to the source of the goods and/or services offered under the respective marks is likely to result. *Midwestern Pet Foods, Inc. v. Societe des Produits Nestle S.A.*, 685 F.3d 1046, 1053, 103 USPQ2d 1435, 1440 (Fed. Cir. 2012); *In re Davia*, 110 USPQ2d 1810, 1813 (TTAB 2014); TMEP §1207.01(b). The proper focus is on the recollection of the average purchaser, who retains a general rather than specific impression of trademarks. *United Global Media Grp., Inc. v. Tseng*, 112 USPQ2d 1039, 1049, (TTAB 2014); *L’Oreal S.A. v. Marcon*, 102 USPQ2d 1434, 1438 (TTAB 2012); TMEP §1207.01(b). Thus, the word portion and not any design elements of a mark may be more likely to be impressed upon a purchaser’s memory and to be used when requesting the goods and/or services. *Joel Gott Wines, LLC v. Rehoboth Von Gott, Inc.*, 107 USPQ2d 1424, 1431 (TTAB 2013) (citing *In re Dakin’s Miniatures, Inc.*, 59 USPQ2d 1593, 1596 (TTAB 1999)); TMEP §1207.01(c)(ii); see *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908, 1911 (Fed. Cir. 2012) (citing *CBS Inc. v. Morrow*, 708 F.2d 1579, 1581-82, 218 USPQ 198, 200 (Fed. Cir 1983)).

The Trademark Examining Attorney is unpersuaded by the evidence showing businesses using the term “BATTLE BORN” in their company names because the Trademark Trial and Appeal Board has recognized that marks deemed weak or diluted are still entitled to protection against subsequent users of similar marks for closely related goods and services. TMEP §1207.01(b)(ix); see *King Candy Co. v. Eunice King’s Kitchen, Inc.*, 496 F.2d 1400, 1401, 182 USPQ 108, 109 (C.C.P.A. 1974) (likelihood of confusion is “to be avoided, as much between ‘weak’ marks as between ‘strong’ marks, or as between a ‘weak’ and ‘strong mark’”); *In re Colonial Stores, Inc.*, 216 USPQ 793, 795 (TTAB 1982) (“even weak marks are entitled to protection against registration of similar marks”). In addition, the Trademark Examining Attorney notes that the third party registrations applicant submitted are for various goods and services that are not related to applicant’s or registrant’s services, and are therefore irrelevant to the likelihood

of confusion analysis, in that they are insufficient to establish that the term “BATTLE BORN” is weak or diluted. See *Kay Chems., Inc. v. Kelite Chems. Corp.*, 464 F.2d 1040, 1042, 175 USPQ 99, 101 (C.C.P.A. 1972); *In re Thor Tech, Inc.*, 90 USPQ2d 1634, 1639 (TTAB 2009).

Lastly, the Trademark Examining Attorney notes that the descriptiveness and overall commercial impression of an abbreviation or term, “IP” in this case, is considered in relation to the relevant services. In this context, “IP” stands for “intellectual property” since this wording is used in applicant’s identification of services, and not “Internet protocol” or any other meaning of “IP.” Therefore, other meanings of “IP” in different contexts is not controlling when determining the overall commercial impression of the mark in minds of the relevant purchasing public.

B. THE SERVICES ARE CLOSELY RELATED SUCH THAT A LIKELIHOOD OF CONFUSION, MISTAKE OR DECEPTION EXISTS UNDER TRADEMARK ACT SECTION 2(d), 15 U.S.C. §1052(d).

The services of the parties need not be identical or even competitive to find a likelihood of confusion. See *On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000) (“[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods.”); TMEP §1207.01(a)(i).

The respective services need only be “related in some manner and/or if the circumstances surrounding their marketing [be] such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source.” *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); TMEP §1207.01(a)(i).

The Trademark Examining Attorney maintains that the services are very closely related and will travel through the same channel of trade to the same consumers under circumstances that could give rise to the mistaken belief that the services emanate from a common source.

Applicant argues that the Trademark Examining Attorney has not shown that applicant's and registrant's specific services are related. However, the evidence clearly shows that it is common for legal entities to offer various types of legal services, including the specific services identified in the application and registration, listed below:

International Class 045: Legal services, namely, providing customized documentation, information, counseling, advice and consultation services in all areas of business law and intellectual property

International Class 045: Legal consulting services in the field of personal injury; Litigation services

In the previous Office Actions, the Trademark Examining Attorney attached copies of printouts from the USPTO X-Search database, which showed several third-party registrations, based on use in commerce, of marks used in connection with the same or similar services as those of applicant and registrant in this case. The third-party registrations include the following:

MARK	SERVICES
Design Mark Registration No. 3246176	<u>International Class 045</u> : legal services, namely providing legal services related to maritime law, personal injury, litigation, wrongful death actions, maritime personal injury, arbitration, mediation, commercial and business law, elder law, guardianships, real estate, trust and estates, construction law, environmental litigation, landlord/tenant law, insurance law, and general practice

<p>MP MURPHY & POWELL ATTORNEYS AT LAW</p> <p>Registration No. 4349691</p>	<p><u>International Class 045</u>: Legal consultation services; Legal consulting services in the field of Personal Injury; Legal services; Legal services, namely, intellectual property consulting services in the field of identification, strategy, analytics, and invention; Legal services, namely, preparation of applications for trademark registration</p>
<p>LIGA LEGAL</p> <p>Registration No. 4486158</p>	<p><u>International Class 045</u>: Legal consultation services; Legal consulting services in the field of civil and criminal litigation; immigration, workers compensation, bankruptcy, personal injury.; Legal services, namely, intellectual property consulting services in the field of identification, strategy, analytics, and invention; Legal services, namely, preparation of applications for trademark registration; Legal services, namely, providing customized documentation, information, counseling, advice and consultation services in all areas of civil and criminal litigation; immigration, workers compensation, bankruptcy, personal injury; Legal services, namely, providing customized legal information, counseling, advice, and litigation services in all areas of law to people and families of modest incomes; Legal services, namely, trademark maintenance services; Legal services, namely, trademark searching and clearance services; Mediation; Patent licensing; Providing an on-line interactive database featuring legal information; Providing customized legal information, counseling, and advice, and litigation services in the field of civil and criminal litigation; immigration, workers compensation, bankruptcy, personal injury; Providing information in the field of intellectual property legal services; Providing information in the field of workplace law, legal practices and legal policies via the Internet; Providing information relating to legal affairs; Providing on-line information in the field of intellectual property legal services</p>

<p>BIKER CHICK LAWYER</p> <p>Registration No. 4488205</p>	<p><u>International Class 041</u>: Providing a website featuring information relating to the sport of motorcycling including motorcycle riding, motorcycle events and motorcycle riders</p> <p><u>International Class 045</u>: Providing customized legal information, counseling, and advice, and litigation services in the field of divorce and family law, adoptions, criminal law, business law, civil law including motor vehicle accidents, personal injury and medical malpractice, social security disability; employment law including workers' compensation and unemployment compensation, estate planning, probate and wills, and motor vehicle law including traffic tickets.; Providing information, news and commentary in the field of law</p>
<p>R C P</p> <p>Registration No. 4501155</p>	<p><u>International Class 045</u>: Arbitration services; Consulting in the field of intellectual property licensing; Domain name registration services; Domain name registration services, namely, conducting domain name searches for the purpose of providing legal advice on domain name registration; Expert witness services in legal matters in the field of intellectual property; Legal consultation services; Legal research; Legal services; Legal services, namely, intellectual property consulting services in the field of identification, strategy, analytics, and invention; Legal services, namely, preparation of applications for trademark registration; Legal services, namely, trademark searching and clearance services; Licensing of computer software; Licensing of intellectual property; Licensing of patents, trademarks, copyrights, and trade secrets; Litigation services; Mediation; Patent agent services; Patent and industrial property consultation; Patent licensing; Professional legal consultations relating to franchising; Providing a web site featuring information about patents and</p>

	<p>patent applications; Providing information in the field of intellectual property legal services ; Providing legal research in the field of intellectual property; Providing on-line information in the field of intellectual property legal services; Registration of domain names for identification of users on a global computer network; Trademark monitoring</p>
<p>WHATEVER YOU'RE FACING WE HAVE YOUR BACK</p> <p>Registration No. 4555574</p>	<p><u>International Class 045</u>: Legal services, namely, providing customized documentation, information, counseling, advice and consultation services in all areas of business law, real estate law, personal injury law</p>
<p>I.P. AVENGERS</p> <p>Registration No. 4576150</p>	<p><u>International Class 045</u>: Alternative dispute resolution services; arbitration services; copyright management consultation; intellectual property consultation; intellectual property watch services; legal services; legal services, namely, preparation of applications for trademark registration; legal services, namely, service of actual legal notice; legal services, namely, trademark maintenance services; legal services, namely, trademark searching and clearance services; litigation consultancy; litigation services; litigation support services; mediation; providing assistance in the prosecution of trademark applications; providing information in the field of intellectual property legal services ; providing information in the field of intellectual property; registration of domain names for identification of users on a global computer network; trademark watch services</p>
<p>JETSET</p> <p>Registration No. 4617278</p>	<p><u>International Class 045</u>: Legal consultation services; Legal consulting services in the field of trademark law, business law, copyright law, Internet law, real estate law, corporate law; Legal services; Legal services, namely, preparation of applications for trademark registration; Legal services, namely, providing customized documentation, information, counseling, advice</p>

	<p>and consultation services in all areas of trademark law, business law, copyright law, Internet law, real estate law, corporate law; Legal services, namely, trademark maintenance services; Legal services, namely, trademark searching and clearance services; Licensing of intellectual property; Licensing of intellectual property in the field of trademark and copyrights; Litigation services; Providing information in the field of intellectual property legal services ; Providing on-line information in the field of intellectual property legal services</p>
<p>JM Registration No. 4691892</p>	<p><u>International Class 045</u>: Legal services, namely, providing customized documentation, information, counseling, advice and consultation services in all areas of family law, real estate law, DWI defense, trusts and estates law, criminal law, business law, civil litigation, and personal injury</p>
<p>ARDENT LAW GROUP Registration No. 4695433</p>	<p><u>International Class 045</u>: Consulting and legal services in the field of privacy and security laws, regulations, and requirements; Legal consultation services; Legal services; Legal services, namely, intellectual property consulting services in the field of identification, strategy, analytics, and invention; Legal services, namely, preparation of applications for trademark registration; Legal services, namely, providing customized information, counseling, advice and litigation services in all areas of employment and labor law for both employees and employers; Legal services, namely, providing customized information, counseling, advice and litigation services in all areas of immigration law; Legal services, namely, providing customized information, counseling, advice and litigation services in all areas of international law; Legal services, namely, trademark maintenance services; Litigation consultancy; Litigation services; Providing customized legal information, counseling, and advice, and litigation services in the field of BUSINESS LAW; Providing information</p>

	in the field of intellectual property legal services ; Providing information in the field of workplace law, legal practices and legal policies via the Internet
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In addition to the third-party registrations, the Trademark Examining Attorney attached third-party website evidence to further demonstrate the relatedness of the services. The third-party evidence includes the following websites:

1. www.clark-firm.com
2. www.francis-law.com
3. www.tuckeriplaw.com
4. www.choquettehart.net
5. www.callahan-law.com
6. www.wawlaw.com

The totality of this evidence establishes that it is highly likely that the services will be encountered by the same consumers under circumstances that could give rise to the mistaken belief that the services emanate from or are sponsored or licensed by a common source.

CONCLUSION

Applicant's and registrant's marks are highly similar in sound, appearance, connotation and commercial impression and the services are closely related, such that a likelihood of confusion, mistake, or deception exists. Therefore, for the foregoing reasons, the Trademark Examining Attorney respectfully requests that the Trademark Trial and Appeal Board AFFIRM the refusal to register the proposed mark under Trademark Act Section 2(d), 15 U.S.C. §1052(d).

Respectfully submitted,

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