

ESTTA Tracking number: **ESTTA212004**

Filing date: **05/16/2008**

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	Miller Law Group, PLLC		
Entity	Limited Liability Company	Citizenship	Pennsylvania
Address	25 Stevens Avenue West Lawn, PA 19609 UNITED STATES		

Attorney information	Larry W. Miller Miller Law Group, PLLC 25 Stevens Avenue West Lawn, PA 19609 UNITED STATES LMiller@millerlawgroup.net Phone:610-670-9000
----------------------	---

Applicant Information

Application No	77343411	Publication date	05/06/2008
Opposition Filing Date	05/16/2008	Opposition Period Ends	06/05/2008
Applicant	Miller, Michele Ballard Suite 400 500 Sansome Street San Francisco, CA 94111 UNITED STATES		

Goods/Services Affected by Opposition

Class 045. First Use: 1998/08/31 First Use In Commerce: 1998/08/31 All goods and services in the class are opposed, namely: Legal services

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is merely descriptive	Trademark Act section 2(e)(1)
The mark is primarily merely a surname	Trademark Act section 2(e)(4)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Other	The mark is used solely as a trade name (Trademark Act sections 1, 2, 3 and 45) The mark has not been used as a trademark in interstate commerce (Trademark Act sections 1(a) and 45)

Mark Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
-----------------------------------	------	------------------	------

Registration Date	NONE
Word Mark	MILLER LAW GROUP
Goods/Services	LEGAL SERVICES

Attachments	MLG - Notice of Opposition.pdf (5 pages)(38361 bytes)
-------------	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Larry W. Miller/
Name	Larry W. Miller
Date	05/16/2008

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

In the matter of:

Serial No.: 77/343,411)
)
Mark: MILLER LAW GROUP)
)
Applicant: Michele Ballard Miller,) Opposition No.: _____
D/B/A Miller Law Group)
)
Filed: December 4, 2007)
)
Opposer: Miller Law Group, PLLC)

Commissioner for Trademarks
P. O. Box 1451
Alexandria, VA 22313-1451

S I R:

NOTICE OF OPPOSITION

1. The Opposer in this matter is Miller Law Group, PLLC, a professional limited liability company organized under the laws of Pennsylvania with an address of 25 Stevens Avenue, West Lawn, PA 19609.
2. Opposer believes that it will be damaged by the registration of the mark shown in U. S. Trademark Application Serial No. 77/343,411, and hereby opposes the same under the provisions of the Trademark Act, 15 U. S. C. §1063. The required opposition fee accompanies the electronic filing of this Notice of Opposition.
3. Applicant is Michele Ballard Miller, D/B/A Miller Law Group, an individual having an address of 500 Sansome Street, Suite 400, San Francisco, California 94111.

4. On December 4, 2007, Applicant filed U. S. Trademark Application Serial No. 77/343,411 to register the mark MILLER LAW GROUP for use in connection with legal services in International Class 045.
5. On May 6, 2008, Trademark Application Serial No. 77/343,411 was published for opposition.
6. The grounds for opposition are as follows:
7. Applicant does not have exclusive use of the mark in conjunction with legal services.
8. Applicant seeks to register a mark that is widely used across the United States, including at least the following:
 - a. The Miller Law Group, PLLC of 25 Stevens Avenue, West Lawn, PA;
 - b. The Miller Law Group, P.C. of 260 Sheridan Avenue, Suite 208, Palo Alto, CA 94306;
 - c. J. Bruce Miller Law Group of 605 West Main Street, Louisville, KY 40202;
 - d. Miller Health Law Group of 2049 Century Park East, Suite 2250, Los Angeles, CA 90067; and
 - e. The Miller Law Group of 1170 Peachtree Street, Suite 1200, Atlanta, GA 30309.
9. In addition, other law firms operate across the United States to provide legal services under a confusingly similar trade name of The Miller Law Firm, including at least the following:
 - a. The Miller Law Firm of 620 Newport Center Drive, Suite 700, Newport Beach, CA 92660, with another office at 807 Montgomery Street, San Francisco, CA 94133;
 - b. Miller Law Firm of 4310 Madison Avenue, Kansas City, MO 64111;
 - c. Miller Law Firm of 2510 West 237th Street, Suite 206, Torrance, CA 90505;

- d. The Miller Law Firm of 950 West University Drive, Suite 300, Rochester, MI 48307; and
 - e. Miller Law Firm, PLLC of 8080 North Central Expressway, Suite 1400, Dallas, TX 75206.
10. Opposer has been providing legal services under the name of The Miller Law Group in interstate commerce since at least April 1, 2001.
11. One of the owners of Opposer, Larry W. Miller, is a registered patent attorney licensed to provide legal services for patents issues across the entire United States, and has been providing legal services in interstate commerce under the name of “Miller” since at least May, 1992, and under the name of “Miller Law Group” since at least April 1, 2001.
12. On information and belief, Opposer has been offering legal services in interstate commerce prior to Applicant.
13. When Opposer obtained its domain name in April, 2001, Opposer learned that the domain name of www.millerlawgroup.com had been taken by Applicant; however, Applicant did not have a web site on the Internet in April, 2001.
14. Opposer’s web site at www.millerlawgroup.net was available on the Internet prior to Applicant’s web site, which is supported by the 2002 copyright on Applicant’s specimen offered in support of services in interstate commerce.
15. Opposer has invested a great deal of time and money in promoting its legal services under the Miller Law Group mark, and it continues to use and promote legal services under this mark in interstate commerce.
16. Now and at the time Applicant filed Trademark Application Serial No. 77/343,411 and signed the Declaration required upon submission of a trademark application to the U. S. Trademark Office, Applicant had actual and constructive knowledge of Opposer’s

rights to the Miller Law Group mark and of the use by others of the Miller Law Group and Miller Law Firm names. Applicant willfully made false statements when Applicant signed the Declaration to obtain a registration of a trademark to which Applicant is not entitled.

17. Applicant's mark is identical to Opposer's mark in sound, appearance and commercial impression, and the services offered by both Applicant and Opposer under the Miller Law Group mark are legal services.

18. The mark, Miller Law Group, is not protectable under the Trademark Act and should have been finally rejected by the U. S. Trademark Office.

19. The term "Miller" is primarily, merely a surname, and is perceived by the public as being primarily, merely a surname.

20. The words "Law Group" are merely descriptive of a law firm or practice.

21. The words "Law Group" are used by many law firms in the United States, as can be seen by searching for the words "Law Group" in Google from which is found Venture Law Group, Pacific Law Group, Hutchinson Law Group, Groom Law Group, Silicon Valley Law Group, Summit Law Group, Shephard Law Group, Scarlett Law Group, World Law Group, Synergy Law Group, Chan Law Group, Venture Law Group, Pacific Law Group, and many, many more.

22. Searching for the words "Miller Attorney" through Google results in 238,000 hits.

23. The phrase, Miller Law Group, is merely descriptive of a legal practice and is not entitled to registration as a trademark. The coupling of the primarily, merely surname, Miller, with the additional words, Law Group, would still be perceived by the public as being merely a surname.

24. Applicant does not have an interstate law practice and does not offer legal services in interstate commerce, and thus does not have use of the mark in interstate commerce.

25. Applicant cannot practice law or offer legal services outside the State of California as Applicant is only licensed to practice law in California.

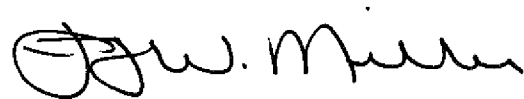
26. All of Applicant's law offices are located in the State of California.

27. The term, Miller Law Group, is used by Applicant as a trade name to identify her law practice, and not as a service mark. As a trade name, Applicant's use of Miller Law Group is not entitled to registration and must be refused.

28. The specimen filed by Applicant shows the use of "Miller Law Group" as an identification of Applicant's law firm, not as a service mark. The links connecting the reader of Applicant's web site reflect the use of Miller Law Group merely as a trade name by the titles of "About Us", "Our Attorneys", etc. The display of the name, Miller Law Group, on Applicant's web site is not associated with the provision of any services.

WHEREFORE, Opposer believes that it will be damaged by the registration of MILLER LAW GROUP to Applicant and prays that U. S. Trademark Application Serial No. 77/343,411 be denied, that no registration be issued therefor, and that this Opposition be sustained in favor of Opposer.

Respectfully submitted,



Date: May 16, 2008

Larry W. Miller
Larry W. Miller, Jr.
Miller Law Group, PLLC
25 Stevens Avenue
West Lawn, PA 19609
Phone: 610-670-9000
Facsimile: 610-670-9901
LMiller@millerlawgroup.net