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ESTTA Tracking number: **ESTTA880508**

Filing date: **03/01/2018**

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

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|---|---|
| Name | Nusenda Federal Credit Union |
| Granted to Date of previous extension | 03/24/2018 |
| Address | P.O. Box 8530<br>Albuquerque, NM 87198<br>UNITED STATES |

| | |
|---|---|
| Attorney information | Jeffrey L. Squires<br>Peacock Law P.C.<br>P.O. Box 26927<br>Albuquerque, NM 87125<br>UNITED STATES<br>Email: docketing@peacocklaw.com, jsquires@peacocklaw.com, dpeacock@peacocklaw.com, fyobino@peacocklaw.com<br>Phone: 505-998-1500 |

## Applicant Information

| | | | |
|---|---|---|---|
| Application No | 87372632 | Publication date | 01/23/2018 |
| Opposition Filing Date | 03/01/2018 | Opposition Period Ends | 03/24/2018 |
| Applicant | Promontory Interfinancial Network, LLC<br>1300 17th Street North, Suite 1800<br>Arlington, VA 22209<br>UNITED STATES | | |

## Goods/Services Affected by Opposition

Class 036. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Banking services; financial services, namely, the management of deposit accounts and facilitating the transfer of fundsbetween fund sources and deposit accounts; cash management services, cash fundstransfer and transaction services; financial services, namely, allocation of funds to and placement of funds in depositaccounts; financial services, namely, facilitating the sale and/or purchase of mortgage loans; financial transaction services, namely, custodial and sub-custodial services for deposit accounts, deposit account settlement services; FDIC insurance claim processing services

## Grounds for Opposition

| | |
|---|---|
| Priority and likelihood of confusion | Trademark Act Section 2(d) |

## Mark Cited by Opposer as Basis for Opposition

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|---|---|---|---|
| U.S. Registration | 3187318 | Application Date | 02/23/2006 |

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|---|---|---|---|
| No. | | | |
| Registration Date | 12/19/2006 | Foreign Priority Date | NONE |
| Word Mark | THE POWER OF WE. | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 036. First use: First Use: 2006/02/21 First Use In Commerce: 2006/02/21<br>Financial services, namely, cooperativecredit unions and online banking | | |

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|---|---|
| Attachments | 78822121#TMSN.png( bytes )<br>Notice of Opposition - Power of Many 020818 jls revisions.pdf(65382 bytes ) |

| | |
|---|---|
| Signature | /JLS/ |
| Name | Jeffrey L. Squires |
| Date | 03/01/2018 |

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

In re:

Application Serial No. 87/372,632
Mark: THE POWER OF MANY
Applicant: PROMONTORY INTERFINANCIAL NETWORK, LLC
Application Date: March 15, 2017
Date of Publication: January 23, 2017

| | | |
|---|---|---|
| NUSENDA FEDERAL CREDIT UNION | ) | |
| | ) | Opposition No. _____ |
| Opposer, | ) | |
| | ) | |
| v. | ) | |
| | ) | |
| PROMONTORY INTERFINANCIAL NETWORK, LLC | ) | |
| | ) | |
| | ) | |
| Applicant | ) | |

**NOTICE OF OPPOSITION**

Nusenda Federal Credit Union, formerly named the New Mexico Educators Federal Credit Union ("Opposer" or "Nusenda"), a federally chartered credit union organized under the laws of the United States, having its principal offices located at 4100 Pan American Freeway NE, Albuquerque, New Mexico 87107, believes it will be damaged by the registration of the mark shown above in Application Serial No. 87/372,632, and hereby opposes registration of that mark under the provisions of Section 13 of the Lanham Act, 15 U.S.C. § 1063.

As grounds for its opposition, Opposer alleges the following:

1. Opposer is a federally chartered credit union offering a variety of financial services to over 150,000 members residing in more than 20 states of the United States, including, for example, New York State.

2. Opposer is the owner of all right, title, and interest in and to the mark THE POWER OF WE. (the "Mark") in connection with financial services, which was registered with the United States Patent and Trademark Office ("USPTO") in Class 36 effective as of December 19, 2006 as Registration No. 3,187,318. A copy of the Certificate of Registration for the Mark is attached hereto as Exhibit A and made part hereof. Pursuant to the filing of a Section 8 and 15 Affidavit, that registration has become incontestable; and in 2016 that registration was renewed for an additional 10-year term.

3. Opposer has used its Mark in interstate commerce in connection with financial services for many years, and long prior to Applicant's application for registration of, and its alleged first use of, its alleged mark.

4. Notwithstanding Opposer's prior rights in and registration of its Mark, Applicant filed an application with the USPTO on March 15, 2017 to register the mark THE POWER OF MANY for "Banking services; financial services, namely, the management of deposit accounts and facilitating the transfer of funds between fund sources and deposit accounts; cash management services, cash funds transfer and transaction services; financial services, namely, allocation of funds to and placement of funds in deposit accounts; financial services, namely, facilitating the sale and/or purchase of mortgage loans; financial transaction services, namely, custodial and sub-custodial services for deposit accounts, deposit account settlement services; FDIC insurance claim processing services" in Class 036.

5. Upon information and belief, Applicant knew or had reason to know of Opposer's prior rights in its Mark when Applicant filed its application.

6. Applicant's mark THE POWER OF MANY is nearly identical in appearance, sound, and overall commercial impression to Opposer's Mark, differing only in Applicant's

substitution of the word "Many" for the word "We." Any such minor differences between Applicant's alleged mark and Opposer's Mark are not likely to be perceived or understood by the consuming public as distinguishing the parties or their respective marks, given the close similarities between the marks. Accordingly, the mark that Applicant seeks to register so closely resembles Opposer's Mark that the use and registration thereof would be likely to cause confusion, mistake, and deception as to the source of origin of Applicant's services and will injure and damage Opposer and the goodwill and reputation symbolized by its Mark.

7. Applicant's services are identical or so closely related to Opposer's services such that the public is likely to be confused, to be deceived, and to assume erroneously that Applicant's services are those of Opposer, or that Applicant is in some way connected or affiliated with, or approved or sponsored by, Opposer, all to Opposer's irreparable damage. As such, any use or registration by Applicant of its marks THE POWER OF MANY for banking and/or financial services would violate rights afforded to Opposer under Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

WHEREFORE, Opposer respectfully requests that the registration sought by Applicant be refused and that this opposition be sustained.

NUSENDA FEDERAL CREDIT UNION

Dated: March 1, 2018

By: /Jeffrey L. Squires/
Jeffrey L. Squires
Peacock Law P.C.
P.O. Box 26927
Albuquerque, New Mexico 87104
(505) 998-1500

*Attorney for Opposer*
*Nusenda Federal Credit Union*

EXHIBIT A

Int. Cl.: 36

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 3,187,318
Registered Dec. 19, 2006

SERVICE MARK
PRINCIPAL REGISTER

# The Power of WE.

NEW MEXICO EDUCATORS FEDERAL CREDIT UNION (NEW MEXICO CREDIT UNION)
PO BOX 8530
ALBUQUERQUE, NM 87198

FOR: FINANCIAL SERVICES, NAMELY, COOPERATIVE CREDIT UNIONS AND ONLINE BANKING, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 2-21-2006; IN COMMERCE 2-21-2006.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 78-822,121, FILED 2-23-2006.

ALLISON HOLTZ, EXAMINING ATTORNEY