

ESTTA Tracking number: **ESTTA1151105**

Filing date: **08/04/2021**

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	Feller & Wendt, LLC
Granted to Date of previous extension	08/04/2021
Address	1834 E 3100 N LAYTON, UT 84040 UNITED STATES
Attorney information	BRYANT HENDRIKSEN FELLER AND WENDT 1834 E 3100 N LAYTON, UT 84040 UNITED STATES Primary Email: bmhendriksen@fellerwendt.com Secondary Email(s): thaddeuswendt@fellerwendt.com, mattfeller@fellerwendt.com, brianhansen@fellerwendt.com 8014995060
Docket Number	

**Applicant Information**

Application No.	90231912	Publication date	04/06/2021
Opposition Filing Date	08/04/2021	Opposition Period Ends	08/04/2021
Applicant	Ross Downs 4214 STERLINGTON ROAD MONROE, LA 71203 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 045. First Use: 2020/09/01 First Use In Commerce: 2020/09/01  
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)
Other	Application was filed for unrestricted registration, application for concurrent use alleging priority filed by opposer prior to Application clearing op-

	position period. See Southwestern Management, Inc. v. Ocinomled, Ltd., 115 USPQ2d 1007, 1020 n.73 (TTAB 2015), aff'd mem., 652 F. App'x 971 (Fed. Cir. 2016); Pro-Cuts v. Schilz-Price Enterprises Inc., 27 USPQ2d 1224, 1226 (TTAB 1993) See also America's Best Franchising Inc. v. Abbott, 106 USPQ2d 1540, 1544 (TTAB 2013).
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### Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	90863817	Application Date	
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services			

Related Proceedings	Concurrent Use Application 90863817
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Attachments	021.08.04_Notice of Opposition.pdf(168083 bytes )
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Signature	/Bryant Hendriksen/
Name	BRYANT HENDRIKSEN
Date	08/04/2021

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

Feller & Wendt, LLC,  Opposer,  v.  Ross Downs,  Applicant	Mark: OUR FAMILY PROTECTING YOURS  Application No. 90231912  Filed: October 2, 2020
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**NOTICE OF OPPOSITION**

Pursuant to 15 U.S.C. § 1063

In the matter of trademark Application No. 90231912 filed by Applicant, Earl Ross Downs, Jr. a.k.a. Ross Downs ("Applicant"), as a service mark for legal services filed on October 2, 2020, and published for opposition in the Official Gazette of April 6, 2021, the time to oppose having been extended, Opposer, Feller & Wendt, LLC ("Opposer") a limited liability company and law firm organized and existing under the laws of the State of Utah and located and doing business at 1834 E 3100 N, Layton, UT 84040, believes that it will be damaged by the registration of the alleged mark shown in Application No. 90231912 and opposes the registration under the provisions of 15 U.S.C. §1063 (Trademark Act of 1946, Section 13).

As grounds of opposition, it is alleged that:

1. Opposer has since at least as early as September 30, 2013, continuously used the ‘Our Family Protecting Yours’ mark (hereinafter the “Service Mark”) on its website, television, social media, and print advertisements, and elsewhere to promote and

- advertise their service as a law firm, distinctly identify their approach to providing legal services to and communicating with clients, and establish their reputation for providing quality representation.
2. Opposer presently uses the Service Mark on its website, television, social media, and print advertisements, and elsewhere to promote and advertise their service as a law firm, distinctly identify their approach to providing legal services to and communicating with clients, and establish their reputation for providing quality representation.
  3. Opposer is now, and for years has been, known by and associated with the Service Mark, building a national reputation for quality legal services and representation of clients in courtrooms across the country.
  4. Opposer does now, and has for years prior to Applicant's usage of and application for the 'Our Family Protecting Yours' service mark (hereinafter when used by Applicant the "Applicant Mark" or "Applicant's Mark"), provide legal services almost exclusively if not entirely in the areas of plaintiff's representation, namely, personal injury, medical malpractice, etc and has, during that entire period of time, engaged in the use of the Service Mark to promote and advertise and to identify the distinctiveness and quality of such services.
  5. Opposer has law offices open in Utah, Idaho, and Arizona and is currently representing clients domiciled in even more states and internationally.
  6. Opposer is known by and associated with the Service Mark not only in states and localities in which it has law offices but across the United States. Namely, its attorneys have been admitted pro hac vice in many states as associated trial counsel,

its attorneys are frequently invited to and do teach other plaintiff's attorneys across the country in courtroom and litigation techniques representing their brand with the Service Mark as they do so, Opposer frequently consults with other plaintiff's counsel across the country, and Opposer also is also associated with class counsel in multiple national class-action lawsuits, using the Service Mark as an identifying mark in each instance.

7. Applicant applied for registration of the Applicant Mark on October 2, 2020, for services in Class 45, namely legal services. Applicant's Mark is not only confusingly similar but identical to Opposer's Service Mark.
8. Applicant's Mark has not yet cleared the opposition period.
9. Upon information and belief, Applicant and his law firm provide legal services almost exclusively, if not entirely, in the areas of plaintiff's representation, namely, personal injury, medical malpractice, etc, are in part substantially identical and in part closely related to Opposer's legal services, yet of inferior quality to Opposer's legal services.
10. Upon information and belief, Applicant and his law firm exclusively employ attorneys who share the same surname and are related to Applicant.
11. Upon information and belief, Applicant engages in the use of the Applicant Mark to identify its services, which are substantially similar to Opposer's.
12. Upon information and belief, Applicant engages in the use of the Applicant Mark without regard to negative impacts to Opposer, both targeting the same clients and confusing clients and potential clients as to location of and quality of Opposer's services and reputation.

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