

ESTTA Tracking number: **ESTTA186540**

Filing date: **01/14/2008**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Career Education Corporation
Granted to Date of previous extension	01/13/2008
Address	2895 Greenspoint Parkway Suite 600 Hoffman Estates, IL 60169 UNITED STATES

Name	JDV Online, LLC		
Entity	limited liability corporation	Citizenship	Delaware
Address	21 S. Evergreen Suite 200 Arlington Heights, IL 60005 UNITED STATES		

Attorney information	Amy Crout Ziegler DLA Piper US LLP PO BOX 64807 Chicago, IL 60664-0807 UNITED STATES ch.tm@dlapiper.com,keith.medansky@dlapiper.com,amy.ziegler@dlapiper.com Phone:312-368-4000
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Applicant Information

Application No	76657652	Publication date	07/17/2007
Opposition Filing Date	01/14/2008	Opposition Period Ends	01/13/2008
Applicant	Pikes Peak Direct Marketing, Inc. 5070 Centennial Blvd. Colorado Springs, CO 80919 UNITED STATES		

Goods/Services Affected by Opposition

Class 016. All goods and services in the class are opposed, namely: mail order catalog in the fields of gourmet foods, housewares, outdoor cooking grills and cooking utensils, barware and bar furniture, cookware, bakeware, glassware, dinnerware, flatware, cutlery, culinary publications, table linens and kitchen towels, kitchenware, kitchen tools and gadgets, kitchen electronics, and kitchen furniture, and related accessories
Class 029. All goods and services in the class are opposed, namely: PACKAGED MEATS AND BACON
Class 030. All goods and services in the class are opposed, namely: SPICES AND VINEGARS

Class 035.

All goods and services in the class are opposed, namely: MAIL ORDER CATALOG SERVICES AND ONLINE RETAIL STORE AND ORDERING SERVICES IN THE FIELDS OF GOURMET FOODS; HOUSEWARES; OUTDOOR COOKING GRILLS AND COOKING UTENSILS; BARWARE AND BAR FURNITURE; COOKWARE; BAKEWARE; GLASSWARE; DINNERWARE; FLATWARE; CUTLERY; CULINARY PUBLICATIONS; TABLE LINENS AND KITCHEN TOWELS; KITCHENWARE, KITCHEN TOOLS AND GADGETS, KITCHEN ELECTRONICS, AND KITCHEN FURNITURE; AND RELATED ACCESSORIES

Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
Genericness	Trademark Act section 23

Related Proceedings	None
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Attachments	CHEFS Notice of Opposition.pdf (5 pages)(865310 bytes)
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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	/Amy Crout Ziegler/
Name	Amy Crout Ziegler
Date	01/14/2008

Gazette of the United States Patent and Trademark Office on July 17, 2007, and hereby oppose the registration of such mark in four classes. The time to oppose was extended by timely requests for extensions of time to file this opposition on behalf of both Opposers.

The grounds for the opposition are as follows:

1. Career Education Corporation is a leader in the field of education and educational information services. Career Education Corporation owns many schools, including a cooking school. Since at least as early as October 2005, Career Education Corporation, as an ancillary part of its cooking school business and its wholly-owned subsidiary JDV Online, LLC, has used the term CHEFS.COM in commerce in connection with providing on-line chat rooms, electronic bulletin boards, and other online electronic facilities, including on-line journals in the form of blogs, and streaming of audio recordings for the transmission of messages and information among users in the fields of education for chefs, food, restaurants, recipes, cooking and entertaining and providing information in the fields of education for chefs, food, restaurants, recipes and cooking.

2. On March 30, 2006, Applicant filed the '652 Application for the alleged mark CHEFS for mail order catalog in the fields of gourmet foods, housewares, outdoor cooking grills and cooking utensils, barware and bar furniture, cookware, bakeware, glassware, dinnerware, flatware, cutlery, culinary publications, table linens and kitchen towels, kitchenware, kitchen tools and gadgets, kitchen electronics, and kitchen furniture, and related accessories in Class 16; packaged meats and bacon in Class 29; spices and vinegars in Class 30; and mail order catalog services and online retail store and ordering services in the fields of gourmet foods; housewares; outdoor cooking grills and cooking utensils; barware and bar furniture; cookware; bakeware; glassware; dinnerware; flatware; cutlery; culinary publications; table linens and kitchen towels;

kitchenware, kitchen tools and gadgets, kitchen electronics, and kitchen furniture; and related accessories in Class 35.

3. All of the goods and services listed in the '652 Application are targeted to home and professional "chefs."

4. Opposers are likely to be harmed by registration of the '652 Application and have standing. On November 15, 2006, Applicant sent a cease and desist letter to JDV Online, LLC, claiming that Opposers' use of the chefs.com term was likely to be confused with Applicant's use of its alleged CHEFS mark. Opposers denied any likelihood of confusion and further claimed that Applicant's CHEFS alleged mark is either merely descriptive or generic.

5. The grant of a registration to Applicant for its CHEFS alleged mark as sought in the '652 Application should be denied on the grounds that Applicant's CHEFS mark fails to function as a trademark or is generic or merely descriptive of Applicant's goods.

6. The term "CHEFS" is merely descriptive because it describes, among other things, the nature and intended users of all of Applicant's goods. The term "CHEFS" is the generic indicator for goods and services in the field of cooking because the term "CHEFS" refers to a genus of goods and services in the field of cooking. "Chefs" are necessarily an integral part of cooking.

7. On information belief, the term "CHEFS" is used by numerous entities in the United States to refer to goods and services in the field of cooking. The term "CHEFS" as used by Applicant does not function to identify Applicant's goods or to distinguish them from the goods and services of a similar nature offered by others.

8. Applicant has abandoned any rights that it may have arguendo had in the term "CHEFS," as it has failed to police third party uses of this term such that it has become and is the

generic name for the goods and services in the '652 Application or has otherwise lost its significance as a mark to the extent it ever had such significance.

9. Therefore, pursuant to Section 2(e)(1) of the Lanham Act, the term "CHEFS" is not registrable and should be refused registration.

10. Applicant does not have priority. Opposers used the term CHEFS.COM before the filing date of Applicant's intent-to-use '652 Application.

WHEREFORE, Opposers file this Notice of Opposition and pray that the aforesaid application of Pikes Peak Direct Marketing, Inc. herein opposed be rejected, that no registration be issued thereon to Applicant, and for such other and further relief as may be deemed just and proper.

The Deposit Account No. 18-2284 will be charged the amount of \$2,400.00 to cover the filing fees of this notice of opposition against the Application for two opposers in four classes. Please charge any additional fees to Deposit Account No. 18-2284, and address all correspondence regarding this opposition to:

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Dated: January 14, 2008

Respectfully submitted,

**CAREER EDUCATION CORPORATION and
JDV ONLINE, LLC**

By: 
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CERTIFICATE OF SERVICE

I hereby certify that a copy of this correspondence is being deposited with the United States Postal Service as First-Class Mail in an envelope addressed to Wendy J. Pifer, Holland & Hart LLP, PO Box 8749, Denver, CO 80201-8749, on January 14, 2008.


Signature

Amy C. Ziegler
Name

January 14, 2008
Date of Signature