

Transmittal Memorandum

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

FROM : Martin E. Hsia, Esq.

DATE : June 23, 2010

RE : Serial No.: 76/697,692
 Mark: "TIMELINE TRAINING"
 Opposer: Everett W. James
 Applicant: Alice Dendinger Alliance Group, L.L.C.

We are sending you the following:

| ORIG. | COPIES | DATED | DESCRIPTION |
|-------|--------|----------|--|
| 1 | | 06/23/10 | Notice of Opposition; Exhibit A; Proof of Service |
| 1 | | 06/23/10 | Filing Fee (\$300.00) |
| 1 | | 06/23/10 | Postcard receipt of Notice of Opposition; Exhibit A; Proof of Service and Filing Fee |

- For your information
- For your files
- Per your request
- Per our conversation
- For necessary action**
- Are returned herewith

- For signature and return
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as noted below & return
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REMARKS:



06-28-2010

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

In the matter of Trademark Application Serial No. 76/697,692
Filed on June 1, 2009
For the mark "TIMELINE TRAINING"
Published for Opposition: April 27, 2010

EVERETT W. JAMES,

Opposer,

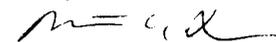
v.

ALICE DENDINGER ALLIANCE
GROUP, L.L.C.,

Applicant.

Opposition No.: _____

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, P. O. Box 1451, Alexandria, VA 22313-1451, on the date shown below.


Martin E. Hsia

32,471

Date: 6/23/10

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NOTICE OF OPPOSITION

EVERETT W. JAMES, also known as TAD JAMES, a United States citizen, having a business address at 1453 Foothills Village Drive, Henderson, Nevada 89012 ("**Opposer**"), believes he will be damaged by registration of the mark "TIMELINE TRAINING" shown in Trademark Application Serial No. 76/697,692 filed on June 1, 2009, by ALICE DENDINGER ALLIANCE GROUP, L.L.C. ("**Applicant**") for "Educational services, namely, lecturing, training, conducting classes, seminars, conferences and workshops in the field of employee development." in International Class 41 (the "**Application**"), and, therefore, Opposer hereby submits the following for his opposition to the Application:

1. Opposer owns several U.S. Trademark Registrations for the mark "TIME LINE THERAPY", including without limitation the following (collectively, "**Opposer's Registrations**"): (a) Registration No. 1,818,198 for "TIME LINE THERAPY" for "educational services; namely, conducting classes and seminars in the field of self-improvement.," in

International Class 41; (b) Registration No. 1,890,438 for "TIME LINE THERAPY" for "prerecorded video tapes featuring lectures in the field of self-improvement and prerecorded audio tapes featuring lectures in the field of self-improvement.," in International Class 9; and (c) Registration 3,596,997 for "TIME LINE THERAPY" for "Audio recordings featuring lectures in the field of self-improvement and video recordings featuring lectures in the field of self-improvement," in International Class 9.

2. Opposer has also established his common law rights to the mark, "TIME LINE THERAPY", in connection with classes, seminars and educational materials in the field of self-improvement.

3. Opposer's "TIME LINE THERAPY" mark has been used by Opposer in connection with educational and training courses, among other things, since at least as early as September 1987.

4. Opposer has established use of his "TIME LINE THERAPY" mark in connection with recordings, including, audio and video recordings, among other things, since at least as early as July 1989.

5. The goods and services covered by Opposer's Registrations for "TIME LINE THERAPY" are collectively referred to herein as "***Opposer's Goods and Services.***"

6. Opposer's Registrations are valid, subsisting, and remain in full force and effect, evidencing the validity and Opposer's exclusive ownership of, and the right to use, the mark "TIME LINE THERAPY" ("***Opposer's Mark***") and Opposer's right to oppose any mark confusingly similar thereto, or which is likely to cause the dilution thereof, for Opposer's Goods and Services and any other goods and/or services related thereto.

7. Opposer's U.S. Trademark Registration Nos. 1,818,198 and 1,890,438 have each become "incontestable," pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065, and they therefore constitute "conclusive evidence of the validity of the registered mark and of the registration of the mark, of the registrant's ownership of the mark, and of the registrant's exclusive right to use the registered mark in commerce." 15 U.S.C. 1115(b).

8. Opposer's Registrations do not contain any restrictions as to trade channels or purchasers.

9. For many years, Opposer has advertised, sold, distributed and provided Opposer's Goods and Services in connection with the "TIME LINE THERAPY" mark throughout the United States and the World. Opposer has developed an exceedingly valuable goodwill with respect to his "TIME LINE THERAPY" mark.

10. By virtue of his efforts, the expenditure of considerable sums for advertising and promotional activities, and by virtue of the excellence of his goods and services, Opposer has gained a most valuable reputation for his "TIME LINE THERAPY" mark.

11. Opposer's mark "TIME LINE THERAPY" is famous pursuant to 15 U.S.C. § 1125(c)(1).

12. Opposer's mark "TIME LINE THERAPY" is famous for educational training courses and recordings, pursuant to 15 U.S.C. § 1125(c)(1).

13. Opposer is the only holder of live U.S. trademark registrations and applications for "TIME LINE THERAPY" in International Classes 9 and 41.

14. On June 1, 2009, on information and belief, Applicant filed with the U.S. Patent and Trademark Office (the "*Trademark Office*") the subject Application for registration of the mark "TIMELINE TRAINING" ("*Applicant's Mark*").

15. On the basis of its alleged use of Applicant's Mark in commerce, pursuant to Section 1(a) of the Lanham Act, 15 U.S.C. § 1051(a)(1), Applicant seeks registration of Applicant's Mark for "Educational services, namely, lecturing, training, conducting classes, seminars, conferences and workshops in the field of employee development" in International Class 41 (collectively, "*Applicant's Services*").

16. The Application seeks to register the mark "TIMELINE TRAINING".

17. The mark "TIMELINE TRAINING" is similar to the mark "TIME LINE THERAPY" in terms of sound, meaning and commercial impression.

18. The mark "TIMELINE TRAINING" is similar to the mark "TIME LINE THERAPY" because they both suggest education, training and personal development during one's lifetime.

19. "TRAINING" and "THERAPY" are synonyms.

20. The combination of "TIME" and "LINE" into one word, and the substitution of "TRAINING" for "THERAPY," does not alter the overall commercial impression of the "TIMELINE TRAINING" mark, nor does it avoid a likelihood of confusion or likelihood of dilution with Opposer's "TIME LINE THERAPY" mark. Considered in their entireties, Applicant's Mark and Opposer's Mark have the same overall commercial impression.

21. Applicant's word mark consists of two words, "TIMELINE TRAINING" with "TRAINING" disclaimed, while Opposer's word mark is "TIME LINE THERAPY". The dominant portion of Applicant's Mark, therefore, is "TIMELINE", which is identical or substantially similar to the dominant portion of Opposer's Mark, "TIME LINE", in terms of their sound, meaning and commercial impression.

22. Applicant's "TIMELINE TRAINING" mark is confusingly similar to Opposer's "TIME LINE THERAPY" mark.

23. Applicant's Services are related to the goods and/or services in connection with which Opposer has used and is using his "TIME LINE THERAPY" mark, including but not limited to Opposer's Goods and Services, so that they are likely to be encountered by the same persons under circumstances that would give rise to the mistaken belief that they originate from the same source.

24. Applicant's "Educational services, namely, lecturing, training, conducting classes, seminars, conferences and workshops in the field of employee development" in International Class 41 are related to, if not identical to, Opposer's educational services, including "conducting classes and seminars in the field of self-improvement," in International Class 41.

25. Applicant's "Educational services, namely, lecturing, training, conducting classes, seminars, conferences and workshops in the field of employee development" in International Class 41 are related to Opposer's audio and video recordings featuring lectures in the field of self-improvement.

26. Consumers are likely to be confused as to whether the source of Opposer's Goods and Services and the source of Applicant's Services are the same, or are related or otherwise affiliated to one another.

27. The circumstances surrounding and otherwise pertaining to the marketing of Opposer's Goods and Services and Applicant's Services are such that said goods and/or services are likely to be encountered by the same persons under circumstances that would give rise to the mistaken belief that they originate from the same source.

28. Educational services in the field of development and educational services in the field of self-improvement are marketed and sold by a single or the same source, as shown by U.S. Trademark Registration No. 3,403,089 for "SYNCHRO" for "Educational services, namely, training workshops in the field of employee development and leadership; educational services, namely, self-improvement workshops and seminars" in International Class 41 (emphasis added), a true and correct copy of which is attached hereto as Exhibit "A".

29. Applicant's Services and Opposer's Goods and Services are closely related if not identical. Therefore, the degree of similarity between Applicant's "TIMELINE TRAINING" mark and Opposer's "TIME LINE THERAPY" mark that is necessary to demonstrate a likelihood of confusion is low.

30. The Application is not restricted as to channels of trade or purchasers. Therefore, it must be presumed that Applicant's Services and Opposer's Goods and Services move in all normal channels of trade and available to all classes of purchasers.

31. The use and registration of Applicant's Mark, as indicated above, would result in confusion, mistake, and/or deception as to the source or origin of Applicant's Services, leading consumers to believe that they are somehow affiliated with, approved, sponsored, or licensed by Opposer.

32. A likelihood of confusion exists under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), between Opposer's registered mark "TIME LINE THERAPY", and Applicant's "TIMELINE TRAINING" mark.

33. If Applicant is permitted to use and register Applicant's Mark for the services specified in the Application, confusion in trade, resulting in irreparable damage and injury to Opposer, inevitably would result by reason of the similarity between Applicant's Mark

and Opposer's Mark and the goods and services sold and provided thereunder. Any defect, objection, or fault found with goods or services marketed under Applicant's Mark, would reflect on, and injure, the reputation Opposer has established for goods and services sold under his "TIME LINE THERAPY" mark.

34. If Applicant is granted the registration herein opposed, Applicant would obtain the prima facie exclusive right to use the mark set forth in the Application. Such registration would become a source of damage and injury to Opposer because of the above-shown confusion, mistake, and/or deception, the dilution of Opposer's registered marks, and the diminution of Opposer's ability to control the quality of goods and services sold under its marks.

35. Moreover, such registration would run contrary to the requirement that all doubts as to the likelihood of confusion must be resolved in favor of Opposer as the senior user, and against Applicant, who has a legal duty to select a mark totally dissimilar to marks already in use.

36. Applicant's Mark as used for the services covered by the Application, would likely dilute, and/or would actually dilute, the distinctiveness of Opposer's "TIME LINE THERAPY" mark.

37. On information and belief, the services covered by the Application are or will be offered to the same class of purchasers and users who purchase and use the goods and services in connection with which Opposer has used and is using its "TIME LINE THERAPY" mark.

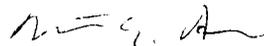
38. There is no issue as to priority. Opposer has been using his "TIME LINE THERAPY" mark since before the Application's March 15, 2009, alleged date of first use and the June 1, 2009, filing date. On information and belief, Applicant did not use Applicant's Mark

in commerce in the United States in connection with the applied for services, prior to Opposer's use of the mark "TIME LINE THERAPY".

WHEREFORE, Opposer prays that this Opposition be sustained, that the Application be refused, and that the mark applied for therein be refused registration. The fee required pursuant to 37 C.F.R. § 2.6(a)(17) is enclosed herewith.

DATED: Honolulu, Hawaii, June 23, 2010.

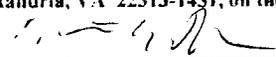
Respectfully submitted,



Martin E. Hsia, Reg. No. 32,471
CADES SCHUTTE LLP
A Limited Liability Law Partnership
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Honolulu, HI 96813
Tel: (808) 521-9200

Attorneys for Opposer
EVERETT W. JAMES aka. TAD JAMES

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, P. O. Box 1451, Alexandria, VA 22313-1451, on the date shown below.



Martin E. Hsia 32,471

Date: 6/23/10

EXHIBIT "A"

Int. Cl.: 41

Prior U.S. Cls.: 100, 101, and 107

Reg. No. 3,403,089

United States Patent and Trademark Office

Registered Mar. 25, 2008

SERVICE MARK
PRINCIPAL REGISTER

SYNCHRO

VEDER, KATHRYN ANN (UNITED STATES IN-
DIVIDUAL)
528 CAMDEN ROAD
EATON, OH 45320

FOR: EDUCATIONAL SERVICES, NAMELY,
TRAINING WORKSHOPS IN THE FIELD OF EM-
PLOYEE DEVELOPMENT AND LEADERSHIP;
EDUCATIONAL SERVICES, NAMELY, SELF-IM-
PROVEMENT WORKSHOPS AND SEMINARS , IN
CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 1-15-2007; IN COMMERCE 1-15-2007.

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

SN 78-663,270, FILED 7-3-2005.

MARK RADEMACHER, EXAMINING ATTORNEY

EXHIBIT A

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

In the matter of Trademark Application Serial No. 76/697,692
Filed on June 1, 2009
For the mark "TIMELINE TRAINING"
Published for Opposition: April 27, 2010

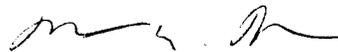
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|--------------------------|---|-----------------------|
| EVERETT W. JAMES, |) | |
| |) | |
| Opposer, |) | |
| |) | Opposition No.: _____ |
| v. |) | |
| |) | |
| ALICE DENDINGER ALLIANCE |) | |
| GROUP, L.L.C., |) | |
| |) | |
| Applicant. |) | |
| _____ |) | |

PROOF OF SERVICE

I HEREBY CERTIFY that a true and correct copy of OPPOSER'S NOTICE OF OPPOSITION was mailed by prepaid U.S. First Class Mail on the date noted below, to:

Justin M. Welch, Esq., Blazier, Christensen, Bigelow & Virr, 221 West Sixth Street, Suite 1500, Austin, TX, 78701-3435.

DATED: Honolulu, Hawaii, June 23, 2010.



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(808) 544-3835

Attorneys for Opposer
EVERETT W. JAMES aka TAD JAMES