

ESTTA Tracking number: **ESTTA418198**

Filing date: **07/06/2011**

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	Education Management LLC
Granted to Date of previous extension	07/06/2011
Address	210 Sixth Avenue Pittsburgh, PA 15222 UNITED STATES
Correspondence information	Christie Baty Hudgins Attorney for Opposer Finnegan, Henderson, Farabow, et al. 901 New York Avenue, NW Washington, DC 20001 UNITED STATES docketing@finnegan.com

**Applicant Information**

Application No	85140543	Publication date	03/08/2011
Opposition Filing Date	07/06/2011	Opposition Period Ends	07/06/2011
Applicant	de Falco, Pompeyo 6773 Nw 109 Ave Doral, FL 33178 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 041. First Use: 2009/05/01 First Use In Commerce: 2009/05/01  
All goods and services in the class are opposed, namely: Educational services, namely lectures, seminars, conferences and courses at the university level

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	2902717	Application Date	01/06/2003
Registration Date	11/16/2004	Foreign Priority Date	NONE
Word Mark	MIAMI INTERNATIONAL UNIVERSITY OF ART AND DESIGN		

Design Mark	<b>MIAMI INTERNATIONAL UNIVERSITY OF ART AND DESIGN</b>
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2003/01/14 First Use In Commerce: 2003/01/14 Educational services, namely, providing courses of instruction at the post secondary level

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	MIU		
Goods/Services	Educational services, namely, providing courses of instruction at the post secondary level		

Attachments	76480568#TMSN.gif ( 1 page )( bytes ) MIU Notice of Opposition.pdf ( 11 pages )(473351 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	/Christie Baty Hudgins/
Name	Christie Baty Hudgins
Date	07/06/2011



3. Education Management is the owner of U.S. Registration No. 2902717 for the mark MIAMI INTERNATIONAL UNIVERSITY OF ART AND DESIGN, issued November 16, 2004, covering “educational services, namely, providing courses of instruction at the post secondary level” in International Class 41 (“Education Management’s Services”). Printouts from the U.S. Patent and Trademark Office’s (“USPTO”) TESS and TARR databases showing details of this registration are attached as Exhibit A.

4. Education Management is currently using the mark MIAMI INTERNATIONAL UNIVERSITY OF ART AND DESIGN in commerce for Education Management’s Services.

5. Since at least as early as 2004, Education Management has used the mark “MIU” as an abbreviation for the name of its school MIAMI INTERNATIONAL UNIVERSITY OF ART AND DESIGN.

6. In addition, the public for many years has referred to MIAMI INTERNATIONAL UNIVERSITY OF ART AND DESIGN using the shorthand “MIU,” and has long used the marks MIAMI INTERNATIONAL UNIVERSITY OF ART AND DESIGN and MIU interchangeably to refer to Education Management’s Services.

7. Education Management is currently using the mark MIU in commerce for Education Management’s Services.

**Applicant and Its MIU Mark**

8. Upon information and belief, Pompeyo de Falco (“de Falco” or “Applicant”) is a Venezuelan citizen with an address at 6773 N.W. 109 Avenue, Doral, Florida 33178.

9. Upon information and belief, on September 29, 2010, Applicant filed Application Serial No. 85/140543 to register the mark MIU (“Applicant’s MIU mark”) at the USPTO claiming use of the mark in commerce since May 1, 2009, which was published for opposition in the *Official Gazette* dated March 8, 2011.

10. The published application for Applicant’s MIU mark covers “educational services, namely, lectures, seminars, conferences and courses at the university level” in International Class 41 (“Applicant’s Services”).

**Likelihood of Confusion, 15 U.S.C. § 1052(d)**

11. Education Management’s rights to its MIU mark predate the filing date for Applicant’s MIU mark for Applicant’s Services, and any date of first use that may be asserted by Applicant. Thus, Education Management has priority in this opposition.

12. Applicant’s MIU mark, as applied to Applicant’s Services, so resembles Education Management’s MIU mark as used for Education Management’s Services as to be likely to cause confusion, or to cause mistake, or to deceive when used in connection with Applicant’s Services in violation of Section 2(d), 15 U.S.C. § 1052(d).

13. For these reasons, Education Management is being and will be damaged by the registration of the mark shown in Application Serial No. 85/140543.

WHEREFORE, Opposer requests that registration of Applicant’s MIU mark be refused and that this opposition be sustained.

The required opposition fee of \$300 is submitted herewith. Any deficiency in the filing fee should be charged to our Deposit Account No. 06-0916.

Respectfully submitted,

EDUCATION MANAGEMENT LLC

Date: July 6, 2011

By:   
Christie Baty Hudgins  
Jonathan M. Gelchinsky  
Attorneys for Opposer

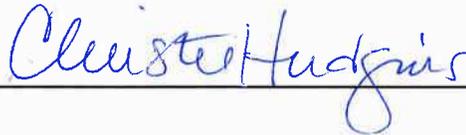
Finnegan, Henderson, Farabow,  
Garrett & Dunner, LLP  
901 New York Avenue, N.W.  
Washington, DC 20001-4413  
Telephone: 202-408-4000  
Fax: 202-408-4400

Attachment: Exhibit A

**CERTIFICATE OF SERVICE**

I certify that a true and accurate copy of the foregoing NOTICE OF OPPOSITION was served by first class mail, postage prepaid, on this 6<sup>th</sup> day of July 2011, upon counsel of record for Applicant at the following address:

Christopher Ditico, Esq.  
Raj Abhyanker, P.C.  
1580 W. El Camino Real Suite 8  
Mountain View, California 94040-2462

A handwritten signature in blue ink, reading "Christopher Ditico", is written over a horizontal line.

# EXHIBIT A



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**Typed Drawing**

<b>Word Mark</b>	MIAMI INTERNATIONAL UNIVERSITY OF ART AND DESIGN
<b>Goods and Services</b>	IC 041. US 100 101 107. G & S: Educational services, namely, providing courses of instruction at the post secondary level. FIRST USE: 20030114. FIRST USE IN COMMERCE: 20030114
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	76480568
<b>Filing Date</b>	January 6, 2003
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	August 24, 2004
<b>Registration Number</b>	2902717
<b>Registration Date</b>	November 16, 2004
<b>Owner</b>	(REGISTRANT) Education Management Corporation CORPORATION PENNSYLVANIA 210 Sixth Avenue Pittsburgh PENNSYLVANIA 15222
	(LAST LISTED OWNER) EDUCATION MANAGEMENT LLC LIMITED LIABILITY COMPANY DELAWARE 210 SIXTH AVENUE PITTSBURGH PENNSYLVANIA 15222
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	Christie Baty Heinze
<b>Disclaimer</b>	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "UNIVERSITY OF ART AND DESIGN" APART FROM THE MARK AS SHOWN
<b>Type of Mark</b>	SERVICE MARK

**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR).  
**Live/Dead Indicator** LIVE

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**Serial Number:** 76480568 Assignment Information      Trademark Document Retrieval

**Registration Number:** 2902717

**Mark (words only):** MIAMI INTERNATIONAL UNIVERSITY OF ART AND DESIGN

**Standard Character claim:** No

**Current Status:** A Sections 8 and 15 combined declaration has been accepted and acknowledged.

**Date of Status:** 2009-12-15

**Filing Date:** 2003-01-06

**Transformed into a National Application:** No

**Registration Date:** 2004-11-16

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 110

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov**

**Current Location:** M10 -TMO Law Office 110

**Date In Location:** 2009-12-15

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

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1. EDUCATION MANAGEMENT LLC

**Address:**

EDUCATION MANAGEMENT LLC  
210 SIXTH AVENUE  
PITTSBURGH, PA 15222  
United States

**Legal Entity Type:** Limited Liability Company

**State or Country Where Organized:** Delaware

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**GOODS AND/OR SERVICES**

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**International Class:** 041

**Class Status:** Active

Educational services, namely, providing courses of instruction at the post secondary level

**Basis:** 1(a)

**First Use Date:** 2003-01-14

**First Use in Commerce Date:** 2003-01-14

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#### ADDITIONAL INFORMATION

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**Disclaimer:** "UNIVERSITY OF ART AND DESIGN"

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#### MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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#### PROSECUTION HISTORY

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2009-12-15 - Section 8 (6-year) accepted & Section 15 acknowledged

2009-12-15 - Case Assigned To Post Registration Paralegal

2009-12-04 - TEAS Section 8 & 15 Received

2006-08-23 - Assignment Of Ownership Not Updated Automatically

2006-07-05 - Automatic Update Of Assignment Of Ownership

2004-11-16 - Registered - Principal Register

2004-08-24 - Published for opposition

2004-08-04 - Notice of publication

2004-06-10 - Approved for Pub - Principal Register (Initial exam)

2004-05-12 - Communication received from applicant

2004-05-12 - TEAS Response to Office Action Received

2003-11-13 - Final refusal mailed

2003-11-12 - Amendment to Use approved

2003-10-04 - Amendment To Use Processing Complete

2003-09-05 - Use Amendment Filed

2003-09-05 - Communication received from applicant

2003-09-05 - PAPER RECEIVED

2003-06-18 - Non-final action mailed

2003-06-09 - Assigned To Examiner

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Attorney of Record**

Christie Baty Heinze

**Correspondent**

Christie Baty Heinze

Finnegan, Henderson, Farabow et al.

901 New York Avenue, NW

WASHINGTON DC 20001-4413

Phone Number: 202-408-4000

Fax Number: 202-408-4400

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