

ESTTA Tracking number: **ESTTA446012**

Filing date: **12/13/2011**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Manpower Inc. (d/b/a ManpowerGroup)		
Entity	Corporation	Citizenship	Wisconsin
Address	100 Manpower Place Milwaukee, WI 53212 UNITED STATES		

Name	Right Management Inc.		
Entity	Corporation	Citizenship	Pennsylvania
Address	1818 Market Street 33rd Floor Philadelphia, PA 19103 UNITED STATES		

Attorney information	Claudia Ray KIRKLAND & ELLIS LLP 601 Lexington Avenue New York, NY 10022 UNITED STATES claudia.ray@kirkland.com, brendan.kehoe@kirkland.com Phone:212-446-4800		
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Applicant Information

Application No	85339610	Publication date	11/15/2011
Opposition Filing Date	12/13/2011	Opposition Period Ends	12/15/2011
Applicant	Humanly Possible, Inc. Joshua Klayman, Sec.-Treas. 324 N Marion St Oak Park, IL 60302 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2011/06/06 First Use In Commerce: 2011/06/06 All goods and services in the class are opposed, namely: Business management consultation

Grounds for Opposition

Other	The mark is merely descriptive and has not acquired secondary meaning. 15 U.S.C. Â§1052(e)(1)
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Related Proceedings	Humanly Possible, Inc. v. Manpower Inc., et al., SDNY Case No. 1:11-cv-04977
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Attachments	Notice of Opposition.pdf (4 pages)(104060 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 Facsimile or email (by agreement only) on this date.

Signature	/Claudia Ray/
Name	Claudia Ray
Date	12/13/2011

NOTICE OF OPPOSITION

Opposers Manpower Inc. (d/b/a ManpowerGroup) and Right Management Inc. (collectively, “Manpower”) believe that they will be damaged by Applicant Humanly Possible, Inc.’s (“Applicant”) registration of the THE EXTRAORDINARY IS HUMANLY POSSIBLE mark shown in Application No. 85/339,610. As grounds for this Opposition, Manpower alleges the following upon actual knowledge with respect to itself and its own acts, and upon information and belief as to other matters.

1. Opposer Manpower Inc. is a Wisconsin Corporation with its principal place of business at 100 Manpower Place, Milwaukee, Wisconsin 53212. Manpower Inc. is doing business as ManpowerGroup and under, or in connection with, the names and brands Manpower, ManpowerGroup Solutions, Experis, and Right Management, which operate as part of ManpowerGroup.

2. Opposer Right Management Inc. is a Pennsylvania Corporation with its headquarters at 1818 Market Street, 33rd Floor, Philadelphia, Pennsylvania 19103.

3. Applicant Humanly Possible, Inc. has sought registration of the descriptive phrase THE EXTRAORDINARY IS HUMANLY POSSIBLE, in International Class 35, for use in connection with “Business management consultation” services.

4. Applicant’s purported mark is merely descriptive and has not acquired secondary meaning in the marketplace and thus should be refused registration pursuant to 15 U.S.C. § 1052(e). Specifically, Applicant’s mark consists of the descriptive terms (i) “extraordinary” (an adjective commonly found in dictionaries meaning “beyond what is usual, ordinary, regular, or established”) and (ii) “humanly possible” (a phrase long established and commonly found in

dictionaries defined as everything within the range of human capacity, and which is commonly used in complete sentences along with the verb “to be” to describe what is or is not capable of human performance), both of which lack inherent distinctiveness, and Applicant has not shown that the phrase “The extraordinary is humanly possible” has acquired distinctiveness.

5. Applicant’s mark is not registrable subject matter since it immediately and aptly describes a feature, function or characteristic of Applicant’s products/services. If Applicant were granted trademark rights in its purported mark, it would inhibit the legitimate interests of others, including Manpower, in making non-trademark use of the descriptive terms “extraordinary” and “humanly possible” to accurately describe their own products or services using these terms.

6. Furthermore, if Applicant were to obtain a trademark registration for “The extraordinary is humanly possible,” it would obtain an exclusive right to use this descriptive sentence, as well as other similar descriptive sentences. Such registration would cause damage and injury to Manpower (and others) who currently use, or will use, similar descriptive sentences in advertising to describe their own services. In fact, Opposer has already sued Manpower for federal trademark infringement for Manpower’s use of more than two dozen different descriptive sentences that include the words “humanly possible” for their common-English meaning, such as “Business growth is humanly possible” or “Powering the world of work is humanly possible.”

7. WHEREFORE, Manpower believes that it will be damaged by the registration of the mark shown in Application No. 85/339,610, and requests that the opposition be sustained, and that registration to Applicant be refused.

8. Please charge the Kirkland & Ellis LLP Deposit Account for the opposition filing fee of \$1,500, Account No. 220440 (9003).

Dated: December 13, 2011

Respectfully submitted,

/s/ Claudia Ray

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Attorneys for the Opposers
MANPOWER INC. d/b/a
MANPOWERGROUP AND RIGHT
MANAGEMENT INC.