

ESTTA Tracking number: **ESTTA449011**

Filing date: **12/30/2011**

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	Kona University, Inc.
Granted to Date of previous extension	01/04/2012
Address	75-6099 Kuakini Hlghway Kailua-Kona, HI 96740 UNITED STATES

Attorney information	William G. Meyer, III Dwyer Schraff Meyer Grant & Green 900 Fort Street Mall, Suite 1800 Honolulu, HI 96813 UNITED STATES wmeyer@dwyerlaw.com Phone:808-534-4412
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Applicant Information

Application No	85008965	Publication date	09/06/2011
Opposition Filing Date	12/30/2011	Opposition Period Ends	01/04/2012
Applicant	Life Empowerment Institute 631 Union Street 2nd Floor San Francisco, CA 94133 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 2010/01/01 First Use In Commerce: 2010/01/01 All goods and services in the class are opposed, namely: Conducting workshops and seminars in personal awareness; Educational services, namely, conducting seminars, lectures, teleseminars, teleclasses, and workshops in personal awareness

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3579749	Application Date	07/11/2008
Registration Date	02/24/2009	Foreign Priority Date	NONE
Word Mark	THE EMPOWERMENT PARTNERSHIP		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2005/12/00 First Use In Commerce: 2005/12/00 Educational services, namely, conducting classes and seminars in the field of self-improvement		

U.S. Registration No.	3579750	Application Date	07/11/2008
Registration Date	02/24/2009	Foreign Priority Date	NONE
Word Mark	THE EMPOWERMENT PARTNERSHIP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2006/04/00 First Use In Commerce: 2006/04/00 Printed materials, namely, books in the field of self-improvement, and printed instructional materials in the field of self-improvement		

U.S. Registration No.	3579751	Application Date	07/11/2008
Registration Date	02/24/2009	Foreign Priority Date	NONE
Word Mark	THE EMPOWERMENT PARTNERSHIP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2006/02/00 First Use In Commerce: 2006/02/00 Digital media, namely, CDs and DVDs featuring self-improvement		

Attachments	77520688#TMSN.jpeg (1 page)(bytes) 77520689#TMSN.jpeg (1 page)(bytes) 77520691#TMSN.jpeg (1 page)(bytes) Statement of Claim.pdf (3 pages)(15416 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	/William G. Meyer, III/
Name	William G. Meyer, III
Date	12/30/2011

STATEMENT OF THE CLAIM

In the matter of the application of LIFE EMPOWERMENT INSTITUTE, a California sole proprietorship, composed of Lisa D. Cooney, a citizen of the United States (hereinafter referred to as “Applicant”) for registration of the service mark “LIFE EMPOWERMENT INSTITUTE”, Application Serial No. 85-008965, published in the Official Gazette on September 6, 2011, KONA UNIVERSITY, INC., formerly known as AMERICAN PACIFIC UNIVERSITY, a Hawaii profit corporation, with its principal place of business at 75-6099 Kuakini Highway, Kailua-Kona, Hawaii 96740 (hereinafter referred to as “Opposer”), believes that it will be damaged by registration of the mark shown in Serial No. 85-008965 and hereby opposes the same.

The grounds for the opposition are as follows:

1. On or about December 13, 1994, Opposer was formed as a Hawaii domestic profit corporation.¹ On November 30, 2005, Opposer registered the trade name “THE EMPOWERMENT PARTNERSHIP a Division of American Pacific University” with the business registration division of the Department of Commerce and Consumer Affairs, State of Hawaii. Said trade name registration was valid and subsisting, unrevoked and uncanceled through November 29, 2010; however, Opposer has continuously used the trade name THE EMPOWERMENT PARTNERSHIP.

2. On January 4, 2011, Opposer registered the trade name “THE EMPOWERMENT PARTNERSHIP, a division of Kona University” with the business registration division of the

¹ On or about April 6, 2005, Opposer was converted to a Hawaii domestic non-profit corporation. On June 1, 2010, Opposer was converted back to a Hawaii for profit corporation. On December 13, 2010, Opposer changed its name to Kona University, Inc.

Department of Commerce and Consumer Affairs, State of Hawaii. Said state trade name registration is valid and subsisting, unrevoked and uncanceled.

3. Further, Opposer is the owner of all rights, title and interest in and to, and the good will of business symbolized by, various trademarks, including the following trademarks registered in the United States Patent and Trademark Office:

<u>Trademark</u>	<u>Registration Number</u>	<u>Int'l Class</u>
The EMPOWERMENT PARTNERSHIP (Words and Design)	3,579,749	041
THE EMPOWERMENT PARTNERSHIP (Words and Design)	3,579,750	016
THE EMPOWERMENT PARTNERSHIP (Words and Design)	3,579,751	009

4. Said registrations are all valid and subsisting, unrevoked and uncanceled and Opposer is the owner of them and of the marks shown thereby and of all the business to be well connected with and represented by said marks.

5. At least as early as December 2005, Opposer adopted and began to use the designation "THE EMPOWERMENT PARTNERSHIP" as both a trade name and a service mark in intrastate and interstate commerce to denote Opposer's business and company and associated goodwill, on the one hand, and to identify Opposer's education services and distinguish said services from similar services offered by other companies, on the other hand. Since that date, Opposer has continuously used said marks in connection with its services.

6. Since as early as December 2005, Opposer has offered to the public under the trade name/service mark "THE EMPOWERMENT PARTNERSHIP" various educational services, namely conducting classes and seminars in the field of self-improvement.

7. As a result of Opposer's use of the trade name/service mark "THE EMPOWERMENT PARTNERSHIP" in interstate commerce throughout the United States, said trade name/service mark has become of great value to Opposer and, in the mind of the trade and public, identifies and designates Opposer's business and services and distinguishes Opposer's business and services from the business and services of others.

8. Notwithstanding Opposer's prior rights to the subject trade name/service mark, on April 7, 2010, Applicant filed an application for registration of a word mark consisting of the words "LIFE EMPOWERMENT INSTITUTE" in International Class 041 for conducting workshops and seminars in personal awareness; educational services, namely, conducting seminars, lectures, teleseminars, teleclasses, and workshops in personal awareness.

9. Applicant's mark "LIFE EMPOWERMENT INSTITUTE" so resembles Opposer's trade name/service mark as to be likely, when used in connection with Applicant's services, to cause confusion or mistake or to deceive purchasers, thereby resulting in damage and detriment to Opposer and its reputation.

WHEREFORE, Opposer believes that it will be damaged by said registration of Applicant's mark and prays that it be denied.

Please recognize as attorneys for Opposer in this proceeding and address all correspondence relating to this matter to William G. Meyer, III, Esq. and Bryan Harada, Esq. of the law firm Dwyer Schraff Meyer Grant & Green.