

ESTTA Tracking number: **ESTTA471363**

Filing date: **05/08/2012**

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	Learning Tree International, Inc.
Granted to Date of previous extension	05/09/2012
Address	1805 Library Street Reston, VA 20190 UNITED STATES

Attorney information	Theodore D. Lienesch Thompson Hine LLP 10050 Innovation Drive, Suite 400 Dayton, OH 45342-4934 UNITED STATES Trademarks@thompsonhine.com, Ted.Lienesch@thompsonhine.com Phone:937-443-6958
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**Applicant Information**

Application No	85363770	Publication date	01/10/2012
Opposition Filing Date	05/08/2012	Opposition Period Ends	05/09/2012
Applicants	Elmashni, Ghassan 1025 Harrison Avenue Redwood City, CA 94062 UNITED STATES  Elmashni, Hatim 1025 Harrison Avenue Redwood City, CA 94062 UNITED STATES  Giokaris, Jimmy 1025 Harrison Avenue Redwood City,, CA 94062 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 041.

All goods and services in the class are opposed, namely: Educational services, namely, providing a website that will connect instructors in all disciplines with students looking to learn or improve in a particular discipline

**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.	1124714	Application Date	12/13/1976
Registration Date	09/04/1979	Foreign Priority Date	NONE
Word Mark	LEARNING TREE		
Design Mark	<b>LEARNING TREE</b>		
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 1974/09/23 First Use In Commerce: 1974/09/23  EDUCATIONAL PUBLICATIONS-NAMELY, COURSE NOTES AND REPRINTS OF TECHNICAL ARTICLES AND MANUFACTURERS' LITERATURE</p> <p>Class 041. First use: First Use: 1974/09/23 First Use In Commerce: 1974/09/23  EDUCATIONAL SERVICES-NAMELY, CONDUCTING COURSES IN COMPUTER TECHNOLOGY WITH EMPHASIS TOWARD MINICOMPUTERS AND MICROCOMPUTERS</p>		

U.S. Registration No.	1474553	Application Date	06/22/1987
Registration Date	01/26/1988	Foreign Priority Date	NONE
Word Mark	LEARNING TREE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 041. First use: First Use: 1974/09/23 First Use In Commerce: 1974/09/23  EDUCATIONAL SERVICES - NAMELY, CONDUCTING COURSES IN ENGINEERING, SCIENCE, BUSINESS, MANAGEMENT, COMMUNICATIONS, COMPUTERS, ELECTRONICS [ AND MANUFACTURING ]</p>		

U.S. Registration No.	1506875	Application Date	06/22/1987
Registration Date	10/04/1988	Foreign Priority Date	NONE
Word Mark	LEARNING TREE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1977/12/30 First Use In Commerce: 1977/12/30  [ COMPUTER HARDWARE, NAMELY, MICROCOMPUTERS, KEYBOARDS,</p>		

	VIDEO DISPLAYS, AND POWER SUPPLIES; ] COMPUTER PROGRAMS [ ; AND PRERECORDED AUDIO AND VIDEO TAPES AND CASSETTES ]		
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U.S. Registration No.	2424259	Application Date	11/15/1990
Registration Date	01/30/2001	Foreign Priority Date	NONE
Word Mark	LEARNING TREE INTERNATIONAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1989/09/01 First Use In Commerce: 1989/09/01 computer hardware; namely, microcomputers, keyboards, video displays, and power supply units; computer programs, and pre-recorded [ audio and video tapes, cassettes, and ] disks for educational purposes		

U.S. Registration No.	2424262	Application Date	11/15/1990
Registration Date	01/30/2001	Foreign Priority Date	NONE
Word Mark	LEARNING TREE INTERNATIONAL		
Design Mark	<p style="text-align: center;"><b>LEARNING TREE INTERNATIONAL</b></p>		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1989/09/01 First Use In Commerce: 1989/09/01 computer hardware; namely, microcomputers, keyboards, video displays, and power supply units; computer programs, pre-recorded [ audio and video tapes, cassettes and ] disks for educational purposes		

U.S. Registration No.	2424260	Application Date	11/15/1990
Registration Date	01/30/2001	Foreign Priority Date	NONE
Word Mark	LEARNING TREE INTERNATIONAL		
Design Mark	<p style="text-align: center;"><b>LEARNING TREE INTERNATIONAL</b></p>		
Description of	NONE		

Mark	
Goods/Services	Class 041. First use: First Use: 1989/09/01 First Use In Commerce: 1989/09/01 educational services; namely, conducting courses in engineering, science business, management, communications, computers, electronics [, and manufacturing ]

U.S. Registration No.	2424261	Application Date	11/15/1990
Registration Date	01/30/2001	Foreign Priority Date	NONE

Word Mark	LEARNING TREE INTERNATIONAL
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Design Mark	<b>LEARNING TREE INTERNATIONAL</b>
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Description of Mark	NONE
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Goods/Services	Class 016. First use: First Use: 1989/09/01 First Use In Commerce: 1989/09/01 books relating to engineering, science, business, management, communications, computers, electronics [, and manufacturing ]
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U.S. Registration No.	2424263	Application Date	11/15/1990
Registration Date	01/30/2001	Foreign Priority Date	NONE

Word Mark	LEARNING TREE INTERNATIONAL
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 016. First use: First Use: 1989/09/01 First Use In Commerce: 1989/09/01 books relating to engineering, science, business, management, communications computers, electronics [, and manufacturing ]
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U.S. Registration No.	2424264	Application Date	11/15/1990
Registration Date	01/30/2001	Foreign Priority Date	NONE

Word Mark	LEARNING TREE INTERNATIONAL
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Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1989/09/01 First Use In Commerce: 1989/09/01 educational services; namely, conducting courses in engineering, science, business, management, communications, computers, electronics [, and manufacturing ]		

U.S. Registration No.	2337136	Application Date	12/08/1997
Registration Date	04/04/2000	Foreign Priority Date	NONE

Word Mark	WWW.LEARNINGTREE.COM
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Design Mark	<p style="text-align: center;"><b>WWW.LEARNINGTREE.COM</b></p>
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Description of Mark	NONE
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Goods/Services	<p>Class 041. First use: First Use: 1995/03/10 First Use In Commerce: 1995/08/20 EDUCATIONAL AND TRAINING SERVICES, NAMELY, CONDUCTING COURSES, SEMINARS AND WORKSHOPS PRIMARILY IN THE FIELDS OF INFORMATION TECHNOLOGY, COMPUTERS, COMPUTER HARDWARE, COMPUTER SOFTWARE, COMPUTER PROGRAMMING, COMPUTER NETWORKS, GLOBAL COMPUTER NETWORKS, LOCAL AND WIDE AREA NETWORKS, COMPUTER GRAPHICS, ELECTRONICS, DESIGNING AND TESTING IN ELECTRONICS AND COMPUTERS, DIGITAL CONTROL, DATA PROCESSING, NETWORK AND DATA COMMUNICATIONS SYSTEMS, DATA ANALYSIS AND FORECASTING, COMPUTER REPAIR AND MAINTENANCE, PATTERN RECOGNITION SYSTEMS, DATA BASE MANAGEMENT AND SKILLS TESTING; EDUCATIONAL SERVICES, NAMELY, PROVIDING INSTRUCTION VIA A GLOBAL COMPUTER NETWORK IN THE FIELDS OF ENGINEERING, SCIENCE, BUSINESS, MANAGEMENT, HEALTH, COMMUNICATIONS, COMPUTERS, COMPUTER NETWORKS, ELECTRONICS AND MANUFACTURING; COMPUTER BASED TRAINING SERVICES IN THE FIELDS OF ENGINEERING, SCIENCE, BUSINESS MANAGEMENT, HEALTH, COMMUNICATIONS, COMPUTERS, COMPUTER NETWORKS, ELECTRONICS AND MANUFACTURING</p> <p>Class 042. First use: First Use: 1995/03/10 First Use In Commerce: 1995/08/20 EDUCATIONAL CONSULTING SERVICES, NAMELY ADVISING OTHERS IN THE FIELD OF ADMINISTERING EDUCATIONAL SERVICES; COMPUTER CONSULTATION SERVICES IN THE FIELD OF COMPUTER HARDWARE AND SOFTWARE; EDUCATIONAL TESTING, NAMELY PROVIDING</p>
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	STANDARDIZED TESTS AND SKILLS ASSESSMENT AND TESTING TO DETERMINE EMPLOYMENT SKILLS, AND EMPLOYER NEEDS ANALYSIS; TESTING, ANALYSIS AND EVALUATION OF THE GOODS AND SERVICES OF OTHERS FOR THE PURPOSE OF CERTIFICATION
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U.S. Registration No.	3829287	Application Date	04/30/2009
Registration Date	08/03/2010	Foreign Priority Date	NONE
Word Mark	LEARNING TREE ANYWARE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2009/09/00 First Use In Commerce: 2009/09/00 Education and training courses in the fields of information technology, computers, computer hardware, computer maintenance and repair, computer software, computer networks, computer security, telecommunications, computer programming, software engineering, software development, website development and web services, and in the fields of business and management skills, finance, leadership, communication skills, and project management, and course materials distributed therewith		

U.S. Registration No.	3880862	Application Date	06/03/2009
Registration Date	11/23/2010	Foreign Priority Date	NONE
Word Mark	LEARNING TREE ANYWARE BE THERE WITH ANYWARE		
Design Mark			
Description of Mark	The mark consists of a stylized tree design and the words "Learning Tree AnyWare Be There! ... with AnyWare".		
Goods/Services	Class 041. First use: First Use: 2009/09/00 First Use In Commerce: 2009/09/00 Education and training courses in the fields of information technology, computers, computer hardware, computer maintenance and repair, computer software, computer networks, computer security, telecommunications, computer programming, software engineering, software development, website development and web services, and in the fields of business and management		

	skills, finance, leadership, communication skills and project management, and course materials provided in connection therewith
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U.S. Registration No.	3694171	Application Date	01/07/2005
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Registration Date	10/06/2009	Foreign Priority Date	NONE
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Word Mark	LEARNING TREE UNIVERSITY		
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Description of Mark	NONE		
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Goods/Services	<p>Class 016. First use: First Use: 2007/02/00 First Use In Commerce: 2007/02/00  Printed educational materials and publications, namely, printed course materials and course catalogues in the fields of information technology, computers, computer hardware, computer maintenance and repair, computer software, computer networks, computer security, telecommunications, computer programming, software engineering, software development, website development and web services; Printed educational materials and publications, namely, printed course materials and course catalogues in the fields of business and management skills, namely, business management, finance, change management, business process re-engineering, leadership, influence and communication skills, time management, presentation skills, negotiation skills, critical thinking skills, technical writing, project management and technology management</p> <p>Class 041. First use: First Use: 2007/02/00 First Use In Commerce: 2007/02/00  Educational and training services in the fields of information technology, computers, computer hardware, computer maintenance and repair, computer software, computer networks, computer security, telecommunications, computer programming, software engineering, software development, website development and web services; Educational and training services in the fields of business and management skills, namely, business management, finance, change management, business process re-engineering, leadership, influence and communication skills, time management, presentation skills, negotiation skills, critical thinking skills, technical writing, project management, and technology management; Educational services, namely, designing, developing, organizing, and offering courses, classes, seminars, and workshops in the fields of information technology, computers, computer hardware, computer maintenance and repair, computer software, computer networks, computer security, telecommunications, computer programming, software engineering, software development, website development and web services; Educational services, namely, designing, developing, organizing, and offering courses, classes, seminars, and workshops in the fields of business and management skills, namely, business management, finance, change management, business process re-engineering, leadership, influence and communication skills, time management, presentation skills, negotiation skills, critical thinking skills, technical writing, project management and technology management; General</p>		
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	educational services, namely, conducting classes and seminars for continuing education, personal development and professional development and post-secondary education
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Attachments	73109428#TMSN.gif ( 1 page )( bytes ) 74115627#TMSN.gif ( 1 page )( bytes ) 74115633#TMSN.gif ( 1 page )( bytes ) 74115628#TMSN.gif ( 1 page )( bytes ) 74115629#TMSN.gif ( 1 page )( bytes ) 74115634#TMSN.gif ( 1 page )( bytes ) 74115700#TMSN.gif ( 1 page )( bytes ) 75401801#TMSN.gif ( 1 page )( bytes ) 77726354#TMSN.jpeg ( 1 page )( bytes ) 77751509#TMSN.jpeg ( 1 page )( bytes ) 78544009#TMSN.jpeg ( 1 page )( bytes ) DAYTON-#697817-v1-Gowlings_EDTREE_NoOpp(F).pdf ( 5 pages )(13032 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	/tdl/
Name	Theodore D. Lienesch
Date	05/08/2012

1. Learning Tree International, Inc. (“Opposer”) provides both live and on-line educational services and training products in the fields of, without limitation, business, management, communications, leadership, computers and electronics. Opposer has provided various ones of such services in commerce throughout the United States continuously since at least as early as September, 1974 and continues to provide all such services nationally and internationally.
2. Opposer offers its educational services and training products to business/corporate customers and to individuals seeking to learn new skills. Delivery of the educational services and training products may include providing on-site lectures and training, as well as live, online virtual classroom lectures and training.
3. Many of Opposer’s courses qualify for college credit. The American Council on Education’s College Credit Recommendation Service has evaluated and recommended college credit for over 200 courses offered by Opposer.
4. Opposer advertises its educational services and training products by way of print advertising, direct email advertising, and advertising on its Website [www.learningtree.com](http://www.learningtree.com).
5. Opposer is the owner of incontestable U.S. Registration Nos. 1124714 for LEARNING TREE; 1474553 for LEARNING TREE; 1506875 for LEARNING TREE; 2424259 for LEARNING TREE INTERNATIONAL and Design; 2424262 for LEARNING TREE INTERNATIONAL; 2424260 for LEARNING

TREE INTERNATIONAL; 2424261 for LEARNING TREE INTERNATIONAL; 2424263 for LEARNING TREE INTERNATIONAL and Design; 2424264 for LEARNING TREE INTERNATIONAL and Design; and 2337136 for WWW.LEARNINGTREE.COM; and of U.S. Registration Nos. 3829287 for LEARNING TREE ANYWARE; 3880862 for LEARNING TREE ANYWARE BE THERE! ... WITH ANYWARE and Design; 3694171 for LEARNING TREE UNIVERSITY; (collectively “the Learning Tree Trademarks”). The Learning Tree Trademarks and registrations thereof are for educational services, including, without limitation, courses in business, management and management skills, communications and communication skills, leadership and project management; and in the fields of information technology, computers, computer hardware, computer software, and software engineering, and for educational software and printed educational materials and publications pertaining to these educational services (“the Learning Tree Goods and Services”).

6. Opposer is now using the Learning Tree Trademarks in connection with the Learning Tree Goods and Services throughout the United States, and has been using the Learning Tree Trademarks in connection with the Learning Tree Goods and Services since long prior to July 6, 2011.
7. Opposer’s Learning Tree Trademarks symbolize the extensive goodwill, reputation and consumer recognition built up by Opposer through substantial time, money and effort spent in advertising and promoting the Learning Tree

- Goods and Services, and establishing the Learning Tree Trademarks in the minds of purchasers. As a result, Opposer's Learning Tree Trademarks have become, through widespread and favorable public acceptance and recognition, assets of substantial value as symbols of Opposer, its quality products and services, and its goodwill. Accordingly, the Learning Tree Trademarks have become so associated with Opposer that the Learning Tree Trademark identifies Opposer.
8. Jimmy Giokaris, Hatim Elmashni, and Ghassan Elmashni (collectively "Applicants"), seek to register the trademark EDTREE ("Applicants' Trademark") for "[e]ducational services, namely, providing a website that will connect instructors in all disciplines with students looking to learn or improve in a particular discipline" in International Class 041 ("Applicants' Services").
  9. The application to register Applicants' Trademark was filed with the U.S. Patent and Trademark Office on July 6, 2011 and given Serial No. 85363770 ("Applicant's Application"). Applicants' Application does not allege use of Applicants' Trademark, but rather alleges an intent to use Applicants' Trademark.
  10. Opposer has been using the Learning Tree Trademarks in commerce in connection with the Learning Tree Goods and Services since long prior to the filing date of Applicants' Application.
  11. Applicants' Trademark EDTREE, includes the syllable "ED," which is a common formative for "education." The terms "education" and "learning" are related in meaning. Thus, Applicants' Trademark suggests a conflation of the words

- “education” and “tree.” The terms “education” and “learning” are related in meaning. Thus, Applicants’ Trademark so resembles the Learning Tree Trademarks in appearance and meaning, when the relatedness of Learning Tree Goods and Services and Applicants’ Services is taken into consideration, that Applicants’ Trademark is likely to cause confusion and mistake in the minds of purchasers as to the actual source of Applicants’ Services.
12. Applicants’ Trademark falsely suggests a connection between Opposer and Applicant. Applicants’ Trademark is likely to cause consumers to draw false conclusions about the nature or quality of Applicants’ Services under circumstances where such a conclusion will be material to the purchaser’s deliberations regarding the purchase and use of such services.
  13. The goodwill of Opposer’s business under the Learning Tree Trademarks is of substantial value, and Opposer will suffer irreparable harm should Applicants be permitted to use and register Applicants’ Trademark for Applicants’ Services.
  14. If Applicants are permitted to use and register Applicants’ Trademark in association with Applicants’ Services, confusion in the trade resulting in damage and injury to Opposer would result by reason of the similarity between Applicants’ Trademark and Opposer’s Learning Tree Trademark.
  15. If Applicants are permitted to register Applicants’ Trademark in association with Applicants’ Services, such registration would be likely to damage Opposer by

impeding Opposer's ability to register, maintain and enforce its Learning Tree Trademarks for the Learning Tree Goods and Services.

WHEREFORE, Opposer respectfully requests that the Board sustain this opposition in all respects and refuse registration of application Serial No. 85363770 for Applicants' Trademark EDTREE.

Respectfully submitted,

THOMPSON HINE LLP

By: /tdl/  
Theodore D. Lienesch  
Thompson Hine LLP  
Attorneys for Opposer

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**Certificate of Service**

I hereby certify that a true copy of the forgoing Notice of Opposition was served on Christopher Ditico, Applicants' attorney of record, by First Class Mail to Raj Abhyanker P.C., 1580 E El Camino Real, Suite 8, Mountain View, CA 94040-2462 this 8th day of May, 2012.

By: /tdl/  
Theodore D. Lienesch