

ESTTA Tracking number: **ESTTA677470**

Filing date: **06/10/2015**

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	Innovative Language Learning USA, LLC
Granted to Date of previous extension	06/10/2015
Address	672 Dogwood Avenue, #198 Franklin Square, NY 11010 UNITED STATES
Attorney information	JAY A BONDELL LADAS & PARRY LLP 1040 AVENUE OF THE AMERICAS NEW YORK, NY 10018-3738 UNITED STATES jbondell@ladas.com, masbell@ladas.com, jaraneo@sglawyers.com Phone:212 708-1805

Applicant Information

Application No	79150668	Publication date	02/10/2015
Opposition Filing Date	06/10/2015	Opposition Period Ends	06/10/2015
International Registration No.	1212896	International Registration Date	06/30/2014
Applicant	Japanesepod Limited Office 4 Kensington, UNITED KINGDOM		

Goods/Services Affected by Opposition

Class 041. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Educational services, namely, Japanese language instruction, including online; translation and interpretation; language interpretation; language training; language teaching; language instruction; language interpretation services; second language educational services, namely, Japanese language instruction
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Grounds for Opposition

Other	breach of contract
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Attachments	Petition.pdf(142683 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	/Jay A Bondell/
Name	JAY A BONDELL
Date	06/10/2015

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

In the matter of U.S. Service Mark Application S.N. 79-150668

For the mark: JAPANESEPOD

Filing Date: June 30, 2014

Publication Date: February 10, 2015

-----x)	
Innovative Language Learning USA, LLC,)	
)	
Petitioner)	Opposition No.
)	
v.)	
)	
JapanesePod Limited,)	
)	
Applicant.)	
-----x)	

PETITION IN OPPOSITION

Innovative Language Learning USA, LLC (“Petitioner”) believes that it will be materially harmed and damaged by the issuance of a registration based on U.S. Service Mark Application SN. 79-150668, published in the *Official Gazette* of February 10, 2015 for JAPANESEPOD (the “Mark”) and accordingly opposes same. Petitioner has been granted an extension of time through June 10, 2015 to file the present petition.

Petitioner alleges as follows:

1. Petitioner is a limited liability company organized and existing under the laws of the State of Delaware, having a business address at 672 Dogwood Avenue, No. 198, Franklin Square NY 11010.

2. Upon information and belief, Japanesepod Limited (“Applicant”) is a private limited company organized and existing under the laws of the United Kingdom, having a business address at 291 Kensington High Street, Kensington United Kingdom.

3. Petitioner is a provider of educational services, including providing tutorial sessions in the field of language teaching and learning, providing on-line courses in language teaching learning and tutoring, and providing podcasts in the field of language teaching. Commencing in 2005, Petitioner adopted and subsequently has continuously used the suffix “POD101”, in conjunction with multiple languages, to identify its services relating to each of these respective languages. Examples of Petitioner’s marks are JAPANESEPOD101 and SPANISHPOD101.

4. Applicant is the applicant of record for U.S. Service Mark Application SN. 79-150668 filed June 30, 2014 and published in the *Official Gazette* on February 10, 2015 for the mark JAPANESEPOD for “Educational services, namely, Japanese language instruction, including online; translation and interpretation; language interpretation; language training; language teaching; language instruction; language interpretation services; second language educational services, namely, Japanese language instruction” in International Class 041.

5. Upon information and belief, at approximately the same time that Petitioner adopted and first used its POD101 designation, Praxis Language Ltd. (“Praxis”), a limited liability company of the Cayman Islands and a prior claimant of rights to the Mark, adopted the suffix “POD” for competing educational services, coupling the term in a like manner with the name of a language to which the service applied. An example of one such use is the service mark ENGLISHPOD of U.S. Service Mark Registration 3806738.

6. In order to avoid potential conflict between the concurrent uses of the POD and POD101 families of marks, Petitioner and Praxis entered into a Settlement Agreement in 2009 which allowed each party to use its respective suffix in connection with its educational services without objection or conflict with the other party, but further included, *inter alia*, the explicit exception and provision that Praxis would not use the term JAPANESEPOD.

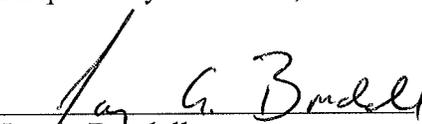
7. Upon information and belief, Applicant is a successor in interest to Praxis and its contractual obligations to Petitioner, either by acquisition of Praxis itself or its assets directly or through *mesne* transactions, or by other means or relationship, and is accordingly bound by the terms of the Settlement Agreement. Upon information and belief, the beneficial owner of Applicant, Michael Gleissner (“Gleissner”), was a director of Praxis and had knowledge of, and is bound by, the terms of the Settlement Agreement.

8. The continued existence of the present application and the potential registration of the JAPANESEPOD mark by Applicant is likely to cause harm and damage to Petitioner in that it constitutes a violation of the Settlement Agreement and falsely represents to the public that Applicant has the right to use the JAPANESEPOD mark in connection with the identified services when it does not.

WHEREFORE, the Petitioner prays that the present petition be granted and Application SN 79-150668 be stricken, and that Petitioner be granted such other relief as may be warranted.

New York, New York
June 10, 2015

Respectfully submitted,

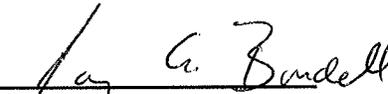

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Petition In Opposition has been served Applicant on by mailing said copy on June 10, 2015, via First Class Mail, postage prepaid, to:

Japanesepod Limited
c/o Michael Gleissner
Leeuwenstraat 4
B-2000 Antwerpen
BELGIUM

By: 
Jay A. Bondell