

ESTTA Tracking number: **ESTTA761049**

Filing date: **07/28/2016**

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	Marian University, Inc.		
Entity	non-profit corporation	Citizenship	Indiana
Address	3200 Cold Spring Rd. Indianapolis, IN 46222 UNITED STATES		

Attorney information	Thomas A. Walsh Ice Miller LLP One American Square Suite 2900 Indianapolis, IN 46282 UNITED STATES ipdocket@icemiller.com, sid.bose@icemiller.com, thomas.walsh@icemiller.com		
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### Applicant Information

Application No	86890259	Publication date	06/28/2016
Opposition Filing Date	07/28/2016	Opposition Period Ends	07/28/2016
Applicant	MEDICAL MASSAGE PROFESSIONALS LLC 12650 NE 3 Avenue Miami, FL 33145 UNITED STATES		

### Goods/Services Affected by Opposition

Class 041. First Use: 2016/01/28 First Use In Commerce: 2016/01/28 All goods and services in the class are opposed, namely: Conducting workshops and seminars in MASSAGE; Continuing education services, namely, providing live and on-line continuing professional education seminars in the field of MASSAGE; Workshops and seminars in the field of MASSAGE
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### 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.	4330907	Application Date	07/02/2012
Registration Date	05/07/2013	Foreign Priority Date	NONE
Word Mark	MARIAN UNIVERSITY INDIANAPOLIS Â· INDIANA 18 51 SEDES SAPIENTIAE M		

Design Mark	
Description of Mark	<p>The mark consists of a circular design with the words "MARIAN UNIVERSITY INDIANAPOLIS INDIANA" along the outside of the circle with a floating dot between the words "INDIANAPOLIS" and "INDIANA". Inside the circle are the numbers "18" and "51", along with a shield design. Inside of the shield design are the words "SEDES SAPIENTIAE" and a circle containing the letter "M".</p>
Goods/Services	<p>Class 041. First use: First Use: 2009/07/01 First Use In Commerce: 2009/07/01 Educational services, namely, providing courses of instruction at the college level and distribution of course material in connection therewith</p>

U.S. Registration No.	4291991	Application Date	07/02/2012
Registration Date	02/19/2013	Foreign Priority Date	NONE
Word Mark	MARIAN UNIVERSITY INDIANAPOLIS		
Design Mark			
Description of Mark	<p>The mark consists of the words "Marian University" above the word "Indianapolis", with lines on each side of the word "Indianapolis".</p>		
Goods/Services	<p>Class 025. First use: First Use: 2009/07/01 First Use In Commerce: 2009/07/01 Hats; Jackets; Shirts; Sweatshirts</p> <p>Class 041. First use: First Use: 2009/07/01 First Use In Commerce: 2009/07/01 Educational services, namely, providing courses of instruction at the college level and distribution of course material in connection therewith; Entertainment services, namely, arranging and conducting of competitions for intercollegiate athletes</p>		

U.S. Registration No.	4291990	Application Date	07/02/2012
Registration Date	02/19/2013	Foreign Priority	NONE

		Date	
Word Mark	MARIAN UNIVERSITY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2009/07/01 First Use In Commerce: 2009/07/01 Hats; Jackets; Shirts; Shorts; Sweatpants Class 041. First use: First Use: 2009/07/01 First Use In Commerce: 2009/07/01 Educational services, namely, providing courses of instruction at the college level and distribution of course material in connection therewith; Entertainment services, namely, arranging and conducting of competitions for intercollegiate athletes		

Attachments	85667289#TMSN.png( bytes ) 85667311#TMSN.png( bytes ) 85667303#TMSN.png( bytes ) Notice_of_Opposition-_THE_MARIAN_METHOD.pdf(113371 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	/Thomas A. Walsh/
Name	Thomas A. Walsh
Date	07/28/2016

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

In the Matter of Trademark Serial No. 86/890,259  
For the Mark THE MARIAN METHOD  
Filed on January 28, 2016

Marian University, Inc.,	)	
Opposer,	)	
	)	
vs.	)	Opposition No. _____
	)	
Medical Massage Professionals LLC,	)	
Applicant.	)	
	)	
	)	

**NOTICE OF OPPOSITION**

Marian University, Inc., having a place of business at 3200 Cold Spring Road, Indianapolis, IN 46222, believes that it will be damaged by the registration of the above-identified THE MARIAN METHOD mark, and hereby opposes the same. The application for THE MARIAN METHOD mark is owned by Medical Massage Professionals LLC, a Florida limited liability company, having a place of business at 12650 NE 3 Avenue, 2921 SW 16 Terrace Front, Miami FL 33145 (the "Applicant"). The grounds for opposition are as follows:

1. Opposer is the owner of U.S. Trademark Registration No. 4,291,990, for the trademark MARIAN UNIVERSITY, in Class 41, in part for "Educational services, namely, providing courses of instruction at the college level and distribution of course material in connection therewith."

2. Opposer is the owner of U.S. Trademark Registration No. 4,330,907, for the trademark MARIAN UNIVERSITY INDIANAPOLIS · INDIANA 18 51 SEDES SAPIENTIAE

M, in Class 41, for "Educational services, namely, providing courses of instruction at the college level and distribution of course material in connection therewith."

3. Opposer is the owner of U.S. Trademark Registration No. 4,291,991, for the trademark MARIAN UNIVERSITY INDIANAPOLIS, in Class 41, in part for "Educational services, namely, providing courses of instruction at the college level and distribution of course material in connection therewith."

4. Opposer has been using the MARIAN UNIVERSITY marks in commerce to identify the source of its goods and services since at least July 2009.

5. Opposer has been using the MARIAN name in commerce to identify the source of its goods and services since at least 1936.

6. Opposer has established substantial goodwill in the MARIAN UNIVERSITY marks.

7. The MARIAN UNIVERSITY marks have come to indicate and stand for the high quality goods and services offered by Opposer.

8. As a result of the extensive use of the MARIAN UNIVERSITY marks by Opposer, the MARIAN UNIVERSITY marks have become, and continue to be, valuable property rights of Opposer.

9. On January 28, 2016, Applicant applied to the United States Patent and Trademark Office to register THE MARIAN METHOD mark for use with "Conducting workshops and seminars in MASSAGE; Continuing education services, namely, providing live and on-line continuing professional education seminars in the field of MASSAGE; Workshops and seminars in the field of MASSAGE."

10. Applicant has disclaimed the exclusive right to the term "METHOD" apart from THE MARIAN METHOD mark.

11. Upon information and belief, Applicant uses THE MARIAN METHOD mark in connection with education and online courses in massage therapy, and providing continuing massage therapist education.

12. Opposer is university offering education and online courses in human physiology, physical therapy, occupational therapy, and rehabilitation.

13. Upon information and belief, the services of the Applicant and the services of Opposer are related and the conditions of their marketing are such that they are likely to be encountered by the same persons under circumstances that, because of the marks used in connection therewith, would lead to the mistaken belief that they originate from the same source.

14. There will be confusion in the minds of the consuming public as to the origination of the services offered under Opposer's MARIAN UNIVERSITY marks, and the services offered under Applicant's THE MARIAN METHOD mark.

15. Because of the similarities between the Opposer's MARIAN UNIVERSITY marks and Applicant's THE MARIAN METHOD mark (as well as the similarities between Opposer's and Applicant's services, consumers, and target markets), the use and registration of THE MARIAN METHOD mark is likely to result in substantial damage and injury to Opposer.

WHEREFORE, Opposer prays that the application for Trademark Serial No. 86/890,259  
be rejected.

Dated this 28th day of July 2016.

Respectfully submitted,

By: s/Thomas A. Walsh

*Attorney for Opposer*

Thomas A. Walsh

ICE MILLER LLP

One American Square, Suite 2900

Indianapolis, Indiana 46282-0200

(317) 236-2100

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on July 28, 2016, the foregoing Notice of Opposition was served by first-class United States mail, postage prepaid, upon the following:

Ruben Alcoba,  
Alcoba Law Group PA  
3399 NW 72 Avenue Suite 211  
Miami, Florida United States 33122

By: s/Thomas A. Walsh  
Thomas A. Walsh  
*Attorney for Opposer*

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