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

Proceeding	92053509
Party	Defendant CampusEAI Consortium
Correspondence Address	MICHAEL C DEJOHN 1111 SUPERIOR AVENUE, SUITE 310 CLEVELAND, OH 44114 UNITED STATES michael_dejohn@campuseai.org
Submission	Opposition/Response to Motion
Filer's Name	Michael C. DeJohn
Filer's e-mail	michael_dejohn@campuseai.org
Signature	/s/
Date	03/27/2012
Attachments	bio.sanctions.leave.amend (3 27 12).pdf (56 pages)(1436543 bytes)

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

CLEVELAND STATE UNIVERSITY)	CANCELLATION No. 92053509
)	
Petitioner,)	
)	
vs.)	
)	
CAMPUSEAI CONSORTIUM)	<u>REGISTRANT'S COMBINED BRIEF</u>
)	<u>IN OPPOSITION TO PETITIONER'S</u>
Registrant.)	<u>MOTION FOR SUMMARY</u>
)	<u>JUDGMENT AND LEAVE TO AMEND</u>
)	
)	

NOW COMES CampusEAI Consortium, Registrant, by and through undersigned counsel, and hereby respectfully submits its Brief in Opposition to Petitioner's Motion for Summary Judgment and Leave to Amend Petition.

I. Issues raised by Petitioner

A. Summary Judgment for Abandonment

The Petitioner in the introduction section of the instant motion, and in also in Section IV titled "Legal Analysis", more particularly in part B on page 18 of the motion, requests that summary judgment be granted on the grounds that the Registrant has abandoned the subject matter trademark. The basis for the instant Summary Judgment request is an allegation by Petitioner that the Registrant has abandoned its use of the subject matter Trademark. Summary judgment on this issue is inappropriate on this allegation. The reason that this Honorable Board cannot grant summary judgment on this issue is because it is not properly before the Board. Attached hereto as Exhibit A, and made a part

hereof, is Petitioner's Petition to Cancel. The Petition comprises of two (2) Counts. Count I is for "Likelihood of Confusion" and Count II is for "Trademark Dilution". As such, Petitioner cannot request relief from this Honorable Board for a cause of action that has not been pled. If Petitioner wishes to bring a motion for summary judgment for Abandonment then Petitioner needs to allege that in its Petition. Petitioner knows this requirement and that is why the Petitioner has requested Leave of Court to amend its Petition. Unless and until this Honorable Board grants Petitioner the leave requested to amend, the request for summary judgment on the grounds of abandonment must be denied because the issue is not yet ripe.

B. The Board Should Sanction Registrant

Petitioner argues that this Honorable Board should sanction the Registrant for two reasons. The first reason alleged is that Registrant failed to supply a verification (oath) page when submitting its initial responses to Petitioner's. That statement is not entirely true. Once Petitioner brought it to Registrant's attention that the verification page was missing, the undersigned endeavored to get the verification page signed and sent over to counsel for the Petitioner. Attached hereto as Exhibit B, and made a part hereof, is a copy of the verification page that has been previously sent to Petitioner.

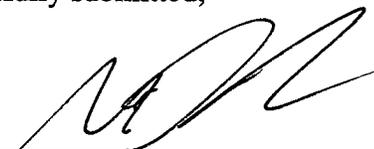
The second reason Petitioner argues for the sanction of cancellation is because Petitioner believes that Registrant provided inchoate or incomplete responses to its discovery requests. Petitioner has provided a list of responses it believes constitutes the requested relief. Rather than review each response Petitioner takes issue with, Registrant would like to point this Honorable Board to Exhibit C, attached hereto and made a part hereof, which is the affidavit submitted by Registrant which states that there was additional

information and additional documents that would be responsive to Petitioner's subject matter motion and *ipso facto* Petitioner's discovery requests. Registrant has supplemented its answers as of March 27, 2012 with responses that render Petitioner's request moot. Copies of the supplemental responses are attached hereto as Exhibit D.

Conclusion

For the foregoing reasons, Registrant respectfully requests that Petitioner's Motion for Sanctions in the form of cancellation and/or Summary Judgment be denied. The Registrant has no objection to Petitioner's request for Leave to Amend.

Respectfully submitted,



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Cleveland, Ohio 44114
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michael_dejohn@campuseai.org
Counsel for Registrant

CERTIFICATE OF SERVICE

I hereby certify that this Combined Brief In Opposition To Petitioner's Motion For Summary Judgment And Leave To Amend was electronically filed with the United States Patent and Trademark Office, Trademark Trial and Appeal Board on March 27, 2012 and that copy of the foregoing was served via e-mail on Petitioner's below counsel:

Colleen F. Gross, Esq.
cfgoss@faysharpe.com
Counsel for Petitioner

A handwritten signature in black ink, appearing to read 'M. DeJohn', is written over a horizontal line.

Michael C. DeJohn (0077227)

PETITIONER AND ITS TRADEMARK

3. Petitioner, for many years, and since long prior to any date of first use upon which Registrant can rely, has adopted, used and is using the trademarks CLEVELAND STATE UNIVERSITY and CLEVELAND STATE UNIVERSITY 1964 w/Design in connection with, among other things, educational services at the undergraduate and graduate level as well as educational research. This use has been continuous and uninterrupted up to and including the present time.

4. Petitioner is the owner of United States Principal Trademark Registration No. 3,671,697 ("697 Registration"), issued August 25, 2009 for the trademark CLEVELAND STATE UNIVERSITY for lending libraries; publication of books; publication of electronic books and journals on-line; educational services, namely, providing courses at the undergraduate and graduate university level and distributing course material therewith; extension, continuing and community educational services, namely, conducting classes, public lectures, workshops, seminars, conferences and exhibitions in the fields of engineering, law, business, arts and humanities, natural and physical sciences, architecture, journalism, education, international and public affairs, public health, social work, behavioral sciences, and mathematics and distributing course material therewith; educational research; entertainment services, namely, arranging and conducting athletic events and tournaments, exhibitions, conferences, live performances and festivals. This registration is valid, subsisting, unrevoked and uncanceled. Copies of a TARR report and Assignment report in accordance with Rule 2.122(d)(1) are attached as Exhibit A.

5. Petitioner is the owner of United States Principal Trademark Registration No. 3,694,718 ("718 Registration"), for the trademark CLEVELAND STATE UNIVERSITY 1964 w/Design for lending libraries; publication of books; publication of electronic books and journals on-line; educational services, namely, providing courses at the undergraduate and graduate university level and distributing course material therewith; extension, continuing and community educational services, namely, conducting classes, public lectures, workshops, seminars, conferences and exhibitions in the fields of engineering, law, business, arts and humanities, natural and physical sciences, architecture, journalism, education, international and public affairs, public

health, social work, behavioral sciences, and mathematics and distributing course material therewith; educational research; entertainment services, namely, arranging and conducting athletic events and tournaments, exhibitions, conferences, live performances and festivals. This registration is valid, subsisting, unrevoked, and uncanceled. Copies of a TARR report and Assignment report in accordance with Rule 2.122(d)(1) are attached as Exhibit B.

6. Petitioner has continuously used its distinctive CLEVELAND STATE UNIVERSITY trademark in connection with the services covered by the '697 Registration since at least as early as 1964.

7. Petitioner has continuously used its distinctive CLEVELAND STATE UNIVERSITY 1964 w/Design trademark in connection with the services covered by the '718 registration since at least as early as 1965.

8. Petitioner has extensively and prominently advertised and promoted its CLEVELAND STATE UNIVERSITY formative trademarks and the goods and services provided under the marks throughout the United States and especially in Northeast Ohio. Petitioner has developed substantial and exclusive goodwill and reputation in connection with the term CLEVELAND STATE UNIVERSITY and the goods and services with which the CLEVELAND STATE UNIVERSITY and CLEVELAND STATE UNIVERSITY 1964 w/Design marks are used.

9. Petitioner's services under the CLEVELAND STATE UNIVERSITY and CLEVELAND STATE UNIVERSITY 1964 w/Design trademarks have received unsolicited national, regional, and local media attention.

10. As a result of these efforts, combined with providing quality education services to hundreds of thousands of students under the CLEVELAND STATE UNIVERSITY and CLEVELAND STATE UNIVERSITY 1964 w/Design trademarks, the relevant consuming public has come to recognize CLEVELAND STATE UNIVERSITY as distinguishing Petitioner's services from those of others and the mark has become well-known and famous.

11. Petitioner has acquired significant and exclusive trademark rights and interest in and to the CLEVELAND STATE UNIVERSITY and CLEVELAND STATE UNIVERSITY 1964 w/Design trademarks both under its federal registrations for such

trademarks as well as at common law for rights in and to such marks in association with educational services at the undergraduate and graduate level, as well as educational research.

REGISTRANT'S TRADEMARK REGISTRATION

12. On October 16, 2008, Registrant applied to register the mark UNIVERSITY OF CLEVELAND for educational services, namely, providing university level courses and instruction, and educational research in Class 41. This application was assigned Serial No. 77/594,292 and was based on Applicant's asserted use of the mark in commerce.

13. On April 1, 2009, Registrant amended its application to register the mark UNIVERSITY OF CLEVELAND to seek registration on the Supplemental Register.

14. On January 5, 2010, Registration 3,735,435 issued as a U.S. Trademark Registration on the Supplemental Register for the mark CLEVELAND UNIVERSITY with the word UNIVERSITY disclaimed in association with "educational services, namely, providing seminars, workshops, classes, and lecture in the fields of postsecondary and higher education in the field of information technology" in Class 41.

**COUNT ONE:
LIKELIHOOD OF CONFUSION
SECTION 2(d) OF THE LANHAM ACT, 15 U.S.C. §1052(d)**

15. On information and belief, the services identified by Registrant's UNIVERSITY OF CLEVELAND mark are virtually identical to Petitioner's services.

16. Petitioner's use, filing and registration of the CLEVELAND STATE UNIVERSITY and CLEVELAND STATE UNIVERSITY 1964 w/Design trademarks is long before Applicant's filing date or any date of first use on which Applicant can rely.

17. Registrant's mark, UNIVERSITY OF CLEVELAND, which is the subject of Registration No. 3,735,435, so resembles Petitioner's previously used and registered marks as to be likely, when applied to the services set forth in Petitioner's registrations, to cause confusion, mistake or deception for purposes of Section 2(d) of the Trademark Act.

18. Petitioner will be damaged by registration of the designation UNIVERSITY OF CLEVELAND in association with Registrant's services in that, consumers are likely to believe that Registrant's services originate with or are sponsored by Petitioner and any inadequacies in Registrant's services are likely to be attributed to Petitioner, all of which will cause injury to Petitioner.

**COUNT TWO:
TRADEMARK DILUTION
SECTION 43(c) OF THE LANHAM ACT, 15 U.S.C. §1125(c)**

19. Petitioner's CLEVELAND STATE UNIVERSITY and CLEVELAND STATE UNIVERSITY 1964 w/Design trademarks have become famous within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. §1125(c).

20. Petitioner's CLEVELAND STATE UNIVERSITY and CLEVELAND STATE UNIVERSITY 1964 w/Design trademarks will be diluted by the registration of Applicant's CLEVELAND UNIVERSITY mark.

21. For the reasons noted above, Petitioner would be damaged by registration of the UNIVERSITY OF CLEVELAND registration.

WHEREFORE, Petitioner respectfully requests that this petition be sustained and that registration be cancelled.

The required \$300.00 cancellation fee accompanies this Petition.

Respectfully Submitted,

FAY SHARPE LLP



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Dated: 1-13-11

Attorneys for Opposer,
Cleveland State University

CERTIFICATE OF SERVICE

I hereby certify that this PETITION TO CANCEL was filed electronically with the United States Patent and Trademark Office, Trademark Trial and Appeal Board on January 13, 2011 and that a copy of the foregoing PETITION TO CANCEL was served by first class mail, postage prepaid, on Registrant, CampusEAI Consortium, 1940 East 6th Street, 11th Floor, Cleveland, Ohio 44114 on January 13, 2011.



Colleen F. Goss

N:\CLEVA\700117US01\IRMS0020349V001.docx

Exhibit B

IN THE STATE OF OHIO }
COUNTY OF CUYAHOGA }

VERIFICATION

I, the undersigned, Arun Kumar Chopra, do hereby state that I have read the foregoing responses to Petitioner's Combined Set of Interrogatories and Request for Production of Documents propounded upon Registrant, and find the same to be true to the best of my knowledge and belief.



Arun Kumar Chopra

SWORN TO and subscribed before me, a duly authorized Notary Public in and for the State of Ohio, on this the 21st day of February, 2012

NOTARY PUBLIC

Michael C. ReSohn, Esq.

ORC 147.03

My commission does not expire

Exhibit C

STATE OF CUYAHOGA

:
:
:

ss **AFFIDAVIT**

COUNTY OF OHIO

I, the undersigned, Arun Kumar Chopra, being of legal age, sound mind and memory, and having been duly sworn according to law do hereby depose and state that:

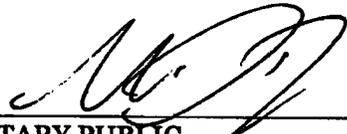
1. This Affidavit is made upon my personal knowledge and information.
2. I am the CFO of CampusEAI and the person with the most knowledge about the dealing of the University of Cleveland.
3. I was the person who supplied the answers to Petitioner's First Set of Interrogatories and Request for Production of Documents.
4. I have recently discovered additional information, documents, and or other tangible items that will need to be supplemented to the Answers previously produced.
5. I need additional time to locate and aggregate this information and/or documentation so that CampusEAI can respond to Petitioner's motion for judgment.

FURTHER AFFIANT SAYETH NAUGHT.



Arun Kumar Chopra

Sworn to and subscribed before me, a duly authorized Notary Public, in and for the State of Ohio, on this 12th day of March, 2012.



NOTARY PUBLIC

Michael C. B. [unclear], Sec
ORC 147.03

Exh. 7 D

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

In the Matter of Registration No. 3,735,435
For the Mark: UNIVERSITY OF CLEVELAND
Registered: January 5, 2010

Petitioner's Reference No.: CLEV700117US01

Cleveland State University,

Petitioner,

v.

CampusEAI Consortium,

Registrant.

Cancellation No. 92053509

PETITIONER'S FIRST SET OF INTERROGATORIES TO REGISTRANT

Petitioner, Cleveland State University (hereinafter "Petitioner" or "Cleveland State University"), hereby requests that Registrant, CampusEAI Consortium (hereinafter "Registrant" or "CampusEAI"), pursuant to Rule 33 of the Federal Rules of Civil Procedure ("FRCP") and 37 C.F.R. 2.120 answer under oath the following Interrogatories within thirty (30) days after service of these Interrogatories. These Interrogatories are deemed to be continuing so as to require a prompt supplemental answer should Registrant obtain further information pertaining thereto between the time answers are served and the time of trial. The Definitions begin on page 2, the Instructions begin on page 8, and the Interrogatories begin on page 11.

DEFINITIONS

The following definitions are applicable to the terms employed in these interrogatories.

1. The term “Registrant” or “CampusEAI” or “you” as used in these definitions, interrogatories and any request for the production of documents and tangible things shall include the Registrant, CampusEAI, as well as its subsidiaries, affiliates, divisions, corporate predecessors, and any other legal entities that are wholly or partly owned or controlled, or are controlled by Registrant, either directly or indirectly, and all present and future directors, owners, officers, employees, counsel (including, but not limited to all house and outside counsel), agents, consultants, experts, representatives and all other persons acting, or purporting to act on behalf of Registrant, its subsidiaries, affiliates, divisions, predecessors and any other legal entities that are wholly or partly owned or controlled by Registrant.

2. The term “Registrant’s Mark” means UNIVERSITY OF CLEVELAND, (Reg. No. 3,735,435) and/or the word mark UNIVERSITY OF CLEVELAND, either alone or in conjunction with other letters, words, numbers or symbols.

3. As used in these definitions, Interrogatories and any Request for Production of Documents and tangible things or any Request for Admissions, the term “document” or “documents” has the meaning prescribed in Rule 34 of the Federal Rules of Civil Procedure and includes, but is not limited to, all types of recorded information in the possession of or under the control of Registrant, or known to Registrant, whether printed, recorded, stored, reproduced by any process, written or produced by hand, and whether or not claimed to be privileged, the subject of work product immunity, or exempt

from production for any reason, and includes in addition to the originals or original copy, copies of whatever kind which contain any alteration, marking, or omission, or that are in any other way not identical with the original or with the original copy, more specifically including, but not limited to, papers, notes, accounts, books, advertisements, logs, catalogs, manuals, publications, correspondence, cablegrams, mail grams, telegrams, memoranda, electronic mail, voice mail, letters, documents, communications, including interoffice and intra-office communications, reports, studies, analysis, pamphlets, calculations, projections shop notebooks, charts, plans and specifications, sketches, surveys, drawings, working papers, agreements, maintenance records for testing or analysis equipment, invention disclosure records, photographs, floppy disc recorded information, tape recorded information, volatile or non-volatile random access or read only memory, hard disc information, CD ROM information, office notes, pleadings, briefs, microfiche, business records, minutes of Board of Directors and committee meetings, account records, ledger records, notebooks, laboratory notes, vouchers, bank checks, cashiers' checks, receipt of cashiers' checks, purchase orders, invoices, bills of lading, canceled checks, check stubs, bills, receipts, invoices, desk calendars, time sheets, appointment books, telephone bills, diaries, diary entries and notes, minutes, transcriptions or sound recordings of any type of personal or telephone conversations or of negotiations, meetings or conferences or events similar to the foregoing, telecopy transmission letters, blue sheets, flow sheets, circulars, periodicals, graphical or tabular data developed during testing or analysis, and all other papers, writings, recordings, or physical things containing information. As used herein "document" includes all electronically stored information ("ESI").

4. The term “person” includes, but is not limited to natural persons, organizations, firms, corporations, partnerships, sole proprietorships and any other legal entities, and the acts of a person include, but are not limited to those acts of directors, owners, officers, counsel (including, but not limited to, house and outside counsel), agents, consultants, experts, members, employees, representatives and all others acting or purporting to act on the person’s behalf.

5. As used in these definitions, Interrogatories, and any Request for Production of Documents and tangible things or Request for Admissions, the term “things” has the meaning prescribed in Rule 34 of the Federal Rules of Civil Procedure and includes every kind of physical specimen or tangible item, other than a document.

6. The term “identify” means:

(a) When used with respect to a “document” or “documents” or tangible thing to state:

- (1) the type of document or tangible thing (“e.g., letter, memorandum, recorded diskette, etc.);
- (2) the name and date of the document (and if not dated, the approximate date);
- (3) the date the document was prepared (and if not known, the approximate date);
- (4) the date the document was sent;
- (5) the number of pages comprising the document;
- (6) the subject matter of the document;

- (7) the full name, address, and title (if any) of the person preparing or offering the document, together with his present or last known position and business affiliation;
- (8) the full name, address, and title (if any) of the person to whom the document was addressed, the full names and addresses of all the persons to whom copies of the document would have been sent and the firm(s) or other business entities with which all such persons were connected at the date of the document;
- (9) all other information, the nature and substance of which is necessary to enable the document to be identified.

With further respect to the identity of documents, state whether Registrant is in possession of the original, master or a copy of the document and if not in possession of the original, master and all copies, furnish the name and last known address of the custodian of the original, master or copy or if the document or thing is no longer within your possession, custody or control, state what disposition was made of it; state the date of such disposition; identify every person who participated in or approved the disposition; and identify the person or persons having knowledge of its contents. In lieu of identifying documents in the foregoing manner, you may identify them by document number and produce such documents for inspection pursuant to Rule 33(c) of the Federal Rules of Civil Procedure.

- (b) When used with respect to an individual or natural person to state:

- (1) his or her name;
 - (2) any other names used by him or her presently or in the past;
 - (3) his or her present or last known business address, resident address, and telephone number(s); and
 - (4) the corporation, partnership, association, foundation, trust, organization, or other entity, and the functional division thereof, with which he or she is now associated, and his or her title, status, position, rank or classification within such entity; and the job title and description of job responsibility of such person together with a statement as to any relationships, past or present, of such person and the exclusive dates thereof.
- (c) When used with respect to a person other than a natural person, including, but not limited to, any corporation, partnership, foundation, trust, organization, association or other entity or functional division thereof, to state:
- (1) its full name;
 - (2) the address of its principal office or place of business;
 - (3) all names under which it is doing business or has done business;
 - (4) the nature of the venture (e.g., sole proprietorship, partnership, etc.); and

(5) the identities of its officers, directors, partners or administrators.

(d) When used with respect to a fact to:

(1) describe the fact;

(2) state when it became known to you;

(3) identify the source from which you learned it;

(4) identify the documents that record, show or refer to the fact;
and

(5) state why you believe the fact is true.

7. The term “located” as used herein in connection with a “document” or “documents” means a demand to state the present location and/or whereabouts of each document, and to identify the persons having possession, custody or control thereof.

8. “Or” means and/or.

9. Unless otherwise apparent from the context, a request for the identity of a person means the identity of all persons within the specified category.

10. The terms “Petitioner” and “Cleveland State University mean” Cleveland State University.

11. The term “Petitioner’s Marks” means CLEVELAND STATE UNIVERSITY and CLEVELAND STATE UNIVERSITY 1964 w/Design (Reg. Nos. 3,671,697 and 3,694,718, respectively) and/or the word mark CLEVELAND STATE UNIVERSITY, either alone or in conjunction with other letters, words, numbers or symbols.

12. The terms “Good” or “Goods” or “Product” or “Products” means any good or product manufactured, advertised, marketed, offered for sale, sold, shipped, transported, distributed, or made available, either directly or indirectly, by or on behalf of Registrant, to any person, distributor, agent, or salesperson in the USA.

13. The terms “Service” or “Services” means any service provided, advertised, marketed, offered for sale, sold, or otherwise made available, either directly or indirectly, by or on behalf of Registrant, to any person, agent, or salesperson in the USA.

INSTRUCTIONS

1. When answering Interrogatories, you are required to furnish such information as is available to Registrant, including but not limited to information known to its directors, owners, officers, employees, counsel (including, but not limited to, house or outside), agents, consultants, experts, representatives or anyone acting or purporting to act for or on its behalf.

2. If you have no information about the subject of a particular Interrogatory, or if for some other reason you are unable to answer it, the response to that Interrogatory should specifically so state, and no Interrogatory should be without some response.

3. If you cannot answer an Interrogatory completely, answer as fully as you can and specify the ways in which your response may be incomplete because of your lack of knowledge. If you do not know exact dates, amounts, or other facts with certainty, but you have information from which you can make an appropriate or estimated answer, do so and indicate that the answer is approximate or estimated because you lack more precise information.

4. If any of the documents requested to be identified herein have been destroyed, identify each such document, state the date upon which the document was destroyed and state the reason it was destroyed.

5. If Registrant withholds from production any of the requested documents on the basis of an alleged privilege, immunity, exception or other justification, provide, within thirty (30) days of service of this request, or at a time mutually agreed upon by the parties, a list identifying each withheld document including:

- (a) the date of the document,
- (b) the full name and address of the author of the document or originator of the thing,
- (c) the full name and address of every recipient of the original or any copy of the document or thing and the name and address of each person who now has the original or any copy and the identification and location wherein the original and each copy are normally kept,
- (d) the subject matter of the document,
- (e) the type of document (memorandum, pamphlet, report, etc.),
- (f) the specific grounds for withholding the document in sufficient detail for the Board to rule on the merits of the asserted privilege or immunity,
- (g) the number of the document request to which the document pertains, and
- (h) the type of factual matter involved in the assertion of privilege to the extent necessary for understanding the assertion.

6. If you have any previously provided information requested in an Interrogatory, in an answer to a preceding Interrogatory, or in documents filed in this action (including answers to interrogatories or depositions), you may answer such interrogatories by reference to the document or answer to a preceding Interrogatory providing the information requested. But, to the extent that the referenced document or answer to a preceding Interrogatory does not provide all of the information that is known to you (including but not limited to specific details, the identity and locations of persons,

the description and location of documents or tangible things, etc.) that is called for by the Interrogatory, state all such information in your answer to the Interrogatory.

7. It will be a sufficient answer to an Interrogatory calling for you to identify documents to state either (a) that such documents already have been produced in this action and have been specifically identified on record, provided that you reference the record identifying the documents, or (b) that such documents will be produced in accordance with the request for production of documents served upon you, if you actually produce such documents. Any documents that you have been requested to identify that you cannot or will not produce must be identified as requested, to the extent possible, whether or not they are in your possession, custody, or control.

8. Documents produced in lieu of answering any Interrogatory pursuant to Federal Rule of Civil Procedure 33(c), should be expressly identified to the Interrogatory to which they pertain.

9. Except as otherwise expressly directed herein, each paragraph of the interrogatories, should be construed independently and not by reference to any other paragraphs herein for purposes of limiting the scope of the Interrogatory being answered.

INTERROGATORIES

INTERROGATORY NO. 1:

Please identify each officer and director of the Registrant and describe their respective responsibilities or duties.

RESPONSE:

Arun Kumar – CFO. He is responsible for the strategic mission and offerings of the registrant.

INTERROGATORY NO. 2:

Please identify each natural person currently or previously employed by Registrant or who works for or has worked for or on behalf of Registrant, who is or was responsible for decisions involving the use, application for registration, protection, or enforcement of the Registrant's Mark by Registrant and describe that person's responsibilities relating to the use, application for registration, protection, or enforcement of the mark.

RESPONSE:

Ash Bard – involved in promoting the services and offering of the Registrant

Arun Chopra - involved in promoting the services and offering of the Registrant

INTERROGATORY NO. 3:

Please identify all state and federal registrations, applications for registration, trademarks, service marks, trade names, and uses by Registrant that include Registrant's Mark.

RESPONSE:

Federal Trademark – The University of Cleveland.

INTERROGATORY NO. 4:

State the date when Registrant first began using the term UNIVERSITY OF CLEVELAND as a service mark or other identifying designation in connection with education services, namely providing university level instruction and courses.

RESPONSE:

9/20/05

INTERROGATORY NO. 5:

Please identify all Services offered by Registrant under Registrant's Mark.

RESPONSE:

Certificate online and/or onsite programs for IT.

INTERROGATORY NO. 6:

List all Goods or Products sold by Registrant under Registrant's Mark.

RESPONSE:

None. Training programs only.

INTERROGATORY NO. 7:

For each Service offered by Registrant under Registrant's Mark, please describe in detail the trade channel(s) through which the Services are provided.

RESPONSE:

Direct marketing via phone and/or e-mail.

INTERROGATORY NO. 8:

For each Good or Product offered by Registrant under Registrant's Mark, please describe in detail the trade channel(s) through which the Goods or Products are provided.

RESPONSE:

NA.

INTERROGATORY NO. 9:

Please state all reasons why Registrant selected Registrant's Mark.

RESPONSE:

Because the registrant is located in the city of Cleveland.

INTERROGATORY NO. 10:

Describe the process by which Registrant selected Registrant's Mark.

RESPONSE:

Reviewed the USPTO website and learned that no trademarks existed for the name University of Cleveland.

INTERROGATORY NO. 11:

Identify all documents that bear Registrant's Mark which are viewed by customers or prospective customers of Registrant's Services, Goods, or Products.

RESPONSE:

Agreements with the Institutions of Higher Education that provide the offerings of the Registrant, none.

INTERROGATORY NO. 12:

Identify the types of consumers to whom Registrant's Services, Goods, or Products are offered under Registrant's Mark.

RESPONSE:

Persons seeking education or training in the IT space.

INTERROGATORY NO. 13:

For each of the Services identified in response to Interrogatory No. 5, please state the total revenue derived from providing such Services.

RESPONSE:

Rs. 2089883/ Lac. (INR)

INTERROGATORY NO. 14:

For each of the Services identified in response to Interrogatory No. 5, please state the date of first use in commerce of Registrant's Mark by or on behalf of Registrant on or in association with such Services.

RESPONSE:

9/20/05

INTERROGATORY NO. 15:

For each of the Services identified in response to Interrogatory No. 5, please identify the geographic area (by city and/or state) in which such Services have been offered, provided, and/or sold.

RESPONSE:

India.

INTERROGATORY NO. 16:

For each of the Goods or Products identified in response to Interrogatory No. 6, please state the total revenue derived from providing such Goods or Products.

RESPONSE:

NA

INTERROGATORY NO. 17:

For each of the Goods or Products identified in response to Interrogatory No. 6, please state the date of first use in commerce of Registrant's Mark by or on behalf of Registrant on or in association with such Goods or Products.

RESPONSE:

NA

INTERROGATORY NO. 18:

For each of the Goods or Products identified in response to Interrogatory No. 6, please identify the geographic area (by city and/or state) in which such Goods or Products have been offered, provided, and/or sold.

RESPONSE:

NA

INTERROGATORY NO. 19:

For each Service, Good, or Product offered by Registrant under Registrant's Mark, please identify all documents upon which Registrant will rely to establish the first use date.

RESPONSE:

All documents submitted to the USPTO when applying to for the Mark (see attached) and agreements with LSR and JDMC in India (attached).

INTERROGATORY NO. 20:

Please list all media, including printed or electronic publications and websites, direct marketing, newsprint, radio, television, or other broadcast media, in the United States by which Registrant has advertised, marketed, distributed, or sold any Service, Good, or Product under Registrant's Mark.

RESPONSE:

None.

INTERROGATORY NO. 21:

Please state whether any searches or investigations were conducted by Registrant or any person on its behalf to determine whether Registrant's Mark was available for use and/or registration and, if so, identify each such search or investigation including the date such search or investigation was performed and all marks or uses located in such search or investigation.

RESPONSE:

See Answer to #10 above.

INTERROGATORY NO. 22:

Identify each person who supervised, participated in or was involved in the origination, clearance, selection, and adoption of the Registrant's mark to identify Registrant and Registrant's Goods and Services, and describe with particularity the circumstances surrounding the origination, clearance, selection, and adoption of the Registrant's Mark including, but not limited to, the date of origination, the derivation of the mark, and/or the meaning or suggestive connotation of the mark, if any.

RESPONSE:

Arun Kumar

INTERROGATORY NO. 23:

Describe fully each instance in which Registrant has objected in any way to the use or registration of a third party mark on the basis that the third party mark is confusingly similar to Registrant's Mark, and describe the outcome and current status of each dispute.

RESPONSE:

None.

INTERROGATORY NO. 24:

Other than the present cancellation proceeding, describe fully each instance in which a third party has objected in any way to the use or registration of a mark by Registrant and describe the outcome and current status of each such dispute.

RESPONSE:

None.

INTERROGATORY NO. 25:

Please identify all inquiries, investigations, surveys, evaluations, and/or studies conducted by Registrant or by anyone acting for or on its behalf that refer or relate in any manner to Registrant's Mark, including the date conducted, the name, address, and title of each person who conducted it, the purpose for which it was conducted, the findings or conclusions made, and identify all documents which record, refer to, or relate to such inquiry, investigation, survey, evaluation, or study.

RESPONSE:

None.

INTERROGATORY NO. 26:

Please identify all legal and non-legal opinions concerning availability of Registrant's Mark for use or registration by Registrant.

RESPONSE:

None.

INTERROGATORY NO. 27:

For each Service, Good, and Product associated with Registrant's Mark, please state the amount expended by Registrant in the United States in connection with the sale, advertising, marketing, promotion, and/or distribution of the Service, Good, or Product for each calendar year since commencement of use of Registrant's Mark.

RESPONSE:

The exact number is unable to be calculated. Registrant has employees on staff who also spend time working on other things. Mr. Chopra has an annual salary of 120k a year and spends roughly 20% of his time on this venture. Mr. Bard has an annual salary of INR 10 Lac. and spends approximately 25% of his time on this venture. In addition to these salaries, Registrant has the expenses listed in the LSR and JDMC agreements attached hereto. Other expenses for the cost of the trainers/lecturers have also been attached hereto.

INTERROGATORY NO. 28:

For each Service, Good, and Product associated with Registrant's Mark, please state the gross amount of sales by Registrant in the United States for each calendar year since commencement of use of Registrant's Mark.

RESPONSE:

Financial Year 2006-7 Rs.133010/
Financial Year 2007-8 Rs.209723/
Financial Year 2008-9 Rs.393750/
Financial Year 2009-10 Rs.499000/

Financial Year- 2010-2011 – Rs. 282200/
Financial Year- 2011-2012 – Rs .571900/
The money derived is paid to CampusEAI subsidiary in India.

INTERROGATORY NO. 29:

State with particularity the date(s) when, and circumstances under which, Registrant first became aware of:

- a. the Petitioner;
- b. any or each of Petitioner's U.S. Trademark Registrations for the Petitioner's Marks;
- c. the existence of Petitioner's use, promotion, marketing, or advertisement of Petitioner's Marks.

The answer to each section (a, b, c) shall include the date such knowledge was obtained, the person(s) who obtained such knowledge, how such knowledge was obtained, the exact nature of the knowledge obtained, and identify all documents that relate to such knowledge.

RESPONSE:

- a. Registrant's CFO, Mr. Chopra cannot remember the date he became aware that Registrant was in existence.
- b. When the instant proceeding was filed
- c. Registrant's CFO, Mr. Chopra cannot remember the date he became aware that Registrant of the existence of Petitioner's use, promotion, marketing, or advertisement of Petitioner's Marks.

INTERROGATORY NO. 30:

Identify any opinions obtained by Registrant relating to the validity, enforceability, and infringement of Registrant's Mark, including the date any such opinions were prepared, the author, the date received by Registrant, each recipient thereof, each person with whom the opinion was discussed, and each reference referred to in the opinion.

RESPONSE:

None.

INTERROGATORY NO. 31:

Describe all instances of actual confusion, mistake, and/or deception known to Registrant as to the source of Petitioner's Products, Goods, and Services and Registrant's Products, Goods, or Services.

RESPONSE:

None.

INTERROGATORY NO. 32:

Please identify representative documents that Registrant presents to customers or potential customers in promoting its Products, Goods, and Services under Registrant's Mark, and describe the circumstances of such presentations.

RESPONSE:

See attached (LSR and JDMC contracts). These are the types of documents shared with potential customers.

INTERROGATORY NO. 33:

Identify all agreements, including licenses and assignments, entered into by Registrant relating to the Registrant's mark, and identify all persons participating in the negotiation and creation of each such agreement and the parties to each such agreement.

RESPONSE:

None.

INTERROGATORY NO. 34:

Please identify any instances of actual or proposed licensing of Registrant's Mark by or on behalf of Registrant, and identify the person most knowledgeable thereof.

RESPONSE:

None.

INTERROGATORY NO. 35:

Please state whether or not Registrant currently uses Registrant's Mark.

RESPONSE:

Yes.

INTERROGATORY NO. 36:

If Registrant no longer uses Registrant's Mark, identify when use of Registrant's Mark ceased.

RESPONSE:

NA.

INTERROGATORY NO. 37:

For each interrogatory, please identify all documents which were used (a) to provide the response to the interrogatory or (b) to provide proof of each fact in the response to the interrogatory.

RESPONSE:

All documents that were used are attached hereto.

INTERROGATORY NO. 38:

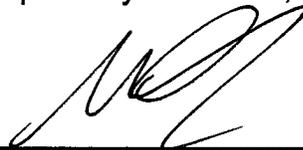
Please identify each person who participated in or supplied information used in answering any of the above interrogatories; beside the name of each such person, state the number of the interrogatory answer(s) with respect to which that person participated in or supplied information.

RESPONSE:

Arun Kumar – all Answers.

Dated: March 27, 2011

Respectfully submitted,



Michael C. DeJohn
1111 Superior Avenue, Suite 310
Cleveland, Ohio 4411
Phone: (216) 589-9626
Fax: (216) 589_9639

Attorney for Registrant

CERTIFICATE OF SERVICE

I hereby certify that on March 27, 2012, the foregoing Answers to **PETITIONER'S FIRST SET OF INTERROGATORIES TO REGISTRANT** was served via email, with consent, on counsel for the Registrant at cfgoss@faysharpe.com.



Michael C. DeJohn
Attorney for Petitioner

This request shall be deemed to seek documents and tangible things that are in the possession, custody or control of Registrant as of the date hereof, and shall be deemed to be continuing such that any document or tangible thing relating in any way to this request which comes into the possession, custody or control of Registrant up to, and including, the time of trial is requested to be produced and made available to Petitioner for inspection and copying within a reasonable time after they are acquired or become known to be in the possession, custody or control of Registrant.

If any of the documents requested herein have been destroyed, identify each such document, state the date upon which the document was destroyed and state the reason it was destroyed.

If Registrant withholds from production any of the requested documents on the basis of an alleged privilege, immunity, exception or other justification, Petitioner requests that Registrant provide, within thirty (30) days of service of this request, or at a time mutually agreed upon by the parties, a list identifying each withheld document including: (1) the date of the document, (2) name and title or position of the author(s) of the document, (3) name and title or position of persons designated as addressees receiving copies of the document, (4) the subject matter of the document, (5) the type of document (memorandum, report, etc.), (6) the specific grounds for withholding the document in sufficient detail for the Board to rule on the merits of the asserted privilege or immunity, and (7) the number of the document requested to which the document pertains.

DEFINITIONS AND INSTRUCTIONS

Petitioner incorporates by reference the definitions and instructions in Petitioner's First Set of Interrogatories to Registrant.

REQUEST FOR PRODUCTION OF DOCUMENTS

DOCUMENT REQUEST NO. 1:

All documents , things and ESI identified in, relating to, or relied upon inconnection with Registrant's answers and/or responses to Petitioner's First Set of Interrogatories to Registrant.

RESPONSE:

See attached..

DOCUMENT REQUEST NO. 2:

All documents, things and ESI related to the marketing, advertising, offer of sale, use, and/or promotion of the Services, Goods, or Products under Registrant's Mark by or on behalf of Registrant.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 3:

Representative samples of advertisements, promotional materials, packaging, labeling or other materials or documents, things and ESI bearing Registrant's Mark .

RESPONSE:

See attached.

DOCUMENT REQUEST NO. 5:

Representative invoices for sales of each Product, Good or Service for each year Registrant's Mark has been used in connection therewith

RESPONSE:

There are no responsive documents. Registrant does not issue invoices. Customers (LSR and JDMC) register students and submit a fee to Registrant.

DOCUMENT REQUEST NO. 6:

All documents relating to the prosecution of any state or federal applications for registration of any trademarks, service marks, or trade names containing Registrant's Mark

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 5:

Any opinions of any counsel relating to the validity, infringement, or enforcement of any of Registrant's U.S. Trademark Applications for Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 6:

Copies of all trademark searches conducted by or for Registrant concerning Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 7:

Copies of all legal or non-legal opinions concerning the availability of Registrant's Mark for use or registration by Registrant.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 8:

Copies of all documents that bear Registrant's Mark which are viewed by customers or prospective customers of Registrant.

RESPONSE:

See attached.

DOCUMENT REQUEST NO. 9:

All documents that relate to or reference Petitioner.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 10:

All documents that relate to Registrant's knowledge of Petitioner's CLEVELAND STATE UNIVERSITY or CLEVELAND STATE UNIVERSITY 1964 w/Design marks or the use of CLEVELAND STATE UNIVERSITY.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 11:

All documents related to the origination, adoption, conception, selection, design, development, or creation of the Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 12:

All documents related to the use of Registrant's Mark in association with Registrant's Services, Goods, or Products.

RESPONSE:

See attached.

DOCUMENT REQUEST NO. 13:

All documents that report on, describe, refer to, and/or relate to Registrant's use of Registrant's Mark.

RESPONSE:

See attached.

DOCUMENT REQUEST NO. 14:

All documents which relate to or reflect the date of Registrant's first introduction, first offer for sale, first sale, and first use of Registrant's Mark in the United States.

RESPONSE:

See attached.

DOCUMENT REQUEST NO. 16:

All documents which Registrant will rely upon to establish that Registrant's Mark is currently being used in the United States, including any and all documents showing the Products, Goods, or Services for which the Registrant's Mark is being used by or on behalf of the Registrant.

RESPONSE:

See attached.

DOCUMENT REQUEST NO. 18:

All documents that describe, discuss, state, refer to, and/or relate to actual or intended channels of distribution and/or trade for Registrant's Products or Services bearing Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 19:

All documents showing Registrant's annual advertising, marketing, and promotional expenses for each Product, Good, or Service related to Registrant's Mark for each year from the date of first use to the present date.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 20:

Representative samples of advertising, marketing, or promotional materials bearing Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 21:

All licenses granted to Registrant by any third party or granted by Registrant to any third party with respect to Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 22:

All documents concerning contracts, agreements, licenses, consents, and the like to which Registrant is a party and which relate to Registrant's Mark.

RESPONSE:

See attached..

DOCUMENT REQUEST NO. 23:

All documents concerning quality control exercised by Registrant over the use of Registrant's Mark by third parties.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 24:

Each document pertaining to any informal or formal dispute in the United States, including, but not limited to an opposition, revocation, arbitration, mediation, negotiation, or adversary proceeding between Registrant and any other party, which includes or included an allegation of infringement, unfair competition, likelihood of confusion, deception, deceptive trade practice, or dilution involving Registrant's Mark.

RESPONSE:

No such dispute exists.

DOCUMENT REQUEST NO. 25:

All documents concerning efforts by Registrant to enforce its rights in Registrant's Mark including but not limited to cease and desist letters, opposition proceedings, cancellation proceedings, and litigation.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 26:

All documents concerning any objection raised by third parties to Registrant's use or registration of Registrant's Mark.

RESPONSE:

Other than the instant proceeding, there are no responsive documents. Petitioner is in receipt of all those documents already.

DOCUMENT REQUEST NO. 27:

All documents that describe, discuss, state, refer to, and/or relate to other marks that Registrant considered before adopting and/or while continuing to use Registrant's Mark on its Products or in connection with its Services, including but not limited to, all documents showing any changes made to the mark from the date of conception to the present date.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 28:

All documents that identify, classify, refer to, and/or relate to the actual and/or intended purchasers and/or customer (and end users, if different) of Registrant's Products, Goods, or Services bearing Registrant's Mark.

RESPONSE:

See attached contracts with LSR and JDMC.

DOCUMENT REQUEST NO. 29:

All documents that identify providers of Services by or on behalf of Registrant under Registrant's Mark.

RESPONSE:

See attached contracts with LSR and JDMC.

DOCUMENT REQUEST NO. 30:

All documents that identify recipients of Services by or on behalf of Registrant under Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 31:

All documents concerning any surveys, market research studies, or reports undertaken by or on behalf of Registrant concerning a mark incorporating the phrase UNIVERSITY OF CLEVELAND.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 32:

All documents concerning any communication about Registrant relating to Registrant's Services or Products under Registrant's Mark in newspapers, magazines, trade journals, or other printed form of communication.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 33:

All documents of any court which were filed against or by Registrant and/or any correspondence directed to Registrant, complaining about the use by Registrant or any third party of a mark or term including the term UNIVERSITY OF CLEVELAND in the United States.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 34:

All documents which refer to or reflect any research, trademark maintenance program, advertising campaign, Internet strategy, and/or marketing program for Registrant's Products, Goods, or Services bearing Registrant's Mark.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 35:

All documents concerning plans to expand, or steps toward expansion by Registrant the types of Services, Goods, or Products on or in connection with which Registrant's Mark is or will be used beyond the services stated in Trademark Registration No. 3,735,435, or to alter the present or intended channels of trade, or to sell to persons other than Registrant's present or intended purchasers.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 36:

All documents which relate to instances of actual confusion, mistake, and/or deception as to whether the source of a Product, Good, or Service was Registrant or Petitioner.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 37:

All documents concerning any communication received by Registrant which Registrant believes was intended for Petitioner.

RESPONSE:

There are no responsive documents.

DOCUMENT REQUEST NO. 38:

All documents concerning or tending to show any confusion likely to arise or actual confusion that has arisen out of the contemporaneous use of the mark CLEVELAND STATE UNIVERSITY by Petitioner and UNIVERSITY of CLEVELAND by Registrant or the contemporaneous marketing of Petitioner's Services, Products, or Goods and Registrant's Services, Products, or Goods under the respective marks.

RESPONSE:

There are no responsive documents.

Dated: March 27, 2012

Respectfully submitted,



Michael C. DeJohn
1111 Superior Avenue, Suite 310
Cleveland, Ohio 44114
Phone: (216) 589-9626
Fax: (216) 589-9639

Attorneys for Registrant

CERTIFICATE OF SERVICE

I hereby certify that on March 27, 2012, the foregoing Answers to **PETITIONER'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS TO REGISTRANT** was served via email, with consent, on counsel for the Registrant at cfgoss@faysharpe.com.



Michael C. DeJohn
Attorney for Registrant