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

Proceeding	92053509
Party	Plaintiff Cleveland State University
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Submission	Reply in Support of Motion
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Signature	/colleenfgoss/
Date	04/06/2012
Attachments	Petitioner's Reply to Registrant's Brief in Opposition.pdf ( 10 pages )(26681 bytes ) SecondSuppDMJDecl_487500_1 (2).pdf ( 18 pages )(3147837 bytes )



Pleadings seeking to add a claim on the grounds that the Registrant's Mark has been abandoned under Section 14(3) of The Lanham Act, 15 U.S.C. §1064(3). In reliance on this claim, Registrant did not respond substantively to Petitioner's Motion for Summary Judgment, instead preferring to resort to its fallback position of delay.

The Board has recognized that summary judgment is not appropriate on an unpleaded issue. See TBMP § 528.07 (2<sup>nd</sup> ed. rev. 2004). A party, however, is permitted to file a motion for summary judgment on an unpleaded issue concurrently with a motion to amend its pleading to include the unpleaded issue. *Societe des Produits Marnier Lapostolle v. Distillerie Moccia S.R.L.*, 10 USPQ2d 1241, 1242 n.4 (TTAB 1989) (motion to amend to add new ground, filed simultaneously with motion for summary judgment, granted and allegations in new ground deemed denied); see also, TBMP §528.07(a) ("Generally, a party that seeks summary judgment on an unpleaded issue may simultaneously move to amend its pleading to assert the matter.").

Under Fed. R. Civ. P. 15(a), "leave shall be freely given when justice so requires." Petitioner asserts that amendment is warranted since, through discovery responses recently produced by Registrant as a result of a Board Order, it learned that Registrant does not provide its services in the United States but, rather, in India. [Dkt. #8, Jac. Decl., Exh. B, Interrogatory 15; Dkt. #13, Exh. D, Interrogatory 15]. Giving the Registrant the benefit of the doubt that it might have once offered its services in the United States, the sworn answers provided by Registrant to propounded discovery indicate that the services are provided in India. Thus, Registrant's mark has been abandoned. [Dkt. #8, Jac. Decl., Exh. B, Interrogatory 15; Dkt. #13, Exh. D., Interrogatory 15].

In the last sentence of Registrant's Brief in Opposition to Petitioner's Combined Motion, Registrant states: "The Registrant has no objection to Petitioner's Leave to Amend." Inasmuch as Registrant did not contest Petitioner's Motion for Leave to Amend and, indeed, consented to the amendment in writing, the motion to amend should be granted as conceded. See Trademark Rule 2.115 and Fed. R. Civ. P. 15(a) ("a party may amend its pleading ...with the opposing party's consent").

Thus, in light of established Board practice and the Registrant's written consent, the Motion for Summary Judgment is, contrary to Registrant's assertion, ripe for adjudication.

**B. Registrant Has Not Proffered Countering Evidence Showing There is a Genuine Issue of Fact on the Issue of Abandonment.**

In its briefing supporting its Motion for Summary judgment, Petitioner met its burden of demonstrating the absence of any genuine issue of material fact on the issue of Registrant's abandonment of its Mark. Petitioner's evidence consisted of Registrant's own sworn responses to interrogatories, particularly the following interrogatory response:

**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

[Dkt. #8, Jac. Decl., Exh. B]

Notably, in its supplemental responses, produced after the filing of the Motion for Summary Judgment, Registrant has not amended this response [Dkt #13, Exh. D,

Interrogatory 15]. The TBMP expressly sets out the showing Registrant was required to make in view of the foregoing showing by Petitioner on the issue of summary judgment:

If the moving party meets its burden, that is, the moving party has supported its motion with affidavits or other evidence which if unopposed would establish its right to judgment, the nonmoving party may not rest on mere denials or conclusory assertions, but rather must proffer countering evidence, by affidavit or as otherwise provided in Fed. R. Civ. P. 56, showing that there is a genuine factual dispute at trial.

TBMP §528.01.

Registrant has not proffered any countering evidence demonstrating a genuine factual dispute for trial. Summary judgment on the issue of abandonment is appropriate, particularly in view of Registrant's own admission on the matter that the Registrant's Mark has only been used in India.

## **II. THE BOARD SHOULD SANCTION REGISTRANT**

Registrant conveniently avoids addressing the myriad of arguments for sanctions by focusing on its eleventh hour production of the verification of the discovery responses provided on February 21, 2012 [Dkt. #11, Jac. Supp. Decl Exh. A; Dkt. #13, Exh. B]. Registrant fails to acknowledge that this verification was provided 9 days after it was requested by Petitioner; one hour after Petitioner had filed the Combined Motion, and in complete disregard of the Board Order requiring verification. All discovery responses must be verified. The Board Order made this point clear. Nonetheless, Registrant completely ignored the Order until gratuitously prompted to provide the verification by Petitioner's counsel. Petitioner notes that once again, with the supplemental discovery response provided by Registrant on March 27, 2012 and attached to Registrant's Combined Brief in Opposition to Petitioner's Motion for

Summary Judgment and Leave to Amend there is no verification [Dkt. #13, Exh. D.]<sup>1</sup>. It is not Petitioner's job to explain to Registrant how to properly respond to discovery.

On January 11, 2012 the Board ordered:

Respondent is allowed **thirty (30) days** from the mailing date of this order in which to serve upon petitioner full and *complete answers* to petitioner's Interrogatory Nos. 1-3 and 5-38, without objection (except for objections based upon privilege).

With regard to Interrogatory No. 4, petitioner's motion to compel is granted to the extent that respondent is compelled, within the same thirty days provided above, to state the date when registrant first began using the term UNIVERSITY OF CLEVELAND as a service mark in connection with education services, namely providing university level instruction and courses (emphasis added).

See Dkt. #7, p. 3; and

Respondent is also allowed **thirty (30) days** from the mailing date of this order in which to serve upon petitioner *responsive documents* to petitioner's Document Request Nos. 1-8, 10-29, 31-38, without objection (except for objections based upon privilege) (emphasis added).

See Dkt. #7, p. 3.

Registrant provided deficient responses to the Interrogatories and responses to the Requests, belatedly, under oath. Registrant quite simply failed to comply with the Board Order. Yet, Registrant's counsel believes that by submitting another round of unsworn supplemental responses, he can avoid sanctions for defying the earlier Board Order.

Significantly, the new supplemental responses are almost as deficient as the first. The responses are incomplete and provide information that fails to show use of the mark UNIVERSITY OF CLEVELAND in commerce [Dkt. #13, Exh. D]. Rather,

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<sup>1</sup> Registrant modified the previously sworn answers to Petitioner's Interrogatories Nos. 11, 13, 19, 27, 28, 29, 32, and 37 and provided documents, *albeit* arguably non-responsive documents, in response to Petitioner's Document Production Requests Nos. 1, 3, 5, 8, 12, 13, 14, 16, 22, 26, 28, and 29 [Dkt. #13, Exh. D].

Registrant provides almost nonsensical statements about salaries of Registrant's employees in Rupees (or with no currency reference at all) which seem to bear no relationship to the trademark use of the phrase UNIVERSITY OF CLEVELAND.

Again, Petitioner notes that the Definitions (to which Registrant did not object) provided in Petitioner's First Set of Interrogatories to Registrant state:

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.

[Dkt. #8, Jac. Decl., Exh. B, p. 2; Dkt. #13, Exh. D, Interrogatories, p. 2].

Yet, once again, Registrant chose to answer Interrogatory 29 only based on Mr. Chopra's knowledge<sup>2</sup> even though the knowledge of officer's directors, and counsel is considered to impute to Registrant. One must still question the veracity and completeness of the response to Interrogatories such as No. 29 when clearly, Michael DeJohn definitely has knowledge of when he first learned of the use of Petitioner's marks.

Registrant has not made any of the supplemental documents produced of record, thus Registrant's cannot rely on any of these documents as so-called evidence of use.

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<sup>2</sup> Petitioner notes that the CFO of Registrant is listed in the initial response and the Supplemental response to Interrogatory No. 1 as Arun Kumar, yet in the Supplemental responses, the CFO is referred to in response to Interrogatories No. 27 and 29 as Arun Chopra. This inconsistency alone causes Petitioner undue burden should the matter reach the trial stage in that it is not clear who should be called to testify [Dkt. #13, Exh. D, Interrogatories 1, 27, and 29].

Registrant's opposition is silent as to how these documents counter the clear admission in its verified response to Interrogatory No. 15 (i.e. "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 provided, and/or sold. Response: India.") [Dkt. #8, Jac. Decl., Exh. B; Dkt #13, Exh. D]. Moreover, taken at face value, the supplemental document production does not show actual use of the mark UNIVERSITY OF CLEVELAND. Petitioner has been inundated with handwritten receipts in Rupees for unknown services which in no case utilize the name UNIVERSITY OF CLEVELAND. All receipts and bank statements bear the name CampusEAI. The only items bearing the mark UNIVERSITY of CLEVELAND are two contracts with Indian companies to provide educational services in India. [2<sup>nd</sup> Supp. Jacquinot Decl., Exh. A]. These documents do not evidence use of Registrant's Mark in the United States and are irrelevant.

Regardless of whether or not Registrant has produced so-called answers and documents, these are produced far too late in the proceeding. The original discovery requests were served in September 10, 2011. It is truly questionable how nothing could be produced for over six months even in the face of a clear Board Order, yet one month later, documents and answers, questionable as they may be, can magically appear.

Finally, in the Order, the Board noted "[s]hould respondent fail to serve on petitioner the discovery responses as ordered herein, as well as a privilege log, if applicable, the Board will entertain a motion for sanctions in the form of entry of judgment sustaining the petition to cancel" [Dkt. #7, p. 4]. Quite simply, Registrant failed to comply with the Order when required by providing improper responses and

exhibiting uncooperative behavior. Thus the Board should follow through on its statement and sustain the petition to cancel.

At the very least, the Board should take Registrant at its word that it uses the mark in India only - not the United States - and cancel Registrant's Registration for abandonment.

### **III. CONCLUSION**

For all of the foregoing reasons, Petitioner, Cleveland State University, respectfully requests that:

- (a) it be granted leave to amend its *Petition to Cancel* to assert abandonment as an alternative ground for cancellation of Registrant's Mark; and
- (b) the motion for summary judgment be granted in its favor and United States Registration No. 3,735,435 for the mark UNIVERSITY OF CLEVELAND be cancelled; and/or

(c) Registrant be sanctioned by entering judgment in Petitioner's favor, or, alternatively, be estopped from introducing any evidence that it has used, or intends to resume use of, Registrant's Mark in connection with the services identified in Registrant's Registration, all pursuant to 37 C.F.R. §2.120(g) and TBMP §527.01.

Respectfully submitted,  
Cleveland State University

Date: April 6, 2012

By: /s/Colleen Flynn Goss  
Colleen Flynn Goss, Esq.  
Jude A. Fry, Esq.  
Fay Sharpe LLP  
The Halle Building, 5th Floor  
1228 Euclid Avenue  
Cleveland, OH 44115  
(216) 363-9000  
cfgoss@faysharpe.com  
jfry@faysharpe.com  
uspto@faysharpe.com

Attorneys for Petitioner

**CERTIFICATE OF SERVICE**

I hereby certify that on April 6, 2012, the foregoing **PETITIONER'S REPLY TO REGISTRANT'S OPPOSITION TO PETITIONER'S COMBINED MOTION FOR LEAVE TO FILE AMENDED PETITION TO CANCEL AND FOR SUMMARY JUDGMENT AND/OR SANCTIONS FOR FAILURE TO COMPLY WITH A BOARD DISCOVERY ORDER** was served via email, with consent, on Michael C. DeJohn, counsel for Registrant at michael\_dejohn@campuseai.org.

/s/ Colleen Flynn Goss  
Colleen Flynn Goss, Esq.  
Attorney for Petitioner

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

_____ )	
Cleveland State University, )	Cancellation No. 92053509
)	Reg. No. 3,735,435
Petitioner, )	Trademark: UNIVERSITY OF CLEVELAND
v. )	
)	
CampusEAI Consortium, )	
)	
Registrant. )	
_____ )	

**SECOND SUPPLEMENTAL DECLARATION OF DIANE M. JACQUINOT**

I, **Diane M. Jacquinot**, declare and state as follows:

1. I am a paralegal with the firm of Fay Sharpe LLP, attorneys for Petitioner, Cleveland State University and, as such, I am fully familiar with the facts and circumstances of this matter.

2. I make this Second Supplemental Declaration to authenticate materials that will be used in Petitioner's Reply to Registrant's Opposition to Petitioner's Combined Motion for Leave to File Amended Petition to Cancel and for Summary Judgment and/or Sanctions for Failure to Comply with a Board Discovery Order.

3. Attached to this Declaration as Exhibit A are true and accurate copies of documents that were produced to Petitioner on March 27, 2012, via e-mail, by Michael DeJohn on behalf of Registrant. These documents bear no bates numbers for identification purposes but were identified by Mr. DeJohn as "LSR/JDMC agreements (RFP resposnes)" *[sic]*.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Cleveland, Ohio on April 6, 2012.

/s/ Diane M. Jacquinot  
Diane M. Jacquinot

# Exhibit A



दिल्ली DELHI

S 308878

**Memorandum of Understanding  
Between  
Lady Sri Ram College, University of Delhi  
And  
CampusEAI (India) Pvt. Ltd.**

This MoU Agreement (the "Agreement") is entered into as of the 7<sup>th</sup> day of October 2009, (the "Effective Date") by and between CampusEAI, located at Plot No.75-C, 1<sup>st</sup> Floor, Sector-18, Gurgaon - 122002, Haryana (herein after called "CampusEAI")

And

Lady Sri Ram College for Women, located at Lajpat Nagar-IV, New Delhi 110024 India (herein after called "LSR") and, LSR and CampusEAI are each referred to in this Agreement as a "Party," and collectively as the "Parties".

Whereas, LSR promotes women's education is affiliated to Delhi University.

Whereas, CampusEAI is an exclusive vendor to CampusEAI Consortium, USA for the purpose of providing technology solutions to over 250 higher educational institutions worldwide including United States, United Kingdom, Canada, Australia and Hong Kong. For more information refer to [www.campuseai.org](http://www.campuseai.org). University of Cleveland is of the brand of CampusEAI engaged in the field of providing IT and other educational programs.

Whereas, in the spirit of collaboration, each party does not expect to enter into agreements with third parties that will limit the terms for the parties under this agreement.

Now, therefore, in consideration of the mutual covenants, conditions and terms to be kept and performed and the mutual benefits to be obtained from cooperation, the Parties agree as follows:

**1. PURPOSE.**

The purpose of this Agreement is to provide higher advanced training to the student community enabling them to compete and qualify for jobs with this additional qualification of this training.

**2. SCOPE OF THE AGREEMENT.**

This Agreement is to provide training on different short term certificate courses including Personality Development and IT related Programs to be delivered by the faculty appointed by University of Cleveland and CampusEAI Consortium, USA.

**3. RESPONSIBILITIES**

**a. LSR Responsibilities:**

LSR will provide organizational support for implementing this training program that would include the following:

1. Providing space i.e. one room within the Institute's campus with electricity to setup the necessary hardware.
2. To allow UNIVERSITY OF CLEVELAND/CampusEAI redecorate, make improvements, place and install fixtures, equipment, and other temporary installations in and upon the provided space at its own cost.
3. To allow placing UNIVERSITY OF CLEVELAND/CampusEAI banner and Boards inside the LSR premises and publicize the courses by the means as suggested and approved by L.S.R

**b. UNIVERSITY OF CLEVELAND/CampusEAI Responsibilities**

C.I.T/CampusEAI will be responsible for:

1. Provide infrastructure (see Exhibit 1) for running these courses

2. Course completion certificate in association with LSR.
3. UNIVERSITY OF CLEVELAND/CampusEAI will be responsible for any other cost associated with the program without any recourse to LSR.

**4. TERM AND TERMINATION**

The term of this agreement will start from 7<sup>th</sup> day of October 2009 and will terminate on 6<sup>th</sup> day of October 2012 with an option to renew the agreement with the consent of LSR. CampusEAI will provide a written request 30 (thirty) days prior to the termination date for any further extension of the agreement. On the completion of 6 years the entire set up including the computers and software would belong to LSR pursuant to a UNIVERSITY OF CLEVELAND and CampusEAI information technology grant.

**5. INDEPENDENT STATUS**

CampusEAI will have an independent status and will not create any liability to LSR either during or after the execution of this program. CampusEAI will seek written permission from LSR authorized authority members for any issues outside the scope of this agreement.

**6. CONFIDENTIALITY INFORMATION.**

Both parties hereby agree to maintain the confidentiality

**7. NOTICES.**

**a. Notices to LSR**

All written notices required to be given by CampusEAI to LSR under this Agreement shall be sufficient if delivered by one of the following methods: Certified Mail - return receipt requested, Courier Delivery, Hand Delivery, or Facsimile ("Fax") to LSR at the address set forth or to such other address as LSR has designated by notice to CampusEAI.

Lajpat Nagar-IV, New Delhi 110024 India

**b. Notices to CampusEAI**

All written notices required to be given by LSR to CampusEAI under this Agreement shall be sufficient if delivered by one of the following methods: Certified Mail -

return receipt requested, Courier Delivery, Hand Delivery, or Facsimile ("Fax") to CampusEAI at the address set forth or to such other address as LSR has designated by notice to CampusEAI.

Radhika Malhotra  
Director, CampusEAI  
CampusEAI India Pvt. Ltd.  
Plot No - 75-C, 1st Floor, Sector - 18, Gurgaon - 122002, Haryana

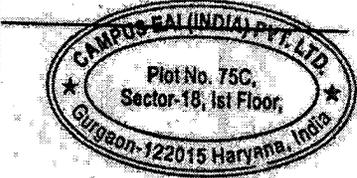
### 1. CANCELLATION

The MoU signed between LSR and CampusEAI can be terminated by giving three months notice on either side.

#### PARTIES:

LSR & UNIVERSITY OF CLEVELAND/CampusEAI India Pvt. Ltd.

By: Lady Sri Ram College  
Name: Ms. Kasturi Kanthan  
Title: Director, Resident Hall  
Sign-off: Kasturi Kanthan  
Date: 7<sup>th</sup> October, 2009.  
Seal: 

By: CampusEAI India Pvt. Ltd.  
Name: Radhika Malhotra  
Title: Director, CampusEAI  
Sign-off: Radhika Malhotra  
Date: 7<sup>th</sup> October, 2009  
Seal: 





दिल्ली DELHI

S 308885

**MEMORANDUM OF UNDERSTANDING**  
**Between**  
**JANKI DEVI MEMORIAL COLLEGE**  
**And**  
**CAMPUSEAI**

This MoU Agreement (the "Agreement") is entered into as of the 15<sup>th</sup> day of July November 2006, (the "Effective Date") by and between Janki Devi Memorial College, located at Sir Ganga Ram Hospital Road, New Delhi (herein after called "JDMC") and CampusEAI, located at Plot No.75-C, 1<sup>st</sup> Floor, Sector 18, Gurgaon, Haryana (herein after called "CampusEAI"). JDMC and CampusEAI are each referred to in this Agreement as a "Party," and collectively as the "Parties".

Whereas, JDMC, located at Sir Ganga Ram Hospital Road to promote women's education is affiliated to Delhi University. The college essentially caters to students of Humanities and Commerce

Whereas, CampusEAI is an exclusive vendor to CampusEAI Consortium, USA for the purpose of providing technology solutions to over 140 higher educational institutions worldwide including United States, United Kingdom,

Canada, Australia and Hong Kong. For more information refer to [www.campuseai.org](http://www.campuseai.org).

Whereas, in the spirit of collaboration, each party does not expect to enter into agreements with third parties that will limit the terms for the parties under this agreement.

Now, therefore, in consideration of the mutual covenants, conditions and terms to be kept and performed and the mutual benefits to be obtained from cooperation, the Parties agree as follows:

**1. PURPOSE.**

The purpose of this Agreement is to provide higher advanced training to the student community enabling them to compete and qualify for jobs with this additional qualification of this training.

**2. SCOPE OF THE AGREEMENT.**

This Agreement is to provide training on different short term certificate courses and IT related Programs to be delivered by the faculty appointed by University of Cleveland and CampusEAI Consortium, USA (as attached in Appendix I)

**3. RESPONSIBILITIES**

**3.1 JDMC Responsibilities:**

JDMC will provide organizational support for implementing this training program that would include the following:

- 1 Providing space ( Room No.11, Janki Devi Vocational Centre (JDVC) wing within the Institute campus to setup the necessary hardware.
- 2 To provide the existing security infrastructure without any additional costs to JDMC.
- 3 To allow CampusEAI run the training programs on weekdays and weekends.
- 4 To allow rolling admission without any break with selection criteria defined by CampusEAI.
- 5 To also allow CampusEAI publicize its course inside and outside the college (through flyer distribution, articles in leading newspapers) with due permission as and when required.

- 6 Access to separate washroom/ toilet near Room No.11, JDVC for the convenience of students and staff members of CampusEAI.
- 7 To allow CampusEAI redecorate, make improvements, place and install fixtures, equipment, and other temporary installations in and upon the provided space (Room No.11, JDVC) at its own cost.
- 8 To allow placing CampusEAI banner and boards inside the JDMC premises as suggested by JDMC.

### **3.2 CampusEAI Responsibilities**

CampusEAI will be responsible for:

1. Providing thirty five (35) computer machines to run the training program with configuration as per attached appendix at their cost.
2. Providing required software, for Web Designing, Multimedia, Oracle 10gAS and Red Hat Enterprise Linux software to operate hardware
3. Provide necessary training as per scheduled attached
4. On-Site Visiting Instructors / Trainers
5. Course completion certificate in association with JDMC  
.....(see Appendix I for details)
6. Will compensate JDMC for Rs 25000 per month for a period of 4 months totaling Rs. 100000, towards the JDMC hosting charges, starting from 15<sup>th</sup> November, 2006 ending 15<sup>th</sup> March 2007. The payment of hosting charges will be made in the first week of every month.
7. Will pay for the electricity charges through an independent sub-meter.
8. The space will be accessible to students enrolled in the program and CampusEAI instructors as per the guidelines of JDMC.
9. CampusEAI will be responsible for internet connectivity to run the training program successfully.
10. Will provide 100% placement support to the students enrolled in the program.
11. CampusEAI will be responsible for additional security at JDMC premises with their prior written approval. JDMC will not be responsible for any losses / theft CampusEAI belongings.
12. CampusEAI will be responsible for any other cost associated with the program without any recourse to JDMC.
13. CampusEAI will define the process of student selection for the training program.

14. CampusEAI will issue an identity card to the students who have enrolled in CampusEAI training programs. The ID card has to be duly signed by coordinator, CampusEAI and Principal, JDMC.

#### **4. INFRASTRUCTURE/ DONATION**

CampusEAI will pay annually Rs. 2,40,000/- ( Rupees Two Lac Forty Thousand Only) as infrastructure/ Donation as follows:

- a. Rs. 72,000/- (Rupees Seventy Two Thousand Only) payable to JDMC on an annual basis or Rs. 6,000/- (Rupees Six Thousand Only) per month or Rs. 18,000/- (Rupees Eighteen Thousand Only) every quarter as applicable as donation to College.
- b. Rs. 1,68,000/- (Rupees One Lac Sixty Eight Thousand only) payable to JDVC on an annual basis or Rs. 14,000/- (Rupees Fourteen Thousand Only) per month or Rs. 42,000/- (Rupees FourtyForty Two Thousand Only) every quarter, as applicable, (for providing additional infrastructure) to JDMVC.

#### **5. REPORTING.**

JDMC will define a single point of contact for any communications with CampusEAI. CampusEAI and JDMC shall meet fortnightly to review the progress and activities undertaken due to any addenda effective that period, and to consider any needed modifications to this Agreement or individual addenda. Both parties agree to make on-line access to performance, utilization, routing, and other information to facilitate problem resolution.

#### **6. TERM AND TERMINATION.**

- 6.1 The term of this agreement will start from 15<sup>th</sup> November 2006 and will terminate on 15<sup>th</sup> November 2012. This MoU will automatically renew for additional five (5) year terms unless either party provides notice as outlined herein. CampusEAI will provide a written request 30 (thirty) days prior to the termination date for any further extension of the agreement under revised terms and conditions as mutually agreed upon with JDMC.

**7. INDEPENDENT STATUS.**

CampusEAI will have an independent status and will not create any liability to JDMC either during or after the execution of this program. CampusEAI will seek written permission from JDMC authorized authority members for any issues outside the scope of this agreement.

**8. CONFIDENTIALITY INFORMATION.**

Both parties hereby agree to maintain the confidentiality

**9. NOTICES.**

**9.1 Notices to JDMC.**

All written notices required to be given by CampusEAI to JDMC under this Agreement shall be sufficient if delivered by one of the following methods: Certified Mail - return receipt requested, Courier Delivery, Hand Delivery, or Facsimile ("Fax") to JDMC at the address set forth or to such other address as JDMC has designated by notice to CampusEAI.

Dr. Indu Anand  
Principal JDMC  
Sir Ganga Ram Hospital Road  
New Delhi

**9.2 Notices to CampusEAI**

All written notices required to be given by JDMC to CampusEAI under this Agreement shall be sufficient if delivered by one of the following methods: Certified Mail - return receipt requested, Courier Delivery, Hand Delivery, or Facsimile ("Fax") to CampusEAI at the address set forth or to such other address as JDMC has designated by notice to CampusEAI.

Radhika Malhotra  
Director- CampusEAI  
CampusEAI India Pvt. Ltd.  
Plot No. 75-C, 1<sup>st</sup> Floor, Sector-18,  
Gurgaon -122 002, Haryana

**10. GENERAL PROVISIONS.**

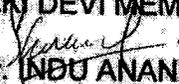
- 10.1 **CHANGES AND AMENDMENT.** This Agreement may not be amended, and none of its provisions waived, except by written amendment executed by duly authorized representatives of the Parties.
- 10.2 **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of New Delhi, India applicable to contracts executed and performed therein.
- 10.3 **ENTIRE AGREEMENT.** Except as otherwise stated herein, this document is the entire agreement of the Parties and supersedes all prior agreements and understandings with respect to the same subject matter. No other document, unless in writing and signed by an authorized representative of each Party, shall modify or add to the terms agreed to herein of this Agreement.
- 10.4 **BINDING EFFECT.** This Agreement shall be binding upon the legal representatives, heirs, employees, agents, affiliates, successors and assigns of the respective Parties hereto.
- 10.5 **CHANGE IN LAW.** By entering into this Agreement, the Parties specifically intend to comply with all applicable laws, rules and regulations as they may be amended from time to time. In the event that any part of this Agreement is determined to violate federal, state, or local laws, rules, or regulations, the parties agree to negotiate in good faith revisions to the provision or provisions that are in violation. In the event the Parties are unable to agree to new or modified terms as required to bring the entire Agreement into compliance, either Party may terminate this Agreement on thirty (30) days written notice to the other Party.
- 10.6 **WAIVER.** Any waiver by any Party of any act, failure to act or breach on the part of the other Party shall not constitute a waiver of such waiving Party of any prior or subsequent act, failure to act or breach by such other Party.
- 10.7 **THIRD PARTIES.** Nothing herein expressed or implied is intended or shall be construed to confer upon or give any person other than the Parties hereto, and their permitted successors and assigns, any rights or remedies under or by reason of this Agreement.
- 10.8 **ASSIGNMENT.** This is a non assignable agreement.
- 10.9 **SOLVING DISPUTES.** In case of any dispute, no party shall go to the court and the dispute shall be sorted out mutually within the authority of the Principal, JDMC.

IN WITNESS WHEREOF, intending to be legally bound, the Parties have executed this Agreement on the date set forth above.

**PARTIES:**

**JDMC and CampusEAI India Pvt. Ltd.**

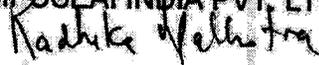
By: JANAKI DEVI MEMORIAL COLLEGE

Name: Dr.  INDU ANAND

Title: Principal

Date: 15<sup>th</sup> November 2006

By: CAMPUSEAI INDIA PVT. LTD.



Name: RADHIKA MALHOTRA

Title: Director

Date: 15<sup>th</sup> November 2006

## APPENDIX 1

### CampusEAI Deliverables

#### I Software

- Oracle 10gAS licenses required to power the CampusEAI Consortium Information Technology Training Program for the duration of the CampusEAI Consortium Information Technology Training Program.

#### Oracle 10g Application server:

Oracle Application Server 10g offers a comprehensive solution for developing, integrating, and deploying your enterprise's applications, portals, and Web services. Based on a powerful and scalable J2EE server, Oracle Application Server 10g provides complete business integration and business intelligence suites, and best-of-breed portal software. Oracle Application Server gives you unmatched scalability, availability, manageability, and security.

#### Red hat Enterprise Linux:

Red Hat Enterprise Linux is the leading platform for open source computing. It is sold by subscription, delivers continuous value and is certified by top enterprise hardware and software vendors. From the desktop to the datacenter, Enterprise Linux couples the innovation of open source technology and the stability of a true enterprise-class platform.

#### II Hardware

- Thirty five (35) computers to run the CampusEAI Consortium Information Technology Training Program for the duration of the CampusEAI Consortium Information Technology Training Program with the following specifications:

\*These specifications are subject to change as necessary by CampusEAI.

Base Unit:	3.0GHz/ 1MB Cache, Xeon
Processor:	Dual Second Processor (311-1193)

Memory:	1GB DDR2 MHz
Keyboard:	Standard Windows Keyboard, Gray (310 -1676)
Monitor:	17" HP Monitors
Video Memory:	Riser, ROMB, PCI-X, PE2850 (320-3977)
Hard Drive:	146 GB, U320, SCSI, 1IN 10K, PE2850 (341-1306)
Hard Drive Controller:	Embedded RAID-PERC4 Embedded Integrated (341-1506)
Floppy Disk Drive:	1.44MB Floppy Drive (341-1308)
Operating System:	No Operating System, Utility Partition (420-4104)
Mouse:	Logitech PS/2 2-button Mouse with Scroll, Power Edge (310 -4405)
CD-ROM or DVD-ROM Drive:	24x IDE CD-ROM (313-2700)

### III Training

#### A) OracleAS10g System Administration I

This course introduces the architecture of Oracle Application Server 10g and enables the participants to effectively install and manage it. The participants learn how to access and use Oracle Application Server management tools, and practice the basic management tasks such as starting and stopping of Oracle Application Server instances and its components.

The participants gain hands-on experience in configuring the OracleAS Infrastructure and the OracleAS middle-tier. They also learn to deploy PL/SQL applications and J2EE applications such as Java Servlets, JavaServer Pages, Enterprise JavaBeans, and Web Services. They learn the concepts of identity management and how to manage and configure Oracle Internet Directory, OracleAS Single Sign-On Server, and the OracleAS Certificate Authority. The participants enable the use of SSL for some OracleAS components.

#### B) Web design Training Course

This course provides an introduction to Web Design course which includes Overview of computers, Adobe Photoshop, illustrator, Sound Forge, Working with Internet Web Standards, Internet Advertising and a final project on topics covered.

### **Course Modules:**

- **Oracle 10gAS Systems Administration I Training**
- **Module 1: Oracle AS 10g Architecture**
- **Module 2: Best Practice Installation on Linux**
- **Module 3: SSL- Overview and Setup**
- **Module 4: Portlet Installation**
- **Module 5: Exporting and importing Portal Objects**
- **Module 6: Oracle Enterprise Manager (OEM)**
- **Module 7: OAS Performance and Backup**
- **Web Design Training**
- **Module One: Preface**
- **Module Two: Introduction to Computers**
- **Module Three: Adobe Photoshop**
- **Module Four: Adobe Illustrator**
- **Module Five: Introduction to Sound Forge**
- **Module Six: Adobe Flash**
- **Module Seven: Introduction – HTML**
- **Module Eight: Cascading Style Sheets**
- **Module Nine: Introduction to DHTML**
- **Module Ten: Adobe Dream weaver**
- **Module Eleven: Internet Advertising**
- **Module Twelve: Web Standards**
- **Final Project**

### **C) Multimedia and Animation**

Multimedia is a woven combination of digitally manipulated text, photographs, graphic art, sound, animation and video content forms. Multimedia finds its application in various areas including, but not limited

to, advertisements, art, education, entertainment, engineering, medicine, mathematics, business, scientific research and spatial temporal applications.

**D). Programming in C++ and Visual Basic.**

**IV Instructors**

- Instructors will be well experienced CampusEAI India Pvt. Ltd. staff members. The on-site instructors will;
  - Support students in planning for installation, and educate students on installation requirements.
  - Guide students through pre-installation of Oracle Application Server setup and configuration.
  - Provide students with detailed installation support documentation.
  - Guide students through installation and configuration of Oracle Application Server.
  - Provide post-installation administration and customization support best practices.

**V Assessment Tests**

Students will be made to appear for module assessment test after each module and an over all assessment test for the entire syllabi. Successfully clearing the assessment test will be important for the students to move on to the next modules and towards completing the training program.

CampusEAI will be responsible for organizing and evaluating the assessment tests.

**IV Certificate**

- a. **University of Cleveland certifications** are tangible, industry- accepted credentials that provide substantial benefits to IT Professionals and their employers. These certifications are a reliable substantiation of training and experience that will expedite professional development, improve productivity and raise credibility.
- b. The students undergoing complete Oracle 10gAS System Administration I,

Training will receive a certificate from **University of Cleveland** in association with **Janki Devi Memorial College, University of Delhi** on successful completion of this training.