

ESTTA Tracking number: **ESTTA493727**

Filing date: **09/11/2012**

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

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Hayward-Yellen 100 Limited Partnership		
Entity	Partnership	Citizenship	Arizona
Composed Of:	Pamela A. Yellen, New Mexico The Sedona Trust, New Mexico		
Address	11 West Arrowhead Circle Santa Fe, NM 87506 UNITED STATES		

Attorney information	Claudia Rast Butzel Long 301 E. Liberty Ann Arbor, MI 48104 UNITED STATES trademark@butzel.com Phone:734.995.3110		
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Registration Subject to Cancellation

Registration No	3306916	Registration date	10/09/2007
Registrant	Life Time Paradigm, LLC 9th Floor 2040 Main Street Irvine, CA 92614 UNITED STATES		

Goods/Services Subject to Cancellation

Class 036. First Use: 2006/02/00 First Use In Commerce: 2006/02/00 All goods and services in the class are cancelled, namely: Financial services, namely, consulting services in the field of finance, mortgage banking, real estate investment, financial planning in the nature of mortgage planning, and financial planning; mortgage banking services, namely, origination, acquisition, servicing and brokerage of mortgage loans
Class 041. First Use: 2006/02/00 First Use In Commerce: 2006/02/00 All goods and services in the class are cancelled, namely: Seminars, training and classes in the fields of finance, mortgage banking, real estate investment, financial planning in the nature of mortgage planning, and financial planning

Grounds for Cancellation

Abandonment	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)

Mark Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3530300	Application Date	02/18/2008
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Registration Date	11/11/2008	Foreign Priority Date	NONE
Word Mark	BANK ON YOURSELF		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2004/07/29 First Use In Commerce: 2004/07/29 downloadable electronic newsletters in the field of personal finance and insurance</p> <p>Class 016. First use: First Use: 2006/01/01 First Use In Commerce: 2006/01/01 newsletters in the field of personal finance and insurance</p> <p>Class 035. First use: First Use: 2003/10/01 First Use In Commerce: 2004/01/23 Referral services in the field of personal finance and insurance</p> <p>Class 036. First use: First Use: 2003/10/01 First Use In Commerce: 2004/01/23 financial planning and consulting services in the field of personal finance and insurance</p> <p>Class 041. First use: First Use: 2003/10/01 First Use In Commerce: 2004/01/23 providing electronic newsletters in the field of personal finance and insurance via e-mail; education services, namely, providing classes, seminars and workshops in the field of personal finance and insurance and distribution of course materials in conjunction therewith featuring finance and insurance reports</p>		

Attachments	77399338#TMSN.jpeg (1 page)(bytes) BANK OF YOU Cancellation pdf.pdf (13 pages)(342941 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Claudia Rast/
Name	Claudia Rast
Date	09/11/2012

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

In the matter of trademark Reg. No. 3,306,916

Filed: May 2, 2006

HAYWARD-YELLEN 100 LIMITED)	
PARTNERSHIP)	
Petitioner)	
)	Cancellation No.
)	
v.)	
)	
LIFE TIME PARADIGM, LLC)	
Registrant)	

PETITION FOR CANCELLATION

Hayward-Yellen 100 Limited Partnership, a Limited Partnership organized and existing under the laws of the State of Arizona, located at 11 West Arrowhead Circle, Santa Fe, New Mexico 87506 (“Petitioner”), believing that it is and will continue to be damaged by US Trademark Registration No. 3,306,916 for the mark BANK OF YOU, hereby petitions for cancellation of that registration.

As grounds for cancellation, Petitioner alleges:

1. Petitioner is the owner of the registered trademark BANK ON YOURSELF (Reg. No. 3,530,300 which issued February 18, 2008) filed under Section 1(a) of the Trademark Act for goods identified as “downloadable electronic newsletters in the field of personal finance and insurance” in International Class 9, “newsletters in the field of personal finance and insurance”

in International Class 16, “Referral services in the field of personal finance and insurance” in International Class 35, “financial planning and consulting services in the field of personal finance and insurance” in International Class 36, and “providing electronic newsletters in the field of personal finance and insurance via e-mail; education services, namely, providing classes, seminars and workshops in the field of personal finance and insurance and distribution of course materials in conjunction therewith featuring finance and insurance reports” in International Class 41. *See Exhibit A.*

2. Petitioner submitted a first use in commerce date for International Class 36 of January 23, 2004.

3. Respondent Life Time Paradigm, LLC is a corporation organized and existing under the laws of the State of California. The last address of record for Respondent in the file for Registration 3,306,916 is 2040 Main Street, 9th Floor, Irvine, California 92614.

Abandonment

4. On May 2, 2006, Respondent filed the application that ultimately issued as Registration 3,306,916 under Section 1(a) of the Trademark Act for goods identified as “Financial services, namely, consulting services in the field of finance, mortgage banking, real estate investment, financial planning in the nature of mortgage planning, and financial planning; mortgage banking services, namely, origination, acquisition, servicing and brokerage of mortgage loans” in International Class 36 and “Seminars, training and classes in the fields of finance, mortgage banking, real estate investment, financial planning in the nature of mortgage planning, and financial planning” in International Class 41. *See Exhibit B.*

5. Respondent reports a first use in commerce date for both International Class 36 and 41 of February 2006.
6. On information and belief, BANK OF YOU has been used by multiple entities within the registered International Classifications including Bank of America in its website address www.bank-of-you.com. See Exhibit C.
7. On information and belief, Respondent has not defended its trademark.
8. On information and belief, this mark has been abandoned by a failure to defend.
9. In light of the above, maintenance of Registration 3,306,916 is therefore in derogation of the Trademark Act.

Likelihood of Confusion

10. The services identified by Registrant in Reg. No. 3,306,916 in connection with BANK OF YOU are similar and/or commercially related to the services used prior to and identified by Reg. No. 3,530,300 in connection with the mark BANK ON YOURSELF.
11. Registrant's claimed mark, BANK OF YOU if used in commerce is likely to be confused with Petitioner's BANK ON YOURSELF mark, considering the services claimed in connection with the marks, pursuant to 15 U.S.C. § 1052(d).
12. In view of the foregoing, Registrant is not entitled to continue registration.

WHEREFORE, Petitioner prays that Registration 3,306,916 be cancelled.

Petitioner hereby appoints the undersigned to act as attorney for Petitioner, with full power to prosecute this Cancellation proceeding, to transact all relevant business with the Patent & Trademark Office and in the United States Courts, and to receive all official communications in connection with this Cancellation proceeding.

Respectfully submitted,

Hayward-Yellen 100 Ltd. Partnership, Petitioner

Dated: 9/11/12

By: /Claudia Rast/

Claudia Rast (P40165)
Jennifer Dukarski (P74257)
301 E. Liberty
Suite 500
Ann Arbor, MI 48104
734.213.3269
rast@butzel.com
dukarski@butzel.com

CERTIFICATE OF SERVICE

I hereby certify that this PETITION FOR CANCELLATION is being deposited with the United States Postal Service with sufficient postage as first class mail on September 11, 2012, in an envelope addressed to:

Life Time Paradigm, LLC
2040 Main Street, 9th Floor
Irvine, California 92614

Respectfully submitted,

Butzel Long, a professional corporation.

Dated: 9/11/12

By: /Claudia Rast/

Claudia Rast (P40165)
Jennifer Dukarski (P74257)
301 E. Liberty
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Ann Arbor, MI 48104
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EXHIBIT A



Trademarks > Trademark Electronic Search System (TESS)

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Bank On Yourself

Word Mark BANK ON YOURSELF

Goods and Services IC 009. US 021 023 026 036 038. G & S: downloadable electronic newsletters in the field of personal finance and insurance. FIRST USE: 20040729. FIRST USE IN COMMERCE: 20040729

IC 016. US 002 005 022 023 029 037 038 050. G & S: newsletters in the field of personal finance and insurance. FIRST USE: 20060101. FIRST USE IN COMMERCE: 20060101

IC 035. US 100 101 102. G & S: Referral services in the field of personal finance and insurance. FIRST USE: 20031001. FIRST USE IN COMMERCE: 20040123

IC 036. US 100 101 102. G & S: financial planning and consulting services in the field of personal finance and insurance. FIRST USE: 20031001. FIRST USE IN COMMERCE: 20040123

IC 041. US 100 101 107. G & S: providing electronic newsletters in the field of personal finance and insurance via e-mail; education services, namely, providing classes, seminars and workshops in the field of personal finance and insurance and distribution of course materials in conjunction therewith featuring finance and insurance reports. FIRST USE: 20031001. FIRST USE IN COMMERCE: 20040123

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77399338

Filing Date February 18, 2008

Current Basis 1A

Original Filing Basis 1A

Published

Trademark Electronic Search System (TESS)

**for
Opposition** August 26, 2008

**Registration
Number** 3530300

**Registration
Date** November 11, 2008

Owner (REGISTRANT) The Prospecting & Marketing Institute, Inc. CORPORATION ARIZONA 39 Vista Estrella South Lamy
NEW MEXICO 87540

(LAST LISTED OWNER) HAYWARD-YELLEN 100 LIMITED PARTNERSHIP LIMITED PARTNERSHIP 39 VISTA
ESTRELLA SOUTH LAMY NEW MEXICO 87540

**Assignment
Recorded** ASSIGNMENT RECORDED

**Attorney of
Record** Claudia Rast

**Type of
Mark** TRADEMARK. SERVICE MARK

Register PRINCIPAL

**Live/Dead
Indicator** LIVE

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EXHIBIT B



Trademarks > Trademark Electronic Search System (TESS)

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BANK OF YOU

Word Mark **BANK OF YOU**

Goods and Services IC 036. US 100 101 102. G & S: Financial services, namely, consulting services in the field of finance, mortgage banking, real estate investment, financial planning in the nature of mortgage planning, and financial planning; mortgage banking services, namely, origination, acquisition, servicing and brokerage of mortgage loans. FIRST USE: 20060200. FIRST USE IN COMMERCE: 20060200

IC 041. US 100 101 107. G & S: Seminars, training and classes in the fields of finance, mortgage banking, real estate investment, financial planning in the nature of mortgage planning, and financial planning. FIRST USE: 20060200. FIRST USE IN COMMERCE: 20060200

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 78874094

Filing Date May 2, 2006

Current Basis 1A

Original Filing Basis 1A

Published for Opposition July 24, 2007

Registration Number 3308918

Registration Date October 9, 2007
Owner (REGISTRANT) Life Time Paradigm, LLC LIMITED LIABILITY COMPANY CALIFORNIA 9th Floor 2040 Main Street
Irvine CALIFORNIA 92614
Attorney of Record David L. Sigalow
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BANK" APART FROM THE MARK AS SHOWN
Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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EXHIBIT C



 **"I want my bank to let grandmas stay in houses they've owned their whole lives."**

Tell us your ideas.

A personal letter from our CEO

Brian Moynihan
President & C.E.O.

Help us tell our story

Bank of America will no longer provide financing to the coal industry.

It's **KRM** Bank of America 

What have we learned?

