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Filing date: **07/08/2014**

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	Learniverse, LLC		
Entity	limited liability company	Citizenship	New Hampshire
Address	59 Deer Street Portsmouth, NH 03801 UNITED STATES		

Attorney information	Matthew Saunders Saunders & Silverstein LLP 14 Cedar Street Suite 224 Amesbury, MA 01913 UNITED STATES trademarks@massiplaw.com, msaunders@massiplaw.com Phone:978-463-9100		
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Registration Subject to Cancellation

Registration No	4451961	Registration date	12/17/2013
Registrant	Lee, Richard 6745 El Rodeo Rd Rancho Palos Verdes, CA 90275 UNITED STATES		

Goods/Services Subject to Cancellation

<p>Class 041. First Use: 2012/04/11 First Use In Commerce: 2012/04/11 All goods and services in the class are cancelled, namely: Career counseling, namely, providing advice concerning education options to pursue career opportunities; Education services, namely, providing career re-training classes, seminars, and workshops in the fields of finance and personal finance; Adult education services, namely, providing live and on-line classes, seminars, and workshops in the fields of finance and personal finance; Education services, namely, providing live and on-line classes, seminars, and workshops in the field of college application preparation; Education services, namely, providing live and on-line classes, seminars, and workshops in the field of math, science, reading, and writing; Providing information about education; Education academy services, namely, providing live and on-line classes, seminars, and workshops in the field of math, science, reading and writing; Educational services, namely, providing courses of instruction at the primary and secondary level; Educational services, namely, providing courses of instruction at the university level; Education services, namely, providing career re-training classes, seminars, and workshops in the fields of technology; Education services, namely, providing live and on-line classes, seminars, workshops in the field of foreign languages; Computer education training services; Publication of educational materials; Rental of printed educational materials; Dissemination of educational materials of others in the field of math, science and English</p>

Grounds for Cancellation

Other	Non-use under Trademark Act section 1(b)
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Attachments	Richard Lee LEARNIVERSITY Petition for Cancellation.pdf(15792 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	/matthew saunders/
Name	Matthew Saunders
Date	07/08/2014

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

LEARNIVERSE, LLC,

Petitioner,

v.

RICHARD LEE,

Registrant.

Cancellation No.

Registration No. 4,451,961

Mark: LEARNIVERSITY

Registration Date: December 17, 2013

PETITION FOR CANCELLATION

Learniverse, LLC (“Learniverse”), believes that it is, and will continue to be, damaged by U.S. Reg. No. 4,451,961 for the trademark LEARNIVERSITY for “Career counseling, namely, providing advice concerning education options to pursue career opportunities; Education services, namely, providing career re-training classes, seminars, and workshops in the fields of finance and personal finance; Adult education services, namely, providing live and on-line classes, seminars, and workshops in the fields of finance and personal finance; Education services, namely, providing live and on-line classes, seminars, and workshops in the field of college application preparation; Education services, namely, providing live and on-line classes, seminars, and workshops in the field of math, science, reading, and writing; Providing information about education; Education academy services, namely, providing live and on-line classes, seminars, and workshops in the field of math, science, reading and writing; Educational services, namely, providing courses of instruction at the primary and secondary level; Educational services, namely, providing courses of instruction at the university level; Education services, namely, providing career re-training classes, seminars, and workshops in the fields of technology; Education services, namely, providing live and on-line classes, seminars,

workshops in the field of foreign languages; Computer education training services; Publication of educational materials; Rental of printed educational materials; Dissemination of educational materials of others in the field of math, science and English,” in Class 41, and hereby petitions for cancellation of the same. As grounds for its cancellation, Learniverse alleges the following, upon actual knowledge with respect to itself and its own acts, and upon information and belief as to other matters:

The Parties

1. Petitioner Learniverse is a New Hampshire limited liability company with its principal place of business at 59 Deer Street Suite 1B, Portsmouth, New Hampshire.
2. Registrant Richard Lee is an individual with an address of 6745 El Rodeo Rd., Rancho Palos Verdes, California.

Learniverse and Its LEARNIVERSE Mark

3. On April 3, 2013, Learniverse filed a trademark application for the trademark LEARNIVERSE identifying “Educational and entertainment services, namely, production and dissemination of ongoing animated and live action multimedia programming in the fields of science, technology, and children's entertainment, distributed via global computer networks” in International Class 41 (the “LEARNIVERSE Application”). The LEARNIVERSE Application was assigned Serial No. 85/894,075
4. The LEARNIVERSE Application was based on Learniverse’s *bona fide* intent to use its LEARNIVERSE trademark in U.S. commerce pursuant to Section 1(b) of the Lanham Act.

5. On January 30, 2014, an Examining Attorney refused registration of the LEARNIVERSE Application based on a likelihood of confusion with Registrant's LEARNIVERSITY registration, Registration No. 4,451,961.

Registrant and His Mark

6. On March 27, 2012, Registrant filed a trademark application for the trademark LEARNIVERSITY identifying “Career counseling, namely, providing advice concerning education options to pursue career opportunities; Education services, namely, providing career re-training classes, seminars, and workshops in the fields of finance and personal finance; Adult education services, namely, providing live and on-line classes, seminars, and workshops in the fields of finance and personal finance; Education services, namely, providing live and on-line classes, seminars, and workshops in the field of college application preparation; Education services, namely, providing live and on-line classes, seminars, and workshops in the field of math, science, reading, and writing; Providing information about education; Education academy services, namely, providing live and on-line classes, seminars, and workshops in the field of math, science, reading and writing; Educational services, namely, providing courses of instruction at the primary and secondary level; Educational services, namely, providing courses of instruction at the university level; Education services, namely, providing career re-training classes, seminars, and workshops in the fields of technology; Education services, namely, providing live and on-line classes, seminars, workshops in the field of foreign languages; Computer education training services; Publication of educational materials; Rental of printed educational materials; Dissemination of educational materials of others in the field of math, science and English” in International Class 41 (the “LEARNIVERSITY Application”).

7. The LEARNIVERSITY Application was based on Registrant's *bona fide* intent to use the LEARNIVERSITY mark in U.S. commerce pursuant to Section 1(b) of the Lanham Act. The LEARNIVERISTY Application was assigned Serial No. 85/581,552.

8. On October 2, 2013, Registrant filed a Statement of Use, in which he declared that the LEARNIVERSITY trademark was in use for all of the services set forth in the LEARNIVERSITY Application.

9. The specimens supplied by Registrant in connection with the Statement of Use include screenshots of Registrant's website purporting to show the LEARNIVERSITY mark in use in connection with certain of the services identified in the LEARNIVERSITY Application.

10. Despite the questionable nature of the specimens, the USPTO accepted the Statement of Use and the LEARNIVERSITY Application ultimately matured into a registration.

Count One
Non-Use, 15 U.S.C. § 1051(b)

13. Learniverse repeats and realleges each and every allegation set forth in Paragraphs 1 through 10.

14. On information and belief, Registrant was not making use of the LEARNIVERSITY trademark in connection with all of the services set forth in the LEARNIVERSITY Application when Registrant filed his Statement of Use on October 2, 2013.

15. On information and belief, Registrant has never used the LEARNIVERSITY trademark in connection with one or more of the services set forth in Registration No. 4,451,961.

16. Because Registrant was not using the LEARNIVERSITY trademark in connection with all of the services set forth in Registration No. 4,451,961 at the time Registrant filed the October 2, 2013, Statement of Use, the LEARNIVERSITY registration is void.

WHEREFORE, Learniverse believes that it will continue to be damaged by the registration of the trademark shown in U.S. Reg. No. 4,451,961 and respectfully requests that the Petition for Cancellation be sustained and that U.S. Reg. No. 4,451,961 be cancelled.

Respectfully submitted,

Dated: July 8, 2014

By: /s/Matthew Saunders
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Attorneys for Petitioner
LEARNIVERSE, LLC

CERTIFICATE OF SERVICE

I hereby certify that on July 8, 2014, a true and complete copy of the foregoing Petition for Cancellation, along with all exhibits thereto, has been served on Registrant via first class mail, postage pre-paid, to

Richard Lee
6745 El Rodeo Rd.
Rancho Palos Verdes, CA
90275

/s/Matthew Saunders
Matthew Saunders