

ESTTA Tracking number: **ESTTA994032**

Filing date: **08/09/2019**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Rocky Mountain University of Health Professions, Inc
Granted to Date of previous extension	08/24/2019
Address	122 EAST 1700 SOUTH PROVO, UT 84606 UNITED STATES

Correspondence information	JARED L. CHERRY PHILLIPS RYTHER & WINCHESTER 4001 SOUTH 700 EAST, SUITE 500 SALT LAKE CITY, UT 84107 UNITED STATES jlc@prwlawfirm.com, ahc@prwlawfirm.com 801-643-2231
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Applicant Information

Application No	88055950	Publication date	06/25/2019
Opposition Filing Date	08/09/2019	Opposition Period Ends	08/24/2019
Applicant	Rocky Mountain School of Art, Inc. 1600 Pierce Street Lakewood, CO 80214 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Downloadable video recordings and computer software featuring pre-recorded courses of instruction, seminars, conferences and workshops, all in the fields of art, animation, fine arts, graphic design, art education and instructor credentialing in the field of art education, illustration and foundation studies relating to art education; downloadable course materials and texts in the fields of art, animation, fine arts, graphic design, art education and instructor credentialing in the field of art education, illustration and foundation studies relating to art education</p>
<p>Class 041. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Educational services, namely, offering on-line and live courses of instruction in the fields of art, animation, fine arts, graphic design, art education and instructor credentialing, illustration and foundation studies; educational services, namely, providing a website featuring non-downloadable prerecorded instructional videos featuring seminars, conferences and workshops, all in the fields of art, animation, fine arts, graphic design, art education and instructor credentialing in the field of art education, illustration and foundation studies relating to</p>

art education; educational services, namely, providing online, live and non-downloadable prerecorded courses of instruction, seminars, conferences and workshops, all in the fields of art, animation, fine arts, graphic design, art education and instructor credentialing in the field of art education, illustration and foundation studies relating to art education


Class 042. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Providing a website featuring non-downloadable computer software featuring seminars, conferences and workshops, all in the fields of art, animation, fine arts, graphic design, art education and instructor credentialing in the field of art education, illustration and foundation studies relating to art education


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	5436063	Application Date	12/28/2016
Registration Date	04/03/2018	Foreign Priority Date	NONE
Word Mark	ROCKY MOUNTAIN UNIVERSITY OF HEALTH PROFESSIONS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 2000/02/11 First Use In Commerce: 2000/02/11 Educational publications, namely, books, articles in the fields of health sciences, nursing, physical therapy, occupational therapy, speech language pathology</p> <p>Class 025. First use: First Use: 2016/03/28 First Use In Commerce: 2016/03/28 Jackets; Pants; Scrubs not for medical purposes; Shirts; Shorts; Sweaters</p> <p>Class 041. First use: First Use: 2000/02/11 First Use In Commerce: 2000/02/11 Education services in the nature of courses at the university level; Educational services, namely, providing continuing professional education courses in the field of health sciences, nursing, physical therapy, occupational therapy, speech language pathology; Educational services, namely, providing online courses of instruction at the university level and distribution of course material in connection therewith</p>		

U.S. Registration No.	5441224	Application Date	12/28/2016
Registration Date	04/10/2018	Foreign Priority Date	NONE
Word Mark	ROCKY MOUNTAIN UNIVERSITY OF HEALTH PROFESSIONS		

Design Mark	 <p data-bbox="678 170 1318 317">ROCKY MOUNTAIN UNIVERSITY <i>of</i> HEALTH PROFESSIONS</p>
Description of Mark	The mark consists of a shield design that encompasses a hand, a Rod of Asclepius, and a silhouette of a mountain, alongwith the words "ROCKY MOUNTAIN UNIVERSITY OF HEALTH PROFESSIONS" in a stylized font.
Goods/Services	<p data-bbox="483 436 1425 464">Class 016. First use: First Use: 2016/03/28 First Use In Commerce: 2016/03/28</p> <p data-bbox="483 474 1425 533">Educational publications, namely, books, articles in the fields of health sciences, nursing, physical therapy, occupational therapy, speech language pathology</p> <p data-bbox="483 543 1425 571">Class 025. First use: First Use: 2016/03/28 First Use In Commerce: 2016/03/28</p> <p data-bbox="483 581 1357 606">Jackets; Pants; Scrubs not for medical purposes; Shirts; Shorts; Sweaters</p> <p data-bbox="483 617 1425 644">Class 041. First use: First Use: 2016/03/28 First Use In Commerce: 2016/03/28</p> <p data-bbox="483 655 1425 800">Educational services, namely, providingcontinuing professional education courses in the field of health sciences, nursing, physical therapy, occupational therapy, speech language pathology; Educational services, namely, providing online courses of instruction at the university level and distribution of course material in connection therewith</p>

Related Proceedings	Opposition to Application No. 88/055,972 for ROCKY MOUNTAIN UNIVERSITY OF ART + DESIGN ONLINE
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Attachments	<p data-bbox="483 968 841 995">87283342#TMSN.png(bytes)</p> <p data-bbox="483 997 841 1024">87283345#TMSN.png(bytes)</p> <p data-bbox="483 1026 1237 1054">2019-08-09_Notice of Opposition_88055950.pdf(149910 bytes)</p>
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Signature	/Jared L. Cherry/
Name	JARED L. CHERRY
Date	08/09/2019

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

Rocky Mountain University of Health Professions, Inc., Opposer, v. Rocky Mountain School of Art, Inc. Applicant.	Opposition No. Application. No. 88/055,950 Filed: July 27, 2018 Trademark ROCKY MOUNTAIN UNIVERSITY OF ART + DESIGN
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NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir or Madam:

Pursuant to 15 U.S.C. §§ 1064, 1068, 37 C.F.R. § 2.111(b) and TBMP § 309.03(d), Rocky Mountain University of Health Professions, Inc., located and doing business at 122 East 1700 South, Provo, Utah 84606 (hereinafter referred to as “RMUoHP” or “Opposer”) believes that it is and will continue to be damaged by the below-described application filed by Rocky Mountain School of Art, Inc., a corporation having a place of business at 1600 Pierce Street, Lakewood, Colorado 80214 (hereinafter referred to as the “School of Art” or “Applicant”).

As grounds for opposition, RMUoHP alleges as follows:

1. RMUoHP has used the trademark ROCKY MOUNTAIN UNIVERSITY OF HEALTH PROFESSIONS since at least February 11, 2000, in connection with educational publications and education services.
2. RMUoHP has used the trademark ROCKY MOUNTAIN UNIVERSITY OF HEALTH PROFESSIONS since at least March 28, 2016 in connection with articles of clothing, such as jackets, pants, scrubs, etc.


3. RMUoHP has used the trademark ROCKY MOUNTAIN UNIVERSITY OF HEALTH PROFESSIONS and DESIGN, as shown below, since at least March 28, 2016 in connection with education publications, educational services, and clothing.



ROCKY MOUNTAIN
UNIVERSITY *of*
HEALTH PROFESSIONS

The ROCKY MOUNTAIN UNIVERSITY OF HEALTH PROFESSIONS and the ROCKY MOUNTAIN UNIVERSITY OF HEALTH PROFESSIONS and DESIGN trademarks are collectively referred to as the “RMUoHP Marks.”

4. RMUoHP is the owner of the RMUoHP Marks, including each of the following trademark registrations.

Int’l Class and Goods	RMUoHP Registrations
<p>Int.’l Class 16: Educational publications, namely, books, articles in the fields of health sciences, nursing, physical therapy, occupational therapy, speech language pathology.</p> <p>Int.’l Class 25: Jackets; Pants; Scrubs not for medical purposes; Shirts; Shorts; Sweaters.</p> <p>Int.’l Class 41: Educational services, namely, providing continuing professional education courses in the field of health sciences, nursing, physical therapy, occupational therapy, speech language pathology; Educational services, namely, providing online courses of instruction at the university level and distribution of course material in connection therewith.</p>	<p>U.S. Reg. No. 5,436,063 for ROCKY MOUNTAIN UNIVERSITY OF HEALTH PROFESSIONS</p>
<p>Int.’l Class 16: Educational publications, namely, books, articles in the fields of health sciences, nursing, physical therapy, occupational therapy, speech language pathology.</p>	<p>U.S. Reg. No. 5,441,224 for:</p>  <p>ROCKY MOUNTAIN UNIVERSITY <i>of</i> HEALTH PROFESSIONS</p>

Int'l Class and Goods	RMUoHP Registrations
<p>Int.'1 Class 25: Jackets; Pants; Scrubs not for medical purposes; Shirts; Shorts; Sweaters.</p> <p>Int.'1 Class 41: Educational services, namely, providing continuing professional education courses in the field of health sciences, nursing, physical therapy, occupational therapy, speech language pathology; Educational services, namely, providing online courses of instruction at the university level and distribution of course material in connection therewith.</p>	

5. RMUoHP has invested significant resources and considerable time in promoting the sale of its goods and services under the RMUoHP Marks.

6. The public has come to associate the RMUoHP Marks and products and services sold under these marks exclusively with RMUoHP.

7. The Applicant has filed an intent-to-use application for the mark ROCKY MOUNTAIN UNIVERSITY OF ART + DESIGN in connection with educational services.

8. The most distinctive portion of both the Applicant's mark and RMUoHP's mark is "ROCKY MOUNTAIN UNIVERSITY."

9. The most distinctive portion of the Applicant's mark is identical to the most distinctive portion of RMUoHP's mark.

10. Both the Applicant and RMUoHP offer identical services, namely educational services at the university level.

11. The similarities between the RMUoHP Marks and the Applicant's ROCKY MOUNTAIN UNIVERSITY OF ART + DESIGN mark, along with the similarities in the goods and services offered by RMUoHP and the Applicant is likely to cause confusion or to cause mistake, or to deceive consumers as to the source of Applicant's goods in violation of Section 2(d) of the Lanham Act, 15, U.S.C. § 1052 (d).

12. Registration of the ROCKY MOUNTAIN UNIVERSITY OF ART + DESIGN mark would cause injury and damage to RMUoHP.

WHEREFORE, the Opposer, RMUoHP, prays that Application Serial No. 88/055,950, for the ROCKY MOUNTAIN UNIVERSITY OF ART + DESIGN mark, be rejected, denied and refused.

Dated: August 9, 2019

(Filed electronically via USPTO.ESSTA)

Respectfully submitted,

By: /Jared L. Cherry /
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Attorney for Opposer

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