

ESTTA Tracking number: **ESTTA609974**

Filing date: **06/14/2014**

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

Proceeding	92053315
Party	Defendant The American University for Science and Technology
Correspondence Address	DR M A WAHAB THE AMERICAN UNIVERSITY FOR SCIENCE AND TECHNOLOGY 18345 VENTURA BOULEVARD , SUITE 210 TARZANA, CA 91356 UNITED STATES president@austc.us
Submission	Reply in Support of Motion
Filer's Name	Mohamed Abdulwahab
Filer's e-mail	president@austc.us
Signature	/Mohamed Abdulwahab/
Date	06/14/2014
Attachments	Defendent's Answers to Plaintiff's Interrogatories.PDF(138471 bytes)

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

US registration No. 3, 836, 388

For the mark THE AMERICAN UNIVERSITY FOR SCIENCE AND TECHNOLOGY

American University.

Mailed: June 14, 2014-06-13

Petitioner,

Cancellation No. 92053315

VS.

The American University for
Science And Technology

DEFENDANT'S ANSWERS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES

Plaintiff, American University (hereinafter "Plaintiff") requested that defendant, The American University for Science and Technology (hereinafter "AUSTC" or "Defendant"), answer the following interrogatories, pursuant to provisions of Rule 33 of the federal Rules of Civil Procedure and Rule 2.120 of Trademark Rules of Practice under oath and within the timeframe of the proceedings.

ANSWERS SUBMISSION

Pursuant to provisions of Rule 33 of the federal Rules of Civil Procedure and Rule 2.120 of Trademark Rules of Practice under oath and within the timeframe of the proceedings, the Defendant submits a listing of Plaintiff's interrogatories and Defendant's answer to each interrogatory

INTERROGATORIES AND ANSWERS

1. Identify all persons, including their address and job title, you have interviewed, or who have provided information used to prepare the answers to these interrogatories and state specifically, with reference to Interrogatory numbers, the nature of the participation of each person.

Answer:

Prof. Mohamed Abdulwahab
President / CEO
The American University for Science and Technology

18345 Ventura BLVD., Suite 210, Tarzana, CA 91356

2. State the authors, their titles and the present whereabouts of any memoranda, correspondence, documents or other writings relied on in answering these interrogatories and give the names and addresses of those persons who now have custody or control of these materials.

Answer:

Prof. Mohamed Abdulwahab

18345 Ventura BLVD., Suite 210, Tarzana, CA 91356

3. Identify each and every good or service which is provided, or intended to be provided by Defendant in connection with the Mark.

Answer:

Public Charity 501 (C) (3) nonprofit organization provides educational services to limited income personnel and runs a University and a (9-12) High school

4. State the earliest date or dates on which Defendant will rely as to the first use of the Mark in connection with the sale or distribution of each good and/or service specified in response to interrogatory No. 3.

Answer:

7/15/2004 (Services only, No Sales)

5. For each and every good and service identified in response to Interrogatory No. 3, state the annual sales of each by units and dollars.

Answer:

Educational services only with an annual average of \$50,000.00 (Fifty Thousand Dollars)

6. For each and every good and service identified in response to interrogatory No 3, state the annual dollar amount that Defendant has spent in connection with advertising or promoting each such service or product.

Answer:

An average of \$25,000.00 (Twenty Five Thousand Dollars)

7. Identify all persons having information concerning Defendant's consideration, selection and adoption of the Mark

Answer:

Including but not limited to All board members, all faculty and administrative staff members, all enrolled and prospected students, all international affiliates, Los Angeles County, State of California secretary of state, State of California department of education, College Board, state of California franchise tax board, US federal government, US Internal Revenue

Services, United States Federal Contractors' Register, State of California Nonprofit contractors' register and more

8. Identify all trademark searches which Defendant has conducted or caused to be conducted relating to use and/or registration of the Mark and opinions which Defendant, has obtained relating thereto, including, but not limited to, anti-dilution or other trademark searches which Defendant has conducted or caused to be conducted which were designed or intended to reveal or discover, other trademarks which are similar to or confusingly similar to the Mark and any opinions which Defendant has obtained relating thereto.

Answer:

State of California secretary of state's business search revealed no similarity at the state of California and mark had been approved by the state. Searched all living registered marks at the official governmental website and our Mark as "The American University for Science and Technology" found unique and not matching any registered mark. Assigned lawyer performed an in-depth search to find international marks including "University for Science and Technology" while "American" was out of discussion because it is a generic mark that may not be claimed. We as an applicant did not claim "University for Science and Technology" while claimed the mark "American University for Science and Technology" as a whole without claiming any part of it from being separately used.

9. Identify each State in the United States in which the Defendant has distributed any service, product, advertising material or promotional material bearing the Mark

Answer:

None other than the state of California, while the mark information is searchable through governmental and independent third parties

10. Identify the channels of trade through which Defendant has marketed, promoted, advertised, distributed, offered or sold its Mark for the past five (5) years.

Answer:

NONE, as our mark is carried by a nonprofit organization that does not run after trade or money making.

11. Identify each person who is presently, or has heretofore been responsible, for the advertising and promotion of Defendant's goods and services in connection with the Mark.

Answer:

No promotions, but services offer through a dedicated website and a sort of direct contact with international affiliates

12. Identify all types of media that Defendant has used to advertise and promote its services and/or goods hearing the Mark.

Answer:

As mentioned above, no marketing or trading promotions at all, only presentation of offered educational services via a dedicated website.

13. Identify the intended target audience, or actual audience, for each of Defendant's goods and services sold in connection with the Mark.

Answer:

As per The American University for Science and Technology officially filed articles, targeted audience are limited to low income personnel, handicapped, veterans, long term patients and members of minority communities in the united states and internationally. "The American University for Science and

Technology offers distance learning only and does not compete with any domestic or international educational facility.

14. Identify the demographics of the average consumer of the Mark, including but not limited to the age, gender and racial makeup of consumers and their average household income

Answer:

Limited to low income personnel as described in (13) above

15. For each media Defendant has identified in response to Interrogatory No. 12, provide the date, time and place of each publication.

Answer:

Limited to an ongoing existence of a websites that is actually of low traffic.

16. Identify all persons Defendant has used to promote services and goods bearing the Mark.

Answer:

None

17. Identify each trade show, college fair, professional meeting or convention at which Defendant has displayed, offered for sale, promoted, sold or otherwise distributed services or goods in connection with which the Mark was used.

Answer:

None

18. Identify each magazine, newspaper, professional journal, trade journal, broadcast or other media which discussed Defendant's goods or services

Answer:

Limited to our website, fact sheet and catalog as shown on the same website

19. Identify all organizations and individuals that participate in accrediting the quality of the instructional programs offered by the Defendant.

Answer:

None

20. Describe all occasions on which Defendant has received any inquiries as to whether its goods or services are associated with, sponsored by, approved by or is in any other manner connected with Plaintiff.

Answer:

Absolutely NONE, because it is obviously clear that we are not connected. Besides, we believe that plaintiff does not own the claimed mark

21. Identify all instances of actual confusion which have occurred between Defendant's goods or services and Plaintiffs goods or services.

Answer:

Absolutely NONE, because The American University for Science and Technology is very well identified by name, location and service that are obviously distinguished from Plaintiff's activities. Actually, there is no chance of comparison between Plaintiff and defendant at the first glance.

22. Identify all organizations and persons who have complained about the quality of services offered by the Defendant or the accuracy of its course, schedule, and bulletin materials

Answer:

NONE

23. Describe all occasions on which Defendant has filed or sent a cease and desist letter, correspondence, complaint, objection, opposition, cancellation, administrative proceeding, legal opinion or civil action to or against any third party related to or involving Defendant's Mark.

Answer:

NONE

24. Identify all uses of the Mark by persons other than the Defendant.

Answer:

Claimed mark AMERICAN UNIVERSITY is generic and is actually included in hundreds of trade and service marks in the USA and overseas

25. For all uses identified in response to Interrogatory No. 24 above, please explain the relationship between Defendant and person using the Mark and identify any documents ' which discuss or relate to such use of the Mark.

Answer:

Not Applicable

26. Identify Defendant's known competitors for the services and goods which Defendant offers or intends to offer in connection with the Mark.

Answer:

As a charitable organization, we don't compete with others, but we welcome others to share with us practicing the noble goal of helping those who are in need

27. Identify by address any and all physical campus location(s) where Defendant offers its services specified in response to Interrogatory No. 3.

Answer:

18345 Ventura Boulevard, Tarzana, CA 91356. The American University for Science and Technology does not have or use any other location in the United States or elsewhere.

28. Identify by name, address and contact person, all campus stores, department stores, boutiques and/or retail stores which sell goods bearing the Mark

Answer:

NONE

29. Identify all web sites and/or domains which advertise, promote and/or sell goods or services bearing the Mark.

Answer:

www.austc.us

30. Identify the date and describe the circumstances surrounding when Defendant first became aware of Plaintiff.

Answer:

Only after plaintiff's submission of its cancellation petition

31. Identify the date and describe the circumstances surrounding when Defendant first became aware of Plaintiffs AMERICAN UNIVERSITY mark.

Answer:

Defendant is not aware of plaintiff's ownership of AMERICAN UNIVERSITY mark, while being aware that more than 50 businesses including for-profit and nonprofit claim the same mark as it is or included in a longer mark. The defendant is absolutely sure that it is very hard or may be impossible for any person to claim the ownership of AMERICAN UNIVERSITY mark because it is obviously a combination of two generic words. We are all "AMERICAN" and any postsecondary institution that provides graduate education is a "UNIVERSITY". Technically, the mentioned mark cannot be claimed.

32. Describe the meaning or intended meaning and/or commercial impression of the "The American University for Science and Technology" mark.

Answer:

A university of an American Nationality that is officially registered and physically located in the United States of America to provide educational services at fields directly or indirectly related to Science and technology

33. Describe with particularity the circumstances surrounding the adoption of the mark "THE

AMERICAN UNIVERSITY FOR SCIENCE AND TECHNOLOGY" and in particular the circumstances surrounding the decision to use the words "AMERICAN UNIVERSITY."

Answer:

No specific circumstances other than being an attractive name that describes where we are located. Logically, no one may protect an American real or virtual person from announcing his

or its origin as an American; and no one may protect a university from using its description as so.

34. Identify any and all earlier marks or names other than the Mark used by Defendant in connection with offering any of the goods and services specified in response to Interrogatory No. 3. For any earlier identified mark(s) or name(s), indicate when such mark or name was used and the dates of and reason(s) for the change(s).

Answer:

"American International University" that was used for a very short time until the board identified some other facilities out of the state of California and out of the United States who used the exact mark. The board also discovered that the same mark had used by lower standard businesses. The board decided to change the name and approved the mark "The American University for Science and Technology" without any intention to cause any harm or to compete with others.

35. Identify any and all market studies or other surveys regarding the perception of Defendant's Mark or the consumer's recognition of Defendant's Mark in the marketplace.

Answer:

No documented market studies or other surveys

36. If Defendant has acquired its claimed rights in the Mark through a transfer from any party, then identify the nature each such transfer and the parties thereto.

Answer:

Not applicable

37. Identify any persons having an interest in the Mark.

Answer:

We cannot list them in this material because the number exceeds hundreds in the USA and overseas. Claimed mark is generic and no one owns it.

38. Identify all experts which have at any time been retained by Defendant for this Cancellation or any other cancellation or litigation concerning the Mark.

Answer:

We only used The Trade Mark Company located 344 Maple Avenue West suite 151 Vienna, VA 22180 to help us answer the first few communications. The American University for Science and Technology represents itself.

39. For each document which is produced by the Defendant in this proceeding, identify the Interrogatory and/or Document Request to which the document responds.

Answer:

Limited to the plaintiff and United States Patent and Trademark Office, Trademark Trial and Appeal board

Respectfully submitted,

June 14, 2014

By: 

Prof. Mohamed Abdulwahab, PhD.
President / CEO
The American University for Science and

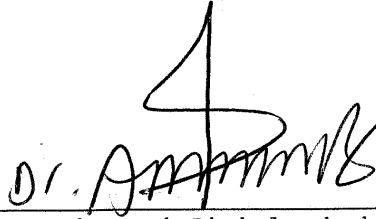
Technology

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the forgoing DEFENDANT'S ANSWERS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES was served via email (as agreed upon by Attorney for plaintiff) upon:

Alisa C. Simmons
Attorney for Plaintiff
Email: ASimmons@fitcheven.com

On this the 14th day of June, 2014



Prof. Mohamed Abdulwahab, PhD.
President / CEO
The American University for Science and

Technology