

ESTTA Tracking number: **ESTTA546261**

Filing date: **07/01/2013**

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	Hawaiian Airlines, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	3375 Koapaka Street Suite G-350 Honolulu, HI 96819 UNITED STATES		

Correspondence information	Martin E. Hsia, 32,471 Attorney of Record Cades Schutte A Limited Liability Law Partnership 1000 Bishop Street 12th Floor Honolulu, HI 96813 UNITED STATES mhsia@cades.com, kkrzykowski@cades.com Phone:808-544-3835
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Registration Subject to Cancellation

Registration No	2303334	Registration date	12/28/1999
Registrant	ALOHA AIRLINES, INC. P.O. Box 30028 Honolulu, HI 96820 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 1992/07/00 First Use In Commerce: 1992/07/00 All goods and services in the class are cancelled, namely: promoting the purchase of goods and services of others through an incentive award program
Class 039. First Use: 1992/07/00 First Use In Commerce: 1992/07/00 All goods and services in the class are cancelled, namely: airline transportation; promoting airline passenger services in the nature of a frequent flyer program

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Petition.2.303.334.pdf(178739 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	/Martin E. Hsia/
Name	Martin E. Hsia, 32,471
Date	07/01/2013

nature of a frequent flyer program” in International Class 39 (collectively, “**Respondent’s Services**”), which was issued on December 28, 1999, to ALOHA AIRLINES, INC., and is now owned by YUCAIPA CORPORATE INITIATIVES FUND I, LP, a Delaware limited partnership, and YUCAIPA CORPORATE INITIATIVES FUND I, LLC, a Delaware limited liability company (individually and collectively referred to herein as “**Respondent**”) whose mailing address is 9130 West Sunset Boulevard, Los Angeles, California 90069, and hereby petitions to cancel the same.

As grounds therefor, Petitioner alleges as follows:

1. On information and belief, ALOHA AIRLINES, INC. filed U.S. Trademark



Application Serial No. 75/373,886 for  in connection with “promoting the purchase of goods and services of others through an incentive award program” in International Class 35 and “airline transportation; promoting airline passenger services in the nature of a frequent flyer program” in International Class 39, on or about October 16, 1997.

2. On information and belief, Respondent’s Mark issued as the Registration on December 28, 1999.

3. On information and belief, ALOHA AIRLINES, INC. filed for bankruptcy under Chapter 11 of the U.S. Bankruptcy Code, and later converted the bankruptcy from Chapter 11 to Chapter 7 proceedings.

4. On information and belief, and prior to Respondent’s ownership of the Registration, ALOHA AIRLINES, INC. ceased its operations and use of Respondent’s Mark in commerce in connection with Respondent’s Services during the Chapter 7 bankruptcy proceedings beginning around March 2008.

5. On information and belief, THE ESTATE OF ALOHA AIRLINES, INC. filed a combined Section 8 and 9 Renewal Application claiming excusable non-use of Respondent's Mark in connection with Respondent's Services on December 23, 2009 (the "**Renewal Application**").

6. The Renewal Application stated that, for both the International Class 35 and International Class 39 services, "Registrant is undergoing a Chapter 7 bankruptcy liquidation and is therefore prevented from continuing its operations and hence from continuing use of the mark. (See U.S. Bankruptcy Court District of Hawaii Court Order, attached in specimen section.) Registrant ceased use of its mark in commerce in or about March of 2008, and expects to resume use through a successor-in-interest after its assets, including the subject mark, are sold."

7. On information and belief, the Chapter 7 Trustee for ALOHA AIRLINES, INC. sold the Registration to Respondent on or about February 7, 2011.

8. On information and belief, Respondent has not resumed use of Respondent's Mark in commerce.

9. On information and belief, Respondent's Mark has been abandoned and has lost all capacity as a source indicator for Respondent's Services.

10. On or about April 16, 2013, Petitioner filed intent-to-use U.S. Trademark Application Serial No. 85/905,732 for "ALOHA AIRLINES SERVICES" ("**Petitioner's Mark**") for "Air transportation services featuring meet and assist services and assistance to unaccompanied minor air travelers," in International Class 39 ("**Petitioner's Services**").

11. On or about June 15, 2013, Petitioner received an office action refusing registration of Petitioner's Mark on the Principal Register based on a likelihood of confusion with the Registration, among other cited trademark registrations.

12. If Respondent is permitted to retain the Registration, a cloud will be placed on Petitioner's right to enjoy the free and exclusive use of Petitioner's Mark in connection with the sale of Petitioner's Services, all to the damage and harm of Petitioner.

The fee required by 37 C.F.R. § 2.6(a)(16) is enclosed herewith.

WHEREFORE, Petitioner respectfully requests the cancellation of U.S. Registration No.



2,303,334 for

issued on December 28, 1999, pursuant to 15 U.S.C.

§ 1064.

DATED: Honolulu, Hawaii this 15th day of July, 2013.

A handwritten signature in black ink, appearing to read "Martin E. Hsia".

Martin E. Hsia, Reg. No. 32,471
CADES SCHUTTE LLP
A Limited Liability Law Partnership
1000 Bishop Street, Suite 1200
Honolulu, HI 96813
Tel: (808) 544-3835
Attorney for Petitioner
HAWAIIAN AIRLINES, INC.

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

In the Matter of Registration No. 2,303,334
Mark: "ALOHA AIRLINES" and horizontal design (design plus words)
Date of Issue: December 28, 1999


HAWAIIAN AIRLINES, INC., a Delaware corporation,)	
)	
)	
Petitioner,)	
)	Cancellation No. _____
v.)	
)	Registration No. 2,303,334
YUCAIPA CORPORATE INITIATIVES FUND I, LP,)	
a Delaware limited partnership, and)	
)	
YUCAIPA CORPORATE INITIATIVES FUND I, LLC, a Delaware limited liability company)	
)	
)	
Respondent.)	
_____)	

PROOF OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the attached PETITION FOR CANCELLATION was mailed via United States first class mail, postage prepaid on the date noted below, to the following:

LATHAM & WATKINS LLP 650 Town Center Drive Suite 2000 Costa Mesa, CA 92626 Attn: Perry J. Viscounty, Esq. Attorneys for Respondent	also via e-mail: ipdocket@lw.com
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DATED: Honolulu, Hawaii this 13th day of July 2013.



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HAWAIIAN AIRLINES, INC.

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