

DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

2009 MAY -5 A 11: 25

HEARINGS OFFICE

BUSINESS REGISTRATION DIVISION
OFFICE OF ADMINISTRATIVE HEARINGS
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

In the Matter of the)	TN-2008-4
)	
Trade Name)	DIRECTOR'S FINAL
)	ORDER
"HAWAII PC REPAIR")	
)	
)	
)	
)	

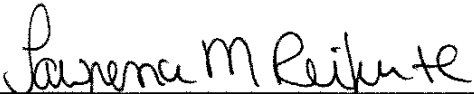
DIRECTOR'S FINAL ORDER

On March 23, 2009, the duly appointed Hearings Officer submitted his Findings of Fact, Conclusions of Law and Recommended Order in the above-captioned matter to the Director of the Department of Commerce and Consumer Affairs ("Director"). Copies of the Hearings Officer's recommended decision were also transmitted to the parties. The copy of the recommended decision sent to Respondent Robert A. Bergman, Jr. ("Respondent") was returned by the Post Office "Unclaimed". The parties were subsequently provided an opportunity to file exceptions; however, no exceptions were filed.

Upon review of the entire record of this proceeding, the Director adopts the Hearings Officer's recommended decision as the Director's Final Order. The Director hereby finds and concludes that Petitioner Matthew Griffin, doing business as Hawaii PC has established, by a preponderance of the evidence, his common law rights of ownership to the trade name, "Hawaii PC"; that Respondent's use of "Hawaii PC Repair" is confusingly similar to "Hawaii PC"; and that, as a result, Petitioner's common law rights to "Hawaii PC"

are being infringed upon by Respondent's use of "Hawaii PC Repair". Accordingly, Certificate of Registration No. 4040832 issued to Respondent on February 16, 2006 for the trade name, "Hawaii PC Repair" shall be revoked pursuant to Hawaii Revised Statutes §482-8.

DATED: Honolulu, Hawaii: April 30, 2009.



LAWRENCE M. REIFURTH, Director
Department of Commerce and
Consumer Affairs



DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

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In the Matter of the)	TN-2008-4
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)	FINDINGS OF FACT,
"HAWAII PC REPAIR")	CONCLUSIONS OF LAW,
)	AND RECOMMENDED
)	ORDER
_____)	

HEARINGS OFFICER'S FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND RECOMMENDED ORDER

I. INTRODUCTION

On July 22, 2008, Matthew Griffin, doing business as Hawaii PC ("Petitioner"), filed a petition requesting the revocation of the trade name registration for "Hawaii PC Repair" pursuant to Hawaii Revised Statutes ("HRS") §482-8. The trade name, "Hawaii PC Repair", is registered to Robert A. Bergman, Jr. ("Respondent"). This matter was scheduled for hearing and a Notice of Hearing and Pre-hearing Conference was duly transmitted to the parties.

On February 24, 2009, the hearing in the above-captioned matter was convened by the undersigned Hearings Officer. Petitioner was present and appeared *pro se*. Respondent failed to appear either in person or by representation.

Having reviewed and considered the evidence and arguments presented at the hearing, together with the entire record of this proceeding, the Hearings Officer renders the following findings of fact, conclusions of law and recommended order.

II. FINDINGS OF FACT

1. Petitioner has been actively and continuously doing business in Hawaii since 2001 under the trade name, "Hawaii PC".

2. Petitioner originally registered its trade name with the Department of Commerce and Consumer Affairs ("DCCA"), State of Hawaii, on or about December 5, 2001 as a computer repair services business. Petitioner currently holds Certificate of Registration Number 4064529 for the "Hawaii PC" trade name. The certificate is set to expire on July 15, 2013.

3. Petitioner services clients primarily in the East Honolulu area.

4. On February 16, 2006, Respondent registered the trade name, "Hawaii PC Repair" with the DCCA. Respondent currently holds Certificate of Registration Number 4040832 for the trade name, "Hawaii PC Repair".

5. Respondent's mailing address is 1352 Lunalilo Home Road which is located in East Honolulu.

6. Respondent was in the computer repair business but has recently ceased doing business as "Hawaii PC Repair" in Hawaii.

7. Since 2006, a number of Petitioner's regular clients have contacted and retained Respondent's computer repair services believing that they were using the services of Petitioner.

8. On occasion, Respondent has deliberately led Petitioner's clients to believe that they were calling Petitioner.

III. CONCLUSIONS OF LAW

The undisputed evidence presented at the hearing established Petitioner's common law rights of ownership to the "Hawaii PC" trade name; that Respondent's use of "Hawaii PC Repair" is confusingly similar to "Hawaii PC"; and that, as a result, Petitioner's common law rights to "Hawaii PC" are being infringed upon by Respondent's use of "Hawaii PC Repair".

