

DEPT. OF COMMERCE AND CONSUMER AFFAIRS

2011 MAR 28 P 12: 57

HEARINGS OFFICE

## BUSINESS REGISTRATION DIVISION OFFICE OF ADMINISTRATIVE HEARINGS DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS STATE OF HAWAI'I

In the Matter of the	)	CN 2010-2
Corporate Name	) )	DIRECTOR'S ORDER OF ABATEMENT
"HAWAIITOP TOUR LLC"	)	

## **DIRECTOR'S ORDER OF ABATEMENT**

On February 16, 2011, the duly appointed Hearings Officer submitted her 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. On March 7, 2011, Hawaiitop Tour LLC, through its Manager Kyunghee K. Jeong ("Respondent") filed exceptions to the Hearings Officer's recommended decision. On March 15, 2011, TTA, Inc. ("Petitioner") by and through its attorney Christopher P. Aguilera, Esq. filed a statement in support of the Hearings Officer's recommended decision. Oral arguments were not requested.

Upon review of the entire record of this proceeding, the Director adopts the Hearings Officer's recommended decision as the Director's Order of Abatement. Accordingly, the Director finds and concludes that Petitioner has established by a preponderance of the evidence that Petitioner has common law rights of ownership to the mark "TOPTOUR" and that Respondent's use of "Hawaiitop Tour LLC" is confusingly similar to Petitioner's mark and constitutes an infringement of Petitioner's mark.

Accordingly, the Director orders that within 60 days of the issuance of this Order of Abatement, Respondent shall (1) change its registered name; (2) register the new name with

the Director; and (3) transact business in this State under its new name. If Respondent fails to comply with this Order within the 60-day period, the Respondent's registration or certificate of authority may be involuntarily dissolved or terminated, or it may be cancelled upon the filing of an affidavit from Petitioner attesting (1) to Respondent's noncompliance with the Director's Order of Abatement, (2) that the time for appeal has lapsed; and (3) that no appeal has been timely filed by Respondent. In that event, notice of the involuntary dissolution, termination, or cancellation shall be mailed to Respondent at its last known mailing address and Respondent shall wind up its affairs in accordance with Hawai'i Revised Statutes Chapters 482, 414, 414D, 415A, 425, 425E or 428, as applicable.

DATED:	Honolulu,	Hawaii,	MAR 2 3 2011	

KEALI'I S. LOPEZ

Director

Dept. of Commerce and Consumer Affairs