



DEPT. OF COMMERCE
(A) CONSUMER AFFAIRS

2011 SEP 28 P 12: 52

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

In the Matter of the) TN-2011-3
)
Trade Name) DIRECTOR'S FINAL ORDER
)
"CREDIT JUSTICE SERVICES")
_____)

DIRECTOR'S FINAL ORDER

On August 3, 2011, the duly appointed Hearings Officer issued her Findings of Fact, Conclusions of Law and Recommended Order in the above-captioned matter to the parties. The parties were provided with an opportunity to file written exceptions, however, no exceptions were filed.

Upon review of the entire record of this proceeding, the Director adopts the Hearings Officer's proposed decision as the Director's Final Order and grants Petitioner's Petition for Revocation. Accordingly the Director orders that Certificate of Registration No. 4062860 issued to Respondent on May 2, 2008, be revoked on the basis of prior ownership pursuant to HRS § 482-8.

DATED: Honolulu, Hawaii, SEP 23 2011

KEALPI S. LOPEZ
Director
Department of Commerce
and Consumer Affairs



DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

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HEARINGS OFFICE

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

In the Matter of the)	TN-2011-3
)	
Trade Name)	HEARINGS OFFICER'S FINDINGS OF
)	FACT, CONCLUSIONS OF LAW AND
"CREDIT JUSTICE SERVICES")	RECOMMENDED ORDER
_____)	

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

I. INTRODUCTION

On March 9, 2011, Credit Justice Services, LLC ("Petitioner") filed a petition requesting that the certificate of registration for the trade name "Credit Justice Services" issued by the Department of Commerce and Consumer Affairs as certificate of registration no. 4062860 to Premium Financial Services, Inc. ("Respondent") be revoked. Notice of the hearing and prehearing conference was duly transmitted to the parties by certified mail, return receipt requested. Respondent did not receive the petition and notice sent to its last known address. Accordingly, for good cause shown, Petitioner was granted leave to serve Respondent by publication of the notice. Notice was published in the *The Honolulu Star-Advertiser* on June 3, 2011 and June 10, 2011 for a hearing on June 28, 2011.

On June 28, 2011, a hearing was conducted by the undersigned Hearings Officer. Jacki Olson and appeared on behalf of Petitioner. Respondent failed to enter an appearance. Since proper service was made, the hearing proceeded as scheduled.

Having reviewed and considered the evidence and argument 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 holds U.S. Trademark Registration No. 3,394,324 for the service mark “Credit Justice Services”. It was registered on March 11, 2008. According to the registration, “Credit Justice Services” was first used in commerce by Petitioner on January 1, 2006 and “consumer credit consultation featuring consultation on restoration of ones credit and negotiating of credit terms with creditors in class 36 (U.S. CLS 100, 101 and 102).”

2. On May 2, 2008, the Department of Commerce and Consumer Affairs issued Certificate of Registration No. 4062860 to Respondent for the trade name “Credit Justice Services”. According to the Application for Registration of Trade Name, the nature of business for which the trade name was to be used was “correct inaccurate information on credit reports and credit protection.”

III. CONCLUSIONS OF LAW

Petitioner seeks revocation of the trade name “Credit Justice Services” on the basis of prior ownership under Hawaii Revised Statutes (“HRS”) § 482-8, which provides in part:

§ 482-8 Revocation of trade name registration. (a) Any person claiming to be the owner of a trade name or mark whose common law rights are infringed upon, or any entity registered or authorized to transact business under the laws of this State whose common law right to its entity name are infringed upon, by a trade name for which a certificate of registration pursuant to this chapter has been issued to any other person may file a petition in the office of the director for the revocation of the registration of that trade name. The petition shall set forth the facts and authority supporting the claim that the petitioner has common law rights of ownership of the trade name, mark or entity name, that these rights are being infringed upon by the other registered trade name that is confusingly similar to the petitioner’s trade name, mark, or entity name, and that the certificate of registration should be revoked.

The evidence presented established that Petitioner registered “Credit Justice Services” with the U.S. Patent and Trademark Office on March 11, 2008. Federal registration is *prima facie* evidence that the registrant is the owner of the mark and the registrant is granted a presumption of ownership, dating to the filing date of the application for federal registration. *See, Sengoku Works Ltd, v. RMC Intern., Ltd.* 96 F.3d 1217 (9th Cir., 1996). However, the non-registrant can rebut this presumption by a showing that he used the mark in commerce first. *Id.* Based on the record in this case, it is clear that Petitioner must be granted a presumption of ownership for “Credit Justice Services” as no evidence was presented by Respondent to rebut the presumption that Petitioner owns “Credit Justice Services” by virtue of its federal registration. Accordingly, the Hearings Officer finds that Petitioner has established by a preponderance of the evidence that it is the owner of “Credit Justice Services”.

IV. RECOMMENDED ORDER

For the reasons set forth above, the Hearings Officer recommends that the Director grant Petitioner’s Petition for Revocation and order that Certificate of Registration No. 4062860 issued to Respondent on May 2, 2008, be revoked on the basis of prior ownership pursuant to HRS § 482-8.

DATED: Honolulu, Hawaii, _____

AUG - 3 2011



SHERYL LEE A. NAGATA
Hearings Officer
Department of Commerce
and Consumer Affairs