UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

Ronald D. Coleman (RC 3875) GOETZ FITZPATRICK LLP One Penn Plaza—Suite 4401 New York, New York 10119 (212) 695-8100 rcoleman@goetzfitz.com Attorneys for Plaintiff Boarding School Review, LLC

BOARDING SCHOOL REVIEW, LLC,

Plaintiff,

- *vs*. -

DELTA CAREER EDUCATION CORPORATION, WESTON EDUCATIONAL, INC., BERKS TECHNICAL INSTITUTE, INC., CAREER TRAINING SPECIALISTS, INC., MCCANN EDUCATION CENTERS, INC., MILLER-MOTTE BUSINESS COLLEGE, INC., SOUTHWEST BUSINESS COLLEGES, INC., and THE MIAMI-JACOBS BUSINESS COLLEGE CO., CIVIL ACTION NO.

1:11-cv-08921-DAB

FIRST AMENDED COMPLAINT

Defendants.

Plaintiff, Boarding School Review, LLC ("BSR"), by and through its undersigned attorneys,

for its complaint against the defendants named herein, alleges as follows:

THE PARTIES

1. Plaintiff BSR is a New York limited liability company with a principal place of

business at 141 Fifth Ave., New York, New York.

2. Defendants Delta Career Education Corporation, a Delaware corporation; Berks

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Technical Institute, Inc., a Delaware corporation; Career Training Specialists, Inc., a Louisiana corporation; McCann Education Centers, Inc., a Pennsylvania corporation; Miller-Motte Business College, Inc., a Tennessee corporation; Southwest Business Colleges, Inc., an Arizona Corporation; and The Miami-Jacobs Business College Co., an Ohio corporation, all have a common principal place of business at 4525 Columbus Street, Suite 101, Virginia Beach, Virginia (collectively, "Delta").

3. Defendant Weston Educational, Inc. is a Colorado corporation with a principal place of business at 2001 Lowe Street, Fort Collins, Colorado ("Weston").

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338(a), 1367 and 2201, in that this case arises under the trademark laws and copyright laws of the United States, the Federal Declaratory Judgment Act and pursuant to the principles of supplemental jurisdiction.

5. Personal jurisdiction over defendants is vested in this Court because they are doing business in the State of New York or otherwise have engaged in acts and conduct purposefully directed towards plaintiff, a New York limited liability company whose principal place of business is in the State of New York.

6. Venue is proper in the United States District Court for the Southern District of New York pursuant to 28 U.S.C. §1121 (b) and (c) because a substantial portion of the harm sought to be avoided, and substantial part of the events and omissions giving rise to the claims herein, have occurred, continue to occur and threaten to occur in this District.

FACTS

7. BSR operates an Internet website called Community College Review, found at the Universal Resource Locator <u>www.communitycollegereview.com</u>, that permits Internet users to find

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free profiles of community colleges and their surrounding communities throughout the United States.

8. Community College Review earns revenue by the sale of advertising on its website.

9. Because the usefulness of Community College Review is central to its success as a resource and a business, and as a matter of commercial ethics, BSR makes every reasonable effort to insure that information on its profiles is accurate and up to date.

10. For this reason, school administrators may, free of charge, update and expand their college's profile at any time, on Community College Review merely by requesting log-in information and confirming that they are authorized to represent a given school.

11. Defendants each operate postsecondary schools in various fields, each of which is profiled on BSR's Community College Review's website.

12. On April 9, 2010, counsel for Delta wrote to plaintiff and claimed that plaintiff's use of various trademarks owned or claimed by Delta and used in connection with its various for-profit postsecondary schools (the "Delta Marks") were being infringed on BSR's Community College Review website. A true copy of that correspondence and the enclosures transmitted with it is attached hereto as Exhibit A.

13. Delta claimed that BSR's actions constituted trademark infringement, dilution, unfair competition under both federal and state law.

14. Delta also claimed that BSR's actions constituted copyright infringement.

15. Delta demanded that BSR "cease any and all unauthorized use of the Delta Marks and all variations thereof. This includes all advertising and promotional efforts, including Internetrelated activities and any keywords, adwords or domain names that make any reference to the Delta Marks."

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16. In response to Delta's letter of April 9, 2010, defendant removed "screenshots," which are images depicting the website of the school that is the subject of a given profile, for the schools identified in the letter.

17. On November 18, 2011, Delta's counsel wrote to BSR again and demanded that all the actions demanded in its April 9, 2010 correspondence be taken immediately. A true copy of that correspondence and the enclosures transmitted with it is attached hereto as Exhibit B.

18. Delta's November 18, 2011 correspondence also demanded that BSR remove from the Community College Review website certain videos available on YouTube, the video sharing and social networking website owned and operated by Google, Inc.

19. The videos referred to by Delta were placed on the Community College Review website by utilizing YouTube's publicly-available "embed" code, which can be obtained, copied and pasted by any user that clicks a button reading "share" found beneath the videos on the YouTube site.

20. Delta demanded, in its November 18, 2011 letter, that BSR cease and desist "all and infringing use of Delta's trademarks and copyrights on your websites including <u>www.communitycollegereview.com</u>, and in any adword or other paid keyword accounts . . ." and stated that its counsel would "take action to preserve our client's legal rights" absent its satisfaction that BSR had complied.

21. Delta also claimed that BSR was engaged in false or deceptive advertising under federal and state law on the ground that certain information on Community College Review profiles relating to Delta schools was incorrect or inaccurate.

22. On information and belief, Delta has at no time made any effort to update or correct any information on Community College Review.

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23. Delta's November 18, 2011 letter, while claiming that information on Community College Review contains "information and statistics about Delta schools+- which may be outdated, inaccurate or omit relevant information," provided neither examples of specific outdated, inaccurate or incomplete information to BSR, nor any up-to-date, accurate or complete information, such that BSR could make appropriate changes.

24. On November 23, 2011, counsel for defendant Weston – which is the same law firm and attorney as counsel for defendant Delta – wrote to plaintiff and claimed that plaintiff's use of various trademarks owned or claimed by Weston and used in connection with its various postsecondary schools (the "Weston Marks") were being infringed on BSR's Community College Review website. A true copy of that correspondence and the enclosures transmitted with it is attached hereto as Exhibit C.

25. Weston claimed that BSR's actions constituted trademark infringement, dilution, unfair competition under both federal and state law.

26. Weston also claimed that BSR's actions constituted copyright infringement, including by virtue of the posting on the Community College Review website of certain videos available on YouTube.

27. Weston also claimed that BSR was engaged in false or deceptive advertising under federal and state law on the ground that certain information on Community College Review profiles relating to Weston schools was incorrect or inaccurate.

28. On information and belief, Weston has at no time made any effort to update or correct any information on Community College Review.

29. Weston's November 23, 2011 letter, while claiming that information on Community College Review contains "information and statistics about Heritage which may be outdated, inaccurate or omit relevant information," provided neither examples of specific outdated, inaccurate

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or incomplete information to BSR, nor any up-to-date, accurate or complete information, such that BSR could make appropriate changes.

30. Referring to the Weston Marks as the "Heritage Marks" as set forth in its letter, Weston demanded that BSR "cease any and all unauthorized use of the Heritage Marks, copyrighted content and all variations thereof. This includes all advertising and promotional efforts, including Internet-related activities and any keywords, adwords or domain names that make any reference to the Heritage Marks" and threatened legal action against BSR absent the same.

FIRST CAUSE OF ACTION Declaratory Judgment of Trademark Non-Infringement, Non-Dilution and No Unfair Competition – Delta

31. Plaintiff incorporates by reference the allegations contained in the foregoing paragraphs.

32. Plaintiff's use of the alleged Delta Marks does not cause a likelihood of confusion and does not constitute infringement.

33. Plaintiff's use of the alleged Delta Marks is fair use and does not constitute infringement.

34. Plaintiff's use of the alleged Delta Marks does not damage Delta and does not constitute infringement

35. By accusing plaintiff of federal and state trademark infringement, defendants have created a present and actual controversy between the parties.

36. Delta's actions have caused plaintiff to bring this action which is the only means for it to maintain its lawful activities.

37. Plaintiff's remedy at law, in the event Delta seeks to obtain a preliminary injunction, is not adequate to compensate it for the injuries threatened or inflicted by Delta.

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38. Plaintiff requests that this Court declare and adjudicate the parties' respective rights and duties with respect to plaintiff's use of the trademarks owned, associated with, or allegedly owned by defendants.

SECOND CAUSE OF ACTION Declaratory Judgment of Trademark Non-Infringement, Non-Dilution and No Unfair Competition – Weston

39. Plaintiff incorporates by reference the allegations contained in the foregoing paragraphs.

40. Plaintiff's use of the alleged Weston Marks does not cause a likelihood of confusion and does not constitute infringement.

41. Plaintiff's use of the alleged Weston Marks is fair use and does not constitute infringement.

42. Plaintiff's use of the alleged Weston Marks does not damage Weston and does not constitute infringement.

43. By accusing plaintiff of federal and state trademark infringement, Weston has created a present and actual controversy between the parties.

44. Weston's actions have caused plaintiff to bring this action which is the only means for it to maintain its lawful activities.

45. Plaintiff's remedy at law, in the event Weston seeks to obtain a preliminary injunction, is not adequate to compensate it for the injuries threatened or inflicted by Weston.

<u>THIRD CAUSE OF ACTION</u> Declaratory Judgment of Copyright Non-Infringement – Delta

46. Plaintiff incorporates by reference the allegations contained in the foregoing paragraphs.

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47. Plaintiff's use of works whose copyright is allegedly owned by Delta does not infringe such copyright.

48. Plaintiff's use of works whose copyright is allegedly owned by Delta is fair use and does not constitute infringement.

49. Plaintiff's use of works whose copyright is allegedly owned by Delta does not damage Delta and does not constitute infringement.

50. Plaintiff's use of works whose copyright is allegedly owned by Delta, but which Delta has placed or has allowed to be placed into the public domain, does not constitute infringement.

51. Upon information and belief, Delta has not registered the copyright in some or all of the works in which it claims to own the copyright, such that it has no right to proceed in or to threaten an action for enforcement thereof or to recover statutory damages or attorneys' fees or costs.

52. By accusing plaintiff of copyright infringement, Delta has created a present and actual controversy between the parties.

53. Delta's actions have caused plaintiff to bring this action which is the only means for it to maintain its lawful activities.

54. BSR's remedy at law, in the event defendant Delta seeks to obtain a preliminary injunction, is not adequate to compensate BSR for the injuries threatened or inflicted by Delta.

55. Plaintiff requests that this Court declare and adjudicate the parties' respective rights and duties with respect to plaintiff's use of the work whose copyright is allegedly owned by Delta.

FOURTH CAUSE OF ACTION Declaratory Judgment of Copyright Non-Infringement – Weston

56. Plaintiff incorporates by reference the allegations contained in the foregoing paragraphs.

57. Plaintiff's use of works whose copyright is allegedly owned by Weston does not infringe such copyright.

58. Plaintiff's use of works whose copyright is allegedly owned by Weston is fair use and does not constitute infringement.

59. Plaintiff's use of works whose copyright is allegedly owned by Weston does not damage Weston and does not constitute infringement.

60. Plaintiff's use of works whose copyright is allegedly owned by Weston, but which Weston has placed or has allowed to be placed into the public domain, does not constitute infringement.

61. Upon information and belief, Weston has not registered the copyright in some or all of the works in which it claims to own the copyright, such that it has no right to proceed in or to threaten an action for enforcement thereof or to recover statutory damages or attorneys' fees or costs.

62. By accusing plaintiff of copyright infringement, Weston has created a present and actual controversy between the parties.

63. Weston's actions have caused plaintiff to bring this action which is the only means for it to maintain its lawful activities.

64. BSR's remedy at law, in the event defendant Weston seeks to obtain a preliminary injunction, is not adequate to compensate BSR for the injuries threatened or inflicted by Weston.

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65. Plaintiff requests that this Court declare and adjudicate the parties' respective rights and duties with respect to plaintiff's use of the work whose copyright is allegedly owned by Weston.

<u>FIFTH CAUSE OF ACTION</u> Declaratory Judgment of No Deceptive or False Advertising – Delta

66. Plaintiff incorporates by reference the allegations contained in the foregoing paragraphs.

67. Plaintiff has not made a false or misleading statement of fact in a commercial advertisement about Delta's schools.

68. No statement made by plaintiff has either deceived or had the capacity to deceive a substantial segment of potential consumer with respect to any fact about Delta's schools that it is likely to influence the consumer's purchasing decision.

69. No statement made by plaintiff has caused or is likely to cause Delta injury.

70. Plaintiff's conduct does not constitute deceptive or false advertising.

71. By accusing plaintiff of federal and state trademark infringement, Delta has created a present and actual controversy between the parties.

72. Delta's actions have caused plaintiff to bring this action which is the only means for it to maintain its lawful activities.

73. Plaintiff's remedy at law, in the event Delta seeks to obtain a preliminary injunction, is not adequate to compensate it for the injuries threatened or inflicted by Delta.

74. Plaintiff requests that this Court declare and adjudicate the parties' respective rights and duties with respect to plaintiff's conduct.

FIFTH CAUSE OF ACTION Declaratory Judgment of No Deceptive or False Advertising – Weston

75. Plaintiff incorporates by reference the allegations contained in the foregoing paragraphs.

76. Plaintiff has not made a false or misleading statement of fact in a commercial advertisement about Weston's schools.

77. No statement made by plaintiff has either deceived or had the capacity to deceive a substantial segment of potential consumer with respect to any fact about Weston's schools that it is likely to influence the consumer's purchasing decision.

78. No statement made by plaintiff has caused or is likely to cause Weston injury.

79. Plaintiff's conduct does not constitute deceptive or false advertising.

80. By accusing plaintiff of federal and state trademark infringement, Weston has created a present and actual controversy between the parties.

81. Weston's actions have caused plaintiff to bring this action which is the only means for it to maintain its lawful activities.

82. Plaintiff's remedy at law, in the event Weston seeks to obtain a preliminary injunction, is not adequate to compensate it for the injuries threatened or inflicted by Weston.

83. Plaintiff requests that this Court declare and adjudicate the parties' respective rights and duties with respect to plaintiff's conduct.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Boarding School Review, LLC prays for judgment against defendants Delta Career Corporation and Weston Educational, Inc. as follows:

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- 1. For a declaration that plaintiff's use of the various trademarks and alleged trademarks associated with the each defendant as set forth herein and in the attachments hereto does not infringe any trademark or other right held by any defendant;
- 2. For a declaration that plaintiff's use of the various works in which copyright is alleged to be owned by each defendant as set forth herein and in the attachments hereto does not infringe any copyright or other right held by any defendant;
- 3. For a declaration that plaintiff's conduct as set forth herein and in the attachments hereto does not constitute false or misleading advertising;
- 4. For a declaration that defendants take nothing from plaintiff in respect of their threatened claims;
- 5. For other remedies provided by statute and other applicable law;
- 6. For reasonable attorneys' fees and costs; and
- 7. Such other legal and equitable relief as the Court deems appropriate.

GOETZ FITZPATRICK LLP

By:

RONALD D. COLEMAN (RC 3875)

One Penn Plaza—Suite 4401 New York, New York 10119 (212) 695-8100 <u>rcoleman@goetzfitz.com</u> *Attorneys for Plaintiff Boarding School Review, LLC*

Dated: May 30, 2012 New York, New York Case 1:11-cv-08921-DAB Document 10 Filed 06/15/12

EXHIBIT A

Duane Morris[®]

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FIRM and AFFILIATE OFFICES

055 241 763 Post-it® eFlags

MICHELLE HON DONOVAN DIRECT DIAL: 619-744-2219 PERSONAL FAX: +1 619 923 2967 *E-MAIL*: mhon@duanemorris.com

www.duanemorris.com

April 9, 2010

VIA FEDEX

Boarding School Review 350 West 42nd Street, 44H New York, NY 10036 NEW YORK LONDON SINOAPORE LOS ANGELES CHICAGO HOUSTON HANOI PHILADELPHIA SAN DIEGO SAN FRANCISCO BALTIMORE BOSTON WASHINGTON, DC LAS VEGAS ATLANTA ΜΙΛΜΙ PITTSBURGH NEWARK BOCA RATON WILMINGTON CHERRY HILL PRINCETON LAKE TAHOE HO CHI MINH CITY

Re: Trademark Infringement - communitycollegereview.com

Dear Sir/Madam:

We represent Delta Career Education Corporation ("Delta") in its trademark matters. Delta operates several postsecondary schools, including Miller-Motte Technical College. Our client has trademark rights to the mark MILLER-MOTTE for its educational services dating back almost 100 years (see U.S. Reg. No. 3,714,885).

It has come to our attention that Boarding School Review has been using the MILLER-MOTTE mark and numerous other Delta Marks on various websites, including www.communitycollegereview.com, in order to generate Internet leads for potential students. For example, the MILLER-MOTTE mark and logo appears on an unauthorized landing page located on the www.communitycollegereview.com website (see enclosed). Additionally, the MILLER-MOTTE mark appears as the title of your web page and in the description of your web page in the natural search result hit on Google (see enclosed).

Delta also operates schools under the following trademarks ("Delta Marks") most, if not all of which, appear on the www.communitycollegereview.com website:

Academy of Court Reporting Academy of Court Reporting Technology ACRT Berks Technical Institute BTI

DUANE MORRIS LLP

Boarding School Review April 9, 2010 Page 2

> Miller-Motte Miller-Motte College Miller-Motte Technical College Tucson College Institute for Business and Technology IBT McCann School of Business and Technology Lamson College Lamson Institute Miami-Jacobs Career College National Career Education NCE

Your use of the Delta Marks has not been authorized by Delta and is actionable under United States federal law as trademark infringement, dilution, and unfair competition under the Lanham Act and common law infringement and unfair competition under state law. In a lawsuit brought under the applicable federal and state laws, Delta would be entitled to seek your profits, damages (including punitive damages), court costs and an injunction barring you from using the Delta Marks, or any copies or simulations thereof, in connection with your services or goods. In addition to damages that Delta can recover for such practices, Delta can also demand an accounting of all leads received from the unauthorized landing pages and all customers to whom Boarding School Review sold such leads.

Additionally, as you have now been notified that your actions violate our client's trademarks, any continued conduct may be considered deliberate and willful. As a result, you may be subject to attorneys' fees and triple damages, in addition to the relief set forth in the previous paragraph.

Furthermore, the unauthorized landing pages have copied and published Delta's websites in violation of the Copyright Act.

On behalf of Delta, we demand that you cease any and all unauthorized use of the Delta Marks and all variations thereof. This includes, all advertising and promotional efforts, including Internet-related activities and any keywords, adwords or domain names that make any reference to the Delta Marks. Boarding School Review April 9, 2010 Page 3

Please confirm in writing, no later than April 16, 2010, that Boarding School Review:

(i) has ceased all use and planned use of the Delta Marks and any other name or mark confusingly similar to or incorporating the Delta Marks, including without limitation all references to the Delta Marks in any advertisements;

(ii) has removed all landing pages that contain the Delta Marks in whole or in

part;

(iii) has removed any adwords that contain any Delta Marks, in whole or in part, from all adwords accounts;

(iv) has removed any key words that contain any Delta Marks, in whole or in part, and have included the Delta Marks as a negative key word for all websites; and

(v) has removed all Delta websites from communitycollegereview.com.

If we do not receive such confirmation in writing by <u>April 16, 2010</u>, our client will be forced to seek appropriate remedies under law and equity. This letter is not the first in a series of demand letters. We shall provide you with no further informal notices or demands. We write to give you the opportunity to do the right thing and cease your unlawful use of the Delta Marks. If you do not immediately cease all use of the Delta Marks, we shall review all alternatives, including filing a lawsuit to enforce our client's rights to the full limits of the law.

The issues, facts, concerns and statements made herein are for purposes of settlement only, and no use of these statements beyond these considerations is permissible. The statements made herein are made without prejudice to any rights, claims or defenses that our client may have in the pending matter. All rights are reserved.

Respectfully yours,

Michelle Hon Donovan

Enclosures

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bcc Ed Moser Terry Craft Greg Gragg Keith Zakarin wilmington.apartmenthomeliving.com/colleges.../miller-motte-college-apartments -Cached - Similar

Miller-motte Technical College - Wilmington, North Carolina/NC ... Jun 11, 2009 ... Find a profile of Miller-motte Technical College in Wilmington, North Carolina/NC. View school profile, statistics, maps and more. Show map of 5000 Market St. Wilmington, NC 28405

www.communitycollegereview.com/school_overview/915 - Cached - Similar

Searches related to: miller-motte college in north carolina

miller motte technical college nc miller motte technical college raleigh nc

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miller-motte college in north carolina

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http://www.communitycollegereview.com/school_overview/990 Filed 06/15/12 Page 19 of 46

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Miami-Jacobs Career College

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School Overview:			Most Popular
	Miami-Jacobs Career	Community College Avg.	About College
County	Montgomery County, OH	-	Affording College
Title IV Eligible	YES	YES	Attending College
Carnegie Classification	AssociatesPrivate For-profit	AssociatesPrivate For-profit	Courses in College
Institution Level	At least 2 years but < 4 years	At least 2 years but < 4 years	College Funding
Institution Control	Private, for-profit	Public	College Policies
Full-Time Undergraduate	605	884	Career Training
			Transfer Process
	100%	100%	Community College News
	龖 Full-Time Undergr	醊 Full-Time Undergr	
Total Enrollment	605	1,634	
% Students Receiving Some Financial Aid	95%	83%	
% Students Receiving Federal Grants	86%	50%	
Avg. Amount Of Federal Grants Received	\$2,994	\$3,031	
% Students Receiving State/Local Grants	- 80%		
Avg. Amount Of State/Local Grants Received	\$2.053		
% Students Receiving Loans	95%	52%	
Avg. Amount Of Loan Received \$7,264		\$4,041	
Related School Videos	5:		

Miami-Jacobs

Miami-Jacobs

Miami-Jacobs Career College - Dayton, Ohio/OH - Community Colleg. http://www.communitycollegereview.com/school_overview/990 Case 1:11-CV-08921-DAB Document 10 Filed 06/15/12 Page 20 of 46

Garces Sollage Ohio Solution Solution 3 months ago ISEO Miami Image: Visit School Website 3 months ago Image: Administrators - Update School F rofile Image: Free Scholarship Money Search	Career College Columbus OH Medical Tr 2 months ago	<u>Career College</u> <u>Cincinnati</u> 11 months ago		
Like Send Sign Up to see what your friend Miami-Jacobs Iike. Miami-Jacobs AdSancescologillege Career College Community Colleges Requests free Information from Community Colleges In Your	ls <u>Miami-Jacobs</u> <u>Career College</u> 0 months ago	<u>Kasich on the State</u> <u>Budget</u> 2 years ago		
Area! www.collegebound.net LPN to RN Online Programs – F:N/ADIN				
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This page is intended to serve as a community contact site for present, past and future **Constructe Filer Blouius** and place in More Medern Languages program at WC specializes in Moms Margilobaling Epacitational terrature and language and secondary-education (AYA) Online! English and Spanish literature and language arts. ...

schools.classesandcareers.com

Inktreen And Aigh School - Your Child

Deserves an Outstanding Education Discover • Miami-Jacobs no longer approved by Regents (The Columbus Dispatch)

K12 Joday! Posted on February 1, 2011 at 05:44:00 pm

WWW.K12.com Miami-Jacobs Career College no longer wants its associate-degree programs approved by the Ohio Board of Regents. Miami-Jacobs' parent company withdrew its request for authorization by the Regents on Jan. 21. That same day the Ohio Board of Nursing also revoked...

 Nursing program stays open, for now (Dayton Daily News) posted on January 26, 2011 at 02:48:33 am

COLUMBUS — The nursing program at Miami-Jacobs Career College will stay open for weeks, maybe months, pending an appeal by the school of the Ohio Nursing Board's decision to revoke the college's license. Franklin County Common Pleas Judge Richard A. Frye granted the school's request for a stay during an emergency hearing Tuesday, hours after the college's attorney Elizabeth Collis filed an appeal ...

- <u>Nursing program loses approval (The Columbus Dispatch)</u> posted on January 23, 2011 at 11:29:30 am The Ohio Board of Nursing has voted to withdraw approval for Miami-Jacobs Career College's practical nursing program.
- <u>Bad news continues for Miami-Jacobs (Dayton Daily News)</u> posted on January 22, 2011 at 02:12:52 am
 <u>COLUMBUS</u> — The Ohio Board of Nursing's decision to withdraw approval for Miami-Jacobs Career College's troubled nursing program is the latest blow after a tough year for the college and its health programs. In September , school officials withdrew their appeal of a decision by the Commission on Accreditation for Respiratory Care resulting in loss of accreditation of its respiratory care program.

View all past news stories

School Map:

Miami-Jacobs Career College - Dayton, Ohio/OH - Community Colleg. Case 1:11-cv-08921-DAB Document 10 http://www.communitycollegereview.com/school_overview/990 Filed 06/15/12 Page 21 of 46

Get: driving directions 🏶 Weather: 10-day forecast or monthly climate averages.

Nearby Schools:

- 1. International College Of Broadcasting 126 students 2.6 mi. away view location
- 2. ITT Technical Institute-Dayton 431 students 5.1 mi. away view location
- 3. Miami University-Middletown 2,029 students 18.6 mi. away view location
- 4. Clark State Community College 3,424 students 22.6 mi. away view location



Tip: Zoom in/out using the slider below. View aerial photos using the Satellite or Hybrid buttons.

Tip: Neighborhood view shown below (address is approximate). School premises may be visible by rotating map.

Note: Data has been gathered from schools, government and commercial data sources.

More Options:

- Request Info:
 Get info / application from Miami-Jacobs Career College
- View website: P Visit school website
- · Tools: Search schools by zip ,Compare schools side-by-side
- · Return to: Ohio community colleges, Home

Recent Community College Articles:

- · More Smoking Bans at Community Colleges Billow, But Not All is Sunny Even more community colleges are banning smoking on campus, but not everyone is happy about the change. We'll take a look at what students have to say about the bans and whether they can even be enforced effectively.
- + 2+2 Programs Going Strong at Community Colleges Nationwide Learn about programs offered by community colleges that allow students to earn a two-year degree and then go on to earn a bachelor's degree either online or at a nearby university.
- Manufacturing Training Expanding at Community Colleges Nationwide With a shortage of trained workers in the manufacturing industry, community colleges are stepping up to provide the necessary education to get more prepared workers into the industry as quickly as possible.
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Miami-Jacobs Career College - Dayton, Ohio/OH - Community Colleg. Case 1:11-cv-08921-DAB Document 10 Filed 06/15/12 Page 24 of 46

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http://www.communitycollegereview.com/school_overview/990 Filed 06/15/12 Page 25 of 46 Miami-Jacobs Career College - Dayton, Ohio/OH - Community Colleg... Case 1:11-CV-08921-DAB Document 10



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<u>OH)</u>



Daymar College (Chillicothe, Bryant and Stratton College-Parma (Parma, OH)

(Cleveland, OH)

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Miller-Motte Technical College

1820 Business Park Dr, Clarksville, TN, 37040 - () Map

School Overview:	Miller-Motte Technical	Community College Avg.	Most Popular		
County	Montgomery County, TN	······	About College		
		-	Affording College		
Title IV Eligible	YES	YES	Attending College		
Carnegie Classification	AssociatesPrivate For-profit	AssociatesPrivate For-profit	Courses in College		
Institution Level	At least 2 years but < 4 years	At least 2 years but < 4 years	College Funding		
Institution Control	Private, for-profit	Public	College Policies		
Full-Time Undergraduate	405	884	Career Training		
Part-Time Undergraduate	249	1,094	Transfer Process		
	38-1% 61.9%	55.3% ^{44,7%}	<u>Community College News</u>		
	龖 Full 龖 Part	躑 Full 龖 Part			
Total Enrollment	654	1,634			
% Students Receiving Some Financial Aid	79%	83%			
% Students Receiving Federal Grants	60%	50%			
Avg. Amount Of Federal Grants Received	\$3,524	\$3,031			
% Students Receiving State/Local Grants	3%	29%			
Avg. Amount Of State/Local Grants Received	\$1,548	\$1,437			
% Students Receiving Loans	% Students Receiving Loans 64%				
Avg. Amount Of Loan Received \$3,593		\$4,041			
Related School Videos:					

Miller-Motte Technical College - Clarksville, Tennessee/TN - Commun.... http://www.communitycollegereview.com/school_overview/1474 Filed 06/15/12 Page 27 of 46



Chattanooga TN H... 1 month ago

NC SC GA TN VA

Miller-Motte Technical College Clarksville TN Trad... 3 months ago

Miller-Motte **Technical College** Nashville Energy <u>Тг...</u> 11 months ago

MS Related Facebook AtumniaGroups:



MMTC-Healing Spirit Massage Club

This group is for Miller-Motte Technical College's "Healing Spirit Massage Club". It is currently under construction... Any suggestions or what have you, please feel free to suggest away. I am building this to better organize and coordinate the club to bring it back to life. ~Kai~



Student Association of Surgical Technologists

A group designed for the Student Association of Surgical Technologists attending Miller-Motte Technical College in Lynchburg Virginia.



Medical Assistants of Miller-Motte Technical College Medical Assistants, new,old or upcoming graduates

In the News:

· Miller-Motte Technical College has accreditation issues to address (The Wilmington Star-News) posted on May 4, 2011 at 06:44:02 pm

A for-profit college with a significant Wilmington presence is under scrutiny by the group that issues its accreditation.

- Miller-Motte Tech campus planned (The Favetteville Observer) posted on June 11, 2009 at 08:50:28 pm Miller-Motte Technical College plans to open a Fayetteville campus on Ramsey Street inside
- what used to be Wal-Mart.

View all past news stories

School Map:

Get: driving directions A Weather: 10-day forecast or monthly climate averages.

Nearby Schools:

- 1. Draughons Junior College 512 students 0.2 mi, away view location
- 2. North Central Institute 117 students 6.9 mi. away view location
- 3. Hopkinsville Community College 3,233 students 24.3 mi. away view location



Tip: Zoom in/out using the slider below. View aerial photos using the Satellite or Hybrid buttons.

Note: Data has been gathered from schools, government and commercial data sources.

More Options:

- Request Info:
 Get info / application from Miller-Motte Technical College
- View website:
 <u>Visit school website</u>
- · Tools: Search schools by zip ,Compare schools side-by-side
- Return to: Tennessee community colleges, Home

Recent Community College Articles:

- More Smoking Bans at Community Colleges Billow, But Not All is Sunny Even more community colleges are banning smoking on campus, but not everyone is happy about the change. We'll take a look at what students have to say about the bans and whether they can even be enforced effectively.
- <u>2+2 Programs Going Strong at Community Colleges Nationwide</u> Learn about programs offered by community colleges that allow students to earn a two-year degree and then go on to earn a bachelor's degree either online or at a nearby university.
- <u>Manufacturing Training Expanding at Community Colleges Nationwide</u>
 With a shortage of trained workers in the manufacturing industry, community colleges are stepping up to provide the necessary education to get more prepared workers into the industry as quickly as possible.
- More articles: <u>Most Recent</u>, <u>Most Popular</u>, <u>About College</u>, <u>Affording College</u>, <u>Attending</u> <u>College</u>, <u>Courses in College</u>

Miller-Motte Technical College - Clarksville, Tennessee/TN - Commun... Case 1:11-CV-08921-DAB Document 10 http://www.communitycollegereview.com/school_overview/1474

Featured Partners:

Miller-Motte Technical College - Clarksville, Tennessee/TN - Commun... Case 1:11-cv-08921-DAB Document 10 http://www.communitycollegereview.com/school_overview/1474 Filed 06/15/12 Page 31 of 46



Northeast State Technical Community College (Blountville, TN)



Motlow State Community College (Tullahoma, TN)

NORTH CENTRAL
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- Star same laters for a first lang such that Ange, mail to start a first land. A such a strain first, based - start a strain a strain a strain a strain a strain based - strain a stra
And Alexandron and Al
North Central Institute

(Clarksville, TN)



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MICHELLE HON DONOVAN DIRECT DIAL: +1 619 744 2219 PERSONAL FAX: +1 619 923 2967 *E-MAIL*: mhon@duanemorris.com

www.duanemorris.com

November 18, 2011

VIA U.S. MAIL AND EMAIL

Boarding School Review Network Solutions P.O. Box 459 Drums, PA 18222 information@communitycollegereview.com

Re: <u>Trademark and Copyright Infringement –</u> <u>www.communitycollegereview.com</u>

Dear Sir/Madam:

We sent correspondence dated April 9, 2010, notifying Boarding School Review of trademark infringement of Delta Career Education Corporation's ("Delta") trademarks at the website www.communitycollegereview.com (*see* Exhibit A). It was our understanding that you would remove all infringing pages. It has come to our attention that you failed to do so.

As you know, Delta operates schools under the following trademarks ("Delta Marks"):

Academy of Court Reporting Academy of Court Reporting Technology ACRT Berks Technical Institute BTI Miller-Motte Miller-Motte College Miller-Motte Technical College Tucson College Institute for Business and Technology IBT McCann School of Business and Technology Lamson College Lamson Institute

DUANE MORRIS LLP

DuaneMorris[®]

NEW YORK LONDON SINGAPORE PHILADELPHIA CHICAGO WASHINGTON, DC SAN FRANCISCO SAN DIEGO BOSTON HOUSTON LOS ANGELES HANOI HO CHI MINH CITY ATLANTA BALTIMORE WILMINGTON MIAMI PITTSBURGH NEWARK LAS VEGAS CHERRY HILL BOCA RATON LAKE TAHOE

FIRM and AFFILIATE OFFICES

MEXICO CITY ALLIANCE WITH MIRANDA & ESTAVILLO Boarding School Review November 18, 2011 Page 2

> Miami-Jacobs Career College National Career Education NCE The Creative Circus Career Technical College CTC

Use of any of the Delta Marks is unauthorized and actionable under federal and state trademark and unfair competition laws. As you have previously been notified that your actions violate our client's trademark rights, your continued conduct may be considered deliberate and willful.

It has also come to our attention that you added infringing content to the www.commuitycollegereview.com website including, but not limited to You Tube videos. This content violates Detla's copyright rights. Copyright violations are actionable under 17 U.S.C. 504. The consequences of willful copyright infringement may include statutory damages of up to \$150,000 per work.

Finally, the website also contains unauthorized and potentially misleading information and statistics about Delta schools, which may be outdated, inaccurate, or omit relevant information (*see* Exhibit B). It also contains links to alleged alumni Facebook pages, none of which actually relate to any Delta school or alumni group. Therefore, Boarding School Review's actions constitute false or deceptive advertising under federal and state law.

Please confirm in writing, no later than December 2, 2011, that you:

(i) have ceased all use and planned use of the Delta Marks and any other name or mark confusingly similar to or incorporating the Delta Marks, including without limitation all references to the Delta Marks in any paid advertisements or on its websites (including any title, metadata or keywords), including but not limited to www.communitycollegereview.com;

(ii) have removed all paid advertisements that reference or incorporate the Delta Marks from the Internet;

(iii) have removed any adwords that contain any Delta Marks in whole or in part, from all adwords accounts;

(iv) have removed any keywords that contain any Delta Marks, in whole or in part, and have included all the Delta Marks as negative keywords associated for all your websites; and

(v) have removed all copyrighted images from any and all websites including, but not limited to, www.communitycollegereview.com.

Boarding School Review November 18, 2011 Page 3

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This is our final demand that you cease and desist all and infringing use of Delta's trademarks and copyrights on your websites including www.communitycollegereview.com, and in any adword or other paid keyword accounts as described in Exhibit A. Unless your written reply is received by <u>December 2, 2011</u>, we will assume that you are not interested in an amicable resolution to this matter and will take action to preserve our client's legal rights.

The issues, facts, concerns and statements made herein are for purposes of settlement only, and no use of these statements beyond these considerations is permissible. The statements made herein are made without prejudice to any rights, claims or defenses that our client may have in the pending matter. All rights are reserved.

Very truly yours,

Michelle Hon Donovan

Enclosures

EXHIBIT C

DuaneMorris[®]

MICHELLE HON DONOVAN DIRECT DIAL: +1 619 744 2219 PERSONAL FAX: +1 619 923 2967 *E-MAIL*: mhon@duanemorris.com

www.duanemorris.com

November 23, 2011

VIA U.S. MAIL AND EMAIL

Boarding School Review Network Solutions P.O. Box 459 Drums, PA 18222 information@communitycollegereview.com

Re: <u>Trademark and Copyright Infringement –</u> <u>www.communitycollegereview.com</u>

Dear Sir/Madam:

We represent Weston Educational, Inc., d/b/a Heritage Education, Heritage College and Heritage Institute ("Heritage") in its trademark matters. Heritage operates several postsecondary schools that offer a variety of degree programs in the healthcare field. Heritage has campuses in Arkansas, Colorado, Florida, Kansas, Missouri, Oklahoma and Virginia. Heritage also offers its students a distance learning option. Our client has trademark rights to the marks HERITAGE INSTITUTE, HERITAGE COLLEGE and HERITAGE EDUCATION ("Heritage Marks") for its educational services, which date back to at least 1986 (*see*, U.S. Reg. Nos. 3,284,433 and 3,605,378 enclosed as Exhibit A).

It has come to our attention that Boarding School Review ("BSR") is using the Heritage Marks at the website www.comunitycollegereview.com in order to increase web traffic so it can generate revenue from lead and ad sales (*see*, Exhibit B). As Exhibit B shows, a Campus Explorer lead collection form appears in close proximity to a Heritage Mark. Through this lead form, BSR offers to provide information about Heritage if the potential student fills in the "Get Admissions Info on Heritage College"

DUANE MORRIS LLP

MEXICO CITY ALLIANCE WITH MIRANDA & ESTAVILLO Boarding School Review November 23, 2011 Page 2

form. However, neither BSR nor Campus Explorer is authorized to collect leads on behalf of Heritage, nor are they able to provide such information as represented on your website. BSR's use of the Heritage Marks to redirect potential students for lead generation purposes constitutes trademark infringement and is also fraudulent and misleading.

Your use of the Heritage Marks has not been authorized by Heritage and is actionable under United States federal law as trademark infringement, dilution, and unfair competition under the Lanham Act and common law infringement and unfair competition under state law. In a lawsuit brought under the applicable federal and state laws, Heritage would be entitled to seek your profits, damages (including punitive damages), court costs and an injunction barring you from using the Heritage Marks, or any copies or simulations thereof, in connection with your services or goods. Heritage is also entitled to an accounting of all leads that were referred from the unauthorized Heritage listings and all customers to whom BSR sold such leads.

BSR is also violating Heritage's copyrights by posting infringing content to the www.commuitycollegereview.com website including, but not limited to, photographs and YouTube videos (*see*, Exhibit B). This content violates Heritage's copyright rights. Copyright violations are actionable under 17 U.S.C. 504. The consequences of willful copyright infringement may include statutory damages of up to \$150,000 per work.

Finally, the website contains unauthorized and potentially misleading information and statistics about Heritage, which may be outdated, inaccurate, or omit relevant information (*see*, Exhibit B). It also contains links to alleged alumni Facebook pages, none of which actually relate to any Heritage school or alumni group. Therefore, BSR's actions constitute false or deceptive advertising under federal and state law.

On behalf of Heritage, we demand that you cease any and all unauthorized use of the Heritage Marks, copyrighted content and all variations thereof. This includes, all advertising and promotional efforts, including Internet-related activities and any keywords, adwords or domain names that make any reference to the Heritage Marks. Boarding School Review November 23, 2011 Page 3

You can resolve this matter by providing written confirmation, no later than **December 8, 2011**, that BSR:

(i) has removed all Heritage Marks from any and all websites including, but not limited to, www.comunitycollegereview.com;

(ii) has ceased all use and planned use of the Heritage Marks and any other name or mark confusingly similar to or incorporating the Heritage Marks, including, without limitation to, all references to the Heritage Marks in any advertisements;

(iii) has removed all Heritage Marks from any adword or other paid keyword accounts (if applicable);

(iv) has added the Heritage Marks as negative keywords to any adword or other paid keyword accounts, and;

(v) has removed all copyrighted images from any and all websites including, but not limited to, www.communitycollegereview.com.

We look forward to your prompt response and appreciate your anticipated cooperation in resolving this important issue.

The issues, facts, concerns and statements made herein are for purposes of settlement only, and no use of these statements beyond these considerations is permissible. The statements made herein are made without prejudice to any rights, claims or defenses that our client may have in the pending matter. All rights are reserved

Respectfully yours,

Michelle Hon Donovan

Enclosures

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Exhibit A

Case 1:11-cv-08921-DAB Document 10 Filed 06/15/12 Page 39 of 46

Int. Cl.: 41

Prior U.S. Cls.: 100, 101 and 107

United States Patent and Trademark Office

Reg. No. 3,284,433 Registered Aug. 28, 2007

SERVICE MARK PRINCIPAL REGISTER

HERITAGE COLLEGE

WESTON EDUCATIONAL, INC. (COLORADO CORPORATION), DBA HERITAGE COLLEGE STE. 100 4704 HARLAN STREET DENVER, CO 80212

FOR: EDUCATIONAL SERVICES, NAMELY, PROVIDING COURSES OF INSTRUCTION AT THE COLLEGE LEVEL PRIMARILY DIRECTED TO THE MEDICAL AND HEALTHCARE FIELDS AND GRANTING CERTIFICATES OF COMPLE-TION IN ASSOCIATION THEREWITH, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 3-1-1986; IN COMMERCE 3-1-1986.

THE MARK CONSISTS OF STANDARD CHAR-ACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "COLLEGE", APART FROM THE MARK AS SHOWN.

SER. NO. 77-024,902, FILED 10-19-2006.

ALYSSA PALADINO, EXAMINING ATTORNEY

Case 1:11-cv-08921-DAB Document 10 Filed 06/15/12 Page 40 of 46

Int. Cl.: 41

Prior U.S. Cls.: 100, 101 and 107

United States Patent and Trademark Office

Reg. No. 3,605,378 Registered Apr. 14, 2009

SERVICE MARK PRINCIPAL REGISTER

HERITAGE EDUCATION

WESTON EDUCATIONAL, INC. (COLORADO CORPORATION)

4704 HARLAN STREET, SUITE 100

DENVER, CO 80212

FOR: EDUCATIONAL SERVICES, NAMELY, PROVIDING COURSES OF INSTRUCTION AT THE POSTSECONDARY AND PROFESSIONAL LE-VEL AND DISTRIBUTION OF COURSE MATERIAL IN CONNECTION THEREWITH, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 6-22-2001; IN COMMERCE 6-22-2001.

THE MARK CONSISTS OF STANDARD CHAR-ACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 3,284,433.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "EDUCATION", APART FROM THE MARK AS SHOWN.

SER. NO. 77-507,044, FILED 6-24-2008.

ESTHER BELENKER, EXAMINING ATTORNEY

Exhibit B

Heritage College 1Depver, Cole add CO Downwhith College Rosigs/12 Page 42 of 46 Page 1 of 5

Community College Prieve Community Colleges in Denver, CQ
Home Articles Search Colleges Compare Colleges
Congle" Caston Starch



Related School Videos:

Heritage College 1 Denver Ogologia do (GO D Community College Resigns/12 Page 44 of 46 Page 3 of 5

Introduction to Christadelphian

1:55

Heritage Graduates Discuss Education 2:02 Why choose Computer Science 1:13 Heritage Graduate Tammy F.

11/22/2011

Heritage College 1 Denver 06 9 brade (60 DGemmunity College Rovies/12 Page 45 of 46 Page 4 of 5



3 years ago





Heritage Graduate Chris S. I year ago.

Heritage Graduate Artie R. 11 months ago

and Careers 2 months ago

at Heritage?

at Heritage 1 year ago.

11 months ago

Sk

City P

Five Points

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data ©2011



Personal Trai 7:00 School - Workout Tios & Techn... 4 years ago

Related Facebook Alumni Groups:



Heritage college ready-academy high school



Heritage College Christadelphian Playgroup Adelaide



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Abole

Sind

Heritage College: Student Association 2011-2012

School Map:

Get: driving directions ⁽²⁾ Weather: 10-day forecast or monthly climate averages.



- Public College

 - Private College

Tip: Neighborhood view shown below (address is approximate). School premises may be visible by rotating map

Sin

Lake Park

P Wheal Ridge

Edgewater

1403

(121)

Wheetridge Plaza

Hill Park

Heritage College 1 Penver 069 prado (60 D60 munity College Rovies/12 Page 46 of 46 Page 5 of 5

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