

**UNITED STATES PATENT AND TRADEMARK OFFICE  
RESPONSE TO OFFICE ACTION**

|             |                        |                             |
|-------------|------------------------|-----------------------------|
| Applicant:  | The Echo Label Limited | ) Trademark Law Office: 121 |
| Mark:       | ECHO                   | )                           |
| Serial No.: | 88400893               | ) Examiner:                 |
| Filed:      | April 24, 2019         | ) Hannah Gilbert            |
|             |                        | )                           |
|             |                        | ) Mailing Date of Action:   |
|             |                        | ) July 11, 2019             |

**Introduction**

In an Office Action dated July 11, 2019 related to U.S. Application No. 88400893 (the "Application") for Applicant's mark ECHO in Classes 9, 35, 38 and 41 ("Applicant's Mark"):

- (A) Examiner required that Applicant amend and clarify the identification of services in the Application;
- (B) Examiner required that Applicant clarify Applicant's entity type;
- (C) Examiner refused registration of Applicant's Mark on the basis of likelihood of confusion, under Trademark Act Section 2(d), with: (1) U.S. Registration No. 3094882, for the mark ECHO in Class 41; (2) U.S. Registration No. 5609311, for the mark ECHO in Class 35; and (3) U.S. Registration No. 5469992, for the mark ECHO in Classes 9, 38, 41 and 42 (each, a "Cited Mark" and collectively, the "Cited Marks"); and
- (D) Examiner provided information regarding marks in pending U.S. Application Serial Nos. 88168044, 86617055 and 88125078 (the "Pending Marks"), which Examiner claimed may, upon registration, create a likelihood of confusion with Applicant's Mark under Trademark Act Section 2(d).

**Response**

This Response addresses the Examiner's refusal as follows: (A) Applicant agrees to amend the identification of services in the Application; (B) Applicant clarifies and amends the nature and type of its legal entity; and (C) Applicant argues that there is no likelihood of confusion between Applicant's Mark and each of the Cited Marks. Applicant elects not to submit arguments at this time to address the issue of the potential conflict between Applicant's Mark and the Pending Marks.

**(A) Amendment to Identification of Services.**

By this Response, Applicant hereby amends the identification of services in Classes 35, 38 and 41 to read as follows:

Class 35: Entertainment marketing services, namely, marketing, promotion and advertising for recording and performing artists; Dissemination of advertising, promotional and publicity material related to entertainment, recording and performing artists; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial

information and news of recording and performing artists through print, audio, video, digital and on-line mediums and through telecommunications networks.

Class 38: Delivery of digital music by electronic transmission; Providing access to digital music websites on the Internet; Transmission and delivery of digital music via the Internet; Delivery of music by telecommunications networks

Class 41: Production of music; Music video production; Production of films and videos for entertainment purposes; Providing on-line music, non-downloadable; Production of sound and music video recordings; Entertainment services, namely, providing non-downloadable prerecorded music, films, videos, images, messages, and information in the field of music, and commentary and articles about music, all on-line via a global computer network including webpages and through telecommunications networks

**(B) Legal Entity Clarification.**

By this Response, Applicant clarifies that its entity type is a "private limited company" and Applicant has amended its legal entity type in the Application.

**(C) No Likelihood of Confusion.**

Applicant argues that there is no likelihood of confusion between Applicant's Mark and each of the Cited Marks, for the reasons described below.

**(1) U.S. Registration No. 3094882, for the mark ECHO in Class 41.**

There is no likelihood of confusion between Applicant's Mark and the Cited Mark in U.S. Registration No. 3094882 (ECHO in Class 41) for the reasons stated below, which apply only to the likelihood of confusion with this Cited Mark:

Unrelated services

Applicant's Mark covers the following services in Class 41 (as revised): "Production of music; Music video production; Production of films and videos for entertainment purposes; Providing on-line music, non-downloadable; Production of sound and music video recordings; Entertainment services, namely, providing non-downloadable prerecorded music, films, videos, images, messages, and information in the field of music, and commentary and articles about music, all on-line via a global computer network including webpages and through telecommunications networks."

The Cited Mark covers the following services in Class 41: "Entertainment services, namely production and remixing of musical audio recordings, concert bookings, performances as a disc jockey (DJ) for parties, nightclubs, concerts and special events; Radio entertainment services, namely, radio programs featuring performances by a radio personality."

Applicant uses the trademark ECHO to promote its services as a record label. Under the ECHO trademark and label, Applicant produces and promotes music and videos for and on behalf of Applicant's artists. Applicant does not perform its own music or promote its own performances under the ECHO trademark. Applicant's services are described on its website, a screenshot of which is attached as Exhibit A to this Response.

Conversely, the owner of the Cited Mark uses the ECHO trademark to promote his individual performances and disc jockey (DJ) services. In sum, the Cited Mark promotes "DJ Echo" performances at night clubs and parties, and does not promote music production services for others. The services promoted under the Cited Mark are shown and demonstrated by the specimens submitted with the Declaration of Use for U.S. Registration No. 3094882 on May 23, 2016, which are attached as Exhibit B to this Response.

Applicant's Mark promotes production and promotion services for others – i.e., Applicant's record label artists – and does not directly promote Applicant's own performances. Conversely, the owner of the Cited Mark uses the Cited Mark to promote *his own* performances and appearances, and does not promote the services or art of others. This distinction is important, and supports Applicant's argument that the respective services are unrelated, and therefore confusion is not likely.

#### Different customer base and marketing channels

As noted above, Applicant uses the ECHO mark to produce and promote its record label artists. Applicant uses ECHO to market Applicant's record label to other artists, and try to sign additional artists to the ECHO label. Such marketing and promotion is done on a business level to artists directly, or to their agents. In sum, Applicant uses ECHO to promote its services to music artists and their representatives.

Conversely, the owner of the Cited Mark uses ECHO to promote its DJ performances to the public (to promote performances) or to music venues or clubs (to book gigs or appearances). The owner of the Cited Mark has no reason to promote its services to other artists or such artists' representatives, who would be considered competitors.

"Obviously, if the goods of one party are sold to one class of buyers in a different marketing context than the goods of another seller, the likelihood that a single group of buyers will be confused by similar trademarks is less than if both parties sold their goods through the same channel of distribution." *McCarthy on Trademarks and Unfair Competition*, §24:51, Page 24-110.1 (Fourth Edition).

In sum, Applicant's Mark and the Cited Mark are promoted through different marketing channels to different target customers. As such, confusion is not likely.

#### The Cited Mark is only entitled to a narrow scope of protection due to a "crowded field."

Applicant contends that the Cited Mark is only entitled to a narrow scope of protection due to the presence of third party registrations of identical or similar marks for related services, and as such Applicant's Mark should be allowed to coexist with the Cited Mark on the Principal Register.

One of the principal factors to be considered when determining whether there is a likelihood of confusion under Trademark Act Section 2(d) is the number and nature of similar marks in use on similar goods. *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 U.S.P.Q. 563 (C.C.P.A. 1973).

"The ultimate test of relative strength is the distinctiveness of a mark in the perception and mind of the relevant customer group. A mark that is hemmed in on all sides by similar marks on similar goods or services cannot be very 'distinctive.' It is merely one of a crowd of similar marks. In such a crowd, customers will not likely be confused between any two of the crowd and may have learned to carefully pick out one from the other." *McCarthy on Trademarks and Unfair Competition*, §11:85, Page 11-271 (Fifth Edition).

As clearly reflected in the Office Action issued by Examiner in this case, there are at least six (6) third party service mark registrations and active pending third party service mark applications, for "ECHO" service marks that the Examiner deems to cover related services. Although Applicant has disputed Examiner's conclusion that all the services are related (as noted above), Examiner's position clearly supports the conclusion that there is a "crowded field" of such marks. Applicant's search of other "ECHO" registrations in Class 41 reveals many other marks in this "crowded field." Applicant has attached as Exhibit C to this Response the registration certificates for a non-exclusive representative sample of the Class 41 "ECHO" trademarks in this "crowded field."

The existence of such active third party registrations and applications would be evidence of the USPTO's consistent practice of allowing other "ECHO" service marks for services in Classes 41. Such practice is evidence of the USPTO's willingness to permit such service marks to coexist on the Principal Register, and is strong evidence that Applicant's Mark should similarly be allowed to coexist on the Principal Register. "[A]ctive third-party registrations may be relevant to show that a mark or a portion of a mark is descriptive, suggestive, or so commonly used that the public will look to other elements to distinguish the source of the goods or services. See, e.g., *In re i.am.symbolic, llc*, 866 F.3d 1315, 123 USPQ2d 1744 (Fed. Cir. 2017); *Jack Wolfskin Ausrustung Fur Draussen GmbH & Co. KGAA v. New Millennium Sports, S.L.U.*, 797 F.3d 1363, 116 USPQ2d 1129 (Fed. Cir. 2015); *Juice Generation, Inc. v. GS Enters. LLC*, 794 F.3d 1334, 1338-40, 115 USPQ2d 1671, 1674-75 (Fed. Cir. 2015)...." TMEP Section 1207.01(d)(iii).

In addition, the existence of such third party marks is evidence of a "crowded" field of such marks, meaning each user's ability to prevent use by others in the crowd is relatively weak, and that each mark is entitled to only a narrow scope of protection. *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondee en 1772*, 396 F.3d 1369, 1373, 73 U.S.P.Q.2d 1689, 1693 (Fed. Cir. 2005). Evidence of a "crowded field" shows that customers have become so conditioned by a plethora of such similar marks that customers "have been educated to distinguish between different [such] marks on the basis of minute distinctions." *Standard Brands, inc. v. RJR Foods, Inc.*, 192 U.S.P.Q. 383 (T.T.A.B. 1976). Due to the crowded field, the Cited Mark is entitled to only a narrow scope of protection, and as such, the existence of the Cited Mark should not prevent Applicant from registering Applicant's Mark.

Applicant has priority based on its ownership of U.S. Reg. No. 2053018

Applicant owns an incontestable trademark registration for the trademark THE ECHO LABEL (U.S. Reg. No. 2053018), for "musical sound recordings, musical video recordings and cinematographic motion picture film" in Class 9. The registration certificate for this registration is attached as Exhibit D. Applicant's ownership of this registration clearly shows that, even to the extent that there is any confusion between the respective marks (which Applicant disputes as noted

above), Applicant has priority over the Cited Mark and as such, should be allowed to register Applicant's Mark on the Principal Register.

(2) ***U.S. Registration No. 5609311, for the mark ECHO in Class 35.***

There is no likelihood of confusion between Applicant's Mark and the Cited Mark in U.S. Registration No. 5609311 (ECHO in Class 35) for the reasons stated below, which apply only to the likelihood of confusion with this Cited Mark:

Unrelated services

Applicant's Mark covers the following services in Class 35 (as revised): "*Entertainment marketing services, namely, marketing, promotion and advertising for recording and performing artists;* Dissemination of advertising, promotional and publicity material related to entertainment, recording and performing artists; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of recording and performing artists through print, audio, video, digital and on-line mediums and by telecommunications."

The Cited Mark covers the following services in Class 35: "Advertising and marketing services provided by means of indirect methods of marketing communications, namely, social media, search engine marketing, inquiry marketing, internet marketing, mobile marketing, blogging and other forms of passive, sharable or viral communications channels; *Advertising services, namely, promoting and marketing the goods and services of others through all public communication means;* Consulting services in the field of search engine optimization; Development of marketing strategies, concepts and tactics, namely, audience development, brand awareness, online community building and digital word of mouth communications; Marketing and branding services, namely, providing customized communication programs to obtain consumer insights and develop branding strategies; Marketing services, namely, providing informational web pages designed to generate sales traffic via hyperlinks to other web sites; Marketing, advertising, and promoting the retail goods and services of others through wireless electronic devices; Marketing, promotional and advertising services provided by mobile telephone connections; On-line advertising and marketing services; Planning, design, development, maintenance, tracking and reporting of online marketing activities for third parties; Promoting, advertising and marketing on-line web sites of others; Promoting, advertising and marketing the on-line databases and electronic publications of others; Promoting, marketing and advertising the brands and goods of others related to all industries, through all public and private communication means, namely, promoting the brands and goods of others made in the United States; Promotion, advertising and marketing of on-line websites; Providing business information in the field of social media; Providing marketing consulting in the field of social media; Search engine optimization; Social media strategy and marketing consultancy focusing on helping clients create and extend their product and brand strategies by building virally engaging marketing solutions."

Applicant uses the trademark ECHO to promote its services as a record label. Under the ECHO trademark and label, Applicant produces and promotes music and videos on behalf of Applicant's artists. Applicant's services are described on its website, a screenshot of which is attached as Exhibit A to this Response.

Conversely, the owner of the Cited Mark used the ECHO trademark to promote traditional content marketing services and digital marketing strategies; it does not use ECHO to promote music or anything in the music industry. The services promoted under the Cited Mark are shown and demonstrated by the specimens submitted with the initial application for U.S. Registration No. 5609311 on April 12, 2014, which are attached as Exhibit E to this Response. Applicant notes that the owner of the Cited Mark (BlueArx, LLC) appears to be inactive and out of business, and that the ECHO mark has been abandoned, as demonstrated by the inactive website at [www.BlueArx.com](http://www.BlueArx.com). The abandonment (through nonuse) of the Cited Mark lends further support to Applicant's conclusion that confusion is unlikely.

Applicant's Mark promotes music production and promotion services for others – i.e., Applicant's record label artists – and Applicant is not in the business of providing digital marketing services generally; i.e., Applicant's promotion services are ancillary to its record label business. Conversely, the owner of the Cited Mark uses (or used, see above) the Cited Mark to only promote digital and direct marketing services. This distinction is important, and supports Applicant's argument that the respective services are unrelated, and therefore confusion is not likely.

#### Different customer base and marketing channels

As noted above, Applicant uses the ECHO mark to produce and promote its record label artists. Applicant uses ECHO to market Applicant's record label to other artists, and try to sign additional artists to the ECHO label. Such marketing and promotion is done on a business level to artists directly, or to their agents. In sum, Applicant uses ECHO to promote its services to music artists and their representatives.

Conversely, the owner of the Cited Mark uses ECHO to promote its direct and digital marketing services to the public generally, and specifically to companies engaged in direct marketing.

"Obviously, if the goods of one party are sold to one class of buyers in a different marketing context than the goods of another seller, the likelihood that a single group of buyers will be confused by similar trademarks is less than if both parties sold their goods through the same channel of distribution." *McCarthy on Trademarks and Unfair Competition*, §24:51, Page 24-110.1 (Fourth Edition).

In sum, Applicant's Mark and the Cited Mark are promoted through different marketing channels to different target customers. As such, confusion is not likely.

#### The Cited Mark is only entitled to a narrow scope of protection due to a "crowded field."

Applicant contends that the Cited Mark is only entitled to a narrow scope of protection due to the presence of third party registrations of identical or similar marks for related services, and as such Applicant's Mark should be allowed to coexist with the Cited Mark on the Principal Register.

One of the principal factors to be considered when determining whether there is a likelihood of confusion under Trademark Act Section 2(d) is the number and nature of similar marks in use on similar goods. *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 U.S.P.Q. 563 (C.C.P.A. 1973).

"The ultimate test of relative strength is the distinctiveness of a mark in the perception and mind of the relevant customer group. A mark that is hemmed in on all sides by similar marks on similar goods or services cannot be very 'distinctive.' It is merely one of a crowd of similar marks. In such a crowd, customers will not likely be confused between any two of the crowd and may have learned to carefully pick out one from the other." *McCarthy on Trademarks and Unfair Competition*, §11:85, Page 11-271 (Fifth Edition).

As clearly reflected in the Office Action issued by Examiner in this case, there are at least six (6) third party service mark registrations and active pending third party service mark applications, for "ECHO" service marks that the Examiner deems to cover related services. Although Applicant has disputed Examiner's conclusion that all the services are related (as noted above), Examiner's position clearly supports the conclusion that there is a "crowded field" of such marks. Applicant's search of other "ECHO" registrations in Class 35 reveals many other marks in this "crowded field." Applicant has attached as Exhibit F to this Response the registration certificates for a non-exclusive, representative sample of the Class 35 "ECHO" trademarks in this "crowded field."

The existence of such active third party registrations and applications would be evidence of the USPTO's consistent practice of allowing other "ECHO" service marks for services in Classes 35. Such practice is evidence of the USPTO's willingness to permit such service marks to coexist on the Principal Register, and is strong evidence that Applicant's Mark should similarly be allowed to coexist on the Principal Register. "[A]ctive third-party registrations may be relevant to show that a mark or a portion of a mark is descriptive, suggestive, or so commonly used that the public will look to other elements to distinguish the source of the goods or services. See, e.g., *In re i.am.symbolic, llc*, 866 F.3d 1315, 123 USPQ2d 1744 (Fed. Cir. 2017); *Jack Wolfskin Ausrustung Fur Draussen GmbH & Co. KGAA v. New Millennium Sports, S.L.U.*, 797 F.3d 1363, 116 USPQ2d 1129 (Fed. Cir. 2015); *Juice Generation, Inc. v. GS Enters. LLC*, 794 F.3d 1334, 1338-40, 115 USPQ2d 1671, 1674-75 (Fed. Cir. 2015)...." TMEP Section 1207.01(d)(iii).

In addition, the existence of such third party marks is evidence of a "crowded" field of such marks, meaning each user's ability to prevent use by others in the crowd is relatively weak, and that each mark is entitled to only a narrow scope of protection. *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondee en 1772*, 396 F.3d 1369, 1373, 73 U.S.P.Q.2d 1689, 1693 (Fed. Cir. 2005). Evidence of a "crowded field" shows that customers have become so conditioned by a plethora of such similar marks that customers "have been educated to distinguish between different [such] marks on the basis of minute distinctions." *Standard Brands, inc. v. RJR Foods, Inc.*, 192 U.S.P.Q. 383 (T.T.A.B. 1976). Due to the crowded field, the Cited Mark is entitled to only a narrow scope of protection, and as such, the existence of the Cited Mark should not prevent Applicant from registering Applicant's Mark.

#### Applicant has priority based on its ownership of U.S. Reg. No. 2053018

Applicant owns an incontestable trademark registration for the trademark THE ECHO LABEL (U.S. Reg. No. 2053018), for "musical sound recordings, musical video recordings and cinematographic motion picture film" in Class 9. The registration certificate for this registration is attached as Exhibit D. Applicant's ownership of this registration clearly shows that, even to the extent that there is any confusion between the respective marks (which Applicant disputes as noted

above), Applicant has priority over the Cited Mark and as such, should be allowed to register Applicant's Mark on the Principal Register.

(3) **U.S. Registration No. 5469992, for the mark ECHO in Classes 9, 38, 41 and 42.**

There is no likelihood of confusion between Applicant's Mark and the Cited Mark in U.S. Registration No. 5469992 for the reasons stated below, which apply only to the likelihood of confusion with this Cited Mark:

Applicant has priority based on its ownership of U.S. Reg. No. 2053018

Applicant owns an incontestable trademark registration for the trademark THE ECHO LABEL (U.S. Reg. No. 2053018), for "musical sound recordings, musical video recordings and cinematographic motion picture film" in Class 9. The registration certificate for this registration is attached as Exhibit D. Applicant's ownership of this registration clearly shows that Applicant has priority over the Cited Mark and as such, should be allowed to register Applicant's Mark on the Principal Register.

Applicant is in settlement discussions with the owner of the Cited Mark

Applicant is currently in discussions with the owner of the Cited Mark, the goal of which is to allow the Cited Mark and Applicant's Mark to coexist in the marketplace and to ensure and confirm that confusion is not likely to occur.

**Conclusion**

Based on the sum of the foregoing arguments and explanations, Applicant respectfully requests that Applicant's Mark be allowed to register on the Principal Register in due course.

***Enclosures***



## Exhibit A



The screenshot shows a web browser window with two tabs: 'Trademark Status & Document' and 'Echo'. The address bar displays the URL <https://www.bmg.com/de/artist/echo>. The page content includes a black header with the word 'Echo' in white, and a 'Biography' section with the following text:

### Biography

Echo was originally started by the Chrysalis Group in 1994 when the original Chrysalis Records was sold to EMI. The label enjoyed some initial success with British rock band Feeder, who had a succession of hit singles over a 10 year period, including Top 10 entries with 'Buck Rogers' in 2001 and 'Tumble & Fall' in 2005. The label also enjoyed commercial hits with Babybird ('You're Gorgeous') and Moloko, whose 'Sing It Now' and 'The Time Is Now' were massive dance anthems throughout the world. They also enjoyed critical acclaim (if not significant sales) with Julian Cope, Subcircus, The Utah Saints and I Am Kloot. However, in 2005, a decision was made to reconstruct the label as an 'incubator' operation with the intention of developing writer-artists (usually published by its sister operation) and 'upstreaming' to a major label. Some success was achieved with Bat For Lashes and American singer-songwriter Ray Lamontagne. The Echo imprint now exclusively sits as a catalogue operation within BMG, which also administers much of the publishing through the Chrysalis catalogue. Includes: Feeder, Julian Cope, Moloko, Baby Bird, Denim, Engineers, Morcheeba, Nerina Pallot, Steven Lindsay, Utah Saints, Mono, Orang, The Stands & I Am Kloot

<https://www.bmg.com/de/artist/echo> (Accessed 1/9/2020)

Exhibit B



04.24.15

**EC10**

JOHNNY CASH

W SOUTH BEACH + 2201 COLLINS AVE + MIAMI BEACH + 305.938.3130  
WALLMIAMI.COM + RSVP@WALLMIAMI.COM | f/WALLMIAMI @/WALLMIAMI

**WALL**  
MIAMI BEACH

KNR  
NIGHTLIFE  
GROUP

**KAM**

BELVEDERE  
VODKA



**Exhibit C**

*(Attached)*

# United States of America

United States Patent and Trademark Office

## THE ECHO

**Reg. No. 5,315,601**

The Echo LLC (CALIFORNIA LIMITED LIABILITY COMPANY)  
2658 Griffith Park Blvd. #391  
Los Angeles, CALIFORNIA 90039

**Registered Oct. 24, 2017**

**Int. Cl.: 41**

CLASS 41: Entertainment services, namely, the presentation of live Christmas musical productions; Entertainment, namely, live performances by musical bands

**Service Mark**

FIRST USE 4-14-2011; IN COMMERCE 4-14-2011

**Principal Register**

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

OWNER OF U.S. REG. NO. 4062882

SER. NO. 87-357,910, FILED 03-03-2017



*Joseph Matal*

Performing the Functions and Duties of the  
Under Secretary of Commerce for  
Intellectual Property and Director of the  
United States Patent and Trademark Office

# United States of America

United States Patent and Trademark Office

## ECHOBOOM

**Reg. No. 5,595,686**

**Registered Oct. 30, 2018**

**Int. Cl.: 41**

**Service Mark**

**Principal Register**

Orchard Enterprises NY, Inc. (NEW YORK CORPORATION)  
3rd Floor  
23 East 4th Street  
New York, NEW YORK 10003

CLASS 41: Providing films, not downloadable, via video-on-demand transmission services;  
Entertainment services, namely, displaying a series of films

FIRST USE 8-20-2013; IN COMMERCE 8-20-2013

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY  
PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 87-851,546, FILED 03-27-2018



*Andrei Iancu*

Director of the United States  
Patent and Trademark Office

# United States of America

United States Patent and Trademark Office

## ECHO PARK RISING

**Reg. No. 5,510,769**

**Registered Jul. 10, 2018**

**Int. Cl.: 18, 25, 32, 41**

**Service Mark**

**Trademark**

**Principal Register**

Echo Park Chamber of Commerce (CALIFORNIA CORPORATION)  
P.o. Box 26745  
Los Angeles, CALIFORNIA 90026

CLASS 18: Tote bags

FIRST USE 8-31-2011; IN COMMERCE 8-31-2011

CLASS 25: Clothing, namely, tops, one piece garments for infants and toddlers, t-shirts, tank tops; Hats, headwear

FIRST USE 8-31-2011; IN COMMERCE 8-31-2011

CLASS 32: Beer

FIRST USE 8-31-2014; IN COMMERCE 8-31-2014

CLASS 41: Entertainment services, namely, organizing and hosting of events for cultural purposes; organizing civic festivals for the community for cultural and entertainment purposes; organizing and arranging live musical performances; organizing civic festivals for the community for cultural and entertainment purposes wherein facilities for food, refreshments, dancing, concerts, souvenirs, contests, and other forms of amusement are provided

FIRST USE 8-31-2011; IN COMMERCE 8-31-2011

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

No claim is made to the exclusive right to use the following apart from the mark as shown: "ECHO PARK" FOR INTERNATIONAL CLASS 32

18, 25, and 41

SEC. 2(F) as to "ECHO PARK"

SER. NO. 87-205,612, FILED 10-17-2016



*Andrei Iancu*

Director of the United States  
Patent and Trademark Office

# United States of America

United States Patent and Trademark Office

## ECHO BEDS

**Reg. No. 5,458,762**

**Registered May 01, 2018**

**Int. Cl.: 41**

**Service Mark**

**Principal Register**

Curts, Keith (UNITED STATES INDIVIDUAL)  
Po Box 6057  
Denver, COLORADO 80206

CLASS 41: Entertainment, namely, live performances by a musical band

FIRST USE 5-1-2011; IN COMMERCE 5-1-2011

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 87-626,867, FILED 09-28-2017



*Andrei Iancu*

Director of the United States  
Patent and Trademark Office

# United States of America

United States Patent and Trademark Office

## ECHO SAMURAI

**Reg. No. 5,390,281**

David Heldenbrand (UNITED STATES INDIVIDUAL)  
14854 Old Frederick Road  
Woodbine, MARYLAND 21797

**Registered Jan. 30, 2018**

**Int. Cl.: 41**

CLASS 41: Entertainment services by a musical artist and producer, namely, musical composition for others and production of musical sound recordings

**Service Mark**

FIRST USE 6-30-2016; IN COMMERCE 6-30-2016

**Principal Register**

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 87-480,928, FILED 06-08-2017



*Joseph Matal*

Performing the Functions and Duties of the  
Under Secretary of Commerce for  
Intellectual Property and Director of the  
United States Patent and Trademark Office



# United States of America

United States Patent and Trademark Office

## ARCH ECHO

**Reg. No. 5,299,899**

Joey Izzo (UNITED STATES INDIVIDUAL)  
15 Old Military Road  
Lake Placid, NEW YORK 12946

**Registered Oct. 03, 2017**

**Int. Cl.: 41**

Adam Rafowitz (UNITED STATES INDIVIDUAL)  
16811 Grays Bay Blvd  
Wayzata, MINNESOTA 55391

**Service Mark**

**Principal Register**

CLASS 41: Entertainment services in the nature of live musical performances and live performances by a musical band

FIRST USE 1-30-2017; IN COMMERCE 1-30-2017

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 87-332,376, FILED 02-10-2017



*Joseph Matal*

Performing the Functions and Duties of the  
Under Secretary of Commerce for  
Intellectual Property and Director of the  
United States Patent and Trademark Office

# United States of America

United States Patent and Trademark Office

## Echoes Never Lie

**Reg. No. 5,296,311**

**Registered Sep. 26, 2017**

**Int. Cl.: 41**

**Service Mark**

**Principal Register**

Michael Beaver (UNITED STATES INDIVIDUAL)  
3445 Rainbow Run Rd  
Elizabeth, PA 15037

CLASS 41: Entertainment, namely, live performances by a musical band; entertainment services in the nature of presenting live musical performances; entertainment and record label services, namely, recording studios, music songwriting for non-advertising purposes, production of sound and music video recordings and music publishing; providing on-line music, not downloadable; arranging of concerts; entertainment, namely, live music concerts; music production services; entertainment services, namely, providing non-downloadable playback of music via global communications networks

FIRST USE 1-10-2013; IN COMMERCE 1-10-2013

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 87-361,501, FILED 03-07-2017  
DAVID T MURRAY, EXAMINING ATTORNEY



*Joseph Matal*

Performing the Functions and Duties of the  
Under Secretary of Commerce for  
Intellectual Property and Director of the  
United States Patent and Trademark Office

# United States of America

United States Patent and Trademark Office

## AMAZON ECHO

**Reg. No. 5,469,991**

**Registered May 15, 2018**

**Int. Cl.: 9, 38, 41, 42**

**Service Mark**

**Trademark**

**Principal Register**

AMAZON TECHNOLOGIES, INC. (NEVADA CORPORATION)  
410 Terry Ave N  
Attn: Trademarks  
Seattle, WASHINGTON 98109

CLASS 9: Scientific apparatus and instruments, namely, computer hardware, computer hardware peripherals, audio players and recorders, media players and recorders, power adapters and remote controls for smart audio speakers; computer hardware, computer peripherals, handheld digital electronic devices, and remote control devices for controlling software applications and for searching, controlling, storing, displaying, playing, and recording audio, video, and multimedia content, games; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, namely, home automation systems comprising wireless controllers, controlled devices, and software for lighting, appliances, HVAC, security, safety and other home monitoring and control applications; apparatus for recording, transmission or reproduction of sound or images; calculating machines, data processing equipment, computers; computer software for use in connection with digital content subscription service, providing search platforms to allow users to request and receive digital media content, computer software for distributing, downloading, transmitting, receiving, playing, displaying, storing and organizing text, graphics, images, audio, video, and multimedia content; voice command and recognition software, speech to text conversion software, and voice-enabled software applications; computer software for personal information management, and for accessing, browsing, and searching online databases, audio, video, and multimedia content, games, software applications, and software

FIRST USE 11-6-2014; IN COMMERCE 11-6-2014



CLASS 38: Telecommunications, namely, communication via portable electronic devices, portable media players, portable digital devices, for transmitting, accessing, receiving, uploading, downloading, encoding, decoding, streaming, displaying, storing, caching, and transferring voice, audio, visual images, data, books, photos, videos, text, content, audiovisual works, multimedia works, literary works, files, and other electronic works; Streaming of audio, visual and audiovisual material via the Internet or other computer or communications network; communications services, namely, transmission of voice, audio, visual images via global communications networks; interactive broadcasting and webcasting services over the internet and telecommunications networks

FIRST USE 11-6-2014; IN COMMERCE 11-6-2014

*Andrei Iancu*

Director of the United States  
Patent and Trademark Office

CLASS 41: Education, namely, providing information, news, and commentary in the field of current events, entertainment, cultural events, sports, entertainment, physical fitness, arts and literature, education, music and cinema, history; providing instruction in using voice-enabled software applications; entertainment, namely, providing non-downloadable electronic games

and non-downloadable computer game software applications; entertainment, namely, providing non-downloadable prerecorded music; providing podcasts featuring news and commentary in the field of movies, television programs, audiovisual works, music, audio works, books, theatre, literary works, sporting events, recreational activities, leisure activities, tournaments, art, dance, musicals, exhibitions, sports instruction, clubs, radio, comedy, contests, visual works, games, gaming, festivals, museums, parks, cultural events, concerts, publishing, animation, current events, fashion, and multimedia presentations accessible via the internet or other computer or communications networks

FIRST USE 11-6-2014; IN COMMERCE 11-6-2014

CLASS 42: Scientific and technological services, namely, provision of search engine services; Software as a Service (SaaS) featuring software for use in connection with digital content subscription service providing search platforms to allow users to request and receive digital media content; Software as a Service (SaaS) featuring software for distributing, downloading, transmitting, receiving, playing and displaying, storing and organizing text, graphics, images, audio, video, and multimedia content; service provider (ASP) services featuring hosting computer software applications of others, application service provider (ASP) services featuring computer software and providing online non-downloadable software, namely, computer software for distributing, downloading, transmitting, receiving, playing and displaying, storing and organizing text, graphics, images, audio, video, and multimedia content, voice recognition software, speech to text conversion software, and voice-enabled software applications, and research and design relating thereto

FIRST USE 11-6-2014; IN COMMERCE 11-6-2014

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 86-616,046, FILED 04-30-2015

# United States of America

United States Patent and Trademark Office

## ECHO FOX

**Reg. No. 5,122,087**

**Registered Jan. 17, 2017**

**Int. Cl.: 41**

**Service Mark**

**Principal Register**

Echo Fox, LP (FLORIDA LIMITED PARTNERSHIP)  
Suite 1110  
200 E. Broward Blvd.  
Ft. Lauderdale, FL 33301

CLASS 41: Entertainment services in the nature of electronic sports and video game competitions, exhibitions, and tournaments; organizing and conducting an array of video game events, namely, video game competitions, video game tournaments, video game seminars, and video game exhibitions for entertainment purposes, rendered live and recorded for the purpose of distribution through broadcast media including the Internet; entertainment services in the nature of live performances in an array of video game events, namely, video game competitions and video game tournaments, by professional video game players, recorded for the purpose of distribution through broadcast media including the Internet; coaching and instruction in the field of electronic sports and video games; providing a website featuring entertainment news and information in the field of electronic sports and video games

FIRST USE 1-16-2016; IN COMMERCE 1-16-2016

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

The name(s), portrait(s), and/or signature(s) shown in the mark identifies Ulrich Fox, whose consent(s) to register is made of record.

SER. NO. 86-926,597, FILED 03-02-2016  
JOHN EVAN MUCHA, EXAMINING ATTORNEY



*Michelle K. Lee*

Director of the United States  
Patent and Trademark Office

United States of America  
United States Patent and Trademark Office

the echo

**Reg. No. 4,062,882**

THE ECHO, LLC (CALIFORNIA LIMITED LIABILITY COMPANY)  
2658 GRIFFITH PARK BLVD., #391  
LOS ANGELES, CA 90039

**Registered Nov. 29, 2011**

**Int. Cl.: 41**

FOR: ARRANGING AND CONDUCTING NIGHTCLUB ENTERTAINMENT EVENTS; ENTERTAINMENT AND EDUCATION SERVICES IN THE NATURE OF LIVE DANCE AND MUSICAL PERFORMANCES, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

**SERVICE MARK**

FIRST USE 11-1-2001; IN COMMERCE 11-1-2001.

**PRINCIPAL REGISTER**

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

THE MARK CONSISTS OF THE STYLIZED WORDING "THE ECHO".

SER. NO. 85-295,499, FILED 4-14-2011.

LINDA M. KING, EXAMINING ATTORNEY



*David J. Kyffers*

Director of the United States Patent and Trademark Office

**Exhibit D**

**Int. Cl.: 9**

**Prior U.S. Cls.: 21, 23, 26, 36, and 38**

**Reg. No. 2,053,018**

**United States Patent and Trademark Office**

**Registered Apr. 15, 1997**

**TRADEMARK  
PRINCIPAL REGISTER**

**THE ECHO LABEL**

ECHO LABEL, THE (CALIFORNIA CORPORATION)  
9255 SUNSET BOULEVARD, SUITE 319  
LOS ANGELES, CA 90069

FOR: MUSICAL SOUND RECORDINGS, MUSICAL VIDEO RECORDINGS AND CINEMATOGRAPHIC MOTION PICTURE FILM, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 3-1-1994; IN COMMERCE 3-1-1994.

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

SN 74-385,632, FILED 5-3-1993.

JESSIE B. BILLINGS, EXAMINING ATTORNEY

## Exhibit E



**BlueArx**

BlueArx is a leader in technological innovation and Strategy Management Consulting. We specialize in helping companies exhibit innovation in a dominant paradigm, establish a strong intellectual property position in critical technologies, and execute high-performance business models. Our strengths include the unique ability to see the end from the beginning and leverage this insight to define the market rhythm of a product or service. We believe in architecting strategies that leverage the baseline of an organization's market rhythm to employ the framework of Dynamic Capabilities.

### ECHO

Echo is an innovative online content marketing strategy service that specializes in the building of dynamic digital properties. Echo leverages strategic content distribution to build a sustainable online presence for your firm.

# echo

YOUR BRAND  
ONLINE

SENSE. SEIZE. TRANSFORM.

### Contact Us



phone:  
318.415.0208



web:  
[www.bluearx.com/echo](http://www.bluearx.com/echo)



email:  
[echo@bluearx.com](mailto:echo@bluearx.com)

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**Grow digital presence. Extend reach. Maximize frequency.**

Without a substantial web presence your customers are left with nowhere else to turn except for your competitors. Recent changes in the way users access and consume information across the internet make valuable and informative content the most relevant and most likely to be read. This consumer shift allows brands to own the internet by creating and distributing content that is engaging to potential customers.

BlueArx knows that for a company to do this properly marketing budgets are skyrocketing leaving small businesses with no chance to survive. This gaping hole in the industry has finally been filled by BlueArx with Echo. Echo creates, develops, nurtures, and grows a brand's online presence through effective content creation and distribution.

- Develop digital property for online social platforms
- Increase market influence through content distribution
- Organically build sustainable Search Engine Optimisation (SEO)



**Exhibit F**

*(Attached)*

040664/09001/10695164v1

**United States of America**  
United States Patent and Trademark Office

# EchoQuote

**Reg. No. 4,139,168**

**Registered May 8, 2012**

**Int. Cl.: 35**

**SERVICE MARK**

**PRINCIPAL REGISTER**

ECHOQUOTE, LLC (MARYLAND LIMITED LIABILITY COMPANY), AKA LEADLIFTER  
35 E ALL SAINTS ST., #110  
FREDERICK, MD 21701

FOR: ADVERTISING AND MARKETING SERVICES PROVIDED BY MEANS OF INDIRECT METHODS OF MARKETING COMMUNICATIONS, NAMELY, SOCIAL MEDIA, SEARCH ENGINE MARKETING, INQUIRY MARKETING, INTERNET MARKETING, MOBILE MARKETING, BLOGGING AND OTHER FORMS OF PASSIVE, SHARABLE OR VIRAL COMMUNICATIONS CHANNELS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-1-2007; IN COMMERCE 4-1-2008.

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

SER. NO. 85-425,743, FILED 9-19-2011.

JANICE KIM, EXAMINING ATTORNEY



*David J. Kyfos*

Director of the United States Patent and Trademark Office

# United States of America

United States Patent and Trademark Office

## ENDLESS ECHO

**Reg. No. 4,050,811**

**Registered Nov. 1, 2011**

**Int. Cl.: 35**

**SERVICE MARK**

**PRINCIPAL REGISTER**

ENDLESS ECHO, LLC (PENNSYLVANIA LIMITED LIABILITY COMPANY)  
435 RAYMONDSKILL ROAD  
MILFORD, PA 18337

FOR: ADVERTISING, MARKETING AND PROMOTION SERVICES; BUSINESS MARKETING CONSULTING SERVICES; ADVERTISING AND MARKETING SERVICES PROVIDED BY MEANS OF INDIRECT METHODS OF MARKETING COMMUNICATIONS, NAMELY, SOCIAL MEDIA, INTERNET MARKETING, BLOGGING AND OTHER FORMS OF PASSIVE, SHARABLE OR VIRAL COMMUNICATIONS CHANNELS; PREPARING ADVERTISEMENTS FOR OTHERS, NAMELY, PREPARING VIDEO ADVERTISING AND PROMOTIONAL VIDEOS FOR COMMERCIAL USE VIA THE INTERNET; PRODUCING AUDIO VISUAL RECORDINGS; POST-PRODUCTION EDITING SERVICES FOR VIDEO AND AUDIO COMMERCIALS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 6-2-2011; IN COMMERCE 6-2-2011.

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

SN 85-219,147, FILED 1-17-2011.

BARBARA GAYNOR, EXAMINING ATTORNEY



*David J. Kyffers*

Director of the United States Patent and Trademark Office

# United States of America

United States Patent and Trademark Office

echo  
solutions wolf

**Reg. No. 5,144,826**

White, Sally N. (UNITED STATES INDIVIDUAL), DBA EchoWolf Solutions ,  
1230 Pace Road  
Park City, UT 84098

**Registered Feb. 21, 2017**

**Int. Cl.: 35**

CLASS 35: Business marketing consulting services; Marketing consulting; Professional business consulting

**Service Mark**

FIRST USE 2-28-2016; IN COMMERCE 2-28-2016

**Principal Register**

The mark consists of the terms "ECHO WOLF SOLUTIONS" in stylized lowercase font with "WOLF" appearing below and to the right of the "O" in "ECHO". The term "SOLUTIONS" appears in smaller font below the "HO" in "ECHO" and to the left of "WOLF".

SER. NO. 86-946,587, FILED 03-20-2016  
PAULA M MAHONEY, EXAMINING ATTORNEY



*Michelle K. Lee*

Director of the United States  
Patent and Trademark Office

# United States of America

United States Patent and Trademark Office

## ECHOWOLF

**Reg. No. 5,204,596**

Sally N. White (UNITED STATES INDIVIDUAL)  
1230 Pace Road  
Park City, UT 84098

**Registered May 16, 2017**

**Int. Cl.: 35**

CLASS 35: Business marketing consulting services; Marketing consulting; Professional business consulting

**Service Mark**

FIRST USE 2-28-2016; IN COMMERCE 2-28-2016

**Principal Register**

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 87-196,377, FILED 10-07-2016  
PAUL C CROWLEY, EXAMINING ATTORNEY



*Michelle K. Lee*

Director of the United States  
Patent and Trademark Office

# United States of America

United States Patent and Trademark Office

## INTERECHO

**Reg. No. 5,476,528**

**Registered May 22, 2018**

**Int. Cl.: 35, 41**

**Service Mark**

**Principal Register**

INTERECHO, INC. (CALIFORNIA CORPORATION)  
4929 Wilshire Blvd., Suite 691  
Los Angeles, CALIFORNIA 90010

CLASS 35: Advertising and marketing agency services

FIRST USE 11-30-2017; IN COMMERCE 11-30-2017

CLASS 41: Translation services

FIRST USE 11-30-2017; IN COMMERCE 11-30-2017

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 87-327,603, FILED 02-07-2017



*Andrei Iancu*

Director of the United States  
Patent and Trademark Office

# United States of America

United States Patent and Trademark Office

## Echo

**Reg. No. 5,609,311**

**Registered Nov. 20, 2018**

**Int. Cl.: 35**

**Service Mark**

**Principal Register**

BlueArx, LLC (LOUISIANA LIMITED LIABILITY COMPANY)  
2031 Kings Hwy, Intertech 1, Suite 213,  
Shreveport, LOUISIANA 71103

CLASS 35: Advertising and marketing services provided by means of indirect methods of marketing communications, namely, social media, search engine marketing, inquiry marketing, internet marketing, mobile marketing, blogging and other forms of passive, sharable or viral communications channels; Advertising services, namely, promoting and marketing the goods and services of others through all public communication means; Consulting services in the field of search engine optimization; Development of marketing strategies, concepts and tactics, namely, audience development, brand awareness, online community building and digital word of mouth communications; Marketing and branding services, namely, providing customized communication programs to obtain consumer insights and develop branding strategies; Marketing services, namely, providing informational web pages designed to generate sales traffic via hyperlinks to other web sites; Marketing, advertising, and promoting the retail goods and services of others through wireless electronic devices; Marketing, promotional and advertising services provided by mobile telephone connections; On-line advertising and marketing services; Planning, design, development, maintenance, tracking and reporting of online marketing activities for third parties; Promoting, advertising and marketing on-line web sites of others; Promoting, advertising and marketing the on-line databases and electronic publications of others; Promoting, marketing and advertising the brands and goods of others related to all industries, through all public and private communication means, namely, promoting the brands and goods of others made in the United States; Promotion, advertising and marketing of on-line websites; Providing business information in the field of social media; Providing marketing consulting in the field of social media; Search engine optimization; Social media strategy and marketing consultancy focusing on helping clients create and extend their product and brand strategies by building virally engaging marketing solutions



FIRST USE 12-26-2012; IN COMMERCE 12-26-2012

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 86-261,249, FILED 04-24-2014

A handwritten signature in cursive script, appearing to read "Andrei Iancu".

Director of the United States  
Patent and Trademark Office