

## Response to Office Action

### ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

Mark: DARWIN

S/N: 88028634

1. **Applicant respectfully requests the Examining Attorney to withdrawal the Section 2(d) Refusal to register.**

The Examining Attorney has refused registration of the mark DARWIN (“Applicant’s Mark”) on the ground that the mark, when used on or in connection with musical sound recordings (Class 009) and entertainment services in the nature of live musical performances (Class 041), as identified in the application, is likely to be confused with the registered mark DARWINBEATS, Registration No. 4968458 (the “Cited Mark”).

It is our contention that Applicant’s Mark and the Cited Mark are distinct in sight, sound, meaning, and commercial impression, and that the differing classes of goods/services and degree of consumer care used in connection with the goods and services sold under Applicant’s Mark further distinguish the marks. Additionally, it appears that the services for which the Cited Mark is registered have been dormant for at least two years, which lessens the chance of confusion even further.

For these reasons, Applicant believes that there is no likelihood of confusion between Applicant’s Mark, as it will be used on Applicant’s goods and services, and the Cited Mark.

2. **Based on an evaluation of the du Pont factors there is no likelihood of confusion.**

In determining the likelihood of confusion between two marks, one must consider the marks themselves, viewing the marks in their entirety, and considering any differences between them in terms of sight, sound, meaning and commercial impression. One must also consider the different trade channels that the parties inhabit and the degree of care likely to be exercised by consumers in purchasing the respective parties’ products or services. Although the issue of likelihood of confusion typically revolves around the similarity or dissimilarity of the marks and the relatedness of the goods and services, “there is no mechanical test for determining likelihood of confusion and ‘each case must be decided on its facts.’” TMEP § 1207.01 (citing du Pont, 476 F.2d at 1361). Applicant respectfully submits that coexistence on the Principal Register of Applicant’s Mark and the Cited Mark is not likely to create consumer confusion based on an evaluation of the various du Pont factors, as described further below.

3. **Applicant's Mark (DARWIN) and the Cited Mark (DARWINBEATS) are clearly distinguishable in appearance, sound and meaning, and each make a distinct commercial impression.**

The Examining Attorney refused registration on the basis that the Cited Mark incorporates the entirety of Applicant's Mark. It has been held, however, that any one of the du Pont factors may be dispositive, especially where that single factor is the dissimilarity of the marks. *See* TMEP § 1207.1; *see also Champagne Louis Roeder, S.A. v Delicato Vineyards* 143 F.3d 1373, 1375 (Fed. Cir. 1998). Applicant's Mark looks and sounds completely different than the Cited Mark, its meaning is arbitrary and fanciful, and it and creates a distinct commercial impression.

The proper test for likelihood of confusion asks whether the marks are distinct in appearance and sound, and "whether the marks are sufficiently similar in terms of their commercial impression" such that persons who encounter the marks would be likely to assume a connection between the parties. *Leading Jewelers Guild v. LJOW Holdings, LLC*, 82 U.S.P.Q.2d 1901, 1905 (TTAB 2007). Even where the marks at issue are identical, or nearly identical, the Board has found that differences in connotation can outweigh visual and phonetic similarity. *See Blue Man Prods. Inc. v. Tarmann*, 75 U.S.P.Q.2d 1811, 1820-21 (TAB 2005) (finding that BLUE MAN GROUP "has the connotation of the appearance of the performers" and that applicant's BLUEMAN mark "has no such connotation for cigarettes or tobacco" and, thus, the marks differ in connotations and commercial impressions.)

Furthermore, in some cases, a determination that there is no likelihood of confusion may be appropriate, even where the marks share common terms. Likewise, additions or deletions to marks may be sufficient to avoid a likelihood of confusion, especially if the marks in their entireties convey different commercial impressions..., or are used in connection with goods or services purchased by a sophisticated consumer. *See* TMEP § 1207.01(b)(iii).

Here, Applicant's Mark has a distinct appearance because one is a design mark and one is a word mark. When comparing Applicant's Mark in its entirety to the Cited Mark, clear visual differences are observed. First, the Cited Mark includes a design element consisting of a fish with musical notes as legs, while Applicant's Mark does not incorporate any design elements. Second, the dominant feature of the Cited Mark is the centered image of a minimalistic fish that incorporates a musical note; its distinctly larger size dwarfs that of the word "darwinbeats" below it. On the other hand, the dominant feature of Applicant's Mark is the word "DarWin" with the letters "D" and "W" capitalized. Third, the marks are not identical and share only the word, "DARWIN," since the Cited Mark includes the word "BEATS" plus a design element that is absent from Applicant's Mark. And finally, Applicant's Mark is shorter than the Cited Mark because the Cited Mark portrays the word "DARWINBEATS" as a closed compound word in small font and all lowercase letters with no spaces between them. In contrast, Applicant's Mark consists of a single word with a capital "D" and "W," while the remainder of the letters are lowercase ("DarWin"). While Applicant's mark and the Cited Mark both contain the word "Darwin," the exclusion of "beats" distinguishes the marks visually and aurally. When viewed or heard by a consumer, Applicant's Mark is drastically different from the Cited Mark; the Cited Mark sounds like the two words that constitute the mark (in contrast to Applicant's one-word mark) and with the Cited Mark, the consumer hears three syllables (in contrast to Applicant's two-syllable mark). Because the marks must be considered in their entirety, the term DARWIN

creates a markedly different visual and aural appearance from DARWINBEATS. This makes consumer confusion highly unlikely.

Furthermore, Applicant's Mark, especially when presented visually as Applicant presents it (i.e. "DarWin"), evokes an image of someone winning at survival of the fittest. Applicant's Mark is arbitrary and fanciful in connection with the goods and services sold under the mark (i.e., recorded music and live entertainment). In contrast, Darwinbeats connotes music (i.e. "beats"), and is thus descriptive of the underlying services (i.e. the opposite of arbitrary and fanciful). Unlike the Cited Mark, Applicant's Mark is entirely arbitrary and fanciful, as the term "Darwin" has nothing to do with music or live entertainment. Applicant, who performs as DarWin, has not chosen a name to describe Applicant, but rather has chosen an arbitrary name as its source identifier for fans.

In sum, there can be no presumption that two marks differing in these manners will project the same commercial impression. Thus, the Applicant's Mark differs from the Cited Mark in sight, sound, connotation and commercial impression; and such differences in are key factors in determining the likelihood of confusion.

Applicant respectfully submits that based on the above, there is no likelihood of confusion between Applicant's Mark and the Cited Mark.

4. **Applicant's goods and services are sufficiently distinct from the services registered under the Cited Mark.**

Two *du Pont* factors that further support the registration of Applicant's Mark are (1) the dissimilarity and nature of the goods and services at issue, and (2) the dissimilarity of established, likely-to-continue trade channels. *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). The more dissimilar these two issues are, the less likely that consumers will be confused. Where the goods and/or services of the and applicant and registrant are different, the Examining Attorney bears the burden of showing that the differing goods and/or services would commonly be provided by the same source. *E.g.*, *In re Shipp*, 4 U.S.P.Q.2d 1174, 1176 (TTAB 1987). Confusion is not necessarily likely simply because the goods or services can be described as being in the same category or field. *Therma-scan, Inc. v. Thermoscan, Inc.*, 295 F.3d 623 (6th Cir. 2002).

Here, the Cited Mark is registered in Class 38 for "Delivery of digital music by electronic transmission; Telecommunications on the Internet, namely, audio, and image transmission; Sound broadcasting of music and films via the Internet, telephony." On the other hand, Applicant is applying in Class 9 for "Musical sound recordings" and in Class 41 for "Entertainment services in the nature of live musical performances." The Cited Mark and the Applicant's Mark are in different classes, and the types of goods/services they provide are quite distinct.

The Cited Mark is used for a "music discovery app" according to the registrant's description, whereas the Applicant's Mark is the source identifier for a musical artist. The service provided under the Cited Mark relates to music discovery, i.e. access to a wide variety of music provided by a wide variety of musicians. The goods and services provided under the Applicant's Mark are from one specific source (i.e. Applicant). In other words, consumers seek the service provided under the Cited Mark because they don't know exactly what they are

looking for yet (i.e. they want to *discover* new music). In contrast, consumers seek the goods and services of Applicant because they want the specific goods and services offered under Applicant's Mark. It is very unlikely that both sets of consumers would confuse their targets.

The mere fact that the Cited Mark and Applicant's Mark both involve music is insufficient to prove a likelihood of confusion. In fact, it is established that the mere *possibility* that relevant purchasers might relate the two different marks does not meet the statutorily established test of *likelihood* of confusion. *E.g., In re Hughes Aircraft Company*, 222 U.S.P.Q. 263, 264 (TTAB 1984) ("the Trademark Act does not preclude registration of a mark where there is a possibility of confusion as to source or origin, only where such confusion is *likely*") (emphasis added).

There is no evidence of record that the respective goods and services are in any way related for purposes of the likelihood of confusion analysis. The goods and services offered under Applicant's Mark and the Cited Mark focus on entirely differing elements in the greater music marketplace, making confusion very unlikely.

5. **Consumers will take great care when identifying and purchasing the goods and services identified by Applicant's Mark**

The fourth *du Pont* factor considers the conditions under which and the buyers to whom sales are made, i.e. "impulse" vs. careful, sophisticated purchasing. When products are relatively low-priced and subject to impulse buying, the risk of likelihood of confusion is increased because purchasers of such products are held to a lesser standard of purchasing care. *See Recot, Inc., Appellant, v. M.c. Becton*, 214 F.3d 1322 (Fed. Cir. 2000); *see also Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, in which the court noted that purchaser sophistication may tend to minimize likelihood of confusion; *see also In re N.A.D., Inc.*, 754 F.2d 996, 999-1000 (Fed Cir. 1985) (concluding that because only sophisticated purchasers exercising great care would purchase the relevant goods, there would be no likelihood of confusion merely because of the similarity between the marks NARCO and NARKOMED).

Confusion between Applicant's Mark and the Cited Mark is unlikely given (i) the steps required to download a mobile application, and (ii) the degree of care exercised by consumers of the goods at issue herein - music. For the former, in order to download a mobile application a consumer must follow several steps, including at minimum opening their application store, searching for the application, and then downloading. And depending on the operating system that the consumer is using, the consumer must verify their identity and/or payment option before the download can begin. Each of these separate steps gives the consumer an opportunity to take pause and ensure that they are acquiring the goods or services they mean to acquire.

For the latter, Music is a subjective, personal pastime. Both recorded music and tickets to live musical performances are relatively costly to purchase and are not subject to impulse buying. Because music is a subjective pastime and because music is a relatively expensive item, consumers of music are sophisticated – or at a minimum, consumers think before they purchase. Nobody wants to spend \$18 on a CD or \$100+ on a ticket to a show for a band they don't know or like.

Furthermore, logic dictates that a multiplicity of similar words used in various marks may make consumers hesitate to assume a common source for all products bearing such word. Because so many musical artists and services have similar names differing by only one word, consumers already have plenty of experience distinguishing between various versions of these names for the goods and services at issue.

For these reasons, a consumer will take great care when purchasing Applicant’s music (and similarly, consumers will take care when purchasing services sold under the Cited Mark). Consumers, therefore, would be highly unlikely to be confused between the different marks and their respective goods and services.

6. **There are numerous examples of entertainment-related marks using one word and then differing by only the addition of another word.**

The Examining Attorney noted that “although marks are compared in their entirety, one feature of a mark may be more significant or dominant in creating a commercial impression.” Applicant wishes to bring to the Examining Attorney’s attention that there are many registered marks that contain the same word and differ only by the addition (or exclusion) of one word. The following marks, which have been registered (or are pending 1(b) applications) with the PTO by different entities for use with entertainment-related goods or services, strongly suggest that there is no likelihood of confusion between a single-word mark and a mark consisting not only of that single word, but incorporating an additional word as well. This further supports Section 5 above, showing that consumers of music are sophisticated and, therefore, will take time to distinguish between the names of similar bands, even where the names are quite similar or differ by only the addition of terms (even disclaimed or descriptive terms).

There are no doubt other registrations that fit this pattern, but the following are some relevant examples of entertainment-related marks revealed by an unsystematic search of the TESS database:

<b>Registration or Serial Number</b>	<b>Mark</b>	<b>Goods/Services (in relevant part)</b>
2486822 and 2383390	PINK	009: Musical sound recordings and audio-visual recordings featuring music.  041: Entertainment services, namely, live musical performances.
3247700	PINK FLOYD	009: Compact discs, phonographic records, pre-recorded audio and video tapes all featuring music and/or interviews with musicians.  041: Video, disc, and cassette recording for others.
3256211	PINK ELEPHANT	041: Entertainment services, namely musical performances, event planning, and nightclub services.

3028677	THE WHIGS	041: Entertainment services, namely performances by a live musical artist and providing pre-recorded music online and information regarding a musical artist online via a global computer network.
3193764	AFGHAN WHIGS	009: Audio recordings featuring music; downloadable musical sound recordings; downloadable video recordings featuring musical performances; musical sound recordings; musical video recordings; sound recordings featuring musical performances; video recordings featuring musical performances.
2271397	QUEEN	009: ideo and sound recordings and [ motion picture films featuring music and concert performances; exposed camera film ]; pre-recorded compact discs featuring music; etc.  041: entertainment in the nature of live musical concerts; radio program production and television show production; production of records and audio and video tapes, discs and cassettes; entertainment services, namely, production of plays, musicals, [ concerts,] live theatrical performances; publication of books and publication of concert programs, musical tour programs and musical score books
5594275	QUEENS OF HIP HOP	041: Entertainment services in the nature of live musical performances.
5563951	THE QUEEN OF SAXOPHONE	041: Entertainment services by a musical artist and producer, namely, musical composition for others and production of musical sound recordings; Entertainment services in the nature of live musical performances
5426228	QUEEN STATUS	009: Pre-recorded audio and audio-visual recordings containing musical entertainment, in the form of phonograph records, audio cassette tapes, compact discs, and MP3 files and available for download via the Internet and wireless devices

4851055	QUEEN ISIS	041: Entertainment services in the nature of live musical performances, Entertainment services in the nature of live performances by a female entertainer, Production of musical sound recording, Audio recording and production, Entertainment services, namely, personal appearances by an entertainer and musician
3893592	QUEENS OF THE STONE AGE	009: DVDs and downloadable audio and video recordings featuring music and musical performances.
5484014 5442162	ELEKTRIC SOULS	009: Compact discs featuring music, etc.  041: Entertainment in the nature of live performances by a musical artist and disc jockey, etc.
5400778	ELECTRIC ENTERTAINMENT	041: Entertainment services, namely, production and distribution of documentary films, comedic films, dramatic films, television shows, musical performances, dramatic performances and comedic performances; distribution of television shows and movies; directing and producing films and television
1953039	STING	041: entertainment services, namely live and televised performances by a professional wrestler/entertainer.
3965608	STING INTERNATIONAL	041: Entertainment services, namely, organizing musical performances in parties, events, and nightclubs; music production services
4829639	STINGWAX	041: Entertainment services, namely, providing monthly or yearly subscription services of professionally mixed and transitioned music blocks of more than an hour, preferably five (5) hour blocks to commercial or individual consumers, business to customers via global communications network

(To make all registrations cited herein of record, Applicant submits herewith in electronic format copies of the cited registrations taken from the electronic search records of the PTO, in accordance with TMEP Section 710.03.)

It's also worth noting that the mark "DARWIN" is registered in Class 42 for software (Reg. No. 5659824) (the "Class 42 Mark"). The Class 42 Mark registered on January 22, 2019 without any finding of confusing similarity with the Cited Mark, despite the fact that both of these marks offer software applications (which is arguably much more similar than the musical sound recordings and live performances offered under Applicant's Mark). The fact that the examining attorney for the Class 42 Mark did not find confusing similarity with the Cited Mark indicates that Applicant's Mark (which is identical to the Class 42 Mark) is not definitively confusingly similar to the Cited Mark when viewing the overall marks and their differing goods and services.

7. **The Cited Mark is not being actively used for the services for which it is registered.**

Under *du Pont*, the PTO must also consider "any other established fact probative of the effect of use." Id. at 1361, 177 USPQ at 567. According to 15 USC 1127, a trademark is considered abandoned if "its use has been discontinued with intent not to resume such use." The intent not to resume may be inferred from circumstances. After reviewing the current and historical uses of the Cited Mark, it appears that it is not being used in conjunction with the services for which it is registered.

The Cited Mark is registered for "Delivery of digital music by electronic transmission". In 2015, a mobile application (the "App") was launched for the service on the iTunes App Store and Google Play. However, the App has not been updated by its creator since May 9, 2017, which is nearly two years ago. Furthermore, the most recent reviews on the App's iTunes App Store page indicate that the App has been non-functioning since at least October 30, 2017. In other words, consumers are unable to procure the services that are offered under the Cited Mark. And finally, the website for the Cited Mark is merely a landing page that says "Coming Soon", despite the fact that the App was launched nearly four years ago. Evidence of the foregoing is attached to this response.

In sum, although the App is technically still available for download, consumers effectively are unable to use the services offered. The owner of the Cited Mark has known about this issue for a year and a half and has not remedied it. Therefore, the circumstances indicate discontinuation of use of the Cited Mark on the relevant services, with no intention to resume such use.

8. **No likelihood of confusion exists.**

For all of the foregoing reasons, Applicant respectfully submits that there is no likelihood of confusion between Applicant's Mark and the Cited Mark. Applicant respectfully requests that the application be approved for publication.



TSDR

ASSIGN Status

TTAB Status

( Use the "Back" button of the Internet Browser to return to TESS)

PINK

Word Mark PINK  
Goods and Services IC 009, US 021 023 026 036 038, G & S: Musical sound recordings and audio-visual recordings featuring music. FIRST USE: 20000215. FIRST USE IN COMMERCE: 20000215  
Mark Drawing Code (1) TYPED DRAWING  
Serial Number 75832377  
Filing Date October 26, 1999  
Current Basis 1A  
Original Filing Basis 1B  
Published for Opposition June 19, 2001  
Registration Number 2486822  
Registration Date September 11, 2001  
Owner (REGISTRANT) Lefty Paw Print, LLC LIMITED LIABILITY COMPANY NEW YORK 7 Times Square c/o Pryor Cashman LLP New York NEW YORK 10036  
Attorney of Record Brad D. Rose  
Type of Mark TRADEMARK  
Register PRINCIPAL  
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20110930.  
Renewal 1ST RENEWAL 20110930  
Live/Dead Indicator LIVE

TESS HOME

NEW USER

STRUCTURED

FREE FORM

BROWSE DICT

SEARCH OG

TOP

HELP

# PINK

**Word Mark** PINK  
**Goods and Services** IC 041, US 100 101 107, G & S: Entertainment services, namely, live musical performances. FIRST USE: 19990717. FIRST USE IN COMMERCE: 19990717  
**Mark Drawing Code** (1) TYPED DRAWING  
**Serial Number** 75842121  
**Filing Date** November 6, 1999  
**Current Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** June 13, 2000  
**Registration Number** 2383390  
**Registration Date** September 5, 2000  
**Owner** (REGISTRANT) Lefty Paw Print, LLC LIMITED LIABILITY COMPANY NEW YORK 7 Times Square c/o Pryor Cashman LLP New York NEW YORK 10036  
**Type of Mark** SERVICE MARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15, SECT 8 (6-YR), SECTION 8(10-YR) 20100830.  
**Renewal** 1ST RENEWAL 20100830  
**Live/Dead Indicator** LIVE

# PINK FLOYD

Word Mark

PINK FLOYD

Goods and Services

IC 009. US 021 023 026 036 038. G & S: COMPACT DISCS, PHONOGRAPHIC RECORDS, PRE-RECORDED AUDIO AND VIDEO TAPES ALL FEATURING MUSIC AND/OR INTERVIEWS WITH MUSICIANS

IC 016. US 002 005 022 023 029 037 038 050. G & S: PRINTED MATTER, NAMELY, BOOKS, MAGAZINES, JOURNALS IN THE FIELD OF MUSICAL ENTERTAINMENT

IC 025. US 022 039. G & S: ARTICLES OF OUTER CLOTHING, NAMELY, HEADBANDS, JACKETS, [ LEATHER JACKETS, ] JERSEYS, JUMPERS, PAJAMAS, PANTS, SCARVES, GLOVES, SWEATSHIRTS, SPORT SHIRTS, SHIRTS, T-SHIRTS, TROUSERS, WRIST BANDS, HATS, CAPS, AND FOOTWEAR

(CANCELLED) IC 041. US 100 101 107. G & S: [ VIDEO, DISC AND CASSETTE RECORDING FOR OTHERS ]

## Standard Characters

Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 79015083

Filing Date July 11, 2005

Current Basis 66A

Original Filing Basis 66A

Published for Opposition March 13, 2007

Change in Registration CHANGE IN REGISTRATION HAS OCCURRED

Registration Number 3247700

International Registration Number 0861426

Registration Date May 29, 2007

Owner (REGISTRANT) PINK FLOYD (1987) LIMITED limited company (ltd.) UNITED KINGDOM 71 Queen Victoria St. London EC4V 4BE UNITED KINGDOM

Attorney of Record Eric T. Fingerhut

Prior Registrations 2194702

Type of Mark TRADEMARK, SERVICE MARK

Registrar PRINCIPAL

Affidavit Text SECT 15. SECTION 71. SECTION 71

Other Data THE MARK PINK FLOYD DOES NOT IDENTIFY ANY LIVING INDIVIDUAL.

Live/Dead Indicator LIVE

# PINK ELEPHANT

**Word Mark** PINK ELEPHANT  
**Goods and Services** (CANCELLED) IC 041. US 100 101 107. G & S: Entertainment services, namely, musical performances, event planning and nightclub services. FIRST USE: 20040815. FIRST USE IN COMMERCE: 20040815

**Standard Characters Claimed**  
**Mark Drawing Code** (4) STANDARD CHARACTER MARK  
**Serial Number** 78954760  
**Filing Date** August 17, 2006  
**Current Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** April 10, 2007  
**Registration Number** 3256211  
**Registration Date** June 26, 2007  
**Owner** (REGISTRANT) P.E.G. Entertainment Group, LLC LIMITED LIABILITY COMPANY NEW YORK 281 County Road 39A Southampton NEW YORK 11968  
(LAST LISTED OWNER) PINK ELEPHANT LICENSING CORPORATION, INC. CORPORATION NEW YORK 191 SEVENTH AVENUE 3E NEW YORK NEW YORK 10011

**Assignment Recorded** ASSIGNMENT RECORDED  
**Attorney of Record** Ali R. Latifi  
**Prior Registrations** 3116659  
**Type of Mark** SERVICE MARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR).  
**Live/Dead Indicator** DEAD  
**Cancellation Date** February 2, 2018

## THE WHIGS

<b>Word Mark</b>	THE WHIGS
<b>Goods and Services</b>	IC. 041. US 100 101 107. G & S: Entertainment services, namely performances by a live musical artist and providing pre-recorded music online and information regarding a musical artist online via a global computer network. FIRST USE: 20010423. FIRST USE IN COMMERCE: 20030901
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	78513882
<b>Filing Date</b>	November 9, 2004
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	September 20, 2005
<b>Registration Number</b>	3028677
<b>Registration Date</b>	December 13, 2005
<b>Owner</b>	(REGISTRANT) Sullivant, Henry P. III INDIVIDUAL UNITED STATES 2899 Tishomingo Lane Memphis TENNESSEE 38111 (REGISTRANT) Gispert, Parker A. INDIVIDUAL UNITED STATES 100 Cartier Court Roswell GEORGIA 30076 (REGISTRANT) Dorio, Julian G. INDIVIDUAL UNITED STATES 108 Summer Village Drive Annapolis MARYLAND 21401 (LAST LISTED OWNER) THE WHIGS, LLC LIMITED LIABILITY COMPANY UNITED STATES 820 WOODLAND AVE SE ATLANTA GEORGIA 30316
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	David W. Prasse
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20160613.
<b>Renewal</b>	1ST RENEWAL 20160613
<b>Live/Dead Indicator</b>	LIVE

# AFGHAN WHIGS

**Word Mark** AFGHAN WHIGS

**Goods and Services**

(CANCELLED) IC 009. US 021 023 026 036 038. G & S: Audio recordings featuring music; Downloadable musical sound recordings; Downloadable video recordings featuring musical performances; Musical sound recordings; Musical video recordings; Sound recordings featuring musical performances; Video recordings featuring musical performances. FIRST USE: 19880101. FIRST USE IN COMMERCE: 19880901

**Standard Characters**

**Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 78828881

**Filing Date** March 3, 2006

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for** October 17, 2006

**Opposition**

**Registration Number** 3193764

**Registration Date** January 2, 2007

**Owner**

(REGISTRANT) Curley, John INDIVIDUAL UNITED STATES c/o Brian McPherson, Esq. P.O. Box 50657 Los Angeles CALIFORNIA 900500657

(REGISTRANT) McCollum, Rick INDIVIDUAL UNITED STATES c/o Brian McPherson PO Box 50657 Los Angeles CALIFORNIA 900500657

(REGISTRANT) Dulli, Gregory INDIVIDUAL UNITED STATES c/o Brian McPherson, Esq. PO Box 50657 Los Angeles CALIFORNIA 900500657

**Attorney of Record**

Jodi L. Sax, Esq.

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Live/Dead Indicator**

DEAD

**Cancellation Date**

August 9, 2013

# Typed Drawing

**Word Mark**  
**Goods and Services**

QUEEN

IC 009. US 021 023 026 038 038. G & S: video and sound recordings and [ motion picture films featuring music and concert performances; exposed camera film ]; pre-recorded compact discs featuring music; [ blank audio and video tapes; ] cassettes and compact discs; [ computer software featuring music and entertainment in the nature of animation and videos featuring musical and concert performances and stories, and featuring educational creative writing programs, screen saver programs, poster art programs, and graphics programs, all for entertainment and amusement; video game cartridges; video game discs; electronic computer game cartridges and electronic computer game machines for use with televisions; coin-operated game machines for use with televisions ]

IC 016. US 002 005 022 023 029 037 038 050. G & S: tour programs featuring a musical group; goods made from paper or cardboard, namely, decalcomanias, posters, [ greeting cards ] and sheet music, all featuring or pertaining to a musical group; [ stationery, pens,] both featuring or pertaining to a musical group; mounted and unmounted photographs featuring or pertaining to a musical group; [ printed radio and television programs featuring listings of programs and schedules featuring or pertaining to a musical group ]

IC 025. US 022 039. G & S: articles of outer clothing featuring or pertaining to a musical group, sold at concerts and record stores, namely, T-shirts; caps; jackets [; anoraks, trousers; dresses; footwear; ]and headwear

IC 041. US 100 101 107. G & S: entertainment in the nature of live musical concerts; radio program production and television show production; production of records and audio and video tapes, discs and cassettes; entertainment services, namely, production of plays, musicals, [ concerts,] live theatrical performances; publication of books and publication of concert programs, musical tour programs and musical score books

## Mark Drawing

(1) TYPED DRAWING

75314345

June 24, 1997

44E

1B;44E

June 1, 1999

2271397

August 24, 1999

(REGISTRANT) Queen Productions Limited LIMITED LIABILITY COMPANY UNITED KINGDOM 4 Gees Court, St Christopher's Place London UNITED KINGDOM W1U 1JD

Rita E. Kline

TRADEMARK. SERVICE MARK

PRINCIPAL

SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20090903.

1ST RENEWAL 20090903

LIVE

[TSDR](#)[ASSIGN Status](#)[TTAB Status](#)

( Use the "Back" button of the Internet Browser to return to TESS)

# QUEENS OF HIP HOP

<b>Word Mark</b>	QUEENS OF HIP HOP
<b>Goods and Services</b>	IC 041. US 100 101 107. G & S: Entertainment services in the nature of live musical performances. FIRST USE: 20120120. FIRST USE IN COMMERCE: 20120120
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	87771844
<b>Filing Date</b>	January 26, 2018
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	August 14, 2018
<b>Registration Number</b>	5594275
<b>Registration Date</b>	October 30, 2018
<b>Owner</b>	(REGISTRANT) Jenkins, Kevin INDIVIDUAL UNITED STATES 750 Meiglorly Rose Ct Stockbridge GEORGIA 30281
<b>Disclaimer</b>	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HIP HOP" APART FROM THE MARK AS SHOWN
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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## THE QUEEN OF SAXOPHONE

### Word Mark

**Goods and Services**

THE QUEEN OF SAXOPHONE

IC 041. US 100 101 107. G & S: Entertainment services by a musical artist and producer, namely, musical composition for others and production of musical sound recordings; Entertainment services in the nature of live musical performances; Entertainment services in the nature of presenting live musical performances; Entertainment, namely, live performances by rock groups; Music composition services; Presentation of live show performances; Provision of information relating to live performances, road shows, live stage events, theatrical performances, live music concerts and audience participation in such events. FIRST USE: 20160724. FIRST USE IN COMMERCE: 20170730

**Standard Characters Claimed**

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Serial Number**

87643447

**Filing Date**

October 12, 2017

**Current Basis**

1A

**Original Filing Basis**

1A

**Published for Opposition**

July 3, 2018

**Registration Number**

5563951

**Registration Date**

September 18, 2018

**Owner**

(REGISTRANT) Chariston-Mashayekhi, Hayan INDIVIDUAL UNITED STATES 89 S Roosevelt Avenue Apt. 8 Pasadena CALIFORNIA 91107

**Attorney of Record**

Thomas Dunlap

**Type of Mark**

SERVICE MARK

**Register**

PRINCIPAL

**Other Data**

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

**Live/Dead Indicator**

LIVE

# Queen Status

<b>Word Mark</b>	QUEEN STATUS
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: Pre-recorded audio and audio-visual recordings containing musical entertainment, in the form of phonograph records, audio cassette tapes, compact discs, and MP3 files and available for download via the Internet and wireless devices. FIRST USE: 20110628. FIRST USE IN COMMERCE: 20110628
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	87440442
<b>Filing Date</b>	May 8, 2017
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	October 3, 2017
<b>Registration Number</b>	5426228
<b>Registration Date</b>	March 20, 2018
<b>Owner</b>	(REGISTRANT) McMurray, Davina DBA Davina Joy INDIVIDUAL UNITED STATES P.O. Box 223 San Lorenzo CALIFORNIA 94580
<b>Attorney of Record</b>	Brent Finley
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

# QUEEN ISIS

**Word Mark**

QUEEN ISIS

**Goods and Services** IC.041. US 100 101 107. G & S: Entertainment services in the nature of live musical performances, Entertainment services in the nature of live performances by a female entertainer, Production of musical sound recording, Audio recording and production, Entertainment services, namely, personal appearances by an entertainer and musician. FIRST USE: 20100700. FIRST USE IN COMMERCE: 20110621

**Standard****Characters Claimed**

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 86588057

Filing Date April 6, 2015

Current Basis 1A

Original Filing Basis 1A

Published for Opposition August 25, 2015

Registration Number **4851055**

Registration Date November 10, 2015

Owner (REGISTRANT) Green, Tene' Kishan INDIVIDUAL UNITED STATES 13072 Sutton Street Cerritos CALIFORNIA 90703

Attorney of Record Milord A. Keshishian

Type of Mark SERVICE MARK

Register PRINCIPAL

**Other Data** The name(s), portrait(s), and/or signature(s) shown in the mark identifies the stage name of the Applicant, Tene' Kishan Green, whose consent(s) to register is made of record.**Live/Dead Indicator** LIVE

## QUEENS OF THE STONE AGE

**Word Mark****QUEENS OF THE STONE AGE****Goods and Services**

IC.009. US 021 023 026 036 038. G & S: DVDs and downloadable audio and video recordings featuring music and musical performances. FIRST USE: 20040900. FIRST USE IN COMMERCE: 20040900

**Standard Characters****Claimed****Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Serial Number**

85030239

**Filing Date**

May 4, 2010

**Current Basis**

1A

**Original Filing Basis**

1A

**Published for Opposition**

October 5, 2010

**Registration Number**

3893592

**Registration Date**

December 21, 2010

**Owner**

(REGISTRANT) Queens of the Stone Age, LLC LIMITED LIABILITY COMPANY DELAWARE c/o Myman, Abell, Fineman, et al. 11601 Wilshire Blvd., Suite 2200 Los Angeles CALIFORNIA 90025

**Attorney of Record**

Rod S. Berman

**Type of Mark**

TRADEMARK

**Register**

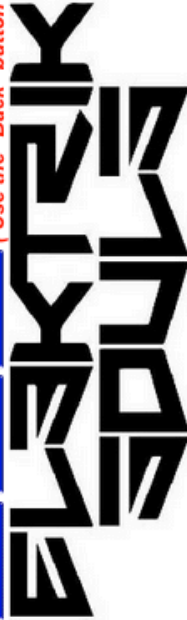
PRINCIPAL

**Affidavit Text**

SECT 15. SECT 8 (6-YR). SECT 8 (6-YR).

**Live/Dead Indicator**

LIVE

**Word Mark****Goods and Services**

IC 009, US 021 023 026 036 038, G & S: Compact discs featuring music; Digital materials, namely, CD's, DVD's and downloadable files featuring music; Digital music downloadable from the Internet; Musical sound recordings; Musical video recordings; Phonograph records featuring music; Audio and video recordings featuring music, music videos, concerts, interviews and entertainment news; visual and audio recordings featuring music, music videos, concerts and interviews; downloadable publications from on-line databases on the Internet and other electronic communications network, namely, magazines and newsletters featuring music information; DVDs featuring music and videos that contain music, music videos, concerts, interviews and entertainment news; downloadable digital music; downloadable telephone ring tones. FIRST USE: 2014/04/28. FIRST USE IN COMMERCE: 2014/04/28

**Mark Drawing Code** (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM**Serial Number** 87462246**Filing Date** May 24, 2017**Current Basis** 1A**Original Filing Basis** 1A**Published for Opposition** March 20, 2018**Registration Number** 5484014**Registration Date** June 5, 2018**Owner** (REGISTRANT) Elektrik Souls LLC LIMITED LIABILITY COMPANY WYOMING Suite 309 27068 La Paz Road Aliso Viejo CALIFORNIA 92656**Attorney of Record** Keesonga Gore**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of the stylized text "ELEKTRIK SOULS".**Type of Mark** TRADEMARK**Register** PRINCIPAL**Live/Dead Indicator** LIVE



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## ELECTRIC ENTERTAINMENT

### Word Mark ELECTRIC ENTERTAINMENT

**Goods and Services** IC 041. US 100 101 107. G & S: Entertainment services, namely, production and distribution of documentary films, comedic films, dramatic films, television shows, musical performances, dramatic performances and comedic performances; distribution of television shows and movies; directing and producing films and television. FIRST USE: 20021126. FIRST USE IN COMMERCE: 20021126

### Standard Characters

#### Claimed

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 87531402

**Filing Date** July 17, 2017

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** November 28, 2017

**Registration Number** 5400778

**Registration Date** February 13, 2018

**Owner** (REGISTRANT) Dean Devlin INDIVIDUAL UNITED STATES c/o Barnes & Thornburg LLP 225 South Sixth Street, Suite 2800 Minneapolis MINNESOTA 554024662

**Attorney of Record** Kenneth D. Suzan

**Prior Registrations** 3265411;3651519;3701860

**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ENTERTAINMENT" APART FROM THE MARK AS SHOWN

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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## Typed Drawing

<b>Word Mark</b>	STING
<b>Goods and Services</b>	IC 041. US 100 101 107. G & S: entertainment services, namely live and televised performances by a professional wrestler/entertainer. FIRST USE: 19860200. FIRST USE IN COMMERCE: 19860200
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	74629288
<b>Filing Date</b>	January 25, 1995
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	November 7, 1995
<b>Registration Number</b>	1953039
<b>Registration Date</b>	January 30, 1996
<b>Owner</b>	(REGISTRANT) S.L. BORDEN INDIVIDUAL UNITED STATES c/o EDELSTEIN LAIRD & SOBEL, LLP 9255 SUNSET BLVD., SUITE 800 LOS ANGELES CALIFORNIA 90069
<b>Attorney of Record</b>	NORMAN ZAFMAN
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20160406.
<b>Renewal</b>	2ND RENEWAL 20160406
<b>Other Data</b>	The applicant, "S. L. BORDEN" whose pseudonym is "STING", is a living individual whose consent is of record.
<b>Live/Dead Indicator</b>	LIVE



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# STING INTERNATIONAL

## Word Mark

STING INTERNATIONAL

## Goods and Services

IC 041, US 100 101 107, G & S: Entertainment services, namely, organizing musical performances in parties, events, and nightclubs; music production services. FIRST USE: 19860901. FIRST USE IN COMMERCE: 19860901

## Standard Characters Claimed

(4) STANDARD CHARACTER MARK

Mark Drawing Code 85134133

Serial Number September 21, 2010

Filing Date 1A

Current Basis 1A

Original Filing Basis March 8, 2011

Published for Opposition

Registration Number 3965608

Registration Date May 24, 2011

Owner (REGISTRANT) PIZZONIA, SHAUN INDIVIDUAL UNITED STATES 1045 CLAYTON ROAD VALLEY STREAM NEW YORK 11580

Attorney of Record Heather A. Sapp

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "INTERNATIONAL" APART FROM THE MARK AS SHOWN

Type of Mark SERVICE MARK

Register PRINCIPAL

Affidavit Text SECT 8 (6-YR).

Live/Dead Indicator LIVE

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Word Mark STINGWAX

Goods and Services IC 041, US 100 101 107, G & S: Entertainment services, namely, providing monthly or yearly subscription services of professionally mixed and transitioned music blocks of more than an hour, preferably five (5) hour blocks to commercial or individual consumers, business to customers via global communications network. FIRST USE: 20081201. FIRST USE IN COMMERCE: 20120415

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 01.15.02 - Electricity; Lighting; Sparks (jagged lines)  
 01.15.24 - Sound waves, including designs depicting sound  
 03.23.06 - Bees; Hornets; Wasps; Yellowjackets  
 17.07.25 - Geiger counters; Metal detectors (hand-held); Seismograph; Windsock  
 26.17.10 - Lines, zig-zag; Zig-zag line(s)

Serial Number 85688180

Filing Date March 27, 2013

Current Basis 1A

Original Filing Basis 1A

Published for Opposition September 24, 2013

Registration Number 4829639

Registration Date October 13, 2015

Owner (REGISTRANT) Cohen, Jeff DBA Jazzy Entertainment INDIVIDUAL UNITED STATES 4241 Cahuenga Toluca Lake CALIFORNIA 91602

Attorney of Record Lynn E. Cargill

Description of Mark The color(s) black, yellow, red, and gray is/are claimed as a feature of the mark. The mark consists of the word "STINGWAX" above a design of a bee with an audio signal between its antennae. The colors black and yellow appear in the bee design. The color red appears in the bee's stinger and the audio signal between its antennae. The color black appears in the outline of the word "STINGWAX", while the color white in the word "STINGWAX" indicates a transparent area and is not a feature of the mark. The color gray appears in the audio signal design below the word "STINGWAX". The color dark gray is merely background and is also not claimed as a feature of the mark.

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE