

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Application Serial No. 78/309,416  
Filed October 3, 2003  
For the mark TARPIN and Design  
Published in the *Official Gazette* (Trademarks) on May 25, 2004

STEINWAY, INC.,  
  
Opposer,  
  
v.  
  
ARDASHES TARPINIAN,  
  
Applicant.

Opposition No. \_\_\_\_\_

Commissioner for Trademarks  
Box TTAB  
P.O. Box 1451  
Alexandria, VA 22313-1451

**NOTICE OF OPPOSITION**

Steinway, Inc. ("Steinway" or "Opposer"), a Delaware corporation having a principal place of business at Steinway Place, Long Island City, New York 11105, believes that it will be damaged by registration of the mark shown in intent-to-use

CERTIFICATE OF MAILING BY EXPRESS MAIL

Express Mail Label No: ER 846356118 US

I hereby certify under 37 CFR §1.10 that this correspondence is being deposited with the United States Postal Service as Express Mail Post Office to Addressee with sufficient postage on the date indicated below and is addressed to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

Date of Deposit November 22, 2004

Signature Darlene J. Morin

Typed or Printed Name of Person Signing Certificate Darlene J. Morin

12/03/2004 ZCLIFTD1 00000031 78309416  
01 FC:6402 300.00 OP



11-22-2004  
U.S. Patent & TMOft/TM Mail Ropt Dt. #72

Application Serial No. 78/309,416 (the "Application") in International Class 15 and hereby opposes the same.

The grounds for the opposition are as follows:

1. Applicant, Ardashes Tarpinian ("Applicant"), an individual, seeks to register TARPIN and lyre design as a trademark for "musical instruments" in International Class 15. The mark shown in the application appears as follows:



2. The Application was filed on October 3, 2003 based on an alleged intent-to-use and has been designated Application Serial No. 78/309,416.
3. The Application was published for opposition in the *Official Gazette* on May 25, 2004. On June 22, 2004, Steinway filed a Request for Extension of Time to File a Notice of Opposition requesting up to and including July 24, 2004 to file a Notice of Opposition. On June 22, 2004 the Trademark Trial and Appeal Board granted Steinway's extension request. On July 15, 2004, Steinway filed a second Request for Extension of Time to File a Notice of Opposition requesting up to and including September 22, 2004 to file a Notice of Opposition. On July 16, 2004 the Trademark Trial and Appeal Board granted Steinway's second extension request. On September 20, 2004, Steinway filed a third Request for Extension of Time to File a Notice of Opposition requesting up to and including November 21, 2004 to file a Notice of Opposition. The Trademark Trial and Appeal Board granted Steinway's third extension request on September 20, 2004.

4. For well over a century, Steinway has been manufacturing and selling high quality, hand crafted pianos. The Steinway name and related trademarks symbolize the highest standard of excellence and prestige embodied in STEINWAY pianos.

5. Steinway is the owner of three incontestable federal trademark registrations for marks comprising or containing the design of a lyre. Steinway is the owner of Registration No. 45,411 for the design of a lyre shown below, and as Exhibit 1.



Registration No. 45,411 issued August 15, 1905 covering “pianos” and has long been incontestable. The assignment of Registration No. 45,411 from a related company to Opposer is recorded at Reel/Frame 0509/0529. Steinway, through its predecessor in interest, began using the mark depicted in Registration No. 45,411 at least as early as June 15, 1878.

6. Steinway is the owner of Registration No. 607,992 for the design of a lyre shown below and as Exhibit 2.



Registration No. 607,992 issued June 28, 1955 covering “pianos” and has long been incontestable. The assignment of Registration No. 45,411 from a related company to Opposer is recorded at Reel/Frame 0509/0529. Steinway, through its predecessor in interest, began using the mark depicted in Registration No. 607,992 at least as early as September 15, 1953.

7. Steinway is the owner of Registration No. 2,615,277 for STEINWAY & SONS with the design of a lyre, as shown below and as Exhibit 3.



Registration No. 2,615,277 issued September 3, 2002 covering “decalcomania for application to pianos.” Steinway began using the mark depicted in 2,615,277 at least as early as 1988.

8. Steinway has expended considerable time, effort, and expense in promoting, advertising, and popularizing the lyre design marks depicted above (collectively the “Lyre Design Marks”). Consumers have become familiar with Steinway’s Lyre Design Marks and recognize them as emblematic of Steinway’s prestigious pianos.

9. Steinway’s Lyre Design Marks are distinctive, well known, and famous, and became famous well before October 3, 2003 – the filing date of the Application. Indeed, Steinway’s Lyre Design Marks have achieved a level of fame and distinction unparalleled in the field of musical instruments.

10. Steinway has priority over Applicant as a result of Steinway’s significantly earlier and continuous use of the Lyre Design Marks throughout the United States.

11. The Application covers “musical instruments.” Because the Application is not limited to particular musical instruments, the Application presently covers goods identical to goods with which Steinway uses the famous Lyre Design Marks, namely pianos.

12. The TARPIN and Design mark Applicant seeks to register so resembles Steinway’s Lyre Design Marks as to be likely, when used on or in connection with the goods identified in the Application, to cause confusion, to cause mistake, or to deceive. Purchasers and prospective purchaser are likely to mistakenly believe that musical instruments sold under the TARPIN and Design mark Applicant seeks to register are produced, sponsored, endorsed, or approved by Steinway, or are in some way affiliated, connected, or associated with Steinway, all to the detriment of Steinway. Registration of Applicant’s mark should, therefore, be refused under 15 U.S.C. §§ 1052(d) and 1063.

13. Registration of the TARPIN and Design mark Applicant seeks to register would be a further source of damage to Steinway, as the mark Applicant seeks to register dilutes the distinctive quality of Steinway’s famous Lyre Design Marks, to the detriment of Steinway. Registration of Applicant’s mark should, therefore, be refused under 15 U.S.C. §§ 1052, 1063, and 1125.

14. Registration of the TARPIN and Design mark Applicant seeks to register would be a further source of damage to Steinway, as it would confer upon Applicant various statutory presumption to which he is not entitled in view of Steinway’s long prior use and registration of its Lyre Design Marks.

WHEREFORE, Opposer Steinway prays that Application Serial No. 78/309,416 in International Class 15 be rejected, and that registration of the mark therein for the goods specified therein be refused.

A fee in the amount of \$300 as required by 37 C.F.R. § 2.6(a)(17) is enclosed herewith. The Commissioner is authorized to draw on the Deposit Account of Fish & Richardson P.C., Account No. 06-1050, making reference to 01556-167001, if the accompanying check is insufficient or inadvertently omitted.

Dated: November 11, 2004

FISH & RICHARDSON P.C.

By: 

Debra S. Serota  
FISH & RICHARDSON P.C.  
225 Franklin Street  
Boston, MA 02110  
Telephone: (617) 956-5916  
Facsimile: (617) 542-8906

**Opposer's Exhibit 1  
to Notice of Opposition**

Opposition of Application Serial No. 78/309,416

Steinway, Inc., v. Ardashes Tarpinian

Int. Cl.: 15

Prior U.S. Cl.: 36

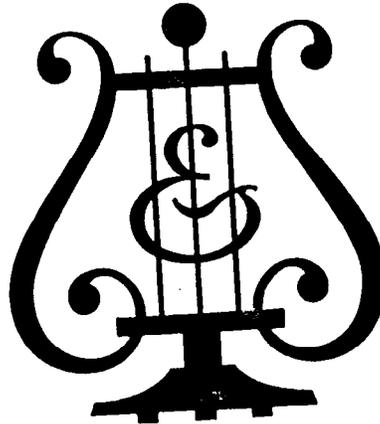
United States Patent and Trademark Office  
10 Year Renewal

Reg. No. 607,992

Registered June 28, 1955

Renewal Term Begins June 28, 1995

**TRADEMARK  
PRINCIPAL REGISTER**



STEINWAY, INC. (DELAWARE CORPORATION)  
STEINWAY PLACE  
LONG ISLAND CITY, NY 11105. ASSIGNEE OF STEINWAY & SONS (NEW YORK CORPORATION) NEW YORK, NY

OWNER OF U.S. REG. NO. 45,411.  
FOR: PIANOS. IN CLASS 36 (INT. CL. 15).  
FIRST USE 9-15-1953; IN COMMERCE 9-15-1953.

SER. NO. 71-658,941. FILED 1-4-1954.

*In testimony whereof I have hereunto set my hand and caused the seal of The Patent and Trademark Office to be affixed on May 9, 1995.*

COMMISSIONER OF PATENTS AND TRADEMARKS

**Opposer's Exhibit 2  
to Notice of Opposition**

Opposition of Application Serial No. 78/309,416

Steinway, Inc., v. Ardashes Tarpinian

Int. Cl.: 16

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38 and 50

United States Patent and Trademark Office

Reg. No. 2,615,277

Registered Sep. 3, 2002

TRADEMARK  
PRINCIPAL REGISTER



STEINWAY & SONS

STEINWAY, INC. (DELAWARE CORPORATION)  
STEINWAY PLACE  
LONG ISLAND CITY, NY 11105

OWNER OF U.S. REG. NOS. 45,846, 1,239,328 AND  
OTHERS.

FOR: DECALCOMANIA FOR APPLICATION TO  
PIANOS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38  
AND 50).

SER. NO. 76-344,579, FILED 11-29-2001.

FIRST USE 0-0-1988; IN COMMERCE 0-0-1988.

G. MAYERSCHOFF, EXAMINING ATTORNEY

**Opposer's Exhibit 3  
to Notice of Opposition**

Opposition of Application Serial No. 78/309,416

Steinway, Inc., v. Ardashes Tarpinian

No. 45,411.

TRADE-MARK.

REGISTERED AUG. 15, 1905.

STEINWAY & SONS.

PIANOS.

APPLICATION FILED MAY 2, 1905.



Witnesses  
*Henry J. Schubert*  
*[Signature]*

Proprietors  
*Steinway & Sons*  
By its Attorneys *[Signature]*