

ESTTA Tracking number: **ESTTA179746**

Filing date: **12/10/2007**

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

**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	Matriarch Entertainment, Inc.
Granted to Date of previous extension	12/09/2007
Address	360 Hamilton Avenue Suite 100 White Plains, NY 10601 UNITED STATES

Attorney information	Peter Nussbaum Wolff & Samson One Boland Drive West Orange, NJ 07052 UNITED STATES pnussbaum@wolffsamson.com
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**Applicant Information**

Application No	77032130	Publication date	06/12/2007
Opposition Filing Date	12/10/2007	Opposition Period Ends	12/09/2007
Applicant	Matriarch Records, L.L.C. 2740 Greenbriar Parkway, A-3133 Atlanta, GA 30331 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 041. First Use: 2003/08/01 First Use In Commerce: 2003/08/01 All goods and services in the class are opposed, namely: Entertainment in the nature of producing musical audio recordings
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	No Bona Fide Use in Commerce

**Mark Cited by Opposer as Basis for Opposition**

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	Matriarch Records		
Goods/Services	Record Label goods and services		

Attachments	MR.PDF ( 4 pages )(134085 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/peter nussbaum/
Name	Peter Nussbaum
Date	12/10/2007

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

In the matter of Application Serial No. 77/032,130 Published in the Official Gazette on June 12, 2007 at TM 876.

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Matriarch Entertainment, Inc.,	:	
	:	
Opposer,	:	
	:	
v.	:	
	:	
Matriarch Records, L.L.C.	:	
	:	
	:	Opposition No. _____
	:	
Applicant.	:	

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

**NOTICE OF OPPOSITION**

Matriarch Entertainment, Inc. (hereinafter "Opposer"), a New York corporation with a principal business address of c/o Gelfand, Rennert & Feldman, 360 Hamilton Avenue, Suite 100, White Plains, New York 10601, hereby opposes registration of Application Serial No. 77/032,130 for the mark **MATRIARCH RECORDS** for entertainment in the nature of producing musical audio recordings in International Class 41, filed on October 30, 2006, by Matriarch Entertainment, L.L.C. (hereinafter "Applicant"), and published for purposes of opposition in the Official Gazette dated June 12, 2007 at page TM 876.

Opposer believes it will be damaged should Application Serial No. 77/032,130 mature into registration and sets forth the following grounds for opposition:

1. Opposer is the owner of the service mark **MATRIARCH RECORDS** for use in connection with record label goods and services.

2. Opposer has been using its **MATRIARCH RECORDS** mark in connection with the above-referenced goods and services since at least as early as 2005.

3. Opposer's goods and services are sold, provided, advertised and promoted throughout the United States. Based upon Opposer's use of its **MATRIARCH RECORDS** mark in connection with its record label goods and services, Opposer's **MATRIARCH RECORDS** mark has come to be recognized among the relevant consuming public as a designation of origin with respect to Opposer's goods and services.

4. By reason of Opposer's use of Opposer's **MATRIARCH RECORDS** mark, Opposer has become known and recognized as the owner of the aforesaid mark.

5. By the application herein opposed, Applicant seeks to register the identical mark **MATRIARCH RECORDS** for entertainment in the nature of producing musical audio recordings in International Class 41. The application recites a date of first use of August 1, 2003 and a date of first use in commerce of August 1, 2003 for the services set forth therein.

6. Opposer believes that it will be damaged by the registration of Serial No. 77/032,130 for the mark **MATRIARCH RECORDS** as it relates to services in International Class 41, namely entertainment in the nature of producing musical audio recordings and hereby opposes registration of same on the grounds set forth herein:

### Count I – No Bona Fide Use In Commerce

7. Opposer repeats and re-alleges each and every allegation set forth in paragraphs 1-6.

8. In connection with Application Serial No. 77/032,130, Applicant submitted a sworn declaration to the PTO stating that it was using the mark **MTRIARCH RECORDS** in connection with the following services: entertainment in the nature of producing musical audio recordings.

9. Upon information and belief, Applicant had not (and has not since) made use of the mark **MTRIARCH RECORDS** in commerce in connection with the services identified in the Application as of the filing date (October 30, 2006) of the Application under Section 1(a) of the Lanham Act.

10. Since, upon information and belief, Applicant had not made use of the mark **MTRIARCH RECORDS** in commerce in connection with the services identified in the subject application as of the filing date, the subject application is invalid and is not entitled to registration.

### Count II – Likelihood Of Confusion

11. Opposer repeats and re-alleges each and every allegation set forth in paragraphs 1-10.

12. Applicant's proposed mark **MTRIARCH RECORDS** so resembles Opposer's **MTRIARCH RECORDS** mark as to be likely, when applied to Applicant's services, to cause confusion, mistake and/or to deceive as well as cause damage to Opposer and the consuming public.

13. Upon information and belief, Applicant has made no bona fide use in commerce of the subject mark in commerce. Accordingly, Opposer has superior rights

in and to its **MATRIARCH RECORDS** mark based upon Opposer's priority.

14. Applicant's mark **MATRIARCH RECORDS** is confusingly similar to Opposer's **MATRIARCH RECORDS** mark, such that Applicant's registration of **MATRIARCH RECORDS** would be inconsistent with, and damaging to, Opposer's prior rights in and to its **MATRIARCH RECORDS** mark.

15. Opposer is likely to be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of Applicant's mark sought to be registered.

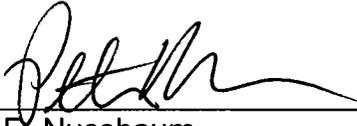
WHEREFORE, Opposer believes that it will be damaged by the registration of Applicant's mark and prays that its opposition be sustained and that Application Serial No. 77/032,130 be denied registration.

This opposition is being filed electronically by the undersigned attorneys at law, duly authorized to represent Opposer in this proceeding, pursuant to Trademark Rule 2.101(b).

Respectfully submitted,

MATRIARCH ENTERTAINMENT, L.L.C.

By: \_\_\_\_\_

  
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Attorneys for Opposer

Dated: \_\_\_\_\_

12/10/07