

ESTTA Tracking number: **ESTTA201410**

Filing date: **03/28/2008**

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	BMG Music
Granted to Date of previous extension	04/05/2008
Address	550 Madison Avenue New York, NY 10022 UNITED STATES

Correspondence information	Neil C. Berman Counsel BMG Music 550 Madison Avenue New York, NY 10022 UNITED STATES colleen.christi@sonybm.com Phone:212 833 8883
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Applicant Information

Application No	77283374	Publication date	02/05/2008
Opposition Filing Date	03/28/2008	Opposition Period Ends	04/05/2008
Applicant	Martin, Joe S. 84 Westgay Drive Apt. B Akron, OH 44313 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. All goods and services in the class are opposed, namely: Entertainment marketing services, namely, marketing, promotion and advertising for independent recording artists

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2667811	Application Date	08/17/2000
Registration Date	12/31/2002	Foreign Priority Date	NONE
Word Mark	J RECORDS		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2000/12/05 First Use In Commerce: 2000/12/05 Musical sound recordings and audio-visual recordings, namely, compact discs, tape cassettes, records, CD-roms, video tapes, DVDs, and laser discs

U.S. Registration No.	2779947	Application Date	08/17/2000
Registration Date	11/04/2003	Foreign Priority Date	NONE

Word Mark	J RECORDS
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 041. First use: First Use: 2000/12/05 First Use In Commerce: 2000/12/05 Entertainment services, namely, producing musical audio and video recordings; organizing concerts featuring live musical performances
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Attachments	76111369#TMSN.gif (1 page)(bytes) JM RECORDS Notice of Opp 032808.pdf (12 pages)(396085 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	/neilberman/
Name	Neil C. Berman
Date	03/28/2008

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

In the Matter of Application Serial No. 77/283374
Mark: JM RECORDS
Published in the *Official Gazette* on February 5, 2008

-----X
: BMG Music, :
: :
: Opposer, :
: :
: - against - :
: :
: Joe S. Martin, :
: :
: Applicant. :
-----X

Opposition No. _____

NOTICE OF OPPOSITION

BMG Music (“Opposer”), a partnership organized and existing under the laws of New York, with a principal place of business at 550 Madison Avenue, New York, New York 10022, believes that it would be damaged by the issuance of a registration for the trademark JM RECORDS (“Applicant’s Mark”), applied for in application Serial No. 77/283374 (“Application”), filed by Joe S. Martin (“Applicant”) on September 19, 2007, for:

“Entertainment marketing services, namely, marketing, promotion and advertising for independent recording artists”;

and therefore opposes the same. As grounds for the opposition, Opposer alleges as follows:

1. Opposer and its predecessors in interest have used the word mark J RECORDS (“Opposer’s Mark”), in connection with musical recordings, online retail services of audio sound and video recordings since at least as early as the year 2000. Opposer has sold many millions of audio and video recordings by some of the world’s most renowned recording artists, including Alicia Keys, Luther Vandross, Mario, Fantasia, Cassidy and Whitney Houston.

2. Opposer owns federal trademark registrations for Opposer’s Mark, including U.S. Reg. Nos. for 2667811 and 2779947 for J RECORDS, as evidenced in the printouts from the USPTO’s TEAS database, attached hereto as Exhibit 1. These registrations are valid, subsisting and in full force and effect.

Further, Registration No. 2667811 is incontestable and, therefore, constitutes conclusive evidence of Opposer's exclusive rights in Opposer's Mark for the goods and services identified therein.

3. Opposer has invested a substantial amount of time, effort and money promoting Opposer's Mark and the audio, video, sound and music-based goods and services offered under Opposer's Mark. Because of these promotional efforts, the resultant tremendous volume of sales, and the corresponding extensive use of Opposer's Mark for nearly ten years, Opposer's Mark has attained widespread fame and acclaim in the United States. Opposer's Mark has come to be recognized as identifying the products and services of Opposer exclusively, and represent an enormous goodwill to the Opposer.

4. Upon information and belief, Applicant is an individual with a residence at 84 Westgay Drive, Apt. B, Akron, OH 44313

5. On September 19, 2007, Applicant filed the Application seeking registration of the JM RECORDS mark for the following goods in International Class 35:

"Entertainment marketing services, namely, marketing, promotion and advertising for independent recording artists"

The Application was filed based on intent-to-use in commerce.

6. The word elements of Applicant's Mark are nearly identical to Opposer's Mark in sight, sound and commercial impression, as Opposer's Mark is a component part of Applicant's Mark.

7. The services recited in the Application, namely "Entertainment marketing services, namely, marketing, promotion and advertising for independent recording artists" are very closely related to the music-related goods on and for which Opposer's Mark has long been used.

8. In view of the similarity of the parties' marks and covered goods and services, the use of Applicant's Mark on the services recited in its Application is likely to cause confusion, cause mistake or deceive the public, and cause the public to believe, incorrectly, that the services offered by Applicant emanate from, are authorized by, are endorsed by, or are otherwise connected with Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

9. A grant of registration to Applicant would give Applicant a color of right in and to the mark JM RECORDS for the services recited in the Application. The Application and the presumption of exclusivity that would come from issuance of a registration to Applicant of the mark JM RECORDS for such goods are inconsistent with the prior rights of Opposer in its famous J RECORDS mark and the rights of Opposer flowing from its own federal trademark registrations.

10. By reason of the foregoing, Opposer will be damaged by the registration of the mark JM RECORDS to Applicant as applied for in Application Serial No. 77/283374.

WHEREFORE, it is respectfully requested that this opposition be sustained in all respects and that the registration sought by Applicant be denied.

Dated: New York, New York
March 28, 2008

Respectfully submitted,

BMG Music

By: Neil C. Berman
Neil C. Berman, Counsel
550 Madison Avenue
New York, NY 10022
(212) 833-6328

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-12-20 11:52:12 ET

Serial Number: 76111369 Assignment Information Trademark Document Retrieval

Registration Number: 2667811

Mark (words only): J RECORDS

Standard Character claim: No

Current Status: Registered.

Date of Status: 2002-12-31

Filing Date: 2000-08-17

Transformed into a National Application: No

Registration Date: 2002-12-31

Register: Principal

Law Office Assigned: LAW OFFICE 109

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2003-04-17

Date of: **LAST APPLICANT(S)/OWNER(S) OF RECORD**

J Records, LLC

Address:

J Records, LLC
550 Madison Avenue
New York, NY 10022
United States

Legal Entity Type: Ltd Liab Co

State or Country Where Organized: Delaware

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Musical sound recordings and audio-visual recordings, namely, compact discs, tape cassettes, records, CD-roms, video tapes, DVDs, and laser discs

Basis: 1(a)

First Use Date: 2000-12-05

First Use in Commerce Date: 2000-12-05

ADDITIONAL INFORMATION

Disclaimer: "RECORDS"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2006-04-24 - Applicant/Correspondence Changes (Non-Responsive) Entered

2006-04-24 - TEAS Change Of Owner Address Received

2004-07-15 - TEAS Change Of Correspondence Received

2002-12-31 - Registered - Principal Register

2002-10-08 - Published for opposition

2002-09-18 - Notice of publication

2002-07-12 - Approved for Pub - Principal Register (Initial exam)

2001-12-18 - Letter of suspension mailed

2001-10-02 - Communication received from applicant

2001-04-02 - Non-final action mailed

2001-03-31 - Previous allowance count withdrawn

2001-03-31 - Approved for Pub - Principal Register (Initial exam)

2001-03-31 - Amendment to Use approved

2001-03-20 - Assigned To Examiner

2001-03-19 - Assigned To Examiner

2001-01-31 - Amendment to use processing complete

2001-01-04 - Amendment to Use filed

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Brad D. Rose

Correspondent

Lawrence E. Apolzon
Fross Zelnick Lehrman & Zissu, P.C.
866 United Nations Plaza
New York NY 10017
Phone Number: (212) 813-5900



United States Patent and Trademark Office

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Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 3Serial #: 76111369

Filing Dt: 08/17/2000

Reg #: 2667811

Reg. Dt: 12/31/2002

Registrant: J Records, LLC

Mark: J RECORDS

Assignment: 1Reel/Frame: 2721/0724

Received: 09/29/2003

Recorded: 09/29/2003

Pages: 4

Conveyance: MERGER

Assignor: J RECORDS LLC

Exec Dt: 02/01/2003

Entity Type: LIMITED LIABILITY COMPANY

Citizenship: DELAWARE

Entity Type: LIMITED LIABILITY COMPANY

Citizenship: DELAWARE

Assignee: BMGJ LLC

1540 BROADWAY

NEW YORK, NEW YORK 10036

Correspondent: TERESA A. LEE, ESQ.

PRYOR CASHMAN SHERMAN & FLYNN LLP

410 PARK AVENUE, 10TH FLOOR

NEW YORK, NY 10022

Assignment: 2Reel/Frame: 2721/0953

Received: 09/29/2003

Recorded: 09/29/2003

Pages: 4

Conveyance: MERGER

Assignor: BMGJ LLC

Exec Dt: 02/01/2003

Entity Type: LIMITED LIABILITY CORPORATION

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: BERTELSMANN MUSIC GROUP, INC.

1540 BROADWAY

NEW YORK, NEW YORK 10036

Correspondent: TERESA A. LEE, ESQ.

410 PARK AVENUE, 10TH FLOOR

PRYOR CASHMAN SHERMAN & FLYNN LLP

NEW YORK, NY 10022

Assignment: 3Reel/Frame: 2722/0394

Received: 09/29/2003

Recorded: 09/29/2003

Pages: 7

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: BERTELSMANN MUSIC GROUP, INC.

Exec Dt: 02/01/2003

Entity Type: LIMITED LIABILITY COMPANY

Citizenship: DELAWARE

Entity Type: PARTNERSHIP

Citizenship: NEW YORK

Assignee: BMG MUSIC

1540 BROADWAY

NEW YORK, NEW YORK 10036

Correspondent: TERESA A. LEE, ESQ.

PRYOR CASHMAN SHERMAN & FLYNN LLP

410 PARK AVENUE, 10TH FLOOR

NEW YORK, NY 10022

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Web interface last modified: April 20, 2007 v.2.0.1

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This page was generated by the TARR system on 2007-12-20 11:54:04 ET

Serial Number: 76111371 Assignment Information Trademark Document Retrieval

Registration Number: 2779947

Mark (words only): J RECORDS

Standard Character claim: No

Current Status: Registered.

Date of Status: 2003-11-04

Filing Date: 2000-08-17

Transformed into a National Application: No

Registration Date: 2003-11-04

Register: Principal

Law Office Assigned: LAW OFFICE 110

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2004-04-19

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. BMG MUSIC

Address:

BMG MUSIC
550 Madison Avenue
New York, NY 10022
United States

Legal Entity Type: Partnership

State or Country Where Organized: New York

GOODS AND/OR SERVICES

International Class: 041

Class Status: Active

Entertainment services, namely, producing musical audio and video recordings; organizing concerts featuring live musical performances

Basis: 1(a)

First Use Date: 2000-12-05

First Use in Commerce Date: 2000-12-05

ADDITIONAL INFORMATION

Disclaimer: "RECORDS"

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(NOT AVAILABLE)

PROSECUTION HISTORY

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2006-04-24 - TEAS Change Of Owner Address Received

2004-07-15 - TEAS Change Of Correspondence Received

2004-03-01 - Section 7 correction issued

2003-12-08 - Section 7 amendment filed

2003-11-04 - Registered - Principal Register

2003-09-05 - Allowed for Registration - Principal Register (SOU accepted)

2003-09-02 - Assigned To Examiner

2003-08-29 - Case File In TICRS

2003-06-27 - Statement of use processing complete

2003-06-27 - Amendment to Use filed

2003-07-02 - PAPER RECEIVED

2002-12-31 - Notice of allowance - mailed

2002-10-08 - Published for opposition

2002-09-18 - Notice of publication

2002-07-12 - Approved for Pub - Principal Register (Initial exam)

2001-11-30 - Letter of suspension mailed

2001-09-14 - Communication received from applicant

2001-08-24 - Communication received from applicant

2001-03-14 - Non-final action mailed

2001-02-15 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

TERESA A LEE

Correspondent

Lawrence E. Apolzon

Fross Zelnick Lehrman & Zissu, P.C.

866 United Nations Plaza

New York NY 10017

Phone Number: (212) 813-5900



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Assignments on the Web > Trademark Query

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Filing Dt: 08/17/2000

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Assignor: BMG LLC

Exec Dt: 02/01/2003

Entity Type: LIMITED LIABILITY CORPORATION

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: BERTELSMANN MUSIC GROUP, INC.

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Citizenship: DELAWARE

Entity Type: PARTNERSHIP

Citizenship: NEW YORK

Assignee: BMG MUSIC

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NEW YORK, NEW YORK 10036

Correspondent: TERESA A. LEE, ESQ.

PRYOR CASHMAN SHERMAN & FLYNN LLP

410 PARK AVENUE, 10TH FLOOR

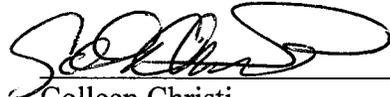
NEW YORK, NY 10022

Search Results as of: 12/20/2007 11:54 AM

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Web Interface last modified: April 20, 2007 v.2.0.1[.HOME](#) | [INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [CONTACT US](#) | [PRIVACY STATEMENT](#)

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing Notice of Opposition to be sent by prepaid first-class mail this 28th day of March, 2008 to Applicant's correspondent of record, Joe S. Martin, 84 Westgay Drive, Apt. B, Akron, OH 44313.



Colleen Christi