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

Proceeding	91198552
Party	Defendant Fifty-Six Hope Road Music Limited
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Submission	Motion to Suspend for Civil Action
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

<p><i>In re Matter of Serial No. 77/549,263 for the mark: ONE LOVE</i></p> <p>RAISING CANE'S USA, LLC,  Opposer,  vs.  FIFTY-SIX HOPE ROAD MUSIC, LTD.,  Applicant.</p>	<p>Opposition No. 91-198552</p> <p><b>APPLICANT AND PETITIONER FIFTY-SIX HOPE ROAD MUSIC LIMITED'S MOTION TO SUSPEND PROCEEDINGS PURSUANT TO 37 C.F.R. § 2.177(a)</b></p>
<p><i>In re Matter of Registration No. 3,033,511 for the mark: ONE LOVE</i></p> <p>FIFTY-SIX HOPE ROAD MUSIC LIMITED,  Petitioner,  vs.  RAISING CANE'S USA, LLC,  Registrant.</p>	<p>Cancellation No. 92-053461</p>

Pursuant to 37 C.F.R. § 2.177(a) and TBMP §510, Applicant and Petitioner Fifty-Six Hope Road Music Limited (“Petitioner”), by and through its counsel, hereby moves to suspend the above consolidated proceedings on the grounds that Petitioner, on one hand, and Registrant and Opposer Raising Cane’s USA, LLC’s (“Registrant”), on the other, are engaged in a civil case that will be dispositive of these proceedings. This motion is supported by the Memorandum in Support of Motion to Suspend Proceedings below and such other papers and arguments as may be presented to the Board.

## **MEMORANDUM IN SUPPORT OF MOTION TO SUSPEND PROCEEDINGS**

Petitioner submits this Memorandum in support of its motion to suspend these consolidated proceedings.

### **I. INTRODUCTION**

On December 23, 2010, Petitioner filed a petition for cancellation of Registrant's registration of ONE LOVE in Class 43 for "restaurant services" (Reg. No. 3,033,511) (the "ONE LOVE Registration"). Petitioner's petition for cancellation was based on, among other things, its representation that it owns rights in ONE LOVE prior to Registrant's and that Registrant's use of the mark identified in the ONE LOVE Registration was likely to result in confusion, mistake, or deception as to the source, association, origin, affiliation, endorsement, or sponsorship of Registrant or its services and Petitioner. On February 11, 2011, Registrant filed its answer to Petitioner's petition for cancellation, denying that Petitioner's allegations warranted cancellation of the ONE LOVE registration.

Before answering Petitioner's petition for cancellation, on February 9, 2011, Registrant filed a notice of opposition to Petitioner's application to register ONE LOVE in Class 41 for "entertainment services in the nature of live musical performances; organizing cultural festivals featuring music, dance, art exhibitions and heritage markets; providing information on a website relating to music, entertainment, and cultural festivals of others; and music publishing services" (Ser. No. 77/549,263). Registrant's notice of opposition is based on its ONE LOVE Registration. On March 22, 2011, Petitioner filed its answer to Registrant's notice of opposition, denying that refusal

of its application to register ONE LOVE was justified. On March 24, 2011, the Board ordered the consolidation of these proceedings.

The consolidated proceedings center around the parties' respective rights in and priority to the ONE LOVE mark. More specifically, the consolidated proceedings are based upon Registrant's ONE LOVE Registration, i.e., Petitioner's petition seeks cancellation of the ONE LOVE Registration and Registrant's notice of opposition is based upon the ONE LOVE Registration and its claim of prior rights to use and register the ONE LOVE mark.

On December 6, 2013, Petitioner filed a complaint against Registration seeking, among other things, a declaration of and relief for Registrant's infringement of Petitioner's ONE LOVE mark and cancellation of Registrant's ONE LOVE Registration. The case is pending in the United States District Court for Massachusetts (the "Civil Action"). The Civil Action is designated as Case No. 1:13-cv-13110. A true and correct copy of the complaint in the Civil Action is attached hereto as **Exhibit A**. In pertinent part, the Civil Action expressly prays:

that the Court determine and declare that (1) [Registrant's] use of the . . . ONE LOVE marks is a reproduction, copying, counterfeiting, infringement of and/or colorable imitation of [Petitioner's] trademark rights; (2) [Registrant's] use of the . . . ONE LOVE marks is likely to cause confusion or mistake and/or is likely to deceive consumers as to the origin or source of [Registrant's] goods; and (3) [Registrant] willfully and deliberately infringed [Defendant's] trademarks and rights.

. . .

that the Court determine and declare that [Petitioner] has priority of use in [its] ONE LOVE Mark over [Registrant's] ONE LOVE marks and that [Registrant's] ONE LOVE marks are so confusingly similar to [Petitioner's] ONE LOVE mark

as to warrant cancellation of the registrations (and any applications) of [Registrant's] ONE LOVE marks.

(Ex. A, Complaint, Prayer ¶¶ B, G, pp. 16-17.) Because the Civil Action certainly has a bearing on the consolidated proceedings and is, in fact, likely to be dispositive of them, Petitioner respectfully requests that consolidated proceedings be suspended pending resolution of the Civil Action.

## **II. THE MOTION TO SUSPEND SHOULD BE GRANTED**

Under 37 C.F.R. § 2.117(a), “[w]henver it shall come to the attention of the Board that parties to a pending case are engaged in a civil action which may be dispositive of the case, proceedings before the Board may be suspended until termination of the civil action.” 37 C.F.R. § 2.117(a); *see also* TBMP §510 (“Ordinarily, the Board will suspend proceedings in the case before it if the final determination of the other proceedings will *have a bearing on the issues* before the Board.”) (emphasis added). Here, the Civil Action may be dispositive of the consolidated proceedings, as the issues to be determined by the Board here are identical (or substantially similar) to those that the United States District Court will decide in the Civil Action. In addition, certain remedies Petitioner seeks in the Civil Action – namely, that the Court declare that Registrant’s use of ONE LOVE infringes Petitioner’s prior rights and cancel Registrant’s ONE LOVE Registration – encompass and supersede the remedies Petitioner seeks in its petition for cancellation – namely, that the Board cancel Registrant’s ONE LOVE Registration.

Specifically, on its claim under 15 U.S.C. § 1052(d) in its petition for cancellation, Petitioner must establish: (1) rights in the ONE LOVE mark prior to Registrant’s; and (2) that Registrant’s ONE LOVE Registration so resembles Petitioner’s ONE LOVE mark as

to be likely to cause confusion, or to cause mistake, or to deceive. Likewise, in the Civil Action, the exact same issues regarding priority and likelihood of confusion will be litigated. See 15 U.S.C. § 1114; *International Ass'n of Machinists & Aero. Workers v. Winship Green Nursing Ctr.*, 103 F.3d 196, 200 (1st Cir. 1996). Therefore, the issues in the consolidated proceedings are virtually identical to those to be litigated in the Civil Action. See *Other Telephone Co. v. Connecticut Nat'l Telephone Co.*, 181 U.S.P.Q. 125, 126-27 (TTAB 1974) (“the copy of the complaint in the civil action which opposer has furnished the Board shows that opposer, as plaintiff therein, is requesting that the Court determine the respective rights of the parties to use in commerce the designation “THE OTHER TELEPHONE COMPANY” or any mark confusingly similar thereto. It is further noted that opposer is seeking, inter alia, to enjoin applicant from using the stated designation or any word or words confusingly similar thereto in connection with its telephonic communication services. It is clear therefore that the final determination of the civil suit will directly affect the resolution of the issue of likelihood of confusion which is involved in the proceeding before the Trademark Trial and Appeal Board.”)

Further, Registrant will presumably deny the controversial allegations in Petitioner’s complaint and file Counterclaims in the Civil Action relating to its alleged priority in the ONE LOVE mark, thereby increasing the similarity between the Civil Action and the consolidated proceedings. That said, the issue need not be joined in the Civil Action for Petitioner’s motion to be granted:

The fact that the defendant in the action has not yet served its answer does not serve to vitiate the effectiveness of the complaint. That is to say, the civil suit is pending and will be considered until the Board is informed that it has either been dismissed or been finally ruled upon. The only question for determination, therefore, is whether the outcome of the civil

action will have a bearing on the issues involved in the opposition proceeding.

*Id.* at 126.

While the Board is just as capable of deciding whether there is a likelihood of confusion or dilution between Petitioner's and Registrant's respective marks as the United States District Court deciding the Civil Action, it should not do so for the three reasons outlined below.

First, and most importantly, if the Board suspends the consolidated proceedings and allows the United States District Court to rule first, the United States District Court's decision would be binding on the Board under the doctrines of res judicata and collateral estoppel. *Mother's Restaurant Inc. v. Mama's Pizza, Inc.*, 723 F.2d 1566, 1569-73 (Fed. Cir. 1983) (collateral estoppel); *Midland Cooperatives, Inc. v. Midland International Corp.*, 421 F.2d 754, 758-59 (C.C.P.A. 1970) (res judicata).

By contrast, if the Board decides these proceedings before the United States District Court adjudicates the Civil Action, the Board's findings could be challenged in the Civil Action or in another civil action in another federal district court. 15 U.S.C. § 1071(b). Similarly, whereas federal district courts may rule on issues related to both use and registration of trademarks, the Board may only decide issues relating to the registration of trademarks. 15 U.S.C. § 1119; *PHC, Inc. v. Pioneer Healthcare, Inc.*, 75 F.3d 75, 79 (1st Cir. 1996). Therefore, in the interest of judicial economy, the Board should suspend the consolidated proceedings. A ruling by the United States District Court in the Civil Action will control the outcome of the consolidated proceedings, but not vice versa. See *Other Telephone Co.*, 181 U.S.P.Q at 782 (“[W]hile a decision of a Federal District Court would be binding on the Patent Office, a decision by the

Trademark Trial and Appeal Board would be merely advisory with respect to the disposition of issues presented in a Federal District Court.”); TBMP § 510.02(a).

Second, allowing these matters to be resolved by the Civil Action promotes judicial efficiency and encourages the parties themselves to resolve this dispute in the most efficient matter possible. The fundamental issues in these consolidated proceedings are essentially identical to – and encompassed within – certain of the issues in the Civil Action, as described above. Indeed, the Civil Action need only have a *bearing* on the Board’s decisions with respect to the consolidated proceedings to justify a suspension. TBMP § 510(a). If the consolidated proceedings are suspended pending the disposition of the Civil Action, the parties will avoid unnecessarily expending resources fighting the proverbial “battle” on two “fronts” instead of just one. Thus, suspending the consolidated proceedings will not prejudice either party, as it will allow the parties to resolve their entire dispute while expending the least amount of resources. Similarly, and as addressed above, the United States District Court in the Civil Action will ultimately determine not only the parties’ rights to registration of the ONE LOVE mark, but use of the ONE LOVE mark and other issues not before the Board, e.g., Petitioner’s right to use and register 1LV, which is the subject of its pending application Ser. No. 85/568191. (Ex. A, Complaint ¶ 84, p. 14.) The United States District Court Action will resolve all issues before the Board and then some, whereas the converse is not true.

Third, the consolidated proceedings should be suspended to avoid inconsistent rulings between the Board and the United States District Court, especially since the United States District Court’s decision will ultimately be binding on the Board.

**III. CONCLUSION**

For the reasons stated herein, the Board should suspend the consolidated proceedings pending the outcome of the Civil Action. Should the Board deny its motion to suspend, Petitioner respectfully requests the Board to reset all pending deadlines to run from the Board's decision on this motion. 37 C.F.R. § 2.121(a)(1).

Respectfully submitted,

Dated: December 9, 2013

By: /s/Jill M. Pietrini  
Jill M. Pietrini  
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Attorney for Registrant/Petitioner  
*Fifty-Six Hope Road Music Limited*

### CERTIFICATE OF FILING

I hereby certify that **APPLICANT AND PETITIONER FIFTY-SIX HOPE ROAD MUSIC LIMITED'S MOTION TO SUSPEND PROCEEDINGS PURSUANT TO 37 C.F.R. § 2.177(a)** is being transmitted electronically to Commissioner of Trademarks, Attn: Trademark Trial and Appeal Board through ESTTA pursuant to 37 C.F.R. §2.195(a), on this 9th day of December, 2013.

/s/Lynne Thompson  
Lynne Thompson

### CERTIFICATE OF SERVICE

I hereby certify that **APPLICANT AND PETITIONER FIFTY-SIX HOPE ROAD MUSIC LIMITED'S MOTION TO SUSPEND PROCEEDINGS PURSUANT TO 37 C.F.R. § 2.177(a)** is being deposited with the United States Postal Service, postage prepaid, first class mail, in an envelope addressed to: S. Lloyd Smith, Esq., BUCHANAN INGERSOLL & ROONEY, PC, P.O. Box 1404, Alexandria, VA 22313-1404, with a courtesy copy via electronic mail to lloyd.smith@bipc.com, on this 9th day of December, 2013.

/s/Lynne Thompson  
Lynne Thompson

SMRH:414321007.1

# EXHIBIT A

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**FIFTY-SIX HOPE ROAD  
MUSIC, LTD.**

Plaintiff

v.

**RAISING CANE’S USA, LLC**

Defendant

**COMPLAINT & REQUEST  
FOR INJUNCTIVE RELIEF**

**(JURY TRIAL DEMANDED)**

**INTRODUCTION**

This is an action under the Lanham Act for Trademark Infringement, Unfair Competition, False Association, Trademark Dilution, and Cancellation of the Defendant’s Federally Registered Trademarks and pending applications for trademarks and for Common Law Trademark Infringement and Intentional Interference with Advantageous Business Relations.

**PARTIES**

1. The Plaintiff, Fifty-Six Hope Road Music, Ltd. (“Hope Road” or the “Plaintiff”), is a corporation existing under the laws of the Commonwealth of Bahamas, having a principal place of business located at Aquamarine House, Cable Beach, Nassau, Bahamas.

2. The Defendant, Raising Cane’s USA, LLC (“Raising Cane’s” or the “Defendant”), is a limited liability company formed under the laws of the State of Louisiana and having a principal place of business located at 400 Convention Street, Suite 550, Baton Rouge, Louisiana. The Defendant operates locations throughout the

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1 United States, including a location in the Commonwealth of Massachusetts.

2 **JURISDICTION AND VENUE**

3  
4 3. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. §§  
5 1331, 1338. The Court also has supplemental jurisdiction over the Plaintiff's state  
6 common law claims pursuant to 28 U.S.C. § 1367.

7 4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b).

8 **FACTS COMMON TO ALL COUNTS**

9  
10 5. Hope Road is owned and operated by the children and widow of the late legendary  
11 reggae performer, Robert Nesta Marley, professionally known as Bob Marley ("Bob  
12 Marley").

13 6. Hope Road is the owner and exclusive licensor of certain rights in the picture,  
14 name, photograph, likeness, image, identity, persona, right of publicity, and signature of  
15 Bob Marley, and other intellectual property derived from his musical legacy as well as his  
16 song and album titles.

17  
18 7. Specifically, Hope Road is the owner of trademark registrations for BOB  
19 MARLEY (Reg. No. 2,349,361) in Classes 3, 6, 9, 14, 16, 18, 21, 24, 25, 26 and 34; BOB  
20 MARLEY AND THE WAILERS (Reg. No. 2,820,741) in Classes 9 and 25 (collectively,  
21 the "MARLEY Marks"). Hope Road is further the owner of a trademark registration for  
22 ONE LOVE (Reg. No. 1,998,491) (see "Exhibit 1") for Class 25, and has pending  
23 applications bearing (Serial No. 77/549,263) to register ONE LOVE in class 41, (Serial  
24 No. 77/782,232) to register ONE LOVE in class 43, and (Serial No. 77/233,644) to  
25 register ONE LOVE in class 25 (hereinafter collectively, the "MARLEY ONE LOVE  
26  
27  
28

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1 Mark”). (True and accurate copies of TESS summaries of the MARLEY ONE LOVE  
2 Mark from the United States Patent and Trademark Office are attached hereto as “Exhibit  
3 2” and are incorporated herein by reference).

4  
5 8. The MARLEY Marks and the MARLEY ONE LOVE Mark are affiliated and  
6 intertwined, as they comprise a family of marks associated with Bob Marley and his  
7 musical legacy.

8 9. The MARLEY Marks and the MARLEY ONE LOVE Mark are often used  
9 together, or in conjunction with one and other, with goods, services, and promotional  
10 materials.

11 10. The genesis of the MARLEY ONE LOVE Mark is Bob Marley’s recording of the  
12 song entitled “One Love” in 1965. The song embodies Marley’s message to the world of  
13 peace and unity; living together as one people.  
14

15 11. The “One Love” song was released by the band Bob Marley and the Wailers in  
16 1977 and became one of Bob Marley’s most famous songs, appearing on the album  
17 Exodus. The song has since been included on numerous musical compilations featuring  
18 the works of Bob Marley, including the album Legend, which has sold more than 13.5  
19 million albums in the United States alone.  
20

21 12. Since his untimely death, Bob Marley’s fame has only grown. Bob Marley was  
22 posthumously inducted in the Grammy Hall of Fame in 2007. The British Broadcast  
23 Company recognized “One Love” as the song and “Exodus” as the album of the  
24 millennium in 2009.  
25

26 13. “One Love” has for many years been licensed by Hope Road to the Jamaican  
27 Tourist Board as the official theme song of Jamaican tourism. Hope Road further by its  
28

1 use and actions has parlayed Bob Marley's song "One Love" into a brand of the same  
2 name.

3 14. Hope Road has sold clothing bearing the MARLEY ONE LOVE mark since as  
4 early as 1991, under a license issued to its authorized licensee Balzout. Immediately  
5 following the end of Balzout's license, Hope Road granted a license to Zion Rootswear in  
6 1999, and Zion has since 1999 made extensive use of the MARLEY ONE LOVE mark  
7 on clothing, hats, visors, stickers, key chains, buttons, pins, bracelets, jewelry, incense,  
8 patches, bumper stickers and other general items. The MARLEY ONE LOVE mark has  
9 been used alone and in conjunction with other Bob Marley marks.  
10

11 15. Hope Road further has licensed its MARLEY ONE LOVE Mark to another  
12 licensee, Lyric Culture, who utilizes the MARLEY ONE LOVE Mark on t-shirts, scarves,  
13 blankets, pillows, and necklaces.  
14

15 16. Hope Road also uses the name and design mark "ILOVE" for charitable services  
16 throughout the United States and in partnerships with the United Nations Environment  
17 Programme, the African Leadership Academy, Playing for Change Foundation, Marley  
18 Beverages, Marley Coffee, and The House of Marley.  
19

20 17. Hope Road has also licensed the right to use the identity, persona, song titles, and  
21 album titles of Bob Marley, including the MARLEY ONE LOVE mark to restaurants  
22 since as early as 1999. Specifically, Hope Road has licensed the MARLEY ONE LOVE  
23 mark and Bob Marley marks and Bob Marley's name and likeness to Universal Studios  
24 for use in its restaurant titled "Bob Marley, A Tribute to Freedom" since 1999. Universal  
25 Studios uses the MARLEY ONE LOVE Mark and other Bob Marley song titles on its  
26 menu and in other ways in its restaurant.  
27  
28

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1 18. In 2011, Hope Road was approached by an Alabama company seeking to license  
2 the “MARLEY ONE LOVE” Mark from Hope Road in connection with their proposal to  
3 open and operate a new restaurant.

4 19. Specifically, the Alabama company proposed to open a restaurant in Orange  
5 Beach, Alabama called “Bob Marley’s One Love Café,” which would feature up to  
6 15,000 square feet of dining and retail space and have seating for 500 patrons.  
7

8 20. The term and now the MARLEY ONE LOVE mark has been associated with Bob  
9 Marley throughout the United States and has acquired secondary meaning and trademark  
10 rights.

11 21. Hope Road and its predecessors have sold goods and services utilizing the Bob  
12 Marley marks and the MARLEY ONE LOVE Mark for numerous years. These goods  
13 and services are recognized by consumers as being associated with Hope Road and Bob  
14 Marley.  
15

16 22. Hope Road has garnered and maintains substantial goodwill within the United  
17 States in connection with its use of the MARLEY ONE LOVE Mark.  
18

19 23. Through its predecessor and directly, Hope Road has continued, without  
20 interruption, to use the Bob Marley marks and the MARLEY ONE LOVE Mark for  
21 services, clothing, and other merchandise.

22 24. Upon information and belief, the Defendant operates a chain of restaurants in the  
23 United States under the name Raising Cane’s, primarily offering for sale chicken fingers.

24 25. Unbeknown to the Plaintiff, on July 26, 2002 and March 4, 2004 respectively, the  
25 Defendant applied for trademark registrations for the marks “Raising Cane’s Chicken  
26  
27  
28

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1 Fingers One Love” and “One Love” (hereinafter with the 1LV mark as “CANE’s ONE  
2 LOVE” marks).

3 26. In addition, on March 13, 2012 the Defendant filed an additional registration for  
4 the mark “1LV” for use on stickers, bumper stickers, hats, caps and restaurant services,  
5 claiming a date of first use of January 4, 2012. (True and accurate copies of TESS  
6 summaries of the CANE’s ONE LOVE marks from the United States Patent and  
7 Trademark Office are attached hereto as “Exhibit 3” and are incorporated herein by  
8 reference).

9  
10 27. The Defendant’s applications for trademark registrations for the CANE’s ONE  
11 LOVE marks state a date of first use of November 2001.

12  
13 28. On November 25, 2003 and December 27, 2005, the Defendant was issued  
14 trademark registrations for the marks “Raising Cane’s Chicken Fingers One Love” and  
15 “One Love.” The Defendant’s application seeking registration of the mark “1LV” is  
16 pending with the USPTO.

17  
18 29. The Defendant is actively using the CANE’s ONE LOVE marks on its menu, its  
19 website and in advertising materials to promote and sell its chicken fingers and other food  
20 products

21 30. The Defendant has never sought or obtained a license or permission from the  
22 Plaintiff to utilize or feature the MARLEY ONE LOVE Mark in any fashion.

23 31. The CANE’s ONE LOVE marks are similar in sound, appearance, and meaning to  
24 Hope Road’s MARLEY ONE LOVE mark.

25  
26 32. The CANE’s ONE LOVE marks are confusingly similar to Hope Road’s  
27 MARLEY ONE LOVE mark.

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1 33. The goods and services offered and sold by the Defendant under the CANE's  
2 ONE LOVE marks are similar to the goods and services offered and sold by Hope Road  
3 and its licensees under the MARLEY ONE LOVE mark.

4 34. The Defendant's goods and services using the CANE's ONE LOVE marks are  
5 offered and sold in the same or similar channels of trade and commerce as the goods and  
6 services using the MARLEY ONE LOVE mark that are offered and sold by Hope Road  
7 and its licensees.

8 35. Hope Road's use of the MARLEY ONE LOVE mark predates the date of first use  
9 stated in the Defendant's applications and registrations for the CANE's ONE LOVE  
10 marks as Hope Road began to sell clothing bearing the MARLEY ONE LOVE Mark as  
11 early as 1991.  
12

13 36. Because of the Defendant's conflicting use of the CANE's ONE LOVE marks and  
14 the ongoing disputes between the parties, Hope Road has been impeded in its efforts to  
15 license third parties to utilize the MARLEY ONE LOVE mark in connection with goods  
16 and services and Hope Road's applications seeking registration of its MARLEY ONE  
17 LOVE marks with the USPTO have been denied registration.  
18

19 37. The MARLEY ONE LOVE mark is inherently distinctive and has acquired  
20 secondary meaning by extensive, continuous, and substantially exclusive use by Hope  
21 Road. The Bob Marley and MARLEY ONE LOVE marks are famous and distinctive  
22 within the meaning of the Trademark Dilution Act. The applications and registrations for  
23 the CANE's ONE LOVE marks were filed and issued after the MARLEY ONE LOVE  
24 mark had already become famous and distinctive and after the MARLEY ONE LOVE  
25 Mark was being used commercially by Hope Road.  
26  
27  
28

1 38. The Defendant's use of the CANE's ONE LOVE marks is causing a likelihood of  
2 confusion, mistake or deception as to the source, association, origin, affiliation,  
3 endorsement, or sponsorship by Hope Road of the Defendant's goods and services, when  
4 there is none.

5  
6 39. The Defendant's use of the CANE's ONE LOVE marks is allowing the Defendant  
7 to trade on Hope Road's existing goodwill in its MARLEY ONE LOVE mark.

8 40. The continued use and registration of the CANE's ONE LOVE marks is likely to  
9 and will continue to dilute the MARLEY ONE LOVE mark.

10 **COUNT I**

11 (Trademark Infringement- 15 U.S.C. § 1114)

12 41. The Plaintiff repeats and re-alleges each and every allegation contained in  
13 paragraphs one (1) through forty (40) and incorporates each herein by reference.

14 42. The MARLEY ONE LOVE Mark derives from, and is directly associated with,  
15 Bob Marley and his musical legacy.

16  
17 43. The MARLEY ONE LOVE Mark is also directly affiliated with the MARLEY  
18 Marks.

19 44. The Plaintiff has used and has continued to use, without interruption, the  
20 MARLEY ONE LOVE mark on goods and services in trade and commerce, specifically  
21 recordings, clothing, other merchandise, restaurant and for music-related services.

22  
23 45. The Plaintiff has expressly licensed the use of the MARLEY ONE LOVE mark  
24 for restaurant services since as early as 1999.

25 46. By virtue of its continued use of the MARLEY ONE LOVE Mark, the Plaintiff  
26 has acquired the sole and exclusive right to use said mark on goods, services, and  
27  
28

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1 marketing materials.

2 47. The Plaintiff has garnered and maintains substantial goodwill throughout the  
3 United States as a result of its continued and uninterrupted use of the MARLEY ONE  
4 LOVE Mark.

5 48. The MARLEY ONE LOVE Mark is inherently distinctive and has acquired  
6 secondary meaning by extensive, continuous, and substantially exclusive use by Hope  
7 Road.

8 49. The Defendant's trademark applications and registrations for the CANE's ONE  
9 LOVE marks stipulate that the Defendant's first use of said marks was not until  
10 November 2001.

11 50. As the Plaintiff's use of the MARLEY ONE LOVE mark predates any use by the  
12 Defendant of the CANE's ONE LOVE marks, the Plaintiff has priority of use over the  
13 Defendant.

14 51. Without the consent of the Plaintiff or a license from the Plaintiff, the Defendant  
15 is actively using the CANE's ONE LOVE marks in a manner that is confusingly similar  
16 to the Plaintiff's use of the MARLEY ONE LOVE mark.

17 52. The CANE's ONE LOVE marks are similar in sound, appearance, and meaning to  
18 Hope Road's MARLEY ONE LOVE mark.

19 53. The goods and services offered and sold by the Defendant under the CANE's  
20 ONE LOVE marks are similar to the goods and services offered and sold by Hope Road  
21 and its licensees under the MARLEY ONE LOVE mark and said goods and services are  
22 sold in the same or similar channels of trade and commerce.

23 54. The CANE's ONE LOVE marks are confusingly similar to Hope Road's  
24  
25  
26  
27  
28

1 MARLEY ONE LOVE mark.

2 55. The Defendant's use in trade and commerce of the CANE's ONE LOVE marks is  
3 likely to cause confusion or mistake and/or is likely to deceive consumers as to the origin  
4 or source of the Defendant's goods.

5 56. As the direct and proximate result of the Defendant's infringement, the Plaintiff  
6 has suffered, and will continue to suffer, monetary loss and irreparable injury to its  
7 business, reputation, and good will unless the Defendant and restrained and enjoined from  
8 continuing to use its conflicting marks.

9  
10 **COUNT II**

11 (Unfair Competition- 15 U.S.C. § 1125(a))

12 57. The Plaintiff repeats and re-alleges each and every allegation contained in  
13 paragraphs one (1) through fifty-six (56) and incorporates each herein by reference.

14 58. The Plaintiff's MARLEY ONE LOVE mark has become uniquely associated with  
15 and has identified the Plaintiff as the source of goods and services, including but not  
16 limited to, recordings, clothing, other merchandise, restaurant services and music-related  
17 services.

18  
19 59. The Defendant's use of the CANE's ONE LOVE marks in connection with  
20 restaurant services, food sales and other general merchandise is a false designation of  
21 origin which tends to falsely represent that the Defendant's goods and services are  
22 supplied by, sponsored by or are otherwise affiliated with or sanctioned by the Plaintiff.

23  
24 60. The Defendant's actions have been willful and deliberate and done with the full  
25 knowledge of the Plaintiff's superior rights and priority of use in the MARLEY ONE  
26 LOVE marks.

1 61. As a result of Defendant's use of the CANE's ONE LOVE marks, consumers are  
2 likely to be confused as to the source of the Defendant's goods and services and/or the  
3 existence of a sponsorship by or affiliation of Defendant's goods and services with those  
4 of the Plaintiff.

5  
6 62. The Defendant's use of the CANE's ONE LOVE marks constitutes unfair  
7 competition and unfair acts and practices.

8 63. The Plaintiff has no adequate remedy at law and is suffering and will continue to  
9 suffer irreparable harm and damages as a result of the Defendant's acts, unless the  
10 Defendant is enjoined and restrained from using the CANE's ONE LOVE marks.

11 **COUNT III**

12 (False Endorsement/False Association- 15 U.S.C. § 1125(a))

13 64. The Plaintiff repeats and re-alleges each and every allegation contained in  
14 paragraphs one (1) through sixty-three (63) and incorporates each herein by reference.

15  
16 65. The Plaintiff's MARLEY ONE LOVE mark has become uniquely associated with  
17 and has identified the Plaintiff as the source of goods and services, including but not  
18 limited to, recordings, clothing, other merchandise, and restaurant and music-related  
19 services.

20 66. The Defendant's use of the CANE's ONE LOVE marks is likely to mislead  
21 consumers to believe that there is an affiliation, sponsorship, endorsement, and/or  
22 association between Hope Road and Raising Canes, when there is none.

23  
24 67. Defendant's use of the CANE's ONE LOVE marks as alleged, constitutes a false  
25 endorsement, false affiliation, false designation of origin, false representation and false  
26 description of its goods and services in violation of Plaintiff's rights.

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1 68. The Plaintiff has no adequate remedy at law and is suffering and will continue to  
2 suffer irreparable harm and damages as a result of the Defendant's acts, unless the  
3 Defendant is enjoined and restrained from using the CANE's ONE LOVE marks.  
4

5 **COUNT IV**

(Trademark Dilution- 15 U.S.C. § 1125)

6 69. The Plaintiff repeats and re-alleges each and every allegation contained in  
7 paragraphs one (1) through sixty-eight (68) and incorporates each herein by reference.  
8

9 70. The MARLEY ONE LOVE Mark is inherently distinctive and has acquired  
10 secondary meaning by extensive, continuous, and substantially exclusive use by Hope  
11 Road.

12 71. The Plaintiff's MARLEY ONE LOVE mark is famous as it derives from Bob  
13 Marley's musical legacy and the release of his "One Love" song in 1977.

14 72. Upon information and belief, the Defendant began to use the CANE's ONE  
15 LOVE marks, after the MARLEY ONE LOVE mark became famous.  
16

17 73. The Defendant's applications and registrations for the CANE's ONE LOVE  
18 marks were filed and issued after Hope Road and its predecessors had already been using  
19 the MARLEY ONE LOVE mark in commerce.

20 74. The Defendant's use of its CANE's ONE LOVE marks is causing dilution of the  
21 Plaintiff's MARLEY ONE LOVE mark.  
22

23 75. The CANE's ONE LOVE marks are commercial and are used in commerce by the  
24 Defendant in connection with its chicken finger restaurants.

25 76. As the direct and proximate result of the Defendant's dilution of the Plaintiff's  
26 MARLEY ONE LOVE marks, the Plaintiff has suffered, and will continue to suffer,  
27  
28

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1 monetary loss and irreparable injury to its business, reputation, and good will.

2 **COUNT V**

3 (Cancellation of the Raising Cane's Marks- 15 U.S.C. § 1119)

4 77. The Plaintiff repeats and re-alleges each and every allegation contained in  
5 paragraphs one (1) through seventy-six (76) and incorporates each herein by reference.

6 78. Hope Road's use of the MARLEY ONE LOVE mark predates any use by the  
7 Defendant of the CANE's ONE LOVE marks.

8 79. Hope Road's use of the MARLEY ONE LOVE mark predates the Defendant's  
9 applications and registrations for the CANE's ONE LOVE marks which state a date of  
10 first use of 2001.

11 80. The Defendant's registrations for the CANE's ONE LOVE marks are for  
12 "restaurant services" while its application for the mark "1LV" is for both restaurant  
13 services and for other clothing and general merchandise.  
14

15 81. Hope Road has licensed the MARLEY ONE LOVE mark for restaurant services  
16 since as early as 1999 and has used the MARLEY ONE LOVE mark on clothing and  
17 other merchandise since as early as 1991.  
18

19 82. The Defendant's CANE ONE LOVE marks are confusingly similar to the  
20 MARLEY ONE LOVE Mark and are causing a likelihood of confusion, mistake or  
21 deception as to the source, association, origin, affiliation, endorsement, or sponsorship by  
22 Hope Road of the Defendant's goods and services, when there is none.

23 83. The Defendant's marks and its registrations for same are improperly and  
24 unlawfully inhibiting the Plaintiff from obtaining registrations for categories of goods and  
25 services for Hope Road's MARLEY ONE LOVE mark.  
26  
27  
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1 84. The continued existence of the CANE's ONE LOVE marks casts a cloud upon  
2 Hope Road's right to continue to use and to expand the use of its MARLEY ONE LOVE  
3 mark, warranting the cancellation of the Defendant's marks and application seeking to  
4 register the mark "1LV."

5  
6 85. The Plaintiff has suffered, and will continue to suffer, monetary loss and  
7 irreparable injury to its business, reputation, and good will unless and until the CANE's  
8 ONE LOVE marks are cancelled.

9 **COUNT VI**

10 (Common Law Trade Mark Infringement)

11 86. The Plaintiff repeats and re-alleges each and every allegation contained in  
12 paragraphs one (1) through eighty-five (85) and incorporates each herein by reference.

13 87. The Plaintiff's use of the MARLEY ONE LOVE mark has been sufficiently  
14 extensive so that members of the public, on seeing the Defendant's use of the CANE's  
15 ONE LOVE marks, are actually being deceived or confused and others will likely be  
16 deceived or confused and believe that Defendant's goods and services have their origins  
17 with Plaintiff or are sponsored by or affiliated with Plaintiff.  
18

19 88. The Plaintiff has no adequate remedy at law and is suffering, and will continue to  
20 suffer irreparable harm and damages as a result of the Defendant's acts, unless the  
21 Defendant is enjoined and restrained from using the CANE's ONE LOVE marks.  
22

23 89. The wrongful acts of the Defendant set forth above have caused the Plaintiff to  
24 suffer and will continue to cause the Plaintiff to suffer damages in an amount to be  
25 determined by the Trier of fact.  
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**COUNT VII**

(Intentional Interference with Advantageous Business Relations)

1  
2  
3 90. The Plaintiff repeats and re-alleges each and every allegation contained in  
4 paragraphs one (1) through eighty-nine (89) and incorporates each herein by reference.

5 91. The Plaintiff has entered into and licensed parties to utilize the MARLEY ONE  
6 LOVE marks and offer goods and services to the consuming public throughout the United  
7 States from which Plaintiff derives economic benefit relative to the authorized use of the  
8 MARLEY ONE LOVE mark in connection with the marketing and sale of goods and  
9 services.  
10

11 92. The Defendant is aware of the Plaintiff's advantageous business relationships that  
12 it maintains and the economic benefit that Hope Road derives therefrom as a result of its  
13 use of the MARLEY ONE LOVE mark.

14 93. The Defendant has intentionally, willfully, and/or maliciously interfered with the  
15 Plaintiff's business relationships by using and registering the CANE's ONE LOVE marks  
16 in order to cause confusion as to the source of the Defendant's goods and services and to  
17 further mislead consumers to believe that there is an affiliation, sponsorship,  
18 endorsement, and/or association between Hope Road and Raising Cane's, when there is  
19 none.  
20

21 94. As the direct and proximate result of the Defendant's interference with the  
22 Plaintiff's advantageous business relationships, the Plaintiff has suffered and will  
23 continue to suffer damages.  
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**PRAYERS FOR RELIEF**

WHEREFORE, the Plaintiff demands relief as follows:

A. That after a hearing on the merits, the Court issue an order permanently enjoining the Defendant from utilizing the CANE’s ONE LOVE marks and any confusing similar variation thereof and from advertising, marketing, distributing and selling and/or in any manner utilizing the CANE’s ONE LOVE marks on any goods or services and enjoin the Defendant from any other actions of infringement of the Plaintiff’s rights;

B. Under Count I that the Court determine and declare that:

- 1) the Defendant’s use of the CANE’s ONE LOVE marks is a reproduction, copying, counterfeiting, infringement of and/or colorable imitation of the Plaintiff’s trademark rights;
- 2) the Defendant’s use of the CANE’s ONE LOVE marks is likely to cause confusion or mistake and/or is likely to deceive consumers as to the origin or source of the Defendant’s goods; and
- 3) the Defendant willfully and deliberately infringed the Plaintiff’s trademarks and rights.

C. Under Count II that the Court determine and declare that:

- 1) the Defendant willfully and deliberately engaged in unfair competition by using the CANE’s ONE LOVE marks so as to infringe upon the Plaintiff’s rights;

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1           2) the use by the Defendant was a false designation of origin which  
2                    tended to falsely represent that the Defendant's goods were supplied  
3                    by, sponsored by or were otherwise affiliated with the Plaintiff;

4  
5           D. Under Count II that the Court determine and declare that the Defendant  
6                    illegally misappropriated and engaged in unfair competition and falsely  
7                    misled the public by using the CANE's ONE LOVE marks in  
8                    advertisements, menus, websites, merchandise and other medium related  
9                    to the promotion and sale of the Defendant's goods and services;

10           E. Under Count III that the Court determine and declare that the Defendant's  
11                    use of the CANE's ONE LOVE marks in connection with the promotion  
12                    and sale of the Defendant's goods and services is likely to mislead  
13                    consumers to believe that there is an affiliation, sponsorship, endorsement,  
14                    and/or association between the Plaintiff and the Defendant in relation to  
15                    their goods and services;

16  
17           F. Under Count IV that the Court determine and declare that the CANE's  
18                    ONE LOVE marks are causing a dilution of the MARLEY ONE LOVE  
19                    mark;

20  
21           G. Under Count V that the Court determine and declare that the Plaintiff has  
22                    priority of use in the MARLEY ONE LOVE Mark over the CANE's ONE  
23                    LOVE marks and that the CANE's ONE LOVE marks are so confusingly  
24                    similar to the MARLEY ONE LOVE mark as to warrant cancellation of  
25                    the registrations (and any applications) of the CANE's ONE LOVE marks;  
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H. Under Count VI that the Court determine and declare that the Defendant's use of the CANE's ONE LOVE marks was unauthorized and are so similar to the Plaintiff's MARLEY ONE LOVE mark as to cause confusion as to the source and origin of the Defendant's goods and services and has damaged the Plaintiff's goodwill and business reputation;

I. Under Count VII that the Court determine and declare that the Defendant's use of the CANE's ONE LOVE marks has intentionally and unlawfully interfered with the Plaintiff's business relationships;

J. That Judgment issue against the Defendant under Counts I, II, III, IV, VI & VII in an amount to be determined by the Trier of fact, together with interest and costs;

K. That Judgment issue under Count V cancelling the registrations (and application for) the CANE's ONE LOVE marks;

L. That Plaintiff be awarded damages for the injury to the Plaintiff's reputation, good will and false designation of origin, and false association and false endorsement in an amount up to three times the actual damage and/or profit of the Defendant together with attorney's fees and costs of this action pursuant to 15 U.S.C. § 1117;

M. That the Plaintiff be awarded its reasonable attorney's fees and costs as provided by the statute;

N. That the Plaintiff be awarded Defendant's profits from its unlawful acts and that an accounting be rendered of such profit; and

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O. That the Plaintiff be awarded such other and further relief as this Court  
deems just and equitable.

Respectfully submitted,  
The Plaintiff,  
Fifty-Six Hope Road Music, Ltd.  
By His attorneys,

/s/ Timothy J. Ervin

---

TIMOTHY J. ERVIN, BBO# 567042  
SCOTT D. CARMAN, BBO# 672469  
GALLANT & ERVIN, LLC.  
One Olde North Road, Suite # 103  
Chelmsford, MA 01824  
(978) 256-6041

Date: December 6, 2013

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### Typed Drawing

**Word Mark** ONE LOVE  
**Goods and Services** IC 025. US 022 039. G & S: footwear. FIRST USE: 19960229. FIRST USE IN COMMERCE: 19960229  
**Mark Drawing Code** (1) TYPED DRAWING  
**Serial Number** 74313144  
**Filing Date** September 14, 1992  
**Current Basis** 1A  
**Original Filing Basis** 1B  
**Published for Opposition** December 27, 1994  
**Registration Number** 1998491  
**Registration Date** September 3, 1996  
**Owner** (REGISTRANT) GOLDSTEIN, FRED E. INDIVIDUAL UNITED STATES 101 Plaza Real South Suite 209 Boca Raton FLORIDA 33432  
(LAST LISTED OWNER) FIFTY-SIX HOPE ROAD MUSIC LIMITED INTERNATIONAL BUSINESS COMPANY BAHAMAS AQUAMARINE HOUSE, CABLE BEACH NASSAU BAHAMAS 0  
**Assignment Recorded** ASSIGNMENT RECORDED  
**Attorney of Record** FRANK A. MAZZEO  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20061111.

Renewal 1ST RENEWAL 20061111  
Live/Dead Indicator LIVE

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# ONE LOVE

**Word Mark** ONE LOVE

**Goods and Services** IC 041. US 100 101 107. G & S: Entertainment services in the nature of live musical performances; organizing cultural festivals featuring music, dance, art exhibitions and heritage markets; providing information on a website relating to music, entertainment, and cultural festivals of others; and music publishing services

**Standard Characters Claimed**

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

**Serial Number** 77549263

**Filing Date** August 18, 2008

**Current Basis** 1B

**Original Filing Basis** 1B

**Published for Opposition** January 11, 2011

**Owner** (APPLICANT) Fifty-Six Hope Road Music Limited international business company  
BAHAMAS Aquamarine House, Cable Beach Nassau BAHAMAS

**Attorney of Record** Jill M. Pietrini, Esq.

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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# ONE LOVE

**Word Mark** ONE LOVE  
**Goods and Services** IC 043. US 100 101. G & S: Bar and restaurant services; catering; coffee bars; health resort services, namely, providing food and lodging that specialize in promoting patrons' general health and well-being; hotel services; providing advice to tourists and business travelers on hotel and restaurant destinations; rental of beach chairs, towels and umbrellas for recreational use; resort lodging services; and wine bars

**Standard Characters Claimed**

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

**Serial Number** 77782232

**Filing Date** July 16, 2009

**Current Basis** 1B

**Original Filing Basis** 1B

**Owner** (APPLICANT) Fifty-Six Hope Road Music Limited international business company BAHAMAS Aquamarine House, Cable Beach Nassau BAHAMAS

**Attorney of Record** Jill M. Pietrini, Esq.

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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# ONE LOVE

**Word Mark** ONE LOVE  
**Goods and Services** IC 025. US 022 039. G & S: Cloth bibs; Infant and toddler one piece clothing; Hats; Shirts; Sweat shirts; Tank-tops. FIRST USE: 19990300. FIRST USE IN COMMERCE: 19990300  
**Standard Characters Claimed**  
**Mark Drawing Code** (4) STANDARD CHARACTER MARK  
**Serial Number** 77233644  
**Filing Date** July 19, 2007  
**Current Basis** 1A  
**Original Filing Basis** 1A  
**Owner** (APPLICANT) Fifty-Six Hope Road Music Limited International Business Company  
BAHAMAS Aquamarine House, Cable Beach Nassau BAHAMAS  
**Attorney of Record** Jill M. Pietrini, Esq.  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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**Word Mark** RAISING CANE'S CHICKEN FINGERS ONE LOVE  
**Goods and Services** IC 043. US 100 101. G & S: restaurant services. FIRST USE: 20011103. FIRST USE IN COMMERCE: 20011103  
**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS  
**Design Search Code** 26.03.21 - Ovals that are completely or partially shaded  
26.11.21 - Rectangles that are completely or partially shaded  
**Serial Number** 76434877  
**Filing Date** July 26, 2002  
**Current Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** September 2, 2003  
**Registration Number** 2785751  
**Registration Date** November 25, 2003  
**Owner** (REGISTRANT) Raising Cane's USA, L.L.C. LIMITED LIABILITY COMPANY LOUISIANA  
6800 Bishop Road Plano TEXAS 75024  
**Assignment Recorded** ASSIGNMENT RECORDED  
**Attorney of Record** Bassam N. Ibrahim  
**Prior Registrations** 2343712  
**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CHICKEN FINGERS" APART FROM THE MARK AS SHOWN  
**Description of Mark**

Color is not claimed as a feature of the mark. The stippling in the drawing is for shading purposes only.

**Type of Mark** SERVICE MARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20130209.  
**Renewal** 1ST RENEWAL 20130209  
**Live/Dead Indicator** LIVE

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# ONE LOVE

<b>Word Mark</b>	ONE LOVE
<b>Goods and Services</b>	IC 043. US 100 101. G & S: RESTAURANT SERVICES. FIRST USE: 20011100. FIRST USE IN COMMERCE: 20011100
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	76579348
<b>Filing Date</b>	March 4, 2004
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	August 16, 2005
<b>Registration Number</b>	3033511
<b>Registration Date</b>	December 27, 2005
<b>Owner</b>	(REGISTRANT) Raising Cane's USA, L.L.C. LIMITED LIABILITY COMPANY LOUISIANA 6800 Bishop Road Plano TEXAS 75024
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	B. Parker Livingston, Jr.
<b>Prior Registrations</b>	2785751
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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# 1LV

<b>Word Mark</b>	1LV
<b>Goods and Services</b>	IC 016. US 002 005 022 023 029 037 038 050. G & S: (Based on Intent to Use) Stickers; bumper stickers  IC 025. US 022 039. G & S: (Based on Intent to Use) Hats and caps  IC 043. US 100 101. G & S: (Based on Use in Commerce) Restaurant services. FIRST USE: 20120104. FIRST USE IN COMMERCE: 20120104
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	85568191
<b>Filing Date</b>	March 13, 2012
<b>Current Basis</b>	1A;1B
<b>Original Filing Basis</b>	1A;1B
<b>Published for Opposition</b>	June 25, 2013
<b>Owner</b>	(APPLICANT) Raising Cane's U.S.A., LLC LIMITED LIABILITY COMPANY LOUISIANA 6800 Bishop Road Plano TEXAS 75024
<b>Attorney of Record</b>	Bassam N. Ibrahim
<b>Prior Registrations</b>	3033511;3123944
<b>Type of Mark</b>	TRADEMARK. SERVICE MARK
<b>Register</b>	PRINCIPAL

Live/Dead Indicator LIVE

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NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

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JS 44 (Rev. 12/12)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p><b>I. (a) PLAINTIFFS</b> Fifty-Six Hope Road Music, Ltd.</p> <p><b>(b)</b> County of Residence of First Listed Plaintiff <u>Bahamas</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p><b>(c)</b> Attorneys <i>(Firm Name, Address, and Telephone Number)</i> Timothy J. Ervin, Gallant &amp; Ervin, LLC One Olde North Road # 103 Chelmsford, MA 01824</p>	<p><b>DEFENDANTS</b> Raising Cane's USA, LLC</p> <p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i></p>
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<p><b>II. BASIS OF JURISDICTION</b> <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <p><i>(For Diversity Cases Only)</i></p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

**IV. NATURE OF SUIT** *(Place an "X" in One Box Only)*

<b>CONTRACT</b>	<b>TORTS</b>	<b>FORFEITURE/PENALTY</b>	<b>BANKRUPTCY</b>	<b>OTHER STATUTES</b>
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>LABOR</b>	<b>SOCIAL SECURITY</b>	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
	<b>PRISONER PETITIONS</b>	<b>IMMIGRATION</b>	<b>FEDERAL TAX SUITS</b>	
	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

**V. ORIGIN** *(Place an "X" in One Box Only)*

1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court     4 Reinstated or Reopened     5 Transferred from Another District *(specify)*     6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

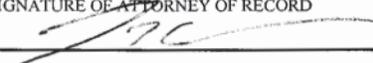
Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity):*  
 15 USC, secs. 1114, 1125

Brief description of cause:  
 Trademark Infringement, Unfair Competition, False Association and Dilution concerning "ONE LOVE"

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.    **DEMAND \$** \_\_\_\_\_    CHECK YES only if demanded in complaint:  
**JURY DEMAND:**     Yes     No

**VIII. RELATED CASE(S) IF ANY** *(See instructions):*    JUDGE \_\_\_\_\_    DOCKET NUMBER TAB #s 41271-030  
 41271-073

DATE: 12/06/2013    SIGNATURE OF ATTORNEY OF RECORD: 

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_    AMOUNT \_\_\_\_\_    APPLYING IFP \_\_\_\_\_    JUDGE \_\_\_\_\_    MAG. JUDGE \_\_\_\_\_

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) \_\_\_\_\_  
Fifty-Six Hope Road Music, Ltd. v. Raising Cane's USA, LLC

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- I. 410, 441, 470, 535, 830\*, 891, 893, 895, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 110, 130, 140, 160, 190, 196, 230, 240, 290,320,362, 370, 371, 380, 430, 440, 442, 443, 445, 446, 448, 710, 720, 740, 790, 820\*, 840\*, 850, 870, 871.
- III. 120, 150, 151, 152, 153, 195, 210, 220, 245, 310, 315, 330, 340, 345, 350, 355, 360, 365, 367, 368, 375, 385, 400, 422, 423, 450, 460, 462, 463, 465, 480, 490, 510, 530, 540, 550, 555, 625, 690, 751, 791, 861-865, 890, 896, 899, 950.

\*Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

TTAB #s 41271-030 & 41271-073

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES  NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES  NO

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES  NO

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES  NO

7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES  NO

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division  Central Division  Western Division

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division  Central Division  Western Division

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES  NO

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Timothy J. Ervin

ADDRESS Gallant & Ervin, LLC, One Olde North Road # 103, Chelmsford, MA 01824

TELEPHONE NO. (978) 256-6041