

ESTTA Tracking number: **ESTTA667566**

Filing date: **04/20/2015**

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	Thrill Hill Trademark Holdings LLC		
Entity	Limited Liability Company	Citizenship	New Jersey
Address	1990 South Bundy Drive Suite 200 Los Angeles, CA 90025 UNITED STATES		

Attorney information	Jason Jones FROSS ZELNICK LEHRMAN & ZISSU, P.C. 866 United Nations Plaza New York, NY 10017 UNITED STATES jjones@fzlj.com, cmende@fzlj.com Phone:212-813-5900		
----------------------	--	--	--

**Applicant Information**

Application No	86430450	Publication date	03/24/2015
Opposition Filing Date	04/20/2015	Opposition Period Ends	04/23/2015
Applicant	Vitorino, Thomas 11606 Vimy Rd Granada Hills, CA 91344 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 041. First Use: 2013/11/23 First Use In Commerce: 2013/11/23 All goods and services in the class are opposed, namely: Entertainment services in the nature of live musical performances
--

**Grounds for Opposition**

False suggestion of a connection	Trademark Act section 2(a)
Consists of or comprises a name, portrait, or signature of a living individual without written consent, or the name, portrait, or signature of a deceased president without the written consent of the surviving spouse	Trademark Act section 2(c)
Priority and likelihood of confusion	Trademark Act section 2(d)

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

U.S. Registration No.	4454482	Application Date	05/06/2013
Registration Date	12/24/2013	Foreign Priority	NONE

		Date	
Word Mark	BRUCE SPRINGSTEEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1973/00/00 First Use In Commerce: 1973/00/00 musical sound recordings; musical videorecordings; magnets</p> <p>Class 016. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 calendars; souvenir programs concerning rock concerts; lithographic prints; photographs; posters; greeting cards</p> <p>Class 025. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 T-shirts; sweatshirts; hooded sweatshirts; headwear; bandanas</p> <p>Class 041. First use: First Use: 1971/00/00 First Use In Commerce: 1971/00/00 entertainment services in the nature of live musical performances; providing on-line newsletters in the field of music</p>		

U.S. Registration No.	1697409	Application Date	11/05/1990
Registration Date	06/30/1992	Foreign Priority Date	NONE
Word Mark	BRUCE SPRINGSTEEN & THE E STREET BAND		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1975/08/13 First Use In Commerce: 1975/08/13 sound and video recordings featuring music</p> <p>Class 041. First use: First Use: 1975/08/13 First Use In Commerce: 1975/08/13 entertainment services in the nature of a musical group</p>		

Attachments	85924209#TMSN.png( bytes ) Notice of Opposition (RED, WHITE, AND BRUCE) (F1674400x96B9E).pdf(347540 bytes )
-------------	--

### 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	/Jason Jones/
-----------	---------------

Name	Jason Jones
Date	04/20/2015

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

In the matter of Application Serial No. 86/430,450  
Published in the *Official Gazette* on March 24, 2015

THRILL HILL TRADEMARK HOLDINGS  
LLC,

Opposer,

- v -

THOMAS VITORINO,

Applicant.

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

**NOTICE OF OPPOSITION**

Opposer Thrill Hill Trademark Holdings LLC (“Opposer”), a New Jersey limited liability company with an address c/o Chapman, Bird & Tessler, Inc., 1990 South Bundy Drive, Suite 200, Los Angeles, California 90025, believes that it would be damaged by the issuance of a registration for the mark RED, WHITE, AND BRUCE, applied for in Application Serial No. 86/430,450 (the “Application”) filed on October 21, 2014 by Thomas Vitorino (“Applicant”), and therefore opposes the same. As grounds for its opposition, Opposer, by its attorneys Fross Zelnick Lehrman & Zissu, P.C., alleges as follows:

FACTS

A. Opposer and Opposer’s BRUCE Marks

1. Opposer, by assignment from renowned musical artist Bruce Springsteen, is the owner of all rights in the marks BRUCE SPRINGSTEEN, BRUCE SPRINGSTEEN & THE E STREET BAND, BRUCE and related names and marks associated with Mr. Springsteen (collectively “Opposer’s BRUCE Marks”).

2. Mr. Springsteen, who is a member of the Rock and Roll Hall of Fame and a Kennedy Center Honoree, has won 20 Grammy awards, two Golden Globe awards and an Oscar for his music, and was named the 2013 MusiCares Person of the Year by the National Academy of Recording Arts and Sciences for his artistic achievement in the music industry and his dedication to philanthropy. Mr. Springsteen actively performs under Opposer's BRUCE Marks pursuant to a license from Opposer.

3. As a result of Mr. Springsteen's achievements as well as decades of use and promotion, Opposer's BRUCE Marks have become famous marks and represent an enormous and valuable goodwill, including goodwill specifically connected to live musical performances—the very services for which Applicant has sought to register the mark RED, WHITE, AND BRUCE.

4. In addition, Opposer owns federal registrations for certain of Opposer's BRUCE Marks, including:

- Reg. No. 4,454,482 for BRUCE SPRINGSTEEN for “musical sound recordings,” “entertainment services in the nature of live musical performances,” and other goods and services in Classes 9, 16, 25 and 41; and
- Reg. No. 1,697,409 for BRUCE SPRINGSTEEN & THE E STREET BAND for “sound and video recordings featuring music” in Class 9 and “entertainment services in the nature of a musical group” in Class 41.

Printouts from the USPTO database showing title and status of these registrations are attached as Exhibit 1.

5. These registrations are valid, subsisting, and in full force and effect, and constitute evidence (and conclusive evidence in the case of Reg. No. 1,697,409, which has become incontestable) of the validity of the registered marks and of Opposer's exclusive right to use the marks in commerce in connection with the identified goods and services.

B. Applicant and His Unauthorized RED, WHITE, AND BRUCE Mark

6. Upon information and belief, Applicant is an individual residing at 11606 Vimy Rd., Granada Hills, California 91344.

7. Upon information and belief, Applicant is a musician who organizes and participates in Bruce Springsteen tribute bands.

8. October 21, 2014, Applicant filed the Application to register the mark RED, WHITE, AND BRUCE ("Applicant's Mark) for "Entertainment services in the nature of live musical performances" in Class 41. Applicant alleged first use of the mark in commerce on November 23, 2013.

9. Applicant is not connected in any way to Opposer or Mr. Springsteen and has never been authorized by either to use the RED, WHITE, AND BRUCE mark or any of Opposer's BRUCE Marks.

10. Applicant's Mark incorporates Opposer's BRUCE mark in its entirety, and its inclusion of the terms "RED, WHITE, AND" further associate the mark with Opposer by referencing the red, white and blue American flag appearing on the iconic cover of Mr. Springsteen's all-time best-selling album, "Born in the U.S.A."

11. Applicant fully intends the "BRUCE" in Applicant's Mark to refer to Mr. Springsteen, and not another person named Bruce. In fact, the specimen of use submitted by

Applicant, apparently a contract for a live performance, lists “Artist(s)” as “RED, WHITE, AND BRUCE – BRUCE SPRINGSTEEN TRIBUTE.”

12. This is not the only application Applicant has filed to trade on the renown of Mr. Springsteen and Opposer’s BRUCE Marks. On October 21, 2014, the same day that Applicant filed the Application opposed herein, Applicant also filed Application Serial No. 86/430,423 for the mark SPRINGSTEEN LAS VEGAS for the exact same services (“Entertainment services in the nature of live musical performances” in Class 41). An office action issued against that application on February 9, 2015 pursuant to Sections 2(a), 2(c) and 2(d) of the Lanham Act.

13. By adopting Applicant’s Mark, and using the mark in connection with the very services Mr. Springsteen renders under Opposer’s BRUCE Marks—live musical performances—Applicant seeks to trade on the goodwill associated with Opposer’s BRUCE Marks. Registration of Applicant’s Mark would be inconsistent with Opposer’s prior and exclusive rights in Opposer’s BRUCE Marks and its use would threaten Opposer’s investment and goodwill in its marks.

#### COUNT I: LIKELIHOOD OF CONFUSION

14. Applicant repeats and realleges paragraphs 1 through 13 as if fully set forth herein.

15. Opposer’s BRUCE Marks have been used continuously since a date long before any priority date upon which Applicant may rely with respect to Applicant’s Mark.

16. Opposer’s BRUCE Marks have been used extensively, under Opposer’s authorization, in connection with live musical performances by Mr. Springsteen.

17. Applicant’s Mark, RED, WHITE, AND BRUCE, is similar to Opposer’s BRUCE Marks in sight, sound and meaning.

18. The services for which Applicant seeks to register Applicant's Mark, namely entertainment services in the nature of live musical performances, are identical or closely related to the services offered under Opposer's BRUCE Marks.

19. Based on the similarity of the marks and goods, consumers are likely to be confused and/or deceived into falsely believing that the services offered by Applicant under Applicant's Mark originate with or are approved or authorized by the owner of Opposer's BRUCE Marks. Any use of Applicant's Mark in connection with the goods identified in the Application is therefore likely to cause confusion, cause mistake, or to deceive consumers in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

20. By reason of the foregoing, Opposer will be damaged by the registration of Applicant's Mark to Applicant.

COUNT II: FALSE SUGGESTION OF CONNECTION WITH A PERSON

21. Applicant repeats and realleges paragraphs 1 through 20 as if fully set forth herein.

22. The name BRUCE, which is one of Opposer's BRUCE Marks, is famously chanted at Bruce Springsteen concerts and is regularly used and understood by Mr. Springsteen's millions of fans and many others as identifying Mr. Springsteen in connection with his live musical performances.

23. The "BRUCE" in Applicant's RED, WHITE, AND BRUCE mark refers specifically to Mr. Springsteen, as confirmed by the phrase "BRUCE SPRINGSTEEN TRIBUTE" on the specimen of use submitted by Applicant (who performs in Bruce Springsteen tribute bands), as well as Applicant's simultaneous filing for the mark SPRINGSTEEN LAS VEGAS referenced above.

24. Applicant has never been authorized to use BRUCE or any other of Opposer's BRUCE Marks or indicia relating to Mr. Springsteen as or as part of a mark for live musical performances or any other goods or services.

25. Applicant's Mark falsely suggests a connection with a living person in violation of Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a).

26. By reason of the foregoing, Opposer will be damaged by the registration of Applicant's Mark to Applicant.

### COUNT III: USE OF LIVING PERSON'S NAME WITHOUT CONSENT

27. Applicant repeats and realleges paragraphs 1 through 26 as if fully set forth herein.

28. The public will understand Applicant's Mark as identifying a particular living individual, namely Mr. Springsteen, who has long been known by the name and mark BRUCE, and who actively engages in live musical performances under the name and mark BRUCE and other of Opposer's BRUCE Marks.

29. Applicant's services are entertainment services in the nature of live musical performances, the very same services for which Mr. Springsteen and Opposer's BRUCE Marks are famous.

30. Applicant has not secured any consent, let alone written consent, to use Applicant's Mark. Therefore, registration of Applicant's Mark would violate Section 2(c) of the Lanham Act, 15 U.S.C. § 1052(c).

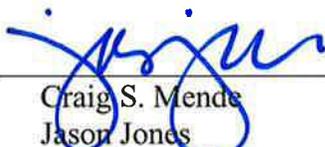
31. By reason of the foregoing, Opposer will be damaged by the registration of Applicant's Mark to Applicant.

WHEREFORE, Opposer respectfully requests that this opposition be sustained and that registration of Applicant's Mark in all respects be denied.

Dated: New York, New York  
April 20, 2015

Respectfully submitted,

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By:   
\_\_\_\_\_  
Craig S. Mende  
Jason Jones

866 United Nations Plaza  
New York, New York 10017  
Telephone: (212) 813-5900  
Email: [cmende@fzlj.com](mailto:cmende@fzlj.com)  
[jjones@fzlj.com](mailto:jjones@fzlj.com)

*Attorneys for Opposer*

# **EXHIBIT 1**



<b>Filed Use:</b> Yes	<b>Currently Use:</b> Yes	<b>Amended Use:</b> No
<b>Filed ITU:</b> No	<b>Currently ITU:</b> No	<b>Amended ITU:</b> No
<b>Filed 44D:</b> No	<b>Currently 44D:</b> No	<b>Amended 44D:</b> No
<b>Filed 44E:</b> No	<b>Currently 44E:</b> No	<b>Amended 44E:</b> No
<b>Filed 66A:</b> No	<b>Currently 66A:</b> No	
<b>Filed No Basis:</b> No	<b>Currently No Basis:</b> No	

## Current Owner(s) Information

**Owner Name:** Thrill Hill Trademark Holdings LLC

**Owner Address:** c/o Chapman, Bird & Tessler, Inc.  
1990 South Bundy Drive, Suite 200  
Los Angeles, CALIFORNIA 90025  
UNITED STATES

**Legal Entity Type:** LIMITED LIABILITY COMPANY

**State or Country Where Organized:** NEW JERSEY

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** David Ehrlich

**Docket Number:** BSPR 1300353

### Correspondent

**Correspondent Name/Address:** DAVID EHRLICH  
FROSS ZELNICK LEHRMAN & ZISSU, P.C.  
866 UNITED NATIONS PLZ  
NEW YORK, NEW YORK 10017-1822  
UNITED STATES

**Phone:** 212 813 5920

### Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
Dec. 24, 2013	REGISTERED-PRINCIPAL REGISTER	
Oct. 08, 2013	PUBLISHED FOR OPPOSITION	
Sep. 18, 2013	NOTICE OF PUBLICATION	
Sep. 02, 2013	APPROVED FOR PUB - PRINCIPAL REGISTER	
Aug. 23, 2013	ASSIGNED TO EXAMINER	67443
May 13, 2013	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
May 09, 2013	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

### TM Staff Information - None

### File Location

**Current Location:** PUBLICATION AND ISSUE SECTION

**Date in Location:** Dec. 24, 2013





UNITED STATES  
Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: NEW JERSEY

## Attorney/Correspondence Information

### Attorney of Record

Attorney Name: Mark N. Mutterperl

Docket Number: TANN 802 A (

### Correspondent

Correspondent Name/Address: Mark N. Mutterperl  
FULBRIGHT & JAWORSKI, LLP  
666 FIFTH AVENUE  
NEW YORK, NEW YORK 10103  
UNITED STATES

### Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
May 15, 2013	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Feb. 07, 2013	NOTICE OF SUIT	
Jun. 22, 2012	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - MAILED	
Jun. 22, 2012	REGISTERED AND RENEWED (SECOND RENEWAL - 10 YRS)	66607
Jun. 22, 2012	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	66607
Jun. 21, 2012	TEAS SECTION 8 & 9 RECEIVED	
May 10, 2012	NOTICE OF SUIT	
May 06, 2009	NOTICE OF SUIT	
Jan. 24, 2008	CASE FILE IN TICRS	
May 28, 2002	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	
May 28, 2002	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Mar. 26, 2002	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	
Mar. 26, 2002	PAPER RECEIVED	
Aug. 11, 1998	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	
May 06, 1998	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
Jun. 30, 1992	REGISTERED-PRINCIPAL REGISTER	
Apr. 07, 1992	PUBLISHED FOR OPPOSITION	
Mar. 06, 1992	NOTICE OF PUBLICATION	
Sep. 10, 1991	APPROVED FOR PUB - PRINCIPAL REGISTER	
Aug. 22, 1991	EXAMINER'S AMENDMENT MAILED	
Aug. 13, 1991	ALLOWANCE/COUNT WITHDRAWN	
Mar. 10, 1991	CORRESPONDENCE RECEIVED IN LAW OFFICE	
May 06, 1991	NON-FINAL ACTION MAILED	
Apr. 01, 1991	ASSIGNED TO EXAMINER	69811

## Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Jun. 30, 2012

## TM Staff and Location Information

### TM Staff Information - None

#### File Location

Current Location: GENERIC WEB UPDATE

Date in Location: Jun. 22, 2012

# Assignment Abstract Of Title Information

## Summary

Total Assignments: 1

Registrant: Springsteen, Bruce

### Assignment 1 of 1

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [5023/0212](#)

Pages: 2

Date Recorded: May 08, 2013

Supporting Documents: [assignment-tm-5023-0212.pdf](#)

#### Assignor

Name: [SPRINGSTEEN, BRUCE](#)

Execution Date: Apr. 28, 2013

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

#### Assignee

Name: [THRILL HILL TRADEMARK HOLDINGS LLC](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: NEW JERSEY

Address: C/O CHAPMAN, BIRD & TESSLER, INC.  
1990 SOUTH BUNDY DRIVE, SUITE 200  
LOS ANGELES, CALIFORNIA 90025

#### Correspondent

Correspondent Name: DAVID EHRLICH

Correspondent Address: FROSS ZELNICK LEHRMAN & ZISSU, P.C.  
866 UNITED NATIONS PLAZA  
NEW YORK, NY 10017

Domestic Representative - Not Found

**CERTIFICATE OF SERVICE**

I hereby certify that on this 20<sup>th</sup> day of April 2015, I caused a true and correct copy of the foregoing NOTICE OF OPPOSITION to be sent by first class mail, postage pre-paid, in an envelope addressed to Applicant as follows:

Thomas Vitorino  
11606 Vimy Rd.  
Granada Hills, CA 91344

  
\_\_\_\_\_  
Jason D. Jones