

TTAB

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37 C.F.R. 1.8

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451, on the date below:

12/20/04  
Date

*Shawn L. Eustace*  
Signature

**TRADEMARK**

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

In the matter of Registration No. 2,617,330  
Mark: SRV HIM GEAR  
Registrant: Lyle Seth Burchill  
Issued: September 10, 2002

THE EXECUTORS OF THE ESTATE OF STEVIE RAY  
VAUGHAN, A TEXAS ESTATE, COMPRISING JIMMIE  
VAUGHAN, A UNITED STATES CITIZEN, AS SOLE  
EXECUTOR,

Petitioner,

v.

LYLE SETH BURCHILL,

Registrant.

Cancellation No. \_\_\_\_\_

**PETITION FOR CANCELLATION**

**BOX TTAB -- FEE**

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

Madam:

Petitioner, The Executors of the Estate of Stevie Ray Vaughan, a Texas estate,  
comprising Jimmie Vaughan, a United States citizen, as sole executor, having a business address



12-28-2004

of 1208 West Avenue, Austin, Texas 78701, believes that it is damaged by U.S. Registration No. 2,617,330 and hereby petitions to cancel the same.

As grounds therefore, it is alleged that:

1. Registration No. 2,617,330 sought to be cancelled, is for the mark "SRV H1M GEAR" for "clothing, namely, shirts, pants, jackets, sweatshirts, jerseys, sweaters, T-shirts, sweat pants, baby sleepers, caps, visors, socks, shorts, vests and scarves" in International Class 25. Registration is based on an alleged first use date of November 1, 2000.

2. Since at least as early as 1985, Petitioner, and its predecessors-in-interest, have offered various goods and services, including clothing, namely shirts, t-shirts, halter tops, jackets, belts, suspenders, bandanas, caps and hats in International Class 25 in the United States under the mark SRV.

3. Petitioner, and in particular its predecessor in interest Stevie Ray Vaughan, is a famous and legendary guitarist that began using the mark SRV at least as early as 1985 in connection with various goods and services associated with his musical performances and paraphernalia. Continuously since 1985, the mark has been used to refer to Stevie Ray Vaughan and his offering of vocal and instrumental performances, albums, cassettes and compact discs of prerecorded music and collateral merchandise in the form of clothing in the United States. Petitioner, and its related entities, have spent considerable sums advertising and promoting its vocal and instrumental group under the mark SRV. As a result of such efforts, and as a result of the long use by Petitioner of the SRV mark, the SRV mark is recognized as a designation that identifies and distinguishes the goods and services of Petition and the legendary guitarist Stevie Ray Vaughan.

4. Petitioner and its predecessors in interest have developed enormous goodwill in the mark SRV for their goods and services.

5. Consistent with its long use of the SRV mark, Petitioner has filed an application in the United States Patent and Trademark Office to register the mark SRV, U.S. App. Ser. No. 76/522,952 for goods in Classes 9, 16 and 25.

6. In the Final Office Action emailed on October 6, 2004, the Examining Attorney refused to register the mark SRV under 15 U.S.C. § 1052(d), stating that Petitioner's mark, when used for the goods identified in Petitioner's App. Ser. No. 76/522,952, so resembles the mark in U.S. Registration No. 2,617,330 as to be likely to cause confusion or to cause mistake or to deceive.

WHEREFORE, Petitioner alleges that it is damaged by Registration No. 2,617,330 and petitions for cancellation thereof.

A duplicate copy of this Petition for Cancellation is enclosed herewith. The Commissioner for Trademarks is hereby authorized to deduct the fee in the amount of \$300 as required in Section 2.6 from Wong Cabello Deposit Account No. 501922/355-0011. Should any additional fee under 37 C.F.R. § 2.6 be deemed necessary for any reason relating to this petition, the Commissioner for Trademarks is authorized to deduct said fee from the same deposit account.

Please return the enclosed postcard to evidence receipt of this Petition for Cancellation.

Petitioner hereby appoints William D. Raman, H. Lisa Calico, Sherri L. Eastley, and John C. Cain as its duly authorized agents and attorneys in the matter of this petition above-identified to prosecute said petition, to transact all business in the Patent and Trademark Office and in the United States Courts in connection with this petition, to sign their name to all papers which may

hereinafter be filed in connection therewith, and to receive all communication relating to the same.

Respectfully submitted,



William D. Raman  
Sherri L. Eastley  
ATTORNEYS FOR PETITIONER

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