

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

PETITION TO CANCEL

RE: REGISTRATION NO: 3949583

RE: SERIAL NO: 85154578

Darlington Apple Festival, Inc.

P.O. Box 42

Darlington, Md. 21034

04/27/2011 SWILSON1 00000002 3949583

01 FC:6401

300.00 DP

Petitioner

v.

Mr. Stephen Smith

4539 Conowingo Road

Darlington, Md. 21034

Respondent

Date: DATE MAILED 4-21-2011

CANCELLATION NO: _____

1. AUTHORITY TO FILE AND STANDING

a. We cite the Act of 1946; 15 U.S.C 1051, et seq.; 1064(3) & 1064(5).

2. GROUNDS TO FILE PETITION TO CANCEL

a. We assert that Mr. Smith obtained his Supplemental Trademark through the use of fraud. 37 CFR 10.18(b)(1) reads as follows " All statements made therein of the party's own knowledge are true, all statements made therein



on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom.” In the case of *Torres v. Cantine Torresella S.r.l.* 1 808 F.2d 46, 48 (Fed. Cir. 1986) the Court wrote, “ Fraud in procuring a Trademark registration or renewal occurs when an applicant knowingly makes false, material representations of fact in connection with his application”. Mr. Smith included in his Trademark application a ‘Specimen’ containing three photographs from a website which he insinuated were from his website (see exhibits on pages 8-10). Those photographs are photographs from pages on our website [www. Darlingtonapplefest.org](http://www.Darlingtonapplefest.org). (see exhibits on pages 11-15). At the time of Mr. Smith’s application he did not have a Darlington Apple Festival website in use in commerce and still doesn’t. And, we did not authorize Mr. Smith to use photographs of our website in his application.

Additionally, Mr. Smith served on our Committee for a period of time and is aware of our website. As a result, we assert that Mr. Smith absolutely knew that he knowingly submitted a false document when he included photographs of our website in the 'Specimen' in his application insinuating that he has a Darlington Apple Festival website which he doesn't have. In Mr. Smith's application in the section titled Amendment To Allege Use in the Specimen Description it is written "The specimen consists of three screen shots of the applicant's website showing the mark as used in commerce". Clearly, Mr. Smith gave the PTO the impression that the screen shots are from his website, even though they are screen shots from OUR website www.darlingtonapplefest.org. Consequently, we very strongly assert that Mr. Smith's conduct is such that his Supplemental Trademark should be cancelled pursuant to the Medinol Standard.

b. We also base our Petition To Cancel on the grounds of likelihood of confusion. One of the factors looked at pertaining to trademark matters is 'actual confusion' which, in our situation, has already happened. Mr. Smith has obtained a Supplemental Trademark for the exact same name as our Darlington Apple Festival. After Mr. Smith filed his application and before he obtained a Supplemental Trademark he contacted Mr. Stephen Ramsey, the owner of the Harley Davidson Sales Center located here in Darlington, Md. For several years Mr. Ramsey has allowed our Darlington Apple Festival to park the cars of our festival's patrons in the parking lot

at the Harley Davidson's Sales Center. Mr. Smith asked Mr. Ramsey to have the Harley Davidson Sales Center be a corporate sponsor of the Darlington Apple Festival by placing their logo on the website of the Darlington Apple Festival website. Because we have been the only Darlington Apple Festival for the past 25 years Mr. Ramsey thought that Mr. Smith was representing our Darlington Apple Festival. Mr. Smith then put a photograph of Harley Davidson Sales Center's logo in a photograph taken from our website and included it in a specimen in his application to make it look like the Harley Davidson Sales Center is associated with Mr. Smith. When we learned what Mr. Smith had done we contacted Mr. Ramsey and informed him that Mr. Smith is not in any way, shape or form associated with our Darlington Apple Festival. Mr. Ramsey then had his attorney send a Cease and Desist letter to Mr. Smith (see exhibit pages 6-17). As a result of Mr. Smith's conduct in this matter we have placed a disclaimer on our website pertaining to Mr. Smith (see www.darlingtonapplefest.org).

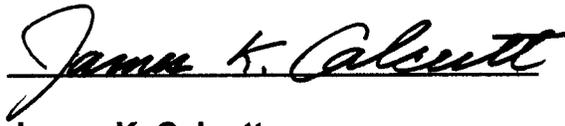
c. We assert that we have a common law trademark as it relates to the name Darlington Apple Festival. At common law, trademark ownership is acquired by actual use of the mark in a given market. We allude to the frequently cited case of United Drug Co. v. Theodore Rectanus Co. 248 U.S. 90, 97-98, 39 S. Ct. 48, 63 L. Ed. 141 (1918). "To acquire ownership of a

trademark it is not enough to have invented the mark first or even to have registered it first; the party claiming ownership must have been the first to actually use the mark in the sale of goods and services". We also cite the case of Sengoku Works Ltd. V. RMC Int'l Ltd. 96 F. 3d 1217, 1219 (9th Cir. 1996). "Ownership rights flow only from prior appropriation and actual use in the market". We have operated the Darlington Apple Festival since 1986. We have used the name Darlington Apple Festival in commerce for the past 25 years. We have been incorporated in the state of Maryland since 1993 under the name Darlington Apple Festival (see exhibit on page 18-24). Our state tax ID # is D03758976 and federal tax ID # is 52-1506799 (see exhibit on pages 25-26). Our checking account is in the name of Darlington Apple Festival (see exhibit on page 27). Our vendor apps are in the name of Darlington Apple Festival (see exhibit on page 28). We continue to operate the Darlington Apple Festival. Our festival will be held this year on Oct. 1, 2011 (see exhibit on page 29). Because we will be having our Darlington Apple Festival this year and plan to continue to do so in future years we assert that we have not abandoned what we assert is our common law trademark for the name Darlington Apple Festival. Our phone #, which we have had for many years, is (410) 457-4189. We established our website www.darlingtonapplefest.org on Dec. 14, 2001 (see exhibit on page 30). As we alluded to in par. 2(a) Mr. Smith took some

photos from OUR website and put them in his application insinuating that the photos are from his website, which is not true. Those photos were taken from OUR website.

3. SUMMARY

a. Based upon our assertions and information contained herein we respectfully request that our Petition To Cancel be GRANTED.



James K. Calcutt

Vice – Chair

Darlington Apple Festival, Inc.

1211 Main Street

Darlington, Md. 21034

(410) 457-4823

AFFADAVIT OF JAMES K. CALCUTT

I, James K. Calcutt, am over eighteen years of age and competent to testify to the matters set forth below.

I made this Affidavit of my own personal knowledge and belief.

I am familiar with the documents pertaining to this matter.

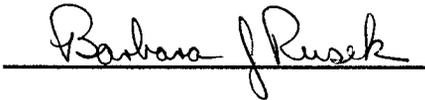
I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of this Petition To Cancel are true.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of this Affidavit are true.

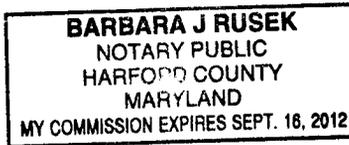

James K. Calcutt

SUBSCRIBED AND SWORN TO, before me, a Notary Public on this

21 day of April, 2011.



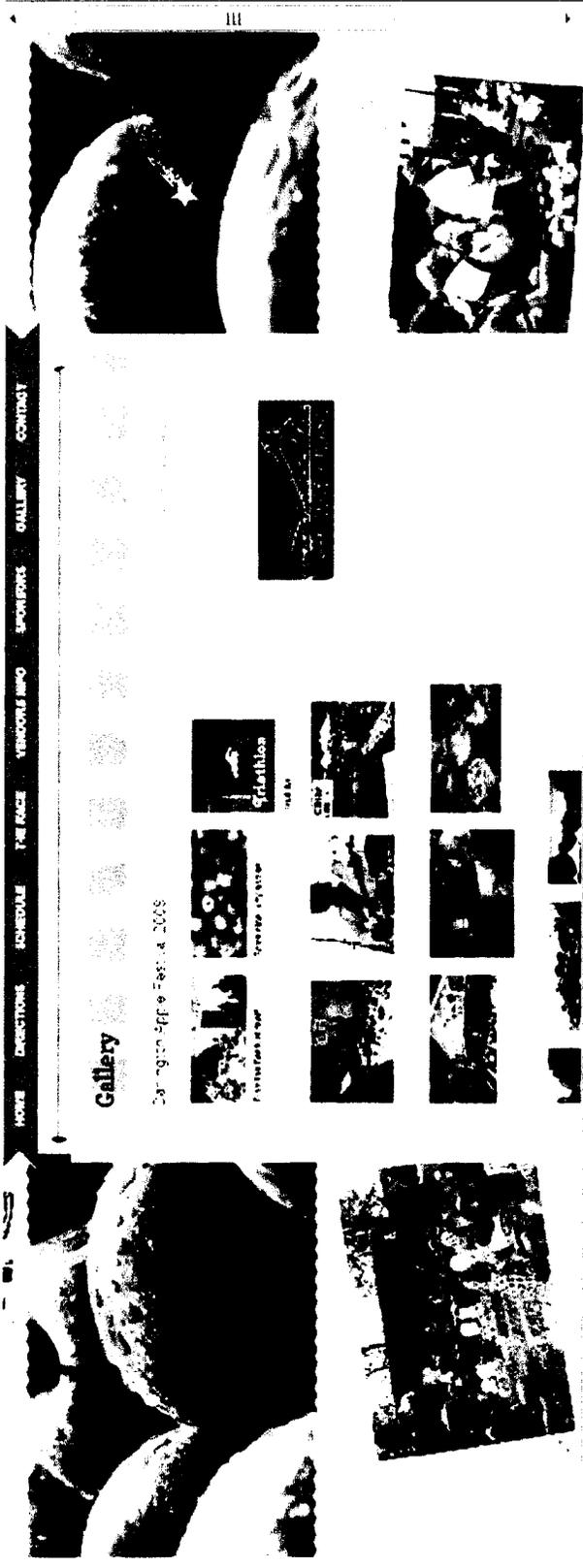
Notary Public



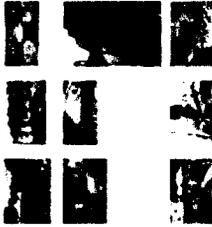
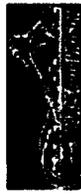
My commission expires on 9-18-2012.

CERTIFICATION OF SERVICE

I hereby certify that a copy of this Petition To Cancel was mailed via certified mail to Respondent and his attorney on April 21, 2011.



PHOTOS IN
 MR. SMITH'S
 APPLICATION
 TAKEN FROM
 PETITIONER'S
 WEBSITE
 PAGES HERE
 8-10



Welcome to Darlington...

The Darlington Festival is an annual event held in Darlington, North Carolina, featuring a variety of activities and entertainment for the entire community.

The festival is a celebration of the town's rich history and culture, offering a wide range of activities and entertainment for the entire community. The festival is held in Darlington, North Carolina, and is a major event in the town's calendar.





The DARLINGTON APPLE FESTIVAL



Saturday, October 1, 2011 - 10:00 am to 5:00 pm

--WARNING--The Official Telephone Number for the Fe



*PHOTOS TAKEN FROM
WEBSITE
PAGES HERE 11-15*



The Darlington Apple Festival is an annual event held the first Saturday in October, rain or shine, in the quaint village of Darlington, Maryland in the north-east corner of Harford County.

The festival includes an outdoor stage with all day entertainment, hundreds of country crafters exhibiting and selling their work, a fall harvest of mums, pumpkins, and of course, Apples ! There is also a children's area with games and kids can even stuff their own scarecrows. There are also hayrides for the whole family all day long. And Food !!! All the usual things plus pit beef, barbecue, seafood, apple fritters, apple cake, candy apples, "Apple Delight" and more !

No Dogs or other pets are allowed on the festival site with the exception of handicapped assistance dogs, dogs used by law enforcement and dogs displayed at the festival site under the restriction and control of qualified handlers.

DIRECTIONS

PARKING

[REDACTED]

VENDOR INFO

ENTERTAINMENT

VOLUNTEERS

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ENTERTAINMENT



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PROGRAM FOR OCTOBER 2, 2010

The Hay Bale Auditorium

Bridge 2819

Heads Up Band

11:45 am Apple of Our Eye Award

Gospel Travellers from John Wesley UM Church

Dean Sapp and the Harford Express

Oak Grove Quartet

Ed Sager and Friends

The Darlington Apple Festival Committee sincerely thanks all the entertainers who help us make the Festival a successful event.

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VENDOR INFORMATION

The Darlington Apple Festival is an annual fund raising event for local charities and non-profit organizations. A number of organizations set up their own booths which are manned by volunteers, while others hire commercial food vendors and make arrangements for profit sharing.

Sites are 10 ft. X 10ft. and cost \$65.00 each. Some vendors use more than one site, subject to availability. Electricity and water are not available and must be provided by the vendor. Generators are allowed only in specific areas.

Vendors and Participants are classified as follows:

Artists: Request the Application Form from the email link below.

Children's Events: Request the Application Form from the email link below.

Craft Vendors: Request the Application Form from the email link below.

NOTE: Commercial Products such as those sold by Mary Kay, Pampered Chef, Cookie Lee, etc. are not crafts. We do not have spaces for commercial products.

Entertainment: Request the Application Form from the email link below.

Farm Products: Request the Application Form from the email link below.

Food Vendors: Request the Application Form & Harford County Health Dept. Form from the email link below.

Public Service: Request the Application Form from the email link below.

Upon acceptance by the Darlington Apple Festival Committee, and receipt of the required fees, the vendor is assigned a site number(s) and parking pass. The Darlington Apple Festival Committee reserves the right to accept or reject any application it receives for exhibit or concession space based on the selection process criteria or for ANY other reason it deems appropriate.

Forms or other information may be obtained either by *email* to the appropriate address listed below, or by mail to the P.O. Box listed below. You may also leave a message with your name, mailing address and type of site or other information you require at the telephone number below.

Artist Application artistapp@darlingtonapplefest.org

Children's Site Application childrenapp@darlingtonapplefest.org

Craft Vendors Application craftvendors@darlingtonapplefest.org

- Entertainment Application entertainapp@darlingtonapplefest.org
- Farm Application farmapp@darlingtonapplefest.org
- Food Vendors Application foodvendors@darlingtonapplefest.org
- Public Service Application pubservapp@darlingtonapplefest.org
- Other Applicants otherapps@darlingtonapplefest.org
- General Inquiries inquiries@darlingtonapplefest.org
- Webmaster webmaster@darlingtonapplefest.org

Mailing Address: Darlington Apple Festival,
 P.O. Box 42,
 Darlington, MD, 21034.

Telephone: (410) 457-4189

Vendor Setup and Takedown

Many vendors set up their sites on Friday afternoon. In order to cooperate with local residents and provide safety for school children, no set up will be allowed until after 5:00 pm. On Saturday morning, Shuresville Road will be One Way Eastbound, with entry only from Main Street (MD 161). No entry will be allowed after 8:00 am. Exit will be at 5:15 pm, *not before*, and Shuresville Road will become One Way Westbound with exit onto Main Street (MD 161). This traffic flow will be strictly enforced by Sherriff's Deputies and Apple Festival Staff. Vendors receive a complete list of requirements with their registration and parking pass.

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[DIRECTIONS](#)



[ENTERTAINMENT](#)

[VOLUNTEERS](#)

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GESSNER, SNEE, MAHONEY & LUTCHE, P.A.

ATTORNEYS AT LAW

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JOSEPH F. SNEE, JR.
KEVIN J. MAHONEY
STEPHEN W. LUTCHE
COLLEEN FERG HELMLINGER

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BEL AIR, MARYLAND 21014
BEL AIR 410-838-8664
BALTIMORE 410-893-7500
FACSIMILE 410-893-8774

BRADLEY R. STOVER
RICHARD A. BECHTEL II

F41

February 18, 2011

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
AND FIRST CLASS MAIL**

Raj Abahyanker, Esquire
Raj Abahyanker, P.C.
1580 West Alcamino Real
Suite 8
Mountain View, CA 94040-2462

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
AND FIRST CLASS MAIL**

The Darlington Apple Festival, LLC
Stephen Smith, Resident Agent
4539 Conowingo Road
Darlington, MD 21034

RE: **CEASE & DESIST**
Darlington Apple Festival, LLC
Trademark Application
Our File No.: 304129

Gentlemen:

Please be advised that the undersigned represents Ramsey's Chesapeake Harley Davidson, Inc., owner of a Harley Davidson franchise located at 3938 Conowingo Road, Darlington, MD 21034.

It has come to our attention that Stephen Smith, on behalf of Darlington Apple Festival, LLC (the "LLC"), has filed an application with the United States Patent Trademark Office, seeking trademark protection for the phrase "The Darlington Apple Festival". Attached to Mr. Smith's trademark application is a specimen showing Mr. Smith's webpage, which advertises an apple festival located in Darlington, MD. Mr. Smith is seeking to confuse the public with the LLC and Darlington Apple Festival, Inc., a non-profit organization, responsible for holding the annual Darlington Apple Festival in

Raj Abahyanker, Esquire
and
The Darlington Apple Festival, LLC
Stephen Smith, Resident Agent
February 18, 2011
Page 2

Darlington, Maryland for over twenty years. Mr. Smith's specimen from his website, under a provision entitled "our sponsors", indicates that Chesapeake Harley Davidson is a sponsor of Mr. Smith's Darlington Apple Festival.

Chesapeake Harley Davidson has not agreed to sponsor any festival conducted by Mr. Smith or the LLC. My client has not granted a license or permission to either Mr. Smith or the LLC to use its image on the website, or in any other advertising medium, or for any purpose whatsoever. My client is a sponsor of the Darlington Apple Festival, Inc.'s annual event, not Mr. Smith's advertised event.

Accordingly, my client makes immediate demand that the United States Patent and Trademark application specimen be immediately revised to remove Chesapeake Harley Davidson from such specimen, and that Mr. Smith and the LLC immediately remove Chesapeake Harley Davidson as a sponsor from its website. Should Mr. Smith and the Darlington Apple Festival, LLC fail to comply immediately, my client has instructed me to take any and all legal and equitable remedies against Mr. Smith and the Darlington Apple Festival, LLC, for injunctive relief and/or monetary damages.

I trust you will give this matter your immediate attention.

Sincerely,



Joseph F. Snee, Jr.
jsnee@gsmllaw.com

18:14890.18

cc: Mr. Stephen Ramsey

10/26/93 .. 3:32 p.m.

DARLINGTON APPLE FESTIVAL, INC.

ARTICLES OF INCORPORATION

FIRST: I, John S. Karas, whose p... office address is 310 West Bel Air Avenue, Aberdeen, Maryland 21001, being at least eighteen (18) years of age, am hereby forming a corporation under and by virtue of the General Laws of the State of Maryland.

SECOND: The name of the Corporation (which is hereafter called the "Corporation") is DARLINGTON APPLE FESTIVAL, INC.

THIRD: The purposes for which the Corporation is formed are: (a) The Corporation is organized exclusively for educational and charitable purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law), and, more specifically, to receive and administer funds for such charitable and educational purposes, all for the public welfare, and for no other purposes, and to that end to take and hold, by bequest, devise, gift, purchase or lease, either absolutely or in trust for such objects and purposes or any of them, any property, real, personal or mixed, without limitation as to amount of value, except such limitations, if any, as may be imposed by law; to sell, convey, and dispose of any such property and to invest and manage the principal thereof, and to deal with and expend the income therefrom for any of the beforementioned

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JOHN S. KARAS
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MARIA DEVINE PAIS

KALLIA KONSTANT

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(410) 777-2601

9501 WICKORY AVENUE
BEL AIR, MARYLAND
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(410) 836-6202

33008231

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purposes, without limitation, except such limitations, if any, as may be contained in the instrument under which such property is received; to receive any property, real, personal or mixed, in trust, under the terms of any will, deed, trust, or other trust instrument for the foregoing purposes or any of them, and in administering the same to carry out the directions, and exercise the powers contained in the trust instrument under which the property is received, including the expenditure of the principal, as well as the income, for one or more of such purposes, if authorized or directed in the trust instrument under which it is received, but no gift, bequest or devise of any such property shall be received and accepted if it be conditioned or limited in such manner as shall require the disposition of the income or its principal to any person or organization ~~other than a "charitable organization"~~ or for ~~other than "charitable purposes"~~ within the meaning of such terms as defined in Article NINTH of these Articles of Incorporation, or as shall in the opinion of the Board of Directors, jeopardize the federal income tax exemption of the Corporation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as now in force or afterwards amended; to receive, take title to, hold, and use the proceeds and income of stocks, bonds, obligations, or other securities of any corporation or corporations, domestic or foreign, but only for the foregoing purposes, or some of them; and, in general, to ~~exercise any, all and every power for which a non-profit corporation organized under~~

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 410 836 0702

the applicable provisions of the Annotated Code of Maryland for scientific, educational, and charitable purposes, all for the public welfare, can be authorized to exercise, but only to the extent the exercise of such powers are in furtherance of exempt purposes.

(b) No part of the net earnings of the Corporation shall inure to the benefit of or be distributable to its members, directors, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article THIRD hereof. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting, to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of these Articles, the Corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986 or the corresponding provision of any future United States Internal Revenue Law or (b) by a corporation, contribution to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law).

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(c) Included among the educational and charitable purposes for which the Corporation is organized, as qualified and limited by subparagraphs (a) and (b) of this Article THIRD are the following: the promoting, organizing and operating the annual Darlington Apple Festival.

FOURTH: The post office address of the principal office of the Corporation in this State is 2101 Shuresville Drive, Darlington, Maryland 21034. The name and post office address of the Resident of the Corporation in this State is Arthur T. Johnson, 2324 Castleton Road, Darlington, Maryland 21034. Said Resident Agent is an individual actually residing in this State.

FIFTH: ~~The Corporation is not organized for profit; it shall~~ have no capital stock and shall not be authorized to issue capital stock. The number of qualifications for; and other matters relating to its members shall be as set forth in the By-Laws of the Corporation.

SIXTH: The number of Directors of the Corporation shall be thirteen (13), which number may be increased or decreased pursuant to the By-Laws of the Corporation, but shall never be less than six (6). The names of the Directors, who shall act until the first annual meeting or until their successors are duly elected and qualify, are: Arthur T. Johnson, June W. Griffith, Bonnie A. Lippy, Robert W. Hostetter, Kathy Johnson, Shirley Thompson, Kaine Archer, Tom Webster, James Pikhart, Charles Crue, Elizabeth Reeves, Robert Foyder and William Presberry.

JOHN S. KARAS
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SEVENTH: Upon the dissolution of the Corporation's affairs, or upon the abandonment of the Corporation's activities due to its impracticable or inexpedient nature, the assets of the Corporation then remaining in the hands of the Corporation shall be distributed, transferred, conveyed, delivered and paid over to any other charitable organization (as hereinafter defined) of this or any other state, having a similar or analogous character or purpose, in some way associated with or connected with the corporation to which the property previously belonged.

EIGHTH: The Corporation may by its By-Laws make any other provisions or requirements for the arrangement or conduct of the business of the Corporation, provided the same be not inconsistent with these Articles of Incorporation nor contrary to the laws of the State of Maryland or of the United States.

NINTH: In these Articles of Incorporation,

(a) References to "charitable organizations" or "charitable organization" mean corporations, trusts, funds, foundations, or community chests created or organized in the United States or in any of its possessions, whether under the laws of the United States, any state or territory, the District of Columbia, or any possession of the United States, organized and operated exclusively for charitable purposes, no part of the net earnings of which inures or is payable to or for the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda or otherwise

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laws.

(c) The Corporation shall not retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax laws.

(d) The Corporation shall not make any investments in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax laws.

(e) The Corporation shall not make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax laws.

ELEVENTH: No director or officer of the Corporation shall be liable to the Corporation or to its stockholders for money damages except (1) to the extent that it is proved that such director or officer actually received an improper benefit or profit in money, property or services, for the amount of the benefit or profit in money, property or services actually received, or (2) to the extent that a judgment or other final adjudication adverse to such director or officer is entered in a proceeding based on a finding in the proceeding that such director's or officer's action, or failure to act, was (a) the result of active and deliberate dishonesty, or (b) intentionally wrongful, willful or malicious and, in each such case, was material to the cause of action adjudicated in the proceeding.

JOHN S. KARAS
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IN WITNESS WHEREOF, I have signed these Articles of Incorporation this 24th day of October, 1993, and I acknowledge same to be my act.



JOHN S. KARAS

JOHN S. KARAS
CHARLES E. BRADFORD, JR.
MARIA DEVINE PAIS

KALLIA KONSTANT

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Personal Property Return
As of January 1, 2000
Due April 17, 2000

2000

Form 1
Page 1 of 4

CHECK ONE

Type of Corporation	ID # Prefix	Filing Fee	Type of Other Business Entity	ID # Prefix	Filing Fee
<input type="checkbox"/> Domestic Stock	(D)	\$100	<input type="checkbox"/> Domestic Limited Liability Co.	(W)	-0-
<input type="checkbox"/> Foreign Stock	(F)	\$100	<input type="checkbox"/> Foreign Limited Liability Co.	(Z)	-0-
<input checked="" type="checkbox"/> Domestic Non-Stock	(D)	-0-	<input type="checkbox"/> Domestic Limited Partnership	(M)	-0-
<input type="checkbox"/> Foreign Non-Stock	(F)	-0-	<input type="checkbox"/> Foreign Limited Partnership	(P)	-0-
<input type="checkbox"/> Foreign Insurance	(F)	-0-	<input type="checkbox"/> Domestic Limited Liability Partnership	(A)	-0-
<input type="checkbox"/> Foreign Interstate	(F)	-0-	<input type="checkbox"/> Foreign Limited Liability Partnership	(E)	-0-

Date Received by Department



D03758976 04 NO FILING FEE

Make Address Corrections Here

Name of Business: DARLINGTON APPLE FESTIVAL, INC.
 Mailing Address: PO BOX 42
DARLINGTON MD 21034-0042

Check here if this is a change of address

DEPARTMENT ID NUMBER ID# PREFIX <u>D</u> <u>03758976</u>		FEDERAL EMPLOYER IDENTIFICATION NUMBER <u>521506799</u>	
DATE OF INCORPORATION OR FORMATION <u>10-26-93</u>	STATE OF INCORPORATION OR FORMATION <u>MD</u>	FEDERAL PRINCIPAL BUSINESS CODE <u>999999</u>	
TRADING AS NAME <u>DARLINGTON APPLE FESTIVAL, INC.</u>		<input type="checkbox"/> Check here if you use a preparer and do not want personal property forms mailed to you next year.	

SECTION I

- A. Is any business conducted in Maryland? YES (Yes or No) Date began: OCT 1986
- B. Nature of business conducted in Maryland: 1-DAY ANNUAL APPLE FESTIVAL
- C. Does the business own, lease or use personal property located in Maryland? NO (Yes or No) If No, skip SECTION II.

ONLY CORPORATIONS COMPLETE ITEMS D AND E BELOW

- D. Does the charter of the corporation authorize the issuance of capital stock? NO (Yes or No) If yes, include \$100 Filing Fee.
- E. Names and addresses of officers and names of directors (type or print):

OFFICERS

Names	Addresses
President <u>JIM CALCUTT</u>	<u>1211 MAIN ST DARLINGTON MD</u>
Vice-President <u>JUNE GRIFFITH</u>	<u>2101 SHAVESVILLE RD DARLINGTON MD</u>
Secretary <u>LYNNE SMITH</u>	<u>LENDWING RD DARLINGTON MD</u>
Treasurer <u>BOB RILEY</u>	<u>1219 MAIN ST DARLINGTON MD</u>

DIRECTORS

Names	Names
<u>JIM CALCUTT</u>	<u>JANE HOWE</u>
<u>JUNE GRIFFITH</u>	<u>JO ANN BOYLE</u>
<u>LYNNE SMITH</u>	<u>KIRK WIMBER</u>
<u>BOB RILEY</u>	

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DETACH TOGETHER PAGES 1-4 AT PERFORATION
 INCLUDE DEPARTMENT ID NUMBER ON CHECK
 PLEASE STAPLE CHECK HERE

Type or Print
 Department ID Number Here

ID # PREFIX
D 03758976

ols, machinery and equipment used for manufacturing or research and development: State the original cost of the property by year of acquisition. Include all fully depreciated property and property expensed under IRS Rules. If exemption is claimed for the first time, a manufacturing/R&D exemption application must be submitted before this exemption can be granted. Contact the Department for an application.

If the property is located in a taxable jurisdiction, a detailed schedule by depreciation category should be included to take advantage of higher depreciation allowances.

Table with 4 columns: Year (1999, 1998, 1997, 1996), Description (1995, 1994, 1993, 1992 and prior), and empty cells for cost.

TOTAL COST \$ - 0 -

6 Vehicles with Interchangeable Registration (dealer, recycler, finance company, special mobile equipment, and transporter plates) and unregistered vehicles should be reported here. See specific instructions.

Table with 4 columns: Year (1999, 1998), Description (1997, 1996 and prior), and empty cells for cost.

TOTAL COST \$ - 0 -

7 Non-farming livestock \$ (Book Value) \$ (Market Value)

8 Other personal property... Total Cost \$ - 0 -
File separate schedule giving a description of property, original cost and the date of acquisition.

9 Property owned by others and used or held by the business as lessee or otherwise... Total Cost \$ - 8 -
File separate schedule showing names and addresses of owners, lease number, description of property, installation date and separate cost in each case.

10 Property owned by the business but used or held by others as lessee or otherwise... Total Cost \$ - 0 -
File separate schedule showing names and addresses of lessees, lease number, description of property, installation date and original cost by year of acquisition for each location. Schedule should group leases by county where the property is located. Manufacturer lessors should submit the retail selling price of the property not the manufacturing cost.

SECTION III This Section must be completed.

A. Total Gross Sales, or amount of business transacted during 1999 in Maryland: \$ 14610.56
If the business has sales in Maryland and does not report any personal property, explain how the business is conducted without personal property. If the business is using the personal property of another business, provide the name and address of that business.

SELL BOTH SPACES TO VENDORS (INTANGIBLE)

B. If the business operates on a fiscal year, state beginning and ending dates:

C. If this is the business' first Maryland personal property return, state whether or not it succeeds an established business and give name:

D. Does the business own any fully depreciated and/or expensed personal property located in Maryland? NO (Yes or No)

If yes, is that property reported on this return? (Yes or No)

E. Does the submitted balance sheet or depreciation schedule reflect personal property located outside of Maryland? N/A (Yes or No)
If yes, reconcile it with this return.

F. Has the business disposed of assets or transferred assets in or out of Maryland during 1999? NO (Yes or No)
If yes, complete Form 4C (Disposal and Transfer Reconciliation).

PLEASE READ "IMPORTANT REMINDERS" ON PAGE 4 BEFORE SIGNING

I declare under the penalties of perjury, pursuant to Tax-Property Article 1-201 of the Annotated Code of Maryland, that this return, including any accompanying schedules and statements, has been examined by me and to the best of my knowledge and belief is a true, correct and complete return.

NAME OF FIRM, OTHER THAN TAXPAYER, PREPARING THIS RETURN

ROBERT J. RILEY, SR. TREASURER
PRINT OR TYPE NAME OF CORPORATE OFFICER OR PRINCIPAL OF OTHER ENTITY TITLE

X SIGNATURE OF PREPARER DATE

X Robert J. Riley, Sr. 4/12/00
SIGNATURE OF CORPORATE OFFICER OR PRINCIPAL DATE

() PREPARER'S PHONE NUMBER

26 (410) 457-4189
BUSINESS PHONE NUMBER

SEND INQUIRIES TO:



THE FOREST HILL STATE BANK
 P.O. BOX 288
 FOREST HILL, MARYLAND 21050
 301-838-6131

M

DARLINGTON APPLE FESTIVAL
 C/O ROBERT HOSTETTER
 2400 SHURESVILLE ROAD
 DARLINGTON MD 21034

NOTIFY US OF ANY CHANGE OF ADDRESS

ACCOUNT NUMBER	CYCLE	STATEMENT PERIOD	PAGE
04 40-4555-5	M3100	112991 - 123191	1
1 955			
MESSAGE			

PREVIOUS BALANCE 1,977.92	+	DEPOSITS AND CREDITS .00	-	CHECKS AND DEBITS 1,422.50
- SERVICE CHARGES .00	=	NEW BALANCE 555.42	NO. DEPOSITS	NO. CHECKS 1

CHECKS AND DEBITS	CHECKS AND DEBITS	DEPOSITS AND CREDITS	DATE	ACCOUNT BALANCE
142250			1209	55542
		27		

Please examine at once. If no error is reported in fifteen days, the account will be considered correct. All items are credited subject to final payment.

- | | | | |
|----------------------------------|--------------------------|-----------------------|-------------------------|
| CM - CREDIT MEMO | ET - ELECTRONIC TRANSFER | LS - LIST | CP - CHECK PURCHASE |
| DM - DEBIT MEMO | CO - OVERDRAFT CHARGE | RT - RETURNED CHECK | XC - WIRE CREDIT |
| NS - NON-SUFFICIENT FUNDS CHARGE | KR - CHECK REVERSAL | DB - DEPOSIT REVERSAL | XD - WIRE DEBIT |
| | OD - OVERDRAFT CHARGE | MD - MAIL DEPOSIT | RI - RETURN ITEM CHARGE |
| | CT - CERTIFIED CHECK | SC - SERVICE CHARGE | IC - IMMEDIATE CREDIT |

✓ check

1993 DARLINGTON APPLE FESTIVAL APPLICATION

DATE: SATURDAY OCTOBER 2, 1993

TIME: 10:00 AM - 5:00 PM

PRICE: \$20.00 PER SPACE

PLEASE COMPLETE THE FOLLOWING IF YOU WOULD LIKE TO APPLY FOR A SPACE AT THE DARLINGTON APPLE FEST. YOU WILL BE NOTIFIED IF A SPACE IS NOT AVAILABLE FOR YOU. PLEASE DO NOT BRING PRODUCTS NOT LISTED BELOW OR YOU WILL BE ASKED TO REMOVE THEM.

YOU MUST PROVIDE YOUR OWN TABLES.

ALL VENDORS MUST BE PARKED IN THEIR SPACES, WITH CARS MOVED TO VENDOR PARKING, NO LATER THAN 1 HOUR PRIOR TO STARTING TIME (9:00 AM).

CONTACT PERSON - JUNE GRIFFITH 836-3409/836-7764

RETURN THIS PORTION

NAME OF INDIVIDUAL OR ORGANIZATION Richard MORETZ

COMPLETE LIST OF PRODUCTS Carving Decoys

PLEASE COMPLETE AND RETURN. FILL IN **ALL** BLANKS.

CONTACT NAME Richard MORETZ

STREET 1007 MORRISON BLVD

CITY/STATE/ZIP HdG md 21078

TELEPHONE NO. 939-2458

FEE REMITTED 20.00

I HAVE READ THE APPLE FESTIVAL GUIDE LINES AND WILL COMPLY WITH THEM. I WILL SELL ONLY THE ITEMS LISTED ABOVE AND WILL SEEK PERMISSION BEFORE MAKING ANY CHANGES.

signature [Handwritten Signature]

NUMBER OF SPACES NEEDED 1 (\$20.00 each)

INCLUDE CHECK PAYABLE TO: DARLINGTON APPLE FESTIVAL

MAIL THIS FORM AND CHECK TO: JUNE GRIFFITH, BOX 332, DARLINGTON, MD. 21034

(For Apple Festival Committee only: LOCATION _____)

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AV



DARLINGTON APPLE FESTIVAL

Farm Application 2011

RETURN THIS ORIGINAL FORM

NAME of ORGANIZATION or PERSON:			
STREET ADDRESS:			
CITY/STATE/ZIP:			
TELEPHONE:	Work:	Home:	
CONTACT NAME:			
STREET ADDRESS:			
TELEPHONE:	Work:	Home:	
MARYLAND RESALE TAX # or TAX EXEMPT # :			
LIABILITY INSURANCE NAME and # :			
ARE YOU A NON-PROFIT ORGANIZATION ?		Yes:	No:
COMPLETE LIST OF ITEMS DISPLAYED OR OFFERED:			
LIST THE TYPE OF EQUIPMENT YOU WILL USE:			
EACH SPACE IS 10 ft. X 10 ft. and is \$65.00 NUMBER OF SPACES:			
<p>I have received the Darlington Apple Festival Guidelines with this form. I understand that if I fail to comply with these, the Darlington Apple Festival Committee has the right to remove items being displayed/offered or forfeit my space with no refund. I also understand that my application must be approved by the Committee Chairperson. I will seek permission before making any changes of items sold or spaces required. The Festival is Oct. 1, 2011. I am responsible for a tarp or other suitable method of rain protection. There will be no price cutting before 4:00 pm and no hawking. Applications must be received not later than May 31, 2011.</p>			
Signature of Applicant: _____			
MAKE CHECK PAYABLE TO: Darlington Apple Festival		MAIL TO: DAF Farm Vendors 4002 York Drive Havre de Grace, MD, 21078	
Contact	Ann McCurry	(410) 939-3391	inquiries@darlingtonapplefest.org
DAF Use Only			
Date Rec'd:	Check # and Amount:		Space(s):

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Darlington Apple Festival Website

darlingtonapplefest.org

The website was initially registered and activated on December 14, 2001. Our current fees are \$6.95 per month which includes Domain Name Registration which is administered by our Website Service Provider, Tiger Technologies, PO Box 7596, Berkley, CA, 94707, 800-977-8443.

The DAF contacts are as follows:

Administrative Contact:

David Godley,
1109 Main Street,
Darlington, MD, 21034,

410-457-4198
webmaster@darlingtonapplefest.org

Billing Contact:

Dick Morgen,
1112 Main Street,
Darlington, MD, 21034,

410-457-4047
darlingtontax@zoominternet.net

Our current financial status, as of this date, shows a Credit Balance of \$87.48.

David Godley,
Webmaster,
April 14, 2011.

AUTHORIZATION TO REPRESENT

On April 20, 2011 the Board of Directors of Darlington Apple Festival, Inc voted in the affirmative to have James K. Calcutt, our Vice-Chair, represent us before the Trademark Trial And Appeal Board pertaining to the matter contained in this Petition To Cancel.

Elaine Calderon

Elaine Calderon

Chairperson

Darlington Apple Festival, Inc

I solemnly affirm under the penalties of perjury and upon personal Knowledge that the contents of this Authorization To Represent are true.

Elaine Calderon

Elaine Calderon

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

This page was generated by the TARR system on 2011-04-20 08:48:22 ET

Serial Number: 85154578 Assignment Information Trademark Document Retrieval

Registration Number: 3949583

Mark

THE DARLINGTON APPLE FESTIVAL

(words only): THE DARLINGTON APPLE FESTIVAL

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2011-04-19

Filing Date: 2010-10-18

Transformed into a National Application: No

Registration Date: 2011-04-19

Register: Supplemental

Law Office Assigned: LAW OFFICE 107

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: 650 -Publication And Issue Section

Date In Location: 2011-04-19

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

1. Smith, Stephen

32

Address:

Smith, Stephen
4539 Conowingo Road
Darlington, MD 21034
United States

Legal Entity Type: Individual**Country of Citizenship:** United States

GOODS AND/OR SERVICES

International Class: 041**Class Status:** Active

Organizing community festivals featuring primarily hay rides, bike riding, running events, pumpkin picking, craft-making, and also providing flea markets and the like

Basis: 1(a)**First Use Date:** 2010-08-01**First Use in Commerce Date:** 2010-10-01

ADDITIONAL INFORMATION

Disclaimer: "APPLE FESTIVAL"

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.

2011-04-19 - Registered - Supplemental Register

2011-03-11 - Law Office Publication Review Completed

2011-03-09 - Notice Of Acceptance Of Amendment To Allege Use E-Mailed

2011-03-08 - APPROVED FOR REGISTRATION SUPPLEMENTAL REGISTER

2011-03-08 - Amendment to Use approved

2011-03-05 - Teas/Email Correspondence Entered

2011-03-05 - Communication received from applicant

2011-03-05 - TEAS Request For Reconsideration Received

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2011-02-28 - Notification Of Final Refusal Emailed
2011-02-28 - Final refusal e-mailed
2011-02-28 - Final Refusal Written
2011-02-08 - Teas/Email Correspondence Entered
2011-02-08 - Communication received from applicant
2011-02-01 - Assigned To LIE
2011-01-21 - TEAS Response to Office Action Received
2011-01-21 - Amendment To Use Processing Complete
2011-01-21 - Use Amendment Filed
2011-01-20 - TEAS Amendment of Use Received
2011-01-10 - Notification Of Non-Final Action E-Mailed
2011-01-10 - Non-final action e-mailed
2011-01-10 - Non-Final Action Written
2011-01-07 - Assigned To Examiner
2010-10-21 - New Application Office Supplied Data Entered In Tram
2010-10-21 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Raj Abhyanker

Correspondent

RAJ ABHYANKER

RAJ ABHYANKER, P.C.

1580 W EL CAMINO REAL STE 8

MOUNTAIN VIEW, CA 94040-2462

Phone Number: 650-965-8731

Fax Number: 650-989-2131

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MADRID PROTOCOL INFORMATION

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