

ESTTA Tracking number: **ESTTA596597**

Filing date: **04/04/2014**

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

### Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

#### Petitioner Information

Name	Daniel P Matthews		
Entity	Individual	Citizenship	UNITED STATES
Address	2407 Old Mill Road Spring Lake Heights, NJ 07762 UNITED STATES		

Correspondence information	Christopher J. Marino Giordano, Halleran & Ciesla, PC 125 Half Mile Road, Ste. 300 Red Bank, NJ 07701 UNITED STATES cmarino@ghclaw.com,kanderson@ghclaw.com Phone:7327413900		
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#### Registration Subject to Cancellation

Registration No	4233433	Registration date	10/30/2012
Registrant	BLACK CLOUDS 3449 DARTMOOR LANE OLNEY, MD 20832 MOLDOVA, REPUBLIC OF		

#### Goods/Services Subject to Cancellation

Class 009. First Use: 2011/10/05 First Use In Commerce: 2011/11/20 All goods and services in the class are cancelled, namely: Audio and video recordings featuring music and artistic performances; Audio recordings featuring music; Compact discs featuring music; Digital music downloadable from the Internet; Downloadable musicfiles; Downloadable musical sound recordings; Downloadable music via the internet and wireless devices; Musical recordings; Musical sound recordings; Musical video recordings; Sound recordings featuring music; Video recordings featuring music
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#### Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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#### Mark Cited by Petitioner as Basis for Cancellation

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	THE BLACK CLOUDS		
Goods/Services	Production and sale of audio and video recordings via hard media, streaming, and download. Entertainment services, namely, live music		

	performances.
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Attachments	DOC.PDF(72699 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Christopher J. Marino/
Name	Christopher J. Marino
Date	04/04/2014

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

In re Registration No. 4,233,433  
Mark: BLACK CLOUDS  
Issued: October 30, 2012

DANIEL P. MATTHEWS

Petitioner,

v.

BLACK CLOUDS LIMITED LIABILITY  
COMPANY

Registrant.

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

**PETITION FOR CANCELLATION**

Petitioner Daniel P. Matthews (“Petitioner”), states the following for his petition for cancellation against Registration No. 4,233,433:

1. Petitioner is an individual with an address of 2407 Old Mill Road, Spring Lake Heights, New Jersey.

2. Petitioner is engaged in the production and sale of audio and video recordings via hard media, streaming and download under the mark “THE BLACK CLOUDS.” Petitioner is also engaged in the provision of entertainment services in the nature of musical performances under the mark THE BLACK CLOUDS. Petitioner has been using THE BLACK CLOUDS mark in the United States in connection with these goods and service since at least as early as 2007.

3. Since 2008, Petitioner has invested and continues to invest considerable time, money and effort to promote and establish the reputation of the mark THE BLACK CLOUDS as widely as possible and to identify Petitioner as the source of his services and goods associated with the mark. As a result, Petitioner has developed extremely valuable goodwill throughout the United States and the world with respect to the mark THE BLACK CLOUDS.

4. Upon information and belief, Respondent Black Clouds Limited Liability Company (“Respondent”) is a limited liability company organized under the laws of the state of Maryland with an address of 3449 Dartmoor Lane, Olney, Maryland.

5. Respondent is the holder of U.S. Reg. No. 4,233,433 for the mark “BLACK CLOUDS” in International Class 009 for the following goods and services:

Audio and video recordings featuring music and artistic performances; Audio recordings featuring music; Compact discs featuring music; Digital music downloadable from the Internet; Downloadable music files; Downloadable musical sound recordings; Downloadable music via the internet and wireless devices; Musical recordings; Musical sound recordings; Musical video recordings; Sound recordings featuring music; Video recordings featuring music.

6. Respondent claims November 20, 2011 as its date of first use in U.S. commerce of the mark BLACK CLOUDS.

7. Petitioner has continuously and exclusively used THE BLACK CLOUDS mark in connection with his sale of audio and video recordings and in connection with his provision of entertainment services prior to Registrant’s claimed November 20, 2011 date of first use in commerce of the identical mark BLACK CLOUDS. As such, Petitioner has priority.

8. The mark THE BLACK CLOUDS is recognized and relied upon by the relevant consumers as identifying Petitioner’s goods and services, and as distinguishing them from the

goods of others, and has come to represent and symbolize extremely valuable goodwill belonging exclusively to Petitioner.

9. Petitioner has spent substantial time, effort and money promoting the goods offered under the mark THE BLACK CLOUDS.

10. Petitioner will be damaged by Respondent's continued registration of the mark BLACK CLOUDS because the registration will likely block registration of Petitioner's mark THE BLACK CLOUDS, for which Petitioner intends to apply presently in International Classes 009 and 041. Therefore, U.S. Registration No. 4,233,433 is a source of damage and injury to Petitioner.

WHEREFORE, Petitioner requests that its petition to cancel Registration No. 4,233,433 be sustained and that the Trademark Trial and Appeal Board grant any and all further relief to Petitioner that the Board finds necessary and just in the circumstances.

Petitioner appoints as its attorneys in these proceedings Christopher J. Marino, Esq. of the firm Giordano Halleran & Ciesla, PC, to whom all correspondence in this proceeding should be addressed.

Dated: April 4, 2014

Respectfully submitted,  
GIORDANO HALLERAN & CIESLA, PC

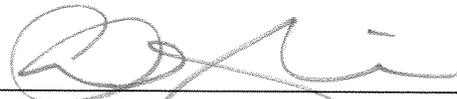
/Christopher J. Marino/  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on April 4, 2014 a true and correct copy of the Petition to Cancel was served by first class mail on the Registrant and Registrant's Correspondent at the following addresses:

Black Clouds Limited Liability Company  
3449 Dartmoor Lane  
Olney, Maryland 20837

Justin F. Horenstein  
18011 Golden Spring Ct.  
Olney, Maryland 20837



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CHRISTOPHER J. MARINO, ESQ.  
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