


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

In the Matter of Service Mark
STIR-FRIDAY NIGHT! SN 76/081500

STIR-FRIDAY NIGHT!,)
An Illinois non-profit corporation)
)
OPPOSER,)
)
) Opposition Proceeding 91-125,076
v.)
)
QUINCY WONG,)
Applicant.)

**MOTION TO SUSPEND PROCEEDINGS PENDING DISPOSITION
OF CIVIL ACTION**

Box TTAB No Fee
Office of Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington VA 22202-3513


03-28-2003
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #7

Madame:

Applicant, Quincy Wong, through his attorneys, requests that the Board suspend proceedings in the above-identified Opposition action 125,076 respecting SN 76/081,500 pending the disposition of a civil action pending between the parties. It is believed the civil action will be dispositive of the Board's case herein. In addition, on behalf of Applicant, his attorneys provide the Board the following information which they believe is an additional reason to suspend proceedings. Applicant died on July 8, 2002. A copy of his death certificate is attached hereto as Exhibit A and the issued letters of office for the estate as Exhibit B. The estate's legal representative has not yet been in a position to substitute the estate for the Applicant herein. The estate has not been substituted as yet in the civil action.

Pursuant to TMBP Rule 510.02(a), enclosed as Exhibit C is a copy of the complaint in the civil action between the parties that is pending in the Chancery Court for the County of Cook in Illinois, *Quincy Wong v. Stir-Friday Night, Inc.*, Case No. 02CH01969, January 28, 2002. An

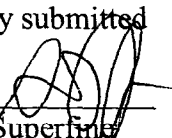
answer has been filed but is unavailable to the undersigned attorney as he was apprised of this matter March 21, 2003. Discovery is underway.

Disposition of the civil action will determine who has superior rights to the mark identified above and whether Applicant is entitled to register the mark.

Accordingly, it is respectfully requested that all further proceedings in Proceeding 125,076 be suspended pending disposition of Civil Chancery Action 02CH01969.

Dated: March 21, 2003

Respectfully submitted

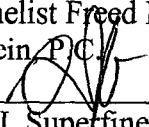

Richard J. Superfine
Much Shelist Freed Denenberg
Ament & Rubenstein, P.C.
191 N. Wacker Drive
Suite 1800
Chicago IL 60606-1615
312 521 2000

CERTIFICATE OF MAIL SERVICE

I hereby certify that the foregoing **MOTION TO SUSPEND PROCEEDINGS PENDING DISPOSITION OF CIVIL ACTION** respecting Reg./SN 76/081,500 and Proceeding No. 91125076 is being deposited in the United States Mail, as first class mail, postage prepaid, on this the 21th day of March, 2003, in an envelope addressed as follows:

Box TTAB No Fee
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

Much Shelist Freed Denenberg Ament &
Rubenstein, P.C.

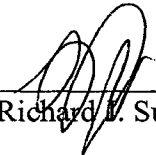

Richard J. Superfine
Much Shelist Freed Denenberg Ament &
Rubenstein, P.C.
191 N. Wacker Drive
Suite 1800
Chicago IL 60606-1615
312 521 2000

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing MOTION TO SUSPEND PROCEEDINGS PENDING DISPOSITION OF CIVIL ACTION with attachments was served by first class mail, postage prepaid to the following:

Brian M. Mattson, Esq.
Patents+TMS, P.C.
1914 N. Milwaukee Ave.
Chicago IL 60647

Dated: 3/15, 2003


Richard V. Superfine

Rjs/word/0001791303a-m21

DECEDENT'S BIRTH NO. _____
 REGISTRATION DISTRICT NO. 16.23
 REGISTERED NUMBER _____

STATE OF ILLINOIS

STATE FILE NUMBER

MEDICAL CERTIFICATE OF DEATH

Type or Print in PERMANENT INK See Funeral Directors, Hospital, or Physicians Handbook for INSTRUCTIONS

DECEASED-NAME FIRST MIDDLE LAST SEX DATE OF DEATH (MONTH, DAY, YEAR)
 1. **QUINCY WONG** 2. **MALE** 3. **JULY 8, 2002**

COUNTY OF DEATH AGE-LAST BIRTHDAY (YRS) UNDER 1 YEAR UNDER 1 DAY DATE OF BIRTH (MONTH, DAY, YEAR)
 4. **COOK** 5a. **48** 5b. _____ 5c. _____ 5d. **JUNE 17, 1954**

CITY, TOWN, TWP. OR ROAD DISTRICT NUMBER HOSPITAL OR OTHER INSTITUTION -NAME (IF NOT IN EITHER, GIVE STREET AND NUMBER) IF HOSP. OR INST. INDICATE D.O.A. OP/EMER. RM. INPATIENT (SPECIFY) 6c. EMER. RM.
 6a. **EVANSTON** 6b. **EVANSTON HOSPITAL** 6c. **EMER. RM.**

BIRTHPLACE (CITY AND STATE OR FOREIGN COUNTRY) MARRIED, NEVER MARRIED, WIDOWED, DIVORCED (SPECIFY) NAME OF SURVIVING SPOUSE (MAIDEN NAME, IF WIFE) WAS DECEASED EVER IN U.S. ARMED FORCES? (YES/NO) 9. YES
 7. **EVANSTON, IL** 8a. **NEVER MARRIED** 8b. _____ 9. **YES**

SOCIAL SECURITY NUMBER USUAL OCCUPATION KIND OF BUSINESS OR INDUSTRY EDUCATION (SPECIFY ONLY HIGHEST GRADE COMPLETED)
 10. **351-40-8578** 11a. **ACTOR** 11b. **ENTERTAINMENT** 12. **4**

RESIDENCE (STREET AND NUMBER) CITY, TOWN, TWP. OR ROAD DISTRICT NO. INSIDE CITY (YES/NO) COUNTY
 13a. **6816 N. RIDGE** 13b. **CHICAGO** 13c. **YES** 13d. **COOK**

STATE ZIP CODE RACE (WHITE, BLACK, AMERICAN INDIAN, etc.) (SPECIFY) OF HISPANIC ORIGIN? (SPECIFY NO OR YES-IF YES, SPECIFY CUBAN, MEXICAN, PUERTO RICAN, etc.)
 13e. **ILLINOIS** 13f. **60645** 14a. **ASIAN** 14b. NO YES SPECIFY:

FATHER-NAME FIRST MIDDLE LAST MOTHER-NAME FIRST MIDDLE (MAIDEN) LAST
 15. **NAM GO WONG** 16. **KAR SUN YUEN**

INFORMANT'S NAME (TYPE OR PRINT) RELATIONSHIP MAILING ADDRESS (STREET AND NO. OR R.F.D., CITY OR TOWN, STATE, ZIP)
 17a. **PHILIP WONG** 17b. **BROTHER** 17c. **172244 KENILWORTH, WILMETTE, IL 60091**

18. PART I. Enter the diseases, or complications that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock, or heart failure. List only one cause on each line. APPROXIMATE INTERVAL BETWEEN ONSET AND DEATH

Immediate Cause (Final disease or condition resulting in death) (a) **CARDIAC ARRHYTHMIA**

CONDITIONS, IF ANY WHICH GIVE RISE TO IMMEDIATE CAUSE (a) STATING THE UNDERLYING CAUSE LAST. (b) _____ (c) _____

PART II. Other significant conditions contributing to death but not resulting in the underlying cause given in PART I. AUTOPSY (YES/NO) WERE AUTOPSY FINDINGS AVAILABLE PRIOR TO COMPLETION OF CAUSE OF DEATH? (YES/NO)
 19a. **YES** 19b. _____

DATE OF OPERATION, IF ANY MAJOR FINDINGS OF OPERATION IF FEMALE, WAS THERE A PREGNANCY IN PAST THREE MONTHS?
 20a. _____ 20b. _____ 20c. YES NO

(DID) (DID NOT) ATTEND THE DECEASED (MONTH, DAY, YEAR) WAS CORONER OR MEDICAL EXAMINER NOTIFIED? (YES/NO) HOUR OF DEATH
 21a. **5/14/02** 21b. **YES** 21c. **10:20 A. M.**

TO THE BEST OF MY KNOWLEDGE, DEATH OCCURRED AT THE TIME, DATE AND PLACE AND DUE TO THE CAUSE(S) STATED. DATE SIGNED (MONTH, DAY, YEAR)
 22a. SIGNATURE **Kathy A. Fisher MD** 22b. **7/10/02**

NAME AND ADDRESS OF CERTIFIER (TYPE OR PRINT) ILLINOIS LICENSE NUMBER
 22c. **KATHY A. FISHER M.D. SKOKIE, IL 60077** 22d. **036-072858**

NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (TYPE OR PRINT) NOTE: IF AN INJURY WAS INVOLVED IN THIS DEATH THE CORONER OR MEDICAL EXAMINER MUST BE NOTIFIED.
 23. _____

BURIAL, CREMATION, REMOVAL (SPECIFY) CEMETERY OR CREMATORY-NAME LOCATION CITY OR TOWN STATE DATE (MONTH, DAY, YEAR)
 24a. **BURIAL** 24b. **MT. AUBURN CEMETERY** 24c. **STICKNEY, ILLINOIS** 24d. **07/13/2002**

FUNERAL HOME NAME STREET AND NUMBER OR R.F.D. CITY OR TOWN STATE ZIP
 25a. **BOWMAN-CHINATOWN FUNERAL HOME, 2236 S. WENTWORTH AVE., CHICAGO, ILLINOIS 60616**

FUNERAL DIRECTOR'S SIGNATURE FUNERAL DIRECTOR'S ILLINOIS LICENSE NUMBER
 25b. **Thomas A. Luther** 25c. **034-015354**

LOCAL REGISTRAR'S SIGNATURE DATE FILED BY LOCAL REGISTRAR (MONTH, DAY, YEAR)
 26a. **Jay W. Terry** 26b. **July 10, 2002**

VR200 (Rev. 5/89)

Illinois Department of Public Health - Division of Vital Records

BASED ON 1985 U.S. STANDARD CERTIFICATE

I HEREBY CERTIFY THAT the foregoing is a true and correct copy of the death record for the decedent named at Item 1, and that this record was established and filed in my office in accordance with the provisions of the Illinois Vital Records Act.

DATE JULY 10, 2002 SIGNED Jay W. Terry
 AT EVANSTON, Illinois OFFICIAL TITLE LOCAL REGISTRAR

The original record of this death is permanently filed with the ILLINOIS DEPARTMENT OF PUBLIC HEALTH at Springfield. County clerks and local registrars are authorized to make certifications from copies of the original record. The Illinois statutes provide that the certification of a death record by the Department of Public Health, local registrar or county clerk shall be prima facie evidence in all courts and places of the facts therein stated.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
County Department, Probate Division

Estate of

QUINCY WONG

Deceased

No. 2002 P 6908

Docket 92

Page 393

LETTERS OF OFFICE - DECEDENT'S ESTATE

PHILIP WONG

has been appointed

Independent

Administrator

of the estate of

QUINCY WONG

, deceased,

who died July 08, 2002, and is authorized to take possession of and collect the estate
the decedent and to do all acts required by law.

LS

Witness, September 12, 2002

Dorothy Brown
Clerk of Court

CERTIFICATE

I certify that this is a copy of the letters of office now in force in the estate.

Witness, October 15, 2002

Dorothy Brown
Clerk of Court

DB

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

QUINCY WONG,

Plaintiff,

v.

STIR-FRIDAY NIGHT, INC.,

Defendant.

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)
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)
)
)
)

No.

02 JUN 22 PM 2:03
G2CH01969

COMPLAINT FOR DECLARATORY JUDGMENT AND OTHER RELIEF

Plaintiff, Quincy Wong, by and through his attorneys, Law Offices of Anthony S. DiVincenzo, complains as follows against defendant, Stir-Friday Night, Inc., an Illinois corporation (the "corporation"):

COUNT I

Declaratory Judgment

1. This is an action for declaratory relief, brought pursuant to Section 2-701 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-701, involving a case of actual controversy for the purpose of determining that plaintiff is the owner of the trade name "Stir-Friday Night."

2. On or about April 1995, plaintiff and Keith Uchima ("Uchima") created an unincorporated association known as and using the name, Stir-Friday Night. The purpose of the association was to perform as a comedy troupe (the "Troupe").

3. Plaintiff and Uchima performed throughout the country under the name and style of "Stir-Friday Night."

4. Plaintiff and Uchima actively advertised and promoted the comedy troupe using the name "Stir-Friday Night." As a part of that promotion, the Troupe created and

distributed flyers to the public. The flyers stated that, "Stir-Friday Night is created and owned by Quincy Wong and Keith Uchima," and "S.F.N. [Stir-Friday Night] is created and owned by Q[uincy] Wong and K[ei]th Uchima."

5. On or about the fall of 1995, Uchima withdrew from the Troupe and abandoned all rights to the name "Stir-Friday Night."

6. On or about August 24, 1998, Stir-Friday Night, Inc. was incorporated as an Illinois corporation. Plaintiff was one of the incorporators of Stir-Friday Night, Inc.

7. Plaintiff granted the corporation a revocable license to use the name "Stir-Friday Night."

8. Plaintiff has revoked the license, and has demanded that the corporation cease and desist from all use of the name, "Stir-Friday Night."

9. Despite repeated demands from plaintiff, the corporation wrongfully continues to use the name "Stir-Friday Night."

WHEREFORE, plaintiff asks this Court for the following:

- A. To declare that plaintiff is the owner of the name "Stir-Friday Night;"
- B. To require the corporation to render a full accounting of the amount of monies earned by the corporation;
- C. To impress a constructive trust on the funds disclosed by the corporation's accounting and to direct the corporation to pay plaintiff a fair and reasonable sum for the unauthorized use of the name "Stir-Friday Night;"
- D. To enjoin the corporation from continuing its practice of wrongfully using the name "Stir-Friday Night;" and
- E. To award plaintiff his costs and such other relief as the Court deems just.

COUNT II

Accounting

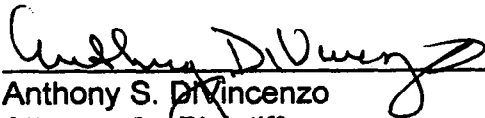
1. This is an action for an accounting.
2. Defendant Stir-Friday Night, Inc. (the "corporation") is an Illinois corporation.
3. The corporation generates fees from public performances.
4. On or about December 8, 1999, the corporation agreed to pay plaintiff a share of the receipts of the corporation from performances. The corporation agreed to pay plaintiff, as well as the other performers, one share of the receipts for each performance.
5. In recognition of plaintiff's creative duties with the corporation, the corporation also agreed to pay plaintiff one additional share of the receipts for each performance that the corporation gave during the three year period after the agreement ended in December 1999.
6. Plaintiff performed all of his obligations under the agreement.
7. Despite repeated demands from plaintiff, the corporation refuses to give plaintiff an accounting of receipts generated by the corporation, and the corporation refuses to pay plaintiff the fees due and owing to him.

WHEREFORE, plaintiff asks this Court for the following:

- A. To require the corporation to render a full accounting of the amount of monies earned by the corporation;
- B. To impress a constructive trust on the funds disclosed by the corporation's accounting and to direct the corporation to pay plaintiff all fees due to plaintiff; and

- C. To award plaintiff his costs and such other relief as the Court deems just.

Respectfully submitted,



Anthony S. DiVincenzo
Attorney for Plaintiff

The Law Offices of Anthony S. DiVincenzo
55 West Monroe Street
Suite 3460
Chicago, Illinois 60603
312/443-1915
Attorney No. 70156

M U C H S H E L I S T

TTAB

ATTORNEYS AT LAW
191 N. WACKER DRIVE
SUITE 1800
CHICAGO, IL 60606.1615

T 312.521.2000
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March 25, 2003

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DIRECT DIAL:
312 521 2774
rsuperfine@muchshelist.com

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Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington VA 22202-3513

Re: Stir-Friday Night! V. Quincy Wong
SN 76/081,500 Opposition 91125076
Our File Reference 0001791.0001

03 APR - 4
9:30
03-28-2003
U.S. Patent & TMO/c/TM Mail Rept Dt. #7

Dear Madame:

Enclosed are:

1. MOTION TO SUSPEND PROCEEDINGS PENDING DISPOSITION OF CIVIL ACTION with attachments, mailing certificate, certificate of service and pleadings in the civil action, *Quincy Wong v. Stir-Friday Night, Inc.*; and
2. Return postcard.

Sincerely,



Richard J. Superfine

RJS/
enclosure
cc: Brian M. Mattson, Esq. w/ enc.
rjs/word/0001791303b-l21