

ESTTA Tracking number: **ESTTA113156**

Filing date: **12/05/2006**

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

Proceeding	91169148
Party	Plaintiff Vibe Ventures LLC Vibe Ventures LLC ,
Correspondence Address	JEAN VOUTSINAS FRANKFURT KURNIT KLEIN & SELZ, PC 488 MADISON AVENUE NEW YORK, NY 10022
Submission	Motion to Join/Substitute Party
Filer's Name	Edward H. Rosenthal
Filer's e-mail	pto@fkks.com
Signature	/ehr8022/
Date	12/05/2006
Attachments	AficanVibeMotion to Join.pdf ( 18 pages )(7325915 bytes )

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

	X	
VIBE VENTURES LLC,	:	
	:	
Opposer,	:	Opposition No. 91169148
	:	Serial No. 78/608751
v.	:	
	:	
AMABEL MUNDI,	:	
	:	
Applicant.	:	
	X	

**OPPOSER'S MOTION TO JOIN PARTY**

PLEASE TAKE NOTICE that Opposer in the above proceeding, Vibe Ventures LLC ("Opposer") and potential Opposer Vibe Media Group LLC ("Vibe Media"), by and through their attorneys, hereby move the Trademark Trial and Appeal Board ("TTAB") to join as Opposer in this proceeding Vibe Media Group LLC pursuant to TBMP § 512.01 and for such other relief as may be just and proper.

This motion is based upon this Notice of Motion, the Chase Declaration in Support ("Chase Decl."), the following memorandum in support thereof, and all pleadings and papers on file in this action.

**MEMORANDUM OF LAW IN SUPPORT OF OPPOSER'S  
MOTION TO JOIN PARTY**

This memorandum is submitted on behalf of Opposer, Vibe Ventures LLC ("Opposer") and potential Opposer Vibe Media Group LLC in support of the motion by Opposer to join Vibe Media as an Opposer in this proceeding. As set forth herein,

Opposer's motion to join Vibe Media as an Opposer should be granted pursuant to TBMP 512.01.

Section 512.01 of the TBMP provides that "where there has been an assignment of a mark that is the subject of, or relied upon in, an inter partes proceeding before the Board the assignee may be joined or substituted, as may be appropriate, upon motion granted by the Board, or upon the Board's own initiative." This section further states that "[i]f a mark pleaded by a plaintiff is assigned and a copy of the assignment is filed with the Board, the assignee ordinarily will be substituted for the originally named party if the assignment occurred prior to the commencement of the proceeding, if the discovery and testimony periods have closed, if the assignor is no longer in existence, or if the defendant raises no objection to substitution. Otherwise, the assignee will be joined, rather than substituted, to facilitate the taking of discovery and the introduction of evidence. The assignment does not have to be recorded with respect to a plaintiff's pleaded application or registration before substitution or joinder (whichever is appropriate) is made. However, recordation in the Assignment Services Division of the USPTO is advisable because it will aid the assignee in its effort to prove ownership of the application or registration at trial."

Here, all of the marks owned by Opposer and set forth in the Notice of Opposition were assigned by Opposer to Vibe Media. (See Exhibit A to Chase Decl.). The assignment was mailed to the USPTO for recording purposes on or about June 30, 2006 (Chase Decl. ¶ 3). All right, title, and interest in the marks were assigned to Vibe Media, including the right to prosecute this opposition proceeding. Because the assignment occurred after commencement of the proceeding, joinder of the assignee is appropriate.

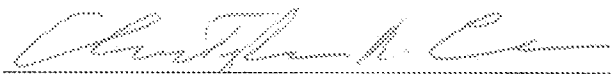
In the alternative, Opposer requests that the Board substitute Vibe Media as the Opposer in this proceeding. Under 512.01, if the assignment occurs after commencement of the proceeding and the discovery and testimony periods are still open but the defendant raises no objection to the substitution, then the Board may substitute the parties. Opposer has attempted to obtain consent from the Applicant on two separate occasions<sup>1</sup> but Applicant has not responded. (Chase Decl. ¶ 4). If Applicant consents, Opposer requests that the Board convert this motion to join into a motion to substitute, and substitute Vibe Media as Opposer in this proceeding.

### CONCLUSION

Wherefore, for the reasons set forth above, and in the accompanying Declaration of Christopher R. Chase, Opposer's Motion to Join Vibe Media Group LLC as Opposer should be granted.

Dated: December 5, 2006

Respectfully submitted,



Edward H. Rosenthal

Jean Voutsinas

Christopher R. Chase

FRANKFURT KURNIT KLEIN & SELZ, PC

488 Madison Avenue

New York, New York 10022

(212) 980-0120

Attorneys for Opposer

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<sup>1</sup> Counsel for Opposer, Christopher R. Chase, sent emails to Amabel Mundi, owner of the AFRICAN VIBES application, on October 27, 2006 and November 7, 2006 seeking consent to Opposer's request to substitute Vibe Media for Opposer. (Chase Decl. ¶ 4).

CERTIFICATE OF SERVICE

I, Loring Kemp, certify that a copy of the foregoing OPPOSER'S SECOND  
REQUEST FOR PRODUCTION OF DOCUMENTS TO APPLICANT was served on:

Amabel Mundi  
18716 Schoenborn  
Northridge, CA 91324

by placing same with the U.S. Postal Service, via first class mail, postage pre-paid, this

3<sup>rd</sup> day of December 2006.

  
\_\_\_\_\_  
Loring Kemp  
Trademark Paralegal

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

.....	X	
VIBE VENTURES LLC,	:	
	:	
Opposer,	:	Opposition No. 91169148
	:	Serial No. 78/608751
v.	:	
	:	
AMABEL MUNDL,	:	
	:	
Applicant.	:	
.....	X	

Attention: Trademark Trial and Appeal Board  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

**DECLARATION OF CHRISTOPHER R. CHASE IN  
SUPPORT OF OPPOSER'S MOTION TO JOIN  
VIBE MEDIA GROUP LLC AS OPPOSER**

CHRISTOPHER R. CHASE declares under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct:

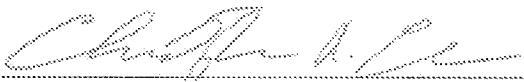
1. I am an associate with Frankfurt Kurnit Klein & Selz, PC, attorneys for Opposer, Vibe Ventures LLC ("Opposer") and potential Opposer Vibe Media Group LLC ("Vibe Media"), in the referenced proceeding. I submit this declaration in support of Opposer's motion to join Vibe Media as an Opposer in this proceeding.

2. On or about June 30, 2006, Opposer assigned all its right, title and interest to its trademarks to Vibe Media. (See assignment annexed hereto as Exhibit A). This includes the right to prosecute opposition proceedings such as this one. (See Exhibit A).

3. The assignment was mailed to the United States Patent and Trademark Office for recording purposes on or about June 30, 2006 (See Exhibit A) and a copy of the Assignment was filed with the Trademark Trial and Appeal Board shortly thereafter.

4. On October 27, 2006, I sent an email to Amabel Mundi, owner of the AFRICAN VIBES application, seeking consent to Opposer's request to substitute Vibe Media for Opposer in this proceeding. On November 7, 2006, I followed up with a second email making the same request. As of this date, Ms. Mundi has not responded to Opposer's request.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on December 5, 2006.

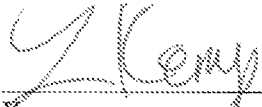
  
\_\_\_\_\_  
Christopher R. Chase

**CERTIFICATE OF SERVICE**

I, Loring Kemp, certify that a copy of the foregoing Declaration in Support of Opposer's Motion to Join was served on:

Amabel Mundi  
18716 Schoenborn  
Northridge, CA 91324

by placing same with the U.S. Postal Service, via first class mail, postage pre-paid this 5th day of December 2006.

  
\_\_\_\_\_  
Loring Kemp  
Trademark Paralegal



**EXHIBIT A**

Vibe assignment

RECORDATION FORM COVER SHEET  
TRADEMARKS ONLY

To the Director of the U. S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

1. Name of conveying party(ies):

Vibe Ventures LLC

- Individual(s)
- General Partnership
- Corporation- State: \_\_\_\_\_
- Other Limited Liability Company

Citizenship (see guidelines) Delaware

Additional names of conveying parties attached?  Yes  No

3. Nature of conveyance / Execution Date(s) :

Execution Date(s) June 30, 2006

- Assignment
- Security Agreement
- Other \_\_\_\_\_
- Merger
- Change of Name

2. Name and address of receiving party(ies)

Additional names, addresses, or citizenship attached?  Yes  No

Name: Vibe Media Group LLC

Internal

Address: \_\_\_\_\_

Street Address: 215 Lexington Avenue

City: New York

State: New York

Country: USA Zip: 10016

- Association Citizenship \_\_\_\_\_
- General Partnership Citizenship \_\_\_\_\_
- Limited Partnership Citizenship \_\_\_\_\_
- Corporation Citizenship \_\_\_\_\_
- Other LLC Citizenship Delaware

If assignee is not domiciled in the United States, a domestic representative designation is attached:  Yes  No  
(Designations must be a separate document from assignment)

4. Application number(s) or registration number(s) and identification or description of the Trademark.

A. Trademark Application No. (s)

SEE SCHEDULE A ATTACHED HERETO.

B. Trademark Registration No. (s)

Additional sheet(s) attached?  Yes  No

C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):

5. Name & address of party to whom correspondence concerning document should be mailed:

Name: Robin Silverman

Internal Address: Golenbock Eisenman Assor  
Bell & Peskoff LLP

Street Address: 437 Madison Avenue  
35th Floor

City: New York

State: NY Zip: 10022

Phone Number: 212-907-7381

Fax Number: 212-754-0330

Email Address: rsilverman@golenbock.com

6. Total number of applications and registrations involved:

34

7. Total fee (37 CFR 2.6(b)(6) & 3.41) \$ 865

- Authorized to be charged by credit card
- Authorized to be charged to deposit account
- Enclosed

8. Payment Information:

a. Credit Card Last 4 Numbers \_\_\_\_\_  
Expiration Date \_\_\_\_\_

b. Deposit Account Number \_\_\_\_\_  
Authorized User Name \_\_\_\_\_

9. Signature:

Benjamin Wallf  
Signature  
Name of Person Signing

June 30, 2006  
Date

Total number of pages including cover sheet, attachments, and document: 10

Schedule A

List of Trademarks, Service Marks and Trade Names

Trademark	Appln. No.	Appln. Date	Reg. No.	Reg. Date	Class	Status
BLAZE	76/515023	5/16/2003			09	Suspended
BLAZE	75/419418	1/15/1998	3038596	1/10/2006	16	Registered
BLAZE BATTLE	78/199461	1/2/2003	3098764	5/30/2006	09	Pending
BLAZE BATTLE	75/597934	12/2/1998	2279546	9/21/1999	41	Abandoned - no use
BOOMSHOTS	76/541288	8/19/2003	2916980	1/11/2005	16	Registered
DOMEPICE	76/541287	8/19/2003	2916979	1/11/2005	16	Registered
DROPPIN' DIME	76/541286	8/19/2003	2893970	10/12/2004	16	Registered (Supplemental)
MOBILE VIBE	78/711675	9/13/2005			09, 38, 41	Pending
MVIBE	78/632157	5/18/2005			09, 38, 41	Pending
PLAY	76/541276	8/19/2003			16	Pending
PROPS	76/541285	8/19/2003	2915738	1/4/2005	16	Registered
SAY WORD	76/541284	8/19/2003	2900923	11/2/2004	16	Registered (Supplemental)
START	76/541283	8/19/2003	2935757	3/29/2005	16	Registered
VFACE	76/541282	8/19/2003	2915737	1/4/2005	16	Registered
VFASHION	76/541281	8/19/2003	2915736	1/4/2005	16	Registered
V LIVE	76/541280	8/19/2003	2926225	2/15/2005	16	Registered

Trademark	Appl. No.	Appl. Date	Reg. No.	Reg. Date	Class	Status
V STYLE	76/541279	8/19/2003	2926224	2/15/2005	16	Registered
VIBE	78/625633	5/9/2005		41		Pending
VIBE	74/301822	8/6/1992	1800105	10/19/1993	16	Registered
VIBE	75/486958	5/18/1998	2303664	12/28/1999	41, 42	Registered
VIBE	75/267788	4/1/1997	2563930	4/23/2002	25	Registered
VIBE (Stylized)	75/267799	4/1/1997	2144655	3/17/1998	16	Registered
VIBE	76/380804	3/11/2002	2841002	5/11/2004	41	Registered
VIBE CONFIDENTIAL	76/541278	8/19/2003	2922158	2/1/2005	16	Registered
VIBE MUSICFEST	78/589519	3/17/2005		41		Pending
VIBE ON THE STREETS	78/851566	03/31/06		09		Pending
VIBE ON THE STREETS	78/851597	3/31/06		41		Pending
VIBE RECORDS (Stylized)	74/389095	5/10/1993	1819799	2/8/1994	09	Registered
VIBE REVOLUTIONS	78/851632	3/31/2006		09		Pending
VIBE REVOLUTIONS	78/851648	3/31/2006		35		Pending
VIBE REVOLUTIONS	78/851662	3/31/2006		41		Pending

Trademark	Appln. No.	Appln. Date	Reg. No.	Reg. Date	Class	Status
VIBE VIXEN	76/612185	9/15/2004			16	Pending
VIBE'S 20 QUESTIONS	76/541277	8/19/2003	2907411	11/30/2004	16	Registered (Supplemental)
V RIDE	76/541275	3/19/03			16	Abandoned -- Petition to Revive due 8/13/06

ASSIGNMENT OF TRADEMARKS, SERVICE MARKS AND TRADE NAMES

Vibe Ventures LLC, a Delaware limited liability company ("Assignor"), for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, by these presents does hereby irrevocably assign, transfer and convey, free from all restrictions and limitations, unto Vibe Media Group LLC, a Delaware limited liability company ("Assignee"), its successors and assigns, all right, title and interest in and to all of their trademarks, service marks and trade names throughout the universe, together with all goodwill attendant thereto and/or symbolized by such trademarks, service marks and trade names, including but not limited to all of the trademarks, service marks and trade names registered, or the subject of an application for registration, in the United States Patent and Trademark Office, as listed on Schedule A annexed hereto, together with any and all renewals and extensions thereof, along with any and all claims for past infringement, and the right to initiate suit and obtain damages and other forms of relief, both legal and equitable, arising from infringement, misappropriation or other violation whether prior to or subsequent to the date hereof, of any of such trademarks, service marks and trade names, or of any proprietary or other rights in any or all such trademarks, service marks and trade names (the "Trademarks").

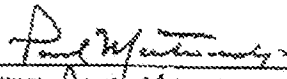
TO HAVE AND TO HOLD the aforementioned properties, assets and rights unto Assignee, its successors and assigns, to and for its use forever.

Assignor shall promptly, upon the request of Assignee, execute such other documents and/or instruments of assignment, transfer and conveyance as Assignee may reasonably request to permit Assignee to record the assignment made by this instrument or any other documents Assignee may reasonably deem necessary or advisable to effectuate the terms and intent of this Assignment. Without limiting the foregoing, Assignor hereby irrevocably appoints Assignee and each of Assignee's officers signing singly as attorney-in-fact with full power (and coupled with an interest), with full power of substitution, to be Assignor's true and lawful attorney, in Assignor's name, place and stead, to execute, acknowledge, swear to and file all documents (including but not limited to any instrument of assignment, transfer and/or conveyance) and to take all actions which Assignee deems necessary, appropriate or desirable to effectuate the parties' intent under this Assignment.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, Assignor has caused this instrument to be duly executed as of  
June 29<sup>th</sup> 2006.

Vibe Ventures LLC

By:   
Name: PAUL MASTROIANNI  
Title: CFO

ACKNOWLEDGEMENT


State of New York     )  
                                  ) ss:  
County of                    )

On the 29<sup>th</sup> day of June in the year 2006 before me, the undersigned, personally appeared Paul Mastroianni personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public

JEROME McDAIN  
Notary Public, State of New York  
No. 01408550817  
Qualified in Bronx County  
Certificate Filed in New York County  
Commission Expires December 11, 2008

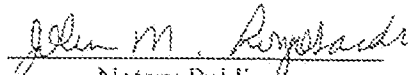
VIBE MEDIA GROUP LLC

By:   
Name: Sue Cho  
Title: Vice President

ACKNOWLEDGEMENT

State of New York     )  
  ) ss:  
County of New York    )

On the <sup>29<sup>th</sup></sup> day of June in the year <sup>2006</sup> before me, the undersigned, personally appeared E. Sue Cho personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public

JOANN M. LONGOBARDI  
NOTARY PUBLIC, State of New York  
NO. 02LO-5011418  
Qualified in Queens County  
Certificate Filed in New York County  
Commission Expires April 19, 2007



Schedule A

List of Trademarks, Service Marks and Trade Names

Country	Trademark	Appfa. No.	Appfa. Date	Reg. No.	Reg. Date	Class	Status
Canada	VIBE	800992	1/3/1996	526485	4/10/2000	16	Registered
Canada	VIBE	1163727	1/3/2003			16, 41	Pending
Canada	VIBE (Stylized)	1284250	12/22/2005			16, 41	Pending
European Union	BLAZE	839464	6/2/1998	839464	5/18/2000	16, 25, 41	Registered
European Union	VIBE	86009	4/1/1996	86009	1/25/1999	09, 16, 41	Registered
European Union	VIBE	3754769	4/8/2004			09, 25, 41	Pending
United Kingdom	VIBE	2360961	4/8/2004			09, 16, 41	Pending
United States	BLAZE	76/515023	5/16/2003			09	Suspended
United States	BLAZE	75/419418	1/15/1998	3038596	1/10/2006	16	Registered
United States	BLAZE BATTLE	78/199461	1/2/2003	3098764	5/30/2006	09	Pending
United States	BLAZE BATTLE	75/597934	12/2/1998	3279548	9/21/1999	41	Abandoned -- no use
United States	BOOMSHOTS	76/541288	8/19/2003	2916980	1/11/2005	16	Registered
United States	DOMEPICE	76/541287	8/19/2003	2916979	1/11/2005	16	Registered
United States	DROPPIN' DIME	76/541286	8/19/2003	2893970	10/12/2004	16	Registered (Supplemental)
United States	MOBILE VIBE	78/711675	9/13/2005			09, 38, 41	Pending
United States	MVIBE	78/632157	5/18/2005			09, 38, 41	Pending

Country	Trademark	Appln. No.	Appln. Date	Reg. No.	Reg. Date	Class	Status
United States	PLAY	76/541276	8/19/2003			16	Pending
United States	PROPS	76/541285	8/19/2003	2915738	1/4/2005	16	Registered
United States	SAY WORD	76/541284	8/19/2003	2900923	11/2/2004	16	Registered (Supplemental)
United States	START	76/541283	8/19/2003	2935757	3/29/2005	16	Registered
United States	V FACE	76/541282	8/19/2003	2915737	1/4/2005	16	Registered
United States	V FASHION	76/541281	8/19/2003	2915736	1/4/2005	16	Registered
United States	V LIVE	76/541280	8/19/2003	2926225	2/15/2005	16	Registered
United States	V STYLE	76/541279	8/19/2003	2926224	2/15/2005	16	Registered
United States	VIBE	78/623633	5/9/2005			41	Pending
United States	VIBE	74/301822	8/6/1992	1800105	10/19/1993	16	Registered
United States	VIBE	75/486958	5/18/1998	2303664	12/28/1999	41, 42	Registered
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United States	VIBE	76/380804	3/11/2002	2841002	5/11/2004	41	Registered
United States	VIBE	76/541278	8/19/2003	2922158	2/1/2005	16	Registered
United States	CONFIDENTIAL						
United States	VIBE MUSICFEST	78/589519	3/17/2005			41	Pending
United States	VIBE ON THE STREETS	78/851566	03/31/06			09	Pending
United States	VIBE ON THE STREETS	78/851597	3/51/06			41	Pending

Country	Trademark	Appln. No.	Appln. Date	Reg. No.	Reg. Date	Class	Status
United States	VIBE RECORDS (Stylized)	74/389095	5/10/1993	1819799	2/8/1994	09	Registered
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United States	VIBE REVOLUTIONS	78/851648	3/31/2006			35	Pending
United States	VIBE REVOLUTIONS	78/851662	3/31/2006			41	Pending
United States	VIBE VIXEN	76/612185	9/15/2004			16	Pending
United States	VIBE'S 20 QUESTIONS	76/541277	8/19/2003	2907411	11/30/2004	16	Registered (Supplemental)
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