

ESTTA Tracking number: **ESTTA213389**

Filing date: **05/23/2008**

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

**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

|                                       |   |
|---------------------------------------|---|
| Name                                  | AEG LIVE LLC  |
| Granted to Date of previous extension | 05/25/2008  |
| Address                               | 5750 Wilshire Boulevard Suite 501<br>Los Angeles, CA 90036<br>UNITED STATES |

|                      |   |
|----------------------|---|
| Attorney information | Christopher C. Larkin<br>Seyfarth Shaw LLP<br>2029 Century Park East, Suite 3300<br>Los Angeles, CA 90067<br>UNITED STATES<br>clarkin@seyfarth.com, jlarkin@seyfarth.com, kelko@seyfarth.com Phone:310 277-7200 |
|----------------------|---|

**Applicant Information**

|                        |  |                        |            |
|------------------------|--|------------------------|------------|
| Application No         | 76673638   | Publication date       | 11/27/2007 |
| Opposition Filing Date | 05/23/2008   | Opposition Period Ends | 05/25/2008 |
| Applicant              | CFRI-NCA PALLADIUM VENTURE, L.L.C.<br>15 OLD DANBURY ROAD<br>WILTON, CT 058970812<br>UNITED STATES |                        |            |

**Goods/Services Affected by Opposition**

|  |
|--|
| Class 041. First Use: 1940/10/31 First Use In Commerce: 1940/10/31<br>All goods and services in the class are opposed, namely: Providing performance facilities to conduct live performances by entertainers; providing ballroom facilities; night clubs |
| Class 043. First Use: 1940/10/31 First Use In Commerce: 1940/10/31<br>All goods and services in the class are opposed, namely: Cocktail lounges  |

**Grounds for Opposition**

|                     |   |
|---------------------|---|
| Other               | Lack of bona fide intention to use the mark         |
| Related Proceedings | 91178842  |
| Attachments         | Notice of Opposition.pdf ( 4 pages )(111381 bytes ) |

## 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 C. Larkin/ |
| Name      | Christopher C. Larkin   |
| Date      | 05/23/2008              |

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

In the Matter of Application Serial No. 76/673,638  
Published in the Official Gazette of November 27, 2007

AEG LIVE LLC,

Opposer,

v.

CFRI-NCA PALLADIUM VENTURE, LLC,

Applicant.

Opposition No. \_\_\_\_\_

**NOTICE OF OPPOSITION**

Opposer AEG Live LLC (“Opposer”) believes that it will be damaged by registration of the mark shown in Application Serial No. 76/673,638, and hereby opposes the same. As grounds for opposition, Opposer alleges as follows:

1. Opposer is a limited liability company organized and existing under the laws of the State of Delaware, with offices in Los Angeles, California.
2. Upon information and belief, applicant CFRI-NCA Palladium Venture, LLC (“Applicant”) is a limited liability company organized and existing under the laws of the State of Delaware, with offices in Wilton, Connecticut.
3. On March 6, 2007, Applicant’s predecessor-in-interest Palladium Investors Ltd., a California limited partnership with offices in Hollywood, California (“Palladium Investors”), filed Application Serial 76/673,638 (the “Opposed Application”) to register the claimed mark “HOLLYWOOD PALLADIUM BALLROOM” for “providing performance facilities to conduct live performances by entertainers,” in Class 41 and for “ballroom, lounge and nightclub

services,” in Class 42, on the basis of Palladium Investors’ alleged bona fide intention to use that mark in commerce.

4. Upon information and belief, on or about July 10, 2007, Palladium Investors assigned the Opposed Application to Applicant. This assignment, executed prior to the filing of an amendment to the Opposed Application to allege use of the mark shown therein, was recorded in the Patent and Trademark Office on July 11, 2007 under Reel/Frame 3578/0100.

5. On August 8, 2007, Applicant filed Opposition No. 91178842 against Opposer’s Application Serial No. 76/668,821 to register the mark “PALLADIUM BALLROOM” for various goods and services in Classes 21, 25, 35, and 41. In its opposition, Applicant asserted the Opposed Application, Reg. No. 2,281,839 for the mark “HOLLYWOOD PALLADIUM” for restaurant services, and Application Serial No. 76/673,636 to register “HOLLYWOOD PALLADIUM BALLROOM” for clothing, as bases for relief under Section 2(d) of the United States Trademark Act, together with Applicant’s alleged common law marks.

6. On September 17, 2007, Applicant amended the drawing of the mark in the Opposed Application to render the mark as “HOLLYWOOD PALLADIUM” and amended the services in the Opposed Application to identify them as “providing performance facilities to conduct live performances by entertainers; providing ballroom facilities; night clubs” in Class 41 and “cocktail lounges” in Class 42. Applicant also amended the Opposed Application to allege use of the mark, in its amended format, in commerce in connection with all of the services, as amended, since 1940.

7. Applicant subsequently attempted to amend Application Serial No. 76/673,636 to render the mark shown therein as “HOLLYWOOD PALLADIUM,” not “HOLLYWOOD PALLADIUM BALLROOM,” and to allege use of the mark as amended, but those amendments

were refused on the ground that the requested amendment to the drawing of the mark involved a material alteration of the “HOLLYWOOD PALLADIUM BALLROOM” mark shown in the application as originally filed.

**FIRST CLAIM FOR RELIEF**

**(Applicant’s Lack of Bona Fide Intention to Use “HOLLYWOOD PALLADIUM BALLROOM” Mark in Connection with All Services Identified in Opposed Application)**

8. Opposer repeats and realleges the allegations contained in preceding paragraphs 1-7 as if fully set forth herein.

9. Applicant, through its predecessor-in-interest, lacked a bona fide intention to use the mark “HOLLYWOOD PALLADIUM BALLROOM” shown in the Opposed Application when it was filed, in connection with each of the services identified therein, and the Opposed Application thus was and is void *ab initio*.

10. Opposer is or may be damaged by registration of the mark shown in the Opposed Application because Applicant has pleaded the Opposed Application in Opposition No. 91178842 against Opposer’s Application Serial No. 76/668,821, and registration of the mark shown in the Opposed Application may prevent Opposer from registering its mark.

WHEREFORE, opposer AEG Live LLC prays for judgment sustaining this opposition and refusing registration to Applicant of the mark shown in the Opposed Application.

Please charge the filing fees for this opposition to Deposit Account No. 50-2291 and direct all correspondence and communications in this opposition to the undersigned.

Respectfully submitted,

SEYFARTH SHAW LLP

By: 

Christopher C. Larkin  
Attorneys for Opposer  
AEG LIVE LLC

Dated: May 23, 2008

**CERTIFICATE OF SERVICE**

I hereby certify that on May 23, 2008, I served this Notice of Opposition on the applicant by mailing a copy thereof by First Class Mail, postage prepaid, addressed to applicant's correspondence address of record as follows:

Randall K. Broberg, Esq.  
Allen Matkins  
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San Diego, CA 92130

Eleanor Elko  
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