

ESTTA Tracking number: **ESTTA69545**

Filing date: **03/06/2006**

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	Kindermusik International, Inc.		
Entity	Corporation	Citizenship	North Carolina
Address	203 South Church Street Greensboro, NC 27401 UNITED STATES		

Correspondence information	Christina Johnson Fischer Johnson PLLC P.O. Box 39204 Greensboro, NC 27438 UNITED STATES cjohnson@abanet.org Phone:336-587-9588
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Registration Subject to Cancellation

Registration No	2726670	Registration date	06/17/2003
Registrant	Lifeway Christian Resources of the Southern Baptist 127 Ninth Avenue North Nashville, TN 37235 UNITED STATES		
Goods/Services Subject to Cancellation	Class 009. First Use: 1998/10/00 , First Use In Commerce: 1998/10/00 Goods/Services: Prerecorded audio cassettes and compact discs featuring children's music and prerecorded video tapes featuring children's music		

Attachments

Signature

Name

Date

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

In the matter of trademark Registration No. 2726670
For the mark MUSIC & ME
Date registered: June 17, 2003

Kindermusik International, Inc., Petitioner

v.

Lifeway Christian Resources of the Southern Baptist, Registrant

PETITION TO CANCEL

Petitioner's name, address, and entity information:

Kindermusik International, Inc.
North Carolina Corporation
203 South Church Street, Greensboro, North Carolina 27401

To the best of petitioner's knowledge, the name and address of the current owner of the registration are:

Lifeway Christian Resources of the Southern Baptist
127 Ninth Avenue North, Nashville, TN 37235

Petitioner believes that it has or will be damaged by the above-identified registration and it hereby respectfully petitions to cancel same for the reasons set forth herein.

AS GROUNDS FOR THIS PETITION, IT IS ALLEGED THAT:

1. The mark MUSIC & ME was registered by Registrant on June 17, 2003, on the Principal Register, in Class 9 for "Prerecorded audio cassettes and compact discs featuring children's music and prerecorded video tapes featuring children's music" and in Class 16 for "Printed teacher's guides, newsletter, printed sheet music, printed music books, and books featuring children's music."
2. Petitioner applied for registration of the mark A, B, C, MUSIC & ME! on July 1, 2004, on the Principal Register, in Class 9 for "Prerecorded audio tape cassettes and compact discs for use in the education of children in the field of music and instruction of adults teaching children in the field of music," in Class 16 for "Educational books for children in the field of music," and in Class 41 for "Teaching music to young children."
3. Petitioner's mark A, B, C, MUSIC & ME! was refused registration because it was considered by the examining attorney to be confusingly similar to Registrant's mark MUSIC & ME.
4. There are no other issues barring registration of Petitioner's mark.

5. On information and belief, Petitioner alleges that Registrant stopped using the mark MUSIC & ME at least as early as June of 2002 and has not used the mark since that time (please see Exhibit A and Exhibit B attached hereto and incorporated by reference).
6. On information and belief, Petitioner further alleges that Registrant has abandoned the mark MUSIC & ME by failing to use the mark for over three and one half years.
7. The registration of Registrant's mark MUSIC & ME damages Petitioner's interest in the mark A, B, C, MUSIC & ME! by precluding its registration.

WHEREFORE, Petitioners pray that Registration No. 2,726,670 be canceled immediately, and that this Petition for Cancellation be sustained in favor of Petitioner.

Respectfully submitted,

By: /Christina F. Johnson/
Christina F. Johnson, Attorney for Petitioner

Date: March 6, 2006

EXHIBIT A

Attached article dated September 14, 2000 from “BP News” (Baptist Press News of the Southern Baptist Convention) entitled “Lifeway trustees approve record budget, receive plans for Ridgecrest revitalization” by Charles Willis.

Please see highlighted paragraph on Page 4: “[T]rustees approved the deletion of the summer quarters of Children’s Music Series (Music & Me, Music Makers, and Young Musicians), effective Summer 2002 due to the widespread practice of churches disbanding children’s choirs in the summer.”



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LifeWay trustees approve record budget, receive plans for Ridgcrest revitalization

Sep 14, 2000
By Charles Willis
Baptist Press

Today's News

Push against conversions in India considered evidence of Gospel's success in that country

Bush urged to press Pakistan on Muslim extremists' violence

Mississippi House passes ban on most abortions

Inner-city missionary thankful for the 'good stuff that happens'

MARRIAGE DIGEST: John Adams' former church supporting 'gay marriage'; Supporters of Md. amendment not giving up

Sibley to lead Jewish studies at Criswell after 10 years with NAMB

GuideStone trustees receive reports on 2005 performance

Speed skater, chaplain/ski coach ponder their Olympic moments

FIRST-PERSON: America turns its back on Brokeback

SPORTS: Taking sports captive for Christ

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NASHVILLE, Tenn. (BP)-- Trustees of LifeWay Christian Resources of the Southern Baptist Convention adopted a record operating budget for 2000-01, approved major capital expenditures and reviewed plans for the first phase of building construction in revitalizing LifeWay's conference centers.



RIDGECREST REVITALIZATION
Mike Arrington, Vice President, Corporate Affairs Division, points out areas of interest on the site map of Ridgcrest. From left, Bruce Robinson, Chairman of the Board of Trustees, Ted Warren, Executive Vice-President and Chief Operating Officer, and James T. Draper Jr., President and Chief Executive Officer at LifeWay Christian Resources. *Photo Staff*

The operating budget of \$418,895,000 was approved during the Sept. 11-12 meeting, along with fixed assets expenditures of \$40,330,000.

Ted Warren, chief operating officer and executive vice president, told trustees the agency's budget takes into account an expectation of strong revenue growth.

Warren also reported to trustees that projected revenue for the agency's 1999-2000 fiscal year ending Sept. 30, is \$372,184,000, exceeding the budget of \$362,668,000 by \$9.5 million or 2.6 percent. The increase is 11.6 percent above the previous year's revenue. Funds provided from operations, money for reinvestment in ministry expansion after all expenses have been paid, are expected to be 3.3 percent, compared to a budgeted 2.9 percent.

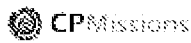
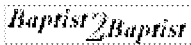
In addition to financial accountability, Warren urged trustees to "hold us accountable for having a right heart, one that loves the

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Lord and cares about people; for our minds, experts at what we do; and for our spirit. If you don't experience the Holy Spirit when you are with us, you need to hold up your hand and tell us."

Major fixed assets expenditures include funding of new information software systems to enable LifeWay Christian Stores to more effectively serve customers; furnishings for a renovated area of the Nashville complex; and the first year of construction on a hotel and conference facility at Ridgecrest, N.C.

They also authorized additional funding for the Nashville facilities master plan, designed to meet space needs through 2015. It includes funds to relocate and equip a new undated distribution center in Lebanon, Tenn., completed earlier this year; construction of a parking garage, cafeteria, circulation corridor and new main entrance for the Nashville campus; remodeling and equipping former distribution space for office use; and remodeling existing office space in three buildings.

In reporting on the first building project in a 15-year revitalization plan for LifeWay's national conference centers at Glorieta (N.M.) and Ridgecrest (N.C.). T. Michael Arrington, vice president of LifeWay's corporate affairs division, said the goal is "to spiritually transform lives in increasing numbers" and to lead the centers "to become the premier Christian conference centers in America."

Calling the first construction of guest housing in 27 years at either location "historic," Arrington told trustees LifeWay will ultimately construct more new guest accommodations, conference and meeting space; update existing facilities; enhance service and ministry; implement best practices in operations; and plan and market spiritually transforming conferences and events.

In August, LifeWay announced a centralized organization with top leadership based in Nashville as the first major step in total revitalization of the two conference centers. Under the new structure, the centers will be operated as one organization with facilities at two locations. Comprehensive sales and marketing plans have been developed, Arrington said, and master facilities plans are progressing.

Step one of construction at Ridgecrest will begin with an investment of \$8.5 million during fiscal 2001 and 2002, for a

120-room hotel, conference space for 1,200 persons and 100 additional parking spaces. Hotel rooms typically will feature two queen-size beds and private baths. Conference space will include an amphitheater, classrooms and a large assembly room with seating for approximately 900 persons or banquet seating for 560 persons.

Arrington said the revitalization, to be done incrementally and alternating between the Glorieta and Ridgecrest locations, "will be an asset to LifeWay, but more importantly to the lives of those who use them."

In other reports:

-- Ken Stephens, president of the Broadman & Holman division, reported that 3.8 million Bibles and 3.4 million trade books had been published during the 1999-2000 year. He said the Holman Christian Standard Bible New Testament will be released in early 2001, as well as copies of the HCSB Here's Hope New Testament, an inexpensive version, without notes, designed to be used in evangelistic efforts.

-- Mark Scott, president of the LifeWay Christian Stores division, attributed "a magnificent year" to a successful combination of "bricks and mortar stores, direct marketing and e-commerce." New stores were opened in Dallas; Murfreesboro, Tenn.; Brandon and Pensacola, Fla.; Dothan, Ala.; and Cary, N.C. Scheduled to open in September are locations in Conyers, Ga., and Fort Worth, Texas. Acquisitions during the year included stores in Longview, Texas, and Monroe, La. Relocated stores included Mobile, Ala.; Memphis (South), Tenn., and Tampa, Fla. Twelve new stores are scheduled to open in the coming year, during which the national chain will celebrate 75 years of operation.

-- Tim Vineyard, director of LifeWay's e-business group, said LifeWay "is well-positioned to use its content to leverage the Internet for ministry." He said while Internet ministry and evangelism are in the early stages, lifewaystores.com, lifewayonline and the online ordering function at lifeway.com are providing channels to provide ministry resources. "God's plan for technology is the Great Commission," Vineyard said. "We understand what God knew all along-the world is within our reach."

-- Luis Aranguren, director of the international department, said in its two years of existence the department has conducted 300

leadership workshops in 20 countries, involving 10,000 leaders. LifeWay resources are now available through local distributors in more than 60 countries.

Reporting on a recent conference in his native Cuba, Aranguren said, "We're getting to places that humble my heart."

-- Gene Mims, president of the LifeWay Church Resources division, said first quarter sales of Sunday School for a New Century curriculum exceeded goals by 1 percent.

Reporting on a division change process currently underway, Mims said during his tenure at LifeWay "the 70 percent of churches plateaued and declining haven't changed. We've got to quit talking to churches and start listening. I think it's time to put the gospel armor on and get ready to go."


They also received reports deleting The Youth Disciple curriculum effective Summer 2001; redesigning Estudios B'licos Alumnos into two books effective Fall 2001, and renaming titles of nine Sunday School curriculum publications in Spanish to better describe the content and purpose of the materials.


Trustees also received a report changing the name of National Student Ministry to National Collegiate Ministry to better communicate the target group of single, undergraduate and 18- to 27-year-old collegians.

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(BP) photos posted in the BP Photo Library at www.sbc Baptist Press. Photo titles: RIDGECREST REVITALIZATION, RIDGECREST SITE MAP, RIDGECREST HOTEL.

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EXHIBIT B

Attached article dated June 10, 2002 from “Baptist Standard” entitled “Baptist Briefs.”

Please see highlighted sentence in second paragraph of Page 1: “Music & Me, a product designed for 3-year-olds, and Children’s Choir product line, a combined age group product, no longer will be offered.”



June 10, 2002

Baptist Briefs

_____ ♦ Merritt won't meet with protesters. Southern Baptist Convention President James Merritt will ignore an invitation to meet with representatives of Soulforce, a gay-rights group, at the SBC annual meeting in St. Louis. A May 23 letter to Merritt threatened escalated protests this year unless the SBC president joins Soulforce in denouncing views the group says promote violence against gays. "He feels like he has made his position clear to them and will not be responding to this particular letter," said Dan Greer, Merritt's associate pastor at First Baptist Church of Snellville, Ga.

_____ ♦ Children's music lines consolidated. LifeWay Christian Resources has announced a reorganization of its Children's Music Series product line. The current five product lines will be reduced to three. Beginning this fall, the series will include Music Time, for ages 3 through kindergarten; Music Makers, for grades one through three; and Young Musicians, for grades four through six.

_____ ♦ New publication in Missouri. The Missouri Baptist Convention has announced a new publication and editor to replace the Word & Way, a weekly journal that recently declared a self-perpetuating board in order to avoid control by fundamentalists. Word & Way still publishes and still covers Missouri Baptist life, but the historic newspaper is out of favor with those who have gained control of the Missouri Baptist Convention. The new publication, which will mainly be distributed electronically, will be called the Pathway. Its editor will be Don Hinkle, a correspondent for Baptist Press who is a doctoral student at Southern Baptist Theological Seminary in Louisville, Ky.

_____ ♦ Merritt: SBC losing focus on evangelism. The Southern Baptist Convention is losing its focus on evangelism, according to outgoing SBC President James Merritt. He offered the assessment in an interview published in Baptist Press. "The Cooperative Program is extremely healthy and doing well," he said. "Doctrinally, we've never been stronger or more united. Our confession of faith, the Baptist Faith & Message, has been strengthened, and I'm very pleased with the changes that were made. ... I am greatly afraid this denomination is getting away from evangelism. I am very concerned, quite frankly. I don't believe this convention, as a whole, has a heart for personal evangelism like we ought to have and like we need to have."

..... ♦ Andersen pays settlement. Arizona Attorney General Janet Napolitano announced June 5 that Arthur Andersen had completed payment of a \$217 million settlement it signed with the state of Arizona and the plaintiffs in a class-action lawsuit involving the failure of the Baptist Foundation of Arizona. "We look forward to the parties obtaining final court approval so that this money can be distributed to BFA's investors this year," Napolitano said.

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