
Registrant

Answer to Petitioner's
Petition for
Cancellation

92053872

Kevin Blackwell

77/665,376



07-13-2011

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

In the matter of Registration No.3,938,402

EMI CHISTIAN MUSIC
GROUP,INC.

Petitioner,

-against-

KEVIN J. BLACKWELL,

Registrant.

1. EMI CMG: Petitioner is one of the world's largest Christian music companies, and its recording Labels feature many of the most popular Christian acts today.

Registrant's Answer: Registrant is without knowledge or information sufficient to form a belief as to the truth of this averment.

2. EMI CMG: For many years, Petitioner has used the WOW Mark and a family of various WOW – inclusive marks (collectively, the "WOW Marks") in connection with a series of popular recordings featuring Christian music artists, as well as with complementary services and goods such songbooks.

Registrant's Answer: Registrant is without knowledge or information sufficient to form a belief as to the truth of this averment.

3. EMI CMG: The WOW series of musical sound recordings is the most successful Christian music collection of all time. Since 1995, Petitioner has released more than 35 titles under the WOW Marks and has sold well over 20 million recording units. More than 20 albums released under the WOW marks have received Platinum certification from the Recovery Industry Association of America (indicating sales of at least one million units per album), and several have received Multi Platinum certification (indicating sales of at least two million units per album).

Registrant's Answer: Registrant is without knowledge or information sufficient to form a belief as to the truth to this averment.

4. EMI CMG: Based on the success of its recordings distributed under the WOW Marks, Petitioner has expanded use of its WOW Marks to encompass goods and services complementary to its Christian music business, including DVD's songbooks and bibles.

Registrant's Answer: Registrant is without knowledge or information sufficient to form a belief as to the truth to this averment.

5. EMI CMG: Petitioner has invested a significant amount of time, effort and money in developing and promoting its goods and services under the WOW Marks, both individually and collectively as a family of marks. As a result of these efforts and the tremendous marketplace success of Petitioner's goods and services sold under WOW Marks over more than a decade, the WOW Marks, both individually and collectively, have come to identify Petitioner's goods and services exclusively and uniquely, have become well known marks of Petitioner, and represent enormous goodwill.

Registrant's Answer: Registrant is without knowledge or information sufficient to form a belief as to the truth of this averment.

6. EMI CMG: In addition to the common law rights accruing to Petitioner in the WOW Marks, Opposer owns federal registrations for certain of those marks, including the following:

Mark	Reg'n NO.	Class and Goods
WOW	3115883	Class 9: Series of musical sound recordings; a series of videos featuring music and worship Class 16: Christmas songbooks and bibles
Mark	Reg'n NO.	Class and Goods
WOW Hits	3142447	Class 9: musical sound recordings and musical video recording Class 16: Christian songbooks
WOW Christmas	3240156	Class 9: musical sound recordings Class 16: Christian songbooks
WOW Gospel & Design	2768539	Class 9: Series of musical sound recordings and video recordings
WOW Worship & Design	2884538	Class 9: series of musical sound recordings and video recordings Class 16: Christmas songbooks

Registrant's Answer: Registrant is without knowledge or information sufficient to form a belief as to the truth of this averment.

7. EMI CMG: These registrations are valid, subsisting and in full force and affect, and constitute evidence of the validity of the marks and of Petitioner's exclusive right to use them on the goods identified in the registrations. In additions, Registrations Nos. 2768539 and 2884538 are incontestable pursuant to 15U.S.C 1065, and thus constitute conclusive evidence of Petitioner's exclusive rights for the registered marks for the recited goods.

Registrant's Answer: Registrant is without knowledge or information sufficient to form a belief as to the truth of this averment.

8. EMI CMG: As a result of the long use, registration and renown of the WOW Marks, Petitioners WOW marks, both individually and collectively, are entitled to an extremely broad scope of protection.

Registrant's Answer: Registrant is without knowledge or information sufficient to form a belief as to the truth of this averment.

9. EMI CMG: Upon information and belief, registrant Kevin J. Blackwell ("Registrant") is an individual with a place of business at 7600 Callaghan Road, Apt. 301, San Antonio, Texas 78229.

Registrant's Answer: Admit

10. EMI CMG: On or about February 6, 2009, Registrant filed with the U.S. Patent & Trademark Office ("USPTO") on an intent-to-use basis under section 1 (b) of the Lanham Act, 15 U.S.C 1051(b), application Serial No. 77/665,376 to register the following mark: WATER ONDA WOOD WOW PRODUCTIONS. ("Registrant's Mark") for "Musical sound recordings" in International Class 9.

Registrant's Answer: Admit

11. EMI CMG :Registrant's Mark matured into U.S. Registration No. 3,938,402 on March 29,2011.

Registrant's Answer: Admit

12. EMI CMG: Petitioner repeats the allegations contained in paragraphs 1 through 11 as if fully set forth herein.

Registrant's Answer: Registrant is without knowledge or information sufficient to form a belief as to the truth of this averment.

13. EMI CMG: the WOW Marks, both individually and collectively, are associated exclusively with Petitioner and have been used continuously and registered by Petitioner since a date long prior to any date on which Registrant can rely.

Registrant's Answer: Registrant is without knowledge or information sufficient to form a belief as to the truth of this averment.

14. EMI CMG: Registrant's mark is similar identical to Petitioner's prior registered and prior used WOW Marks, both individually and collectively. The WOW portion of Registrant's mark is the dominant element, with the remaining words and design elements being insufficient to differentiate Registrant's Mark from Petitioner's WOW Marks, either individually or collectively.

Registrant's Answer: Deny

15. EMI CMG: Further, Registrant's Mark is registered for and allegedly used in connection with musical sound recordings, the very goods for which Petitioner has long used its WOW Marks and for which Petitioner's WOW Marks re registered.

Registrants Answer: Admit

16. EMI CMG: Upon information and belief, Registrant targets the same type of consumers that purchase goods offered under Petitioner's WOW Marks or to whom Petitioner markets and promotes its goods and services under the WOW Marks.

Registrants Answer: Registrant is without knowledge or information sufficient to form a belief as to the truth of this averment.

17. EMI CMG: Based on the similarities of the parties' respective marks and the goods offered thereunder, the public is likely to falsely associate the goods and services of Registrant under Registrants Mark with Petitioner or with Petitioner or with Petitioner's goods; or to falsely believe that Registrants good and services emanate from or are sponsored, endorsed or licensed by Petitioner; or to falsely believe that there is some relationship between Registrant and Petitioner.

Registrants Answer: Deny

18. EMI CMG: Continued registration of Registrants Mark in connection with the goods set forth in Registration No. 3,938,402 is likely to cause confusion, cause mistake or deceive consumers, and cause them to believe that the goods offered under by Registrant under Registrants mark emanate from, or are sponsored by, endorsed by or otherwise connected with Petitioner, in violation of Section 2(d) of the Lanham Act, 15 U.S.C.1052(d).

Registrants Answer: Deny

19. EMI CMG: The continued registration of Registrants Mark is inconsistent with Petitioner's prior rights in its WOW Marks, is inconsistent with Petitioner's statutory grant of exclusivity of use of the registered WOW marks, and will harm Petitioner's investment and goodwill in its WOW Marks.

Registrants Answer: Deny

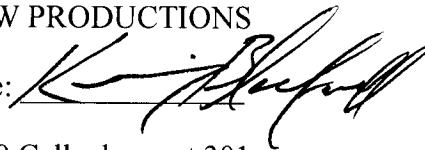
20. EMI CMG: By reason of the foregoing, Petitioner is likely to be harmed by the continued registration of U.S. Registration No. 3,938,402

WHEREFORE, it is respectfully requested that this petition for cancellation be sustained and that Registration No. 3,938,402 be cancelled.

Registrants Answer: Deny

Date: 6/29/2011

WOW PRODUCTIONS

Signature: 

7600 Callaghan apt.301

San Antonio TX 78229

Tel: 210- 248- 5761

Email: WOWUbductions@yahoo.com

Registrants answer to EMI Christian music group, Inc.

To Whom It May Concern:

The undersigned hereby certifies that a true and correct copy of the foregoing Answer to Petition for Cancellation was served upon petitioner by forwarding said copy, via U.S. mail to EMI-CMG Fross Zelnick Lehrman & Zissu, P.C. 866 United Nations Plaza New York York, N.Y. 10017

6/29/11

Signature: 