

ESTTA Tracking number: **ESTTA538610**

Filing date: **05/17/2013**

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	Daniel M. Goodman		
Entity	Individual	Citizenship	UNITED STATES
Address	P.O. Box 120713 Nashville, TN 37212 UNITED STATES		

Attorney information	Sawnie R. Aldredge P.O. Box 120713 Nashville, TN 37212 UNITED STATES trip@aldredgelaw.com Phone:615-385-4437		
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#### Registration Subject to Cancellation

Registration No	4199114	Registration date	08/28/2012
Registrant	Steven Berlin Suite 224 3439 N.E.Sandy Blvd. Portland, OR 97232 UNITED STATES		

#### Goods/Services Subject to Cancellation

Class 041. First Use: 2012/04/29 First Use In Commerce: 2012/04/29 All goods and services in the class are cancelled, namely: Entertainment services in the nature of live musical performances
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#### Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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#### Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	85301031	Application Date	04/21/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	LOS SUPER SEVEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1998/09/19 First Use In Commerce: 1998/09/19 sound recordings, compacts discs and audio visual discs all featuring musical		

	performances
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Attachments	Goodman petition.pdf(13384 bytes )
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### **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	/Sawnie R Aldredge/
Name	Sawnie R. Aldredge
Date	05/17/2013

Petitioner brings this action to cancel registration of Registrant's mark "Los Super Seven" in the class of "entertainment services in the nature of live musical performances". Petitioner will demonstrate to the Board his extensive priority of use of the trademark for both live performances and sound recordings.

Petitioner is the true owner of the trademark "Los Super Seven" in both the class of entertainment services and sound recordings as will be shown to the Board. Petitioner is in danger of having the Patent and Trademark Office refuse new registration of his mark Serial No. 85301031 in the class of "sound recordings, compact discs and audiovisual discs all featuring musical performances" in Class 009 because the Trademark Examiner has found that there is a likelihood of confusion between the two marks.

Petitioner is an experienced manager in the entertainment industry. In 1997 he conceived of the idea of creating a musical performing group that would record and perform a genre of music known as Mexican-American Music. His concept was to recruit a rotating cast of performers to record and perform songs in this genre. On June 29, 1998 Petitioner signed a recording agreement with RCA Records wherein he agreed to deliver an album featuring "Latin American-influenced Texas music of the 1920's to 1940's". The musicians selected by Petitioner for this album included such well-known artists as Joe Ely, Freddie Fender, Flaco Jimenez, David Hidalgo and Doug Sahm. The Registrant, Steve Berlin rendered services on that recording. Thus, Registrant had knowledge of Petitioner's use of the mark since at least 1998. The album "*Los Super Seven*" was released on September 15, 1998. The album was extremely successful and won a "Grammy" for Best Mexican-American Album of 1999.

On March 3, 2001, Petitioner released a second album on RCA Records. This album entitled "*Canto*" featured performances by artists such as Raul Malo, Rick Trevino, David

Hidalgo and others. On January 22, 2002 Petitioner secured the release of a DVD featuring performances by some of these musicians under the name "Los Super Seven". On March 22, 2005 Petitioner released a third album called "*I Heard It On The X*". This album featured performances by a completely different cast of musicians and notably did not include Registrant.

As executive producer of the recordings, Petitioner was responsible for selecting the performers and creating and crafting the performances that were released on the recordings. In April, 2005 Mix Online magazine wrote "Los Super Seven is more of an idea than an actual band. It's a genre-busting celebration of Southwestern and Latin music ... over the course of three extraordinary albums ... creator/co-producer Dan Goodman has assembled one sterling cast of musicians after another to explore different facets of the many styles found in the region." All three of these recordings remain available in interstate commerce and Petitioner continues to promote the sale of these recordings with plans to create a new series of recordings utilizing the trademark.

As the creator of the live-performing group "Los Super Seven" Petitioner first produced a concert in Los Angeles, California on September 14, 1998 and produced other concerts in New York, Austin, Texas and Nashville, Tennessee as well as other cities. Under Petitioner's direction, various musicians also appeared on such television shows as "Late Night with Conan O'Brien," "Austin City Limits" and "The Tonight Show". Petitioner has also been diligent in stopping any unauthorized performances of groups attempting to utilize the group name including a series of performances in 2010.

On February 8, 2000 Petitioner received United States Trademark Registration No. 2316298 for the mark "Los Super Seven" for "entertainment services in the nature of live musical performances." The registration states that the first use of the mark in commerce was September 14, 1998. On March 5, 2002 Petitioner received United States Trademark Registration No. 2543714 for "musical sound recordings, prerecorded compact discs, videotapes and audiovisual discs, all featuring music."

Petitioner will show the Board that he began using the mark for the purposes of creating sound recordings as early as September 15, 1998 and for live performances as early as September 14, 1998.

In all respects, Petitioner is the rightful owner of the mark "Los Super Seven" and has established significant priority of use over Registrant and any other parties. As stated above, Petitioner was the owner of prior Registrations 2316298 and 2543714 and established widespread notoriety, goodwill and fame for the marks.

Unless Registrant's mark is canceled, Petitioner will potentially lose not only the ability to control the content and character of performances of the musical group, as he has for the past 15 years but because of the Trademark Examiner's position regarding his attempt to file a new registration for the "Los Super Seven" mark in the class of sound recordings, he may lose the right to control the content and character of these goods as well, despite his extensive efforts in developing and promoting the goods and services for the past 15 years.

WHEREFORE having fully plead, Petitioner respectfully requests that the Board cancel Registrant's Registration No. 4199114 and for such further relief as he may show himself entitled.

