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

Proceeding	92057241
Party	Defendant Steven Berlin
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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Daniel M. Goodman,

Cancellation: 92057241

Petitioner,

-v-

Steven Berlin,

Registrant

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ANSWER TO CANCELLATION PETITION

Registrant Steven Berlin hereby answers the Cancellation Petition filed against Registrant's Registration No. 4199114 for the mark LOS SUPER SEVEN in Class 41 for "Entertainment services in the nature of live musical performances" as follows:

1. Registrant denies that Petitioner can demonstrate any cognizable priority of use of LOS SUPER SEVEN (the "Mark") as a trademark owned by Petitioner.
2. Registrant denies that Petitioner is the true owner of the mark and lacks knowledge and information sufficient to form a belief as to the truth of the other allegations contained in paragraph 2 of the Petition and therefore denies the same.
3. Registrant denies that Petitioner, who had never produced a musical recording, selected the musicians for an album in 1998 as alleged. Registrant admits that Registrant, who has produced over 100 musical recordings, produced the album in 1998 entitled "Los Super Seven", conceived of the name for that album, selected and persuaded most of the Latin performers who joined Registrant on the album, including, by way of example, Joe Ely, David Hidalgo, Doug Sahm, Ruben Ramos and Cesar Rosas (with whom Petitioner had

no prior relationship), all of whom both personal and professional contacts of Registrant, some of whom were co-members with Registrant in the then already internationally acclaimed and multi-Grammy Award winning musical performing group LOS LOBOS. Registrant further admits that Registrant had to continually persuade these artists to continue with the production that Registrant was undertaking in spite of Petitioner. Registrant denies any remaining allegations of Paragraph 3 of the Petition.

4. Registrant admits that Registrant conceptualized, cast and produced an album in 2001 entitled "Canto," that all of the members of Registrant's group LOS LOBOS played on that album, that Cesar Rosas was a significant contributor to that album, that all of the new participants that were in addition to the participants that Registrant had recruited for the 1998 album were Registrant's selections, including even the entire backing band, engineers, studios and mastering engineer, and that the entire concept and cast of this 2001 album was solely Registrant's idea, and that Registrant secured the recording agreement for this album. Registrant lacks knowledge and information sufficient to form a belief as to the truth of the other allegations contained in paragraph 4 of the Petition and therefore denies the same.
5. Registrant admits that he was the producer of the 1998 and 2001 albums and denies that Petitioner selected the performers or created and crafted the performances of those performers, all of whom were well-known and extremely experienced and, in the case of the participants recruited by Registrant, famous performers with vast musical experience whose performance were not at all influenced or directed by Petitioner, who is not a musical performer. None of these performers would have participated but for Registrant convincing them and being the producer. Registrant lacks knowledge and information

sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 5 of the Petition and therefore denies the same.

6. Registrant denies that it was Petitioner that was the creator of a live performing group as alleged, admits that it was Registrant who produced and arranged live performances in 1998, almost twenty years ago, and that the musical performers who participated with Registrant did so at Registrant's request and direction and with the understanding they did not have to deal with Petitioner. Registrant lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 6 of the Petition and therefore denies the same.
7. Registrant lacks knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the Petition and therefore denies the same.
8. Registrant lacks knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Petition (i.e., what Petitioner purports he will show) and therefore denies the same.
9. Registrant denies the allegations of Paragraph 9 of the Petition – Petitioner is not the rightful owner, in any respect, of the trademark LOS SUPER SEVEN in Class 41 for “Entertainment services in the nature of live musical performances”, does not have priority of use as a trademark, and did not establish goodwill.
10. Registrant denies the allegations of Paragraph 10 of the Petition.

AFFIRMATIVE DEFENSES

11. The Petition fails to state a cognizable basis upon which relief can be granted.
12. Petitioner lacks standing to assert a claim for cancellation.

13. Petitioner has not alleged a proper basis of subject matter jurisdiction.
14. Notwithstanding that Petitioner did not, even had Petitioner established some purported right in the term “Los Super Seven” in the late 1990’s, the Petition itself evidence that Petitioner has not been involved, in any way, with any “Entertainment services in the nature of live musical performances” associated with the words “Los Super Seven” in at least a decade, and thus has abandoned any claim of right therein.
15. Laches precludes Petitioner from seeking this cancellation.

Respectfully submitted,

Dated: New York, NY
March 5, 2015

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