

ESTTA Tracking number: **ESTTA787577**

Filing date: **12/06/2016**

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

Proceeding	92057241
Party	Plaintiff Daniel M. Goodman
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Date	12/06/2016
Attachments	Goodman Reply Brief December 6 2016.pdf(257228 bytes)

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

Petitioner: Daniel M. Goodman c/o P.O. Box 120713, Nashville, Tennessee
37212

Registrant: Steven Berlin, Suite 224, 3439 N.E. Sandy Blvd. Portland,
Oregon 97232.

Proceeding Number 92057241

PETITIONER DANIEL GOODMAN'S REPLY BRIEF

I. Table of Authorities

Herb Reed Enterprises v. Florida Entertainment Management, Inc. 736 F. 3d 1239
(9th Cir. 2013).

Kingsmen v. K-Tel International, Ltd. 557 F. Supp 178 (S.D.N.Y. 1983),

Marshak v. Treadwell et. al 240 F. 3d 184 (3rd Cir. 2001)

Rick v. Buchansky 609 .2d. 1522 (S.D.N.Y. 1985)

Robi v. Reed, et. al. 173 F3d 736 (9th Cir. 1999)

II. Argument

Petitioner is mindful of TMBP 503 which discourages the filing of a Reply Brief but must address two aspects of the Registrant's Response to Petitioner's Motion to Reconsider and Motion to Request Judicial Notice.

I. First it appears as Registrant notes that Petitioner's submission with respect to the Motion to Request Judicial Notice neglected to include the physical reproductions of the web pages cited. Petitioner's counsel believes that the pages were included with the physical copies served on Respondent's counsel but cannot explain why these two pages were not included with the digital filing with the Trademark Office. Petitioner's counsel avers that this was due to inadvertence or mistake and submits the two pages herewith captured on November 9, 2016 November 10, 2016 respectively.

Petitioner argues that the cases cited by Registrant to argue against the Board taking Judicial Notice are not relevant to the present proceeding because they concern cases in which the facts were found to be subject to reasonable dispute. In this case, the fact, i.e. the commercial availability of sound recordings bearing the Los Super Seven trademark, is not in dispute. Further this fact was introduced by Petitioner in his testimony during the testimony period and was not disputed by Registrant.

II. Petitioner argues that he has met the standards set forth in *Robi v. Reed, et. al.* 173 F3d 736 (9th Cir. 1999) and *Rick v. Buchansky* 609 F.2d. 1522 (S.D.N.Y .1985) to establish his trademark rights in the trademark both as to sound recordings and live performances as well as the standards set in the cases cited in his Motion to Request Reconsideration to establish that he did not abandon those rights (i.e. *Kingsmen v. K-Tel International, Ltd.* 557 F. Supp 178 (S.D.N.Y. 1983), *Marshak v. Treadwell et. al* 240 F. 3d 184 (3rd Cir. 2001) and *Herb Reed Enterprises v. Florida Entertainment Management, Inc.* 736 F. 3d 1239 (9th Cir. 2013). These standards are especially relevant with respect to the facts of this case and with respect to the Registrant who admits that he has never actually used the mark himself but has only licensed it to others. Petitioner respectfully requests that the Board reconsider its decision.

Respectfully submitted,

/s/Sawnie R. Aldredge
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PETITIONER'S Reply Brief has been sent by regular U.S. mail, postage prepaid to Thomas G. Carulli, Esq. attorney for Steve Berlin at Kaplan, Massamillo & Andres, 70 East 55th Street, 25th Floor, New York, New York 10022, and by email to tcarulli@kmalawfirm.com this the 6th day of December, 2016.

/s/Sawnie R. Aldredge
Sawnie R. Aldredge

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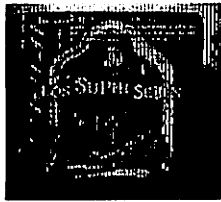
CDs & Vinyl **Los Super Seven**

Show results for

- Any Category
- CDs & Vinyl**
- Latin Pop (11)
- Latin Music (20)
- Rock (12)
- Country (2)
- World Music (15)
- Americana (2)
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- Pop (19)
- Latin Rock (3)
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Refine by

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 - Last 30 days (1)
 - Last 90 days (1)
 - Coming Soon
- Music Format CD (55)
- Parental Advisory Exclude Explicit Lyrics (55)
- Avg. Customer Review
 - & Up (19)
 - & Up (21)
 - & Up (21)
 - & Up (21)
- International Shipping AmazonGlobal Eligible
- Condition
 - Collectible (3)
 - New (45)
 - Used (33)
- Availability Include Out of Stock



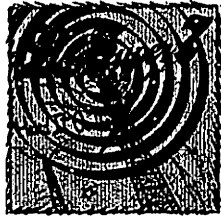
Los Super Seven 2009
by Los Super Seven

31

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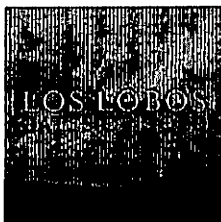


Los Super Seven - No Borders: Canto 2001 | Color
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5
Starring: Ruben Ramos, David Hidalgo, et al.
Directed by: Michael Borofsky, Wayne C. Miller, et al.
Runtime: 2 hrs 5 mins



Gates Of Gold 2015
by Los Lobos

93

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Overview Music Video Charts

Los Super Seven

[View in iTunes](#)

To preview a song, mouse over the title and click Play. Open iTunes to buy and download music.

Genre
Latino


Years Active:
'90s, '00s

Influenced by This Artist
Pistolera

Contemporaries
Buena Vista Social Club
The Flatlanders
Alejandro Escovedo
Texas Tornados

Biography
The Latin American supergroup Los Super Seven assembled Los Lobos' David Hidalgo and Cesar Rosas, Freddy Fender, Flaco Jimenez, Joe Ely, Rick Trevino, Ruben Ramos, and Joel Jose Guzman. Banding together to reinterpret traditional Mexican folk songs, the group debuted in 1998 with their self-titled, Grammy-award winning LP on RCA. In 2001 the group released Canto, a twelve-track collection of Latin American pop and folk that included the ...More

Top Albums



1. **Canto**
[View in iTunes](#)

Top Songs

	Name	Album	Time	Price	
1	Piensa en Mi (feat. Freddie ...	The Golden Voice of the Texas	3:55	\$0.99	View in iTunes
2	Calle Diezials	2001 Latin Grammy Nominees	2:56	\$0.99	View in iTunes