

ESTTA Tracking number: **ESTTA840112**

Filing date: **08/16/2017**

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 has filed a petition to cancel the registration indicated below.

### Petitioner Information

Name	Minnesota Public Radio		
Entity	Corporation	Citizenship	Minnesota
Address	480 Cedar Street St. Paul, MN 55101 UNITED STATES		

Attorney information	Joel D. Leviton Stinson Leonard Street LLP 150 South Fifth Street, Suite 2300 Minneapolis, MN 55402 UNITED STATES Email: joel.leviton@stinson.com, trademark.mpl@stinson.com Phone: 612-335-1562		
----------------------	--	--	--

### Registration Subject to Cancellation

Registration No.	4194048	Registration date	08/21/2012
Registrant	Gould, James M. Suite 1151 312 Walnut Street Cincinnati, OH 45202 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 041. First Use: 2011/10/14 First Use In Commerce: 2011/10/14 All goods and services in the class are subject to cancellation, namely: Entertainment services in the nature of a radio interview program
--

### Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
--------------------------------------	---------------------------------------

### Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3301681	Application Date	12/06/2004
Registration Date	10/02/2007	Foreign Priority Date	NONE
Word Mark	THE CURRENT		

Design Mark	<h1>THE CURRENT</h1>		
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2006/01/24 First Use In Commerce: 2006/01/24 Educational and entertainment services,namely, production and distribution of radio programs for others		

U.S. Registration No.	3382021	Application Date	02/06/2006
Registration Date	02/12/2008	Foreign Priority Date	NONE

Word Mark	THE CURRENT		
-----------	-------------	--	--

Design Mark	<h1>THE CURRENT</h1>		
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2005/01/24 First Use In Commerce: 2005/01/24 Entertainment services, namely, a series of continuing radio programs relating to music, culture, news, and the arts; providing online interactive information services in conjunction with the radio programming in the field of music		

U.S. Registration No.	3546932	Application Date	02/06/2006
Registration Date	12/16/2008	Foreign Priority Date	NONE

Word Mark	THE CURRENT		
-----------	-------------	--	--

Design Mark	<h1>THE CURRENT</h1>		
Description of Mark	NONE		
Goods/Services	Class 038. First use: First Use: 2005/01/24 First Use In Commerce: 2005/01/24 Radio broadcasting services in the field of music		

U.S. Registration No.	3317140	Application Date	02/24/2005
Registration Date	10/23/2007	Foreign Priority Date	NONE
Word Mark	CROSS CURRENTS		
Design Mark	<h1>CROSS CURRENTS</h1>		
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2005/02/11 First Use In Commerce: 2005/02/11 providing online newsletters in the field of music radio information		

U.S. Registration No.	3363323	Application Date	09/06/2005
Registration Date	01/01/2008	Foreign Priority Date	NONE
Word Mark	LIVE CURRENT		

Design Mark	<h1>LIVE CURRENT</h1>		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2006/10/19 First Use In Commerce: 2006/10/19 Series of pre-recorded compact discs featuring music, and series of pre-recorded compact discs featuring performances by musicians and musical groups in the nature of pre-recorded excerpts from radioprograms and recordings of studio sessions and live concerts		

U.S. Registration No.	3426029	Application Date	08/22/2007
Registration Date	05/13/2008	Foreign Priority Date	NONE

Word Mark	RADIO FREE CURRENT		
-----------	--------------------	--	--

Design Mark	<h1>RADIO FREE CURRENT</h1>		
-------------	-----------------------------	--	--

Description of Mark	NONE		
---------------------	------	--	--

Goods/Services	Class 041. First use: First Use: 2007/05/01 First Use In Commerce: 2007/05/01 Entertainment services in the nature of a continuing radio program featuring song requests from listeners; and providing a website in conjunction with radio programming featuring song requests from listeners		
----------------	--	--	--

U.S. Registration No.	4031403	Application Date	02/10/2011
Registration Date	09/27/2011	Foreign Priority Date	NONE

Word Mark	LOCAL CURRENT		
-----------	---------------	--	--

Design Mark	<h1 style="text-align: center;">LOCAL CURRENT</h1>
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2011/04/14 First Use In Commerce: 2011/04/14 Entertainment services, namely, providing radio programs in the field of music, broadcast via a global computer network

Attachments	78527303#TMSN.png( bytes ) 78979116#TMSN.png( bytes ) 78808250#TMSN.png( bytes ) 78574491#TMSN.png( bytes ) 78707448#TMSN.png( bytes ) 77261269#TMSN.png( bytes ) 85239211#TMSN.png( bytes ) Petition for Cancellation_A CURRENT LIFE.pdf(35057 bytes )
-------------	--

Signature	/Joel D. Leviton/
Name	Joel D. Leviton
Date	08/16/2017

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

MINNESOTA PUBLIC RADIO,

Petitioner,

v.

JAMES M. GOULD,

Respondent.

Cancellation No.: \_\_\_\_\_

Mark: A CURRENT LIFE

Registration No. 4,194,048

Registered: August 21, 2012

**PETITION FOR CANCELLATION**

Petitioner, Minnesota Public Radio, a non-profit corporation organized under the laws of Minnesota, with a principal place of business at 480 Cedar Street, St. Paul, Minnesota 55101 (“MPR”), believes it will be damaged by the continued registration of the mark shown in Registration No. 4,194,048 (the “Registration”) and hereby petitions to cancel the same pursuant to the provisions of 15 U.S.C. § 1064.

The Registration issued on August 21, 2012 to James M. Gould (“Respondent”), an individual with an address of 312 Walnut Street, Suite 1151, Cincinnati, Ohio 45202, for the mark A CURRENT LIFE in International Class 41 for “Entertainment services in the nature of a radio interview program.” The correspondent email address for the Registration is trademarks@kmklaw.com.

As grounds for cancellation, it is alleged that:

1. MPR is a premier public radio station producing and distributing radio and internet programs and entertainment and educational content across the nation. Since at least as

early as 2005, MPR has continuously used its trademark THE CURRENT in connection with radio programming, broadcasting services, and related entertainment services, including conducting interviews on the radio. MPR has adopted and continuously used additional trademarks with the designation “CURRENT” in connection with various entertainment related products and services, including the marks RADIO FREE CURRENT for entertainment services in the nature of a radio program and an associated website, LIVE CURRENT for compact discs featuring music, CROSS CURRENTS for providing a newsletter in the field of music radio information, and LOCAL CURRENT for radio programs and sound recordings.

2. In addition to its longstanding common law rights in the marks THE CURRENT, LIVE CURRENT, RADIO FREE CURRENT, CROSS CURRENTS, and LOCAL CURRENT, MPR owns the following federal trademark registrations:

- Registration No. 3,301,681 for the mark THE CURRENT in connection with “Educational and entertainment services, namely, production and distribution of radio programs for others,” which issued in 2007 and has achieved incontestable status;
- Registration No. 3,382,021 for the mark THE CURRENT in connection with “Entertainment services, namely, a series of continuing radio programs relating to music, culture, news, and the arts; providing online interactive information services in conjunction with the radio programming in the field of music,” which issued in 2008 and has achieved incontestable status;
- Registration No. 3,546,932 for the mark THE CURRENT in connection with “Radio broadcasting services in the field of music,” which issued in 2008 and has achieved incontestable status;

- Registration No. 3,317,140 for the mark CROSS CURRENTS in connection with “providing online newsletters in the field of music radio information,” which issued in 2007 and has achieved incontestable status;
- Registration No. 3,363,323 for the mark LIVE CURRENT in connection with “Series of pre-recorded compact discs featuring music, and series of pre-recorded compact discs featuring performances by musicians and musical groups in the nature of pre-recorded excerpts from radio programs and recordings of studio sessions and live concerts,” which issued in 2008 and has achieved incontestable status;
- Registration No. 3,426,029 for the mark RADIO FREE CURRENT in connection with “Entertainment services in the nature of a continuing radio program featuring song requests from listeners; and providing a website in conjunction with radio programming featuring song requests from listeners,” which issued in 2008 and has achieved incontestable status; and
- Registration No. 4,031,403 for the mark LOCAL CURRENT in connection with “Entertainment services, namely, providing radio programs in the field of music, broadcast via a global computer network,” which issued in 2011 and has achieved incontestable status.

MPR’s common law and federally registered marks set forth in paragraphs 1 and 2 of this Petition for Cancellation are collectively referred to as “The CURRENT Marks.”

3. MPR has made a considerable investment promoting The CURRENT Marks and the products and services offered under The CURRENT Marks. By virtue of extensive



promotion and widespread public recognition, The CURRENT Marks are strong and well-known trademarks of MPR.

4. On January 3, 2012, Respondent filed an application seeking to register A CURRENT LIFE in connection with “Entertainment services in the nature of a radio interview program,” which was designated Serial No. 85/507,785. Application Serial No. 85/507,785 was filed under Section 1(a) of the Lanham Act claiming a date of first use and date of first use in commerce of October 14, 2011.

5. Application Serial No. 85/507,785 matured to the Registration on August 21, 2012.

6. MPR began using each of The CURRENT Marks before Respondent’s claimed date of first use and before Respondent filed Application Serial No. 85/507,785. MPR’s common law and statutory priority dates for The CURRENT Marks precede Respondent’s date of first use and date of first use in commerce and the priority date of the Registration.

7. MPR has priority over Respondent.

8. The services identified in Registration are identical to services MPR offers under some or all of The CURRENT Marks, are closely related to all the products and services MPR offers under The CURRENT Marks, and are not limited in subject matter or to a particular field.

9. Respondent’s mark A CURRENT LIFE incorporates the distinctive term CURRENT, which is a predominant and consistent term in each of The CURRENT Marks.

10. Respondent’s A CURRENT LIFE mark so resembles MPR’s previously adopted, used, and registered The CURRENT Marks that Respondent’s A CURRENT LIFE mark, when used in connection with services identified in the Registration, is likely to cause confusion, to cause mistake, or to deceive. Consumers of entertainment and radio services are likely to

mistakenly believe that services Respondent offers under the A CURRENT LIFE mark are produced, provided, sponsored, endorsed, or approved by MPR, or are in some way affiliated, connected, or associated with MPR, THE CURRENT brand, or The CURRENT Marks, all to the detriment of MPR. Therefore, the Registration should be cancelled under 15 U.S.C. §§ 1052(d) and 1064.

11. Registration of the A CURRENT LIFE mark has caused further damage to MPR, as it confers upon Respondent various statutory presumptions to which it is not entitled in view of MPR's long prior use and registration of The CURRENT Marks.

WHEREFORE, pursuant to Section 14 of the Lanham Act, 15 U.S.C. § 1064, MPR respectfully requests that Registration No. 4,194,048 in International Class 41 be cancelled in its entirety.

Please charge the Petition for Cancellation fee to the Deposit Account of Stinson Leonard Street LLP Account No. 19-4409.

Respectfully submitted,

Date: August 16, 2017

/Joel D. Leviton/  
Joel D. Leviton  
STINSON LEONARD STREET LLP  
150 South Fifth Street, Suite 2300  
Minneapolis, MN 55402  
Telephone: (612) 335-1562  
Facsimile: (612) 335-1657

Attorneys for Minnesota Public Radio