

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA

Case No. _____

FIFTY-SIX HOPE ROAD MUSIC LIMITED,

Plaintiff,

v.

SANDAL FACTORY, INC.,

Defendant.

**PLAINTIFF'S APPLICATION TO THE CLERK OF COURT TO ISSUE SUBPOENAS
COMMANDING APPEARANCE AND TESTIMONY OF WITNESSES IN A CASE
PENDING BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD;
DECLARATION OF PAUL A. BOST**

Plaintiff Fifty-Six Hope Road Music Limited ("Plaintiff") hereby applies to the clerk of this Court to issue subpoenas commanding the appearance and testimony of the following witnesses to Case No. 91-212582 pending between Plaintiff and Defendant Sandal Factory, Inc. ("Defendant") before the Trademark Trial and Appeal Board ("Board") of the U.S. Patent & Trademark Office ("PTO"):

1. Sandal Factory, Inc., 102411 Overseas Hwy, Key Largo, FL 33037
2. Shawn Tolley, 102411 Overseas Hwy, Key Largo, FL 33037
3. John Cioffi, 102411 Overseas Hwy, Key Largo, FL 33037

The proposed subpoenas are appended hereto as **Exhibit A**.

On September 11, 2013, Plaintiff instituted a proceeding against Defendant before the Board opposing registration of Defendant's application to register the trademark GNARLY MARLEY'S (Ser. No. 85/760,798.) (Bost Decl. ¶ 3, Ex. B.) On July 11, 2014, Plaintiff timely served Defendant with Plaintiff's pre-trial disclosures identifying the witnesses whose testimony

deposition Plaintiff intends to take during its 30-day trial period.¹ (Bost Decl. ¶ 4, Ex. C.) The proceeding is currently suspended by order of the Board to allow Plaintiff “time to secure subpoenas from the United States district court” compelling the testimony deposition. (Bost Decl. ¶ 5, Ex. D.)

In Board proceedings, the testimony deposition of adverse witnesses may be secured by subpoena. *See* TBMP § 703.01(f)(2) (“If a party wishes to take the trial testimony of an adverse party or nonparty (or an official or employee of an adverse party or nonparty) residing in the United States, and the proposed witness is not willing to appear voluntarily to testify, the party wishing to take the testimony must secure the attendance of the witness by subpoena . . . The subpoena must be issued, pursuant to 35 U.S.C. § 24 and Fed R.Civ.P. 45, from the United States district court in the federal judicial district where the witness resides or is regularly employed.”) 35 U.S.C. § 24 states that the “[t]he clerk of any United States court for the district wherein testimony is to be taken for use in any contested case in the [PTO], shall, upon the application of any party thereto, issue a subpoena for any witness residing or being within such district, commanding him to appear and testify before an officer in such district authorized to take depositions and affidavits, at the time and place stated in the subpoena.”

The three witnesses at issue – Defendant, Mr. Tolley, and Mr. Cioffi – all reside within this District, and the location set for their deposition – United Reporting, 66 West Flagler Street, 7th Floor, Miami, FL 33130 – is “within 100 miles of where [each] person resides, is employed, or regularly transacts business in person.” Fed.R.Civ.P. 45(c)(1)(A).

¹ In contested proceedings before the Board, trial testimony is taken by means of a testimony deposition. *See* Trademark Trial and Appeal Board Manual of Procedure 2014 (“TBMP”) § 703.01(a) (“A testimony deposition is a device used by a party to a Board inter partes proceeding to present evidence in support of its case. Testimony is taken out of the presence of the Board, on oral examination or written questions, and the written transcripts thereof, together with any exhibits thereto, are then submitted to the Board.”)

Plaintiff's application is based on the foregoing, the attached declaration of Paul A. Bost and the exhibits attached thereto, the record of the proceedings between Plaintiff and Defendant pending before the Board, and any other submissions or filings requested by the Court.

Respectfully submitted,

HERMELEE LAW, PL

Dated: February 06, 2015

By: */s/ Bruce Hermelee*

Bruce Hermelee

bhermelee@hermeleelaw.com

Florida Bar No. 133894

Ross Dylan Hermelee

rdhermelee@hermeleelaw.com

Florida Bar No. 0102656

Hermelee Law, P.L.

2100 Coral Way, Suite 303

Miami, FL 33145

Telephone: (305) 748-6146

Attorneys for Plaintiff

Fifty-Six Hope Road Music Limited

Co-Counsel

Jill Pietrini

jpietrini@smrh.com

Paul Bost

pboast@smrh.com

SHEPPARD MULLIN RICHTER & HAMPTON, LLP

1901 Avenue of the Stars, Suite 1600

Los Angeles, CA 90067

Telephone: (310) 228-3700

DECLARATION OF PAUL A. BOST

I, Paul A. Bost, declare as follows:

1. I am over 18 and have personal knowledge of all the facts set forth herein. I am an associate with SHEPPARD, MULLIN, RICHTER & HAMPTON LLP, attorneys of record for Plaintiff in its proceeding against Defendant pending before the Board. If called as a witness, I could and would competently testify to all facts within my personal knowledge. This declaration is submitted in support of Plaintiff's Application To The Clerk Of Court To Issue Subpoenas Commanding Appearance And Testimony Of Witnesses In A Case Pending Before The Trademark Trial And Appeal Board.

2. Attached hereto as **Exhibit A** are the proposed subpoenas for the Clerk of Court's signature and issuance compelling the deposition of Defendant, Shawn Tolley, and John Cioffi in the Board proceeding.

3. On September 11, 2013, Plaintiff instituted a proceeding against Defendant before the Board opposing registration of Defendant's application to register the trademark GNARLY MARLEY'S (Ser. No. 85/760,798.) A true and correct copy of Plaintiff's notice of opposition is attached hereto as **Exhibit B**.

4. On July 11, 2014, Plaintiff timely served Defendant with Plaintiff's pre-trial disclosures identifying the witnesses whose testimony deposition Plaintiff intends to take during its 30-day trial period. A true and correct copy of Plaintiff's pre-trial disclosures is attached hereto as **Exhibit C**.

5. On January 21, 2015, counsel for Defendant in the Board proceeding, Francisco Ferreira, and I participated in a telephonic hearing with the interlocutory attorney assigned to the Board proceeding regarding Defendant's motion to extend deadlines in the Board proceeding and compel Defendant's supplementation of its initial disclosures to identify the addresses for

Defendant, Mr. Cioffi, and Mr. Tolley. The Board granted Plaintiff's motion. On January 27, 2015, the Board issued an order on Defendant's motion, which, among other things, suspended the proceeding to allow Plaintiff "time to secure subpoenas from the United States district court" compelling the testimony deposition of Defendant, Mr. Cioffi, and Mr. Tolley. A true and correct copy of the Board's order is attached hereto as **Exhibit D**.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed February 5, 2015 at Los Angeles, California.



Paul A. Bost

EMRH-136304962.1

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS Fifty-Six Hope Road Music Limited

DEFENDANTS Sandal Factory, Inc.

(b) County of Residence of First Listed Plaintiff Nassau, Bahamas
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant Miami-Dade
(IN U.S. PLAINTIFF CASES ONLY)(c) Attorneys (Firm Name, Address, and Telephone Number)
Bruce Hermelee - Hermelee Law, P.L.
2100 Coral Way, Suite 303, Miami, FL 33145
305-748-6146Attorneys (If Known)
Francisco Ferreira - Malloy & Malloy, P.L.
2800 SW 3rd Ave. Miami, FL 33129
(705) 252-8000(d) Check County Where Action Arose: ☐ MIAMI-DADE ☒ MONROE ☐ BROWARD ☐ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☐ INDIAN RIVER ☐ OKEECHOBEE ☐ HIGHLAND

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF |
|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 |
| Citizen of Another State | ☐ 2 | ☐ 2 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 |
| Incorporated or Principal Place of Business in This State | ☐ 4 | ☐ 4 |
| Incorporated and Principal Place of Business in Another State | ☐ 5 | ☐ 5 |
| Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Med. Malpractice	PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Mgmt. Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Empl. Ret. Inc. Security Act	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☒ 840 Trademark SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSD Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7409	☐ 375 False Claims Act ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education	PRISONER PETITIONS ☐ Habeas Corpus ☐ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence Other: ☐ 530 General ☐ 535 Death Penalty ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement	IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Re-filed (See VI below)
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment
- ☐ 8 Remanded from Appellate Court

VI. RELATED RE-FILED CASE(S)

(See instructions).

a) Re-filed Case ☐ YES ☐ NOb) Related Cases ☒ YES ☐ NO

JUDGE Trademark Trial and Appeal Board

DOCKET NUMBER TTAB No. 91-212582

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause. (Do not cite jurisdictional statutes unless diversity).

Contested Trademark Proceeding
LENGTH OF TRIAL via days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE February 23, 2015 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

FEE

JUDGE

MAG JUDGE

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

Fifty-Six Hope Road Music Limited

Plaintiff

v.

Sandal Factory, Inc.

Defendant

Civil Action No.

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To:

John Cioffi, 102411 Overseas Hwy, Key Largo, FL 33037

(Name of person to whom this subpoena is directed)

☒ **Testimony:** **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: United Reporting
66 West Flagler Street - 7th Floor
Miami, FL 33130

Date and Time:
04/24/2015 9:30 am

The deposition will be recorded by this method: _____

- ☐ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk*_____
Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) _____
Opposer Fifty-Six Hope Road Music Limited _____, who issues or requests this subpoena, are:

Bruce Hermelee, Esq., 2100 Coral Way, #303, Miami, FL 33145, (305) 748-6146, bhermelee@hermeleelaw.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* _____
 on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named individual as follows: _____
 _____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____
 _____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
 tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
 \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

Fifty-Six Hope Road Music Limited

Plaintiff

v.

Sandal Factory, Inc.

Defendant

Civil Action No.

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To:

Sandal Factory, Inc., 102411 Overseas Hwy, Key Largo, FL 33037

(Name of person to whom this subpoena is directed)

☒ **Testimony:** **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

See attached Exhibit A.

Place: United Reporting 66 West Flagler Street - 7th Floor Miami, FL 33130	Date and Time: 04/22/2015 9:30 am
--	--------------------------------------

The deposition will be recorded by this method: _____

- ☐ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk*_____
Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____
Opposer Fifty-Six Hope Road Music Limited _____, who issues or requests this subpoena, are:

Bruce Hermelee, Esq., 2100 Coral Way, #303, Miami, FL 33145, (305) 748-6146, bhermelee@hermeleelaw.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named individual as follows: _____
_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____
_____ Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT A

Notwithstanding any definition set forth below, each word, term or phrase used in this Request is intended to have the broadest meaning permitted under the Federal Rules of Civil Procedure. As used in this request, the following terms are to be interpreted in accordance with these definitions:

DEFINITIONS

The following terms and definitions apply for all of the topics for examination, including this definitions sections:

1. “Opposer” shall mean and refer to Fifty-Six Hope Road Music Limited and includes any and all of its predecessors and successors in interest, employees, licensees, agents and representatives of the foregoing, and any other person acting or purporting to act on behalf of any of the foregoing.
2. “Applicant” shall mean and refer to Sandal Factory, Inc., and includes any and all of its predecessors and successors in interest, any and all of its subsidiaries, affiliates and affiliated entities, and its partners, employees, agents, officers, directors, licensees, and representatives of the foregoing, and any other person acting or purporting to act on behalf of any of the foregoing.
3. The “Application” shall mean the trademark application filed by Applicant on October 23, 2012, Serial No. 85/760,798, to register GNARLY MARLEY’S, which is the subject of Opposition No. 91212582 (the “Proceeding”).
4. The “MARLEY Marks” shall mean the trademark referred to in paragraphs 4-37 of Opposer’s Notice of Opposition (“Notice of Opposition”) in the Proceeding.
5. The “GNARLY MARLEY’S Mark” refers to the mark that is the subject of the Application.
6. The singular includes the plural and *vice versa*; the words “and” and “or” shall be construed in both the conjunctive and disjunctive; the word “all” means “any and all;” the word “any” means “any and all.”

TOPICS FOR EXAMINATION

1. Each of Applicant's admissions or denials of the allegations asserted by Opposer in its Notice of Opposition.

2. Applicant's responses to Opposer's discovery requests served in the Proceeding.

3. Documents produced by Applicant in the Proceeding.

4. Applicant's attempt to register the GNARLY MARLEY'S Mark with the U.S.

Patent & Trademark Office.

5. Applicant's selection and adoption of the GNARLY MARLEY'S Mark.

6. Applicant's search report, or lack thereof, for the GNARLY MARLEY'S Mark.

7. Applicant's first use of the GNARLY MARLEY'S Mark.

8. The goods and services on which Applicant has used the GNARLY MARLEY'S Mark.

9. Applicant's knowledge of Bob Marley.

10. Applicant's knowledge of the MARLEY Marks.

11. Applicant's knowledge of Bob Marley's and/or Opposer's association with the term "Marley."

12. Applicant's intent to trade on Opposer's goodwill in the MARLEY Marks and/or associated with Bob Marley.

13. Applicant's offering of the services listed in the Application.

14. Applicant's marketing, advertisement, and promotion of the goods and services listed in the Application.

15. Applicant's sales of the goods and services listed in the Application.

16. Applicant's other applications for registration, if any, of trademarks identical or similar to, or including, MARLEY.

17. Any confusion, mistake, or deception caused by Applicant's use of the GNARLY MARLEY'S Mark in connection with the goods and services listed in the Application, including, but not limited to, confusion, mistake, or deception as to the affiliation, connection, or

association of Applicant with Opposer, or confusion, mistake, or deception as to the origin, sponsorship, or approval of Applicant's goods, services, or commercial activities by Opposer.

18. Any suggestion of a connection with Bob Marley caused or engendered by Applicant's use of the GNARLY MARLEY'S Mark.

19. The type of customers who frequent or shop at, or who Applicant intends to frequent or shop at, Applicant's retail stores operating under its GNARLY MARLEY'S Mark.

20. The creation of any designs or logos used with the GNARLY MARLEY'S Mark.

21. The decision to use designs and colors related to the Caribbean or Rastafarianism in conjunction with goods and services, and advertisements therefor, offered under the GNARLY MARLEY'S Mark.

SMRH:436149618.1

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

Fifty-Six Hope Road Music Limited

Plaintiff

v.

Sandal Factory, Inc.

Defendant

Civil Action No.

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To:

Shawn Tolley, 102411 Overseas Hwy, Key Largo, FL 33037

(Name of person to whom this subpoena is directed)

☒ **Testimony:** **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: United Reporting
66 West Flagler Street - 7th Floor
Miami, FL 33130

Date and Time:
04/23/2015 9:30 am

The deposition will be recorded by this method: _____

- ☐ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk*_____
Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) _____
Opposer Fifty-Six Hope Road Music Limited _____, who issues or requests this subpoena, are:

Bruce Hermelee, Esq., 2100 Coral Way, #303, Miami, FL 33145, (305) 748-6146, bhermelee@hermeleelaw.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named individual as follows: _____
_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____
_____ Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

TTAB

Docket No. 29WG-165308

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

<i>In re Matter of Application No. 85/760,798 for the mark: GNARLY MARLEY'S</i> Fifty-Six Hope Road Music Limited, Opposer, v. Sandal Factory, Inc., Applicant.	Opposition No. _____ NOTICE OF OPPOSITION
--	--

Commissioner for Trademarks
ATTN: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451

Dear Commissioner:

Opposer, Fifty-Six Hope Road Music Limited, a Bahamas International Business Company ("Opposer"), having its principal place of business at Aquamarine House, Cable Beach, Nassau, Bahamas, believes that it will be damaged by the registration of the mark GNARLY MARLEY'S, as shown in U.S. Application Serial No. 85/760,798 (the "Application"), and hereby opposes its registration on the following grounds:

FACTUAL BACKGROUND AS TO OPPOSER

1. Opposer is owned and operated by the majority of the children and widow of the world-renowned reggae artist, Bob Marley, and is the owner of all intellectual property rights in the name and likeness of Bob Marley, as well as those derived from the musical legacy of Bob Marley.

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09-16-2013

U.S. Patent and Trademark Office #72

2. Bob Marley was born on the Caribbean island of Jamaica and is well-known for his roots in the Caribbean.

3. Opposer first used the mark BOB MARLEY at least as early as 1970 for in Class 9 for audio/visual recordings featuring music; downloadable ring tones for cell phones, musical sound recordings; digital music downloadable from the Internet. Such date of first use precedes Applicant's filing date.

4. Opposer owns the trademark BOB MARLEY (Reg. No. 2,349,361) in Classes 3, 6, 9, 14, 16, 18, 21, 24, 25 and 26; the trademark BOB MARLEY (Reg. No. 3,934,085) in Class 9 for audio/visual recordings featuring music; downloadable ring tones for cell phones, musical sound recordings; digital music downloadable from the Internet; the trademark BOB MARLEY (Reg. No. 3,692,924) in Class 43 for restaurant services, namely, preparation and service of food and beverages for consumption; the trademark BOB MARLEY (Reg. No. 4,340,082) in Class 9 for cell phone accessories, namely, headsets, audio speakers for cell phones, and hands free headsets; computer carrying cases; electronic docking and charging stations for cell phones; electronic docking stations including speakers for portable electronic devices and media players; downloadable photo images; ear buds; eyewear; eyewear cases; goggles for sports; headphones; loudspeakers; and covers for cell phones and other mobile devices; the trademark BOB MARLEY AND THE WAILERS (Reg. No. 2,820,741) in Class 9 for series of sound and video recordings featuring music and downloadable sound and video recordings featuring music, and Class 25 for T-shirts, thermal shirts, hats, caps, sweatshirts; the trademark BOB MARLEY AND THE WAILERS (Reg. No. 3,849,342) in Class 18 for all-purpose carrying bags; the trademark MARLEY (Reg. No. 4,222,036) in Class 9 for headphones; ear buds; audio speakers; electronic docking stations; boom boxes; downloadable video recordings featuring music, artistic performances, and information about audio equipment; downloadable electronic newsletters in the field of entertainment and audio equipment; the trademark MARLEY (Reg. No. 4,333,844) in Class 41 for entertainment services, namely,

providing a website featuring information relating to music tours and live stage events relating thereto; nondownloadable video recordings featuring music, and artistic performances; organizing and conducting music tours; providing online electronic newsletters delivered by email in the field of entertainment and audio equipment; the trademark M MARLEY & Design (Reg. No. 4,222,035) in Class 9 for headphones; ear buds; audio speakers; electronic docking stations; boom boxes; downloadable video recordings featuring music, artistic performances, and information about audio equipment; the trademark M MARLEY & Design (Reg. No. 4,333,843) in Class 41 for entertainment services, namely, providing a website featuring information relating to music tours and live stage events relating thereto; nondownloadable video recordings featuring music, and artistic performances; organizing and conducting music tours; providing online electronic newsletters delivered by email in the field of entertainment and audio equipment; the trademark MARLEY COFFEE (Reg. No. 4,150,381) in Class 16 for greeting cards, blank journals, bumper stickers, calendars, and stickers; the trademark MARLEY COFFEE (Reg. No. 4,242,186) in Class 21 for coffee cups, coffee mugs, travel mugs and beverageware; the trademark MARLEY COFFEE (Reg. No. 4,158,045) in Class 25 for clothing, namely, shirts, aprons, sweatshirts, underwear, infant wear, sleepwear; footwear; headwear; the trademark MARLEY COFFEE (Reg. No. 3,871,574) in Class 25 for clothing, namely, t-shirts and zippered pull-over jackets; the trademark MARLEY COFFEE (Reg. No. 4,254,177) in Class 30 for coffee, coffee-based beverages, espresso, tea, coffee beans, unroasted coffee; the trademark MARLEY COFFEE (Reg. No. 4,328,523) in Class 31 for unprocessed coffee; the trademark MARLEY COFFEE (Reg. No. 4,187,013) in Class 35 for retail store services featuring coffee, tea, beverageware, coffee makers, coffee grinders, and espresso makers, and beans; the trademark MARLEY COFFEE (Reg. No. 3,778,736) in Class 40 for coffee roasting and processing; the trademark MARLEY RESORT & SPA (Reg. No. 3,612,800) in Class 43 for hotel services, namely, serving food and drinks and providing temporary accommodations and lodging; the trademark HOUSE OF MARLEY MARETT TSEHAI DAM & Design (Reg. No.

4,044,256) in Class 11 for lamps; the trademark HOUSE OF MARLEY MARETT TSEHAI DAM & Design (Reg. No. 4,044,257) in Class 14 for clocks; the trademark HOUSE OF MARLEY MARETT TSEHAI DAM & Design (Reg. No. 4,044,258) in Class 16 for posters, calendars, blank journals, notebooks, folders, pencil pouches, stickers, and iron-on transfers; the trademark HOUSE OF MARLEY MARETT TSEHAI DAM & Design (Reg. No. 4,044,259) in Class 18 for wallets; the trademark HOUSE OF MARLEY MARETT TSEHAI DAM & Design (Reg. No. 4,044,260) in Class 20 for plastic key chains and mirrors, and in Class 21 for beverage glassware and beverage mugs; the trademark HOUSE OF MARLEY MARETT TSEHAI DAM & Design (Reg. No. 4,044,261) in Class 24 for bed or throw blankets, and fabric banners; the trademark HOUSE OF MARLEY MARETT TSEHAI DAM & Design (Reg. No. 4,044,262) in Class 25 for clothing, namely, shirts, t-shirts, tank tops, board shorts, and hooded shirts; footwear; headwear; and belts; the trademark HOUSE OF MARLEY MARETT TSEHAI DAM & Design (Reg. No. 4,044,263) in Class 26 for ornamental novelty buttons; the trademark HOUSE OF MARLEY MARETT TSEHAI DAM & Design (Reg. No. 4,044,264) in Class 28 for jigsaw puzzles, puzzle cubes, and snowboards; the trademark HOUSE OF MARLEY MARETT TSEHAI DAM & Design (Reg. No. 4,044,265) in Class 34 for lighters for smokers (hereinafter collectively referred to as “the MARLEY Marks”), and all other rights associated with goods and services offered under the MARLEY Marks (the “Marley Goods and Services”). True and correct copies of the registrations of the MARLEY Marks are attached hereto as **Exhibit A.**

5. Opposer first used the mark BOB MARLEY at least as early as 1990 for greeting cards, stickers, portfolios, postcards, postcard books, songbooks, decals, trading cards, calendars, novels and bookmarks in Class 16; for textile wall hangings in Class 24; for t-shirts, thermal shirts, jackets, hats, caps, sweatshirts, ties and bandannas in Class 25; and for ornamental cloth patches in Class 26. Such date of first use precedes Applicant’s filing date.

6. Opposer first used the mark BOB MARLEY at least as early as 1992 for backpacks, fanny packs, wallets and tote bags in Class 18. Such date of first use precedes Applicant's filing date.

7. Opposer first used the mark BOB MARLEY at least as early as 1994 for jewelry, watches and medallions in Class 14. Such date of first use precedes Applicant's dates of first use in commerce claimed in the Application.

8. Opposer first used the mark BOB MARLEY at least as early as 1995 for novelty license plates in Class 6 and for mugs in Class 21. Such date of first use precedes Applicant's filing date.

9. Opposer first used the mark BOB MARLEY at least as early as 1996 for incense in Class 3, and for plastic cases for beepers and magnets in Class 9. Such date of first use precedes Applicant's filing date.

10. Opposer first used the mark BOB MARLEY at least as early as February 6, 1999 for restaurant services, namely, preparation and service of food and beverages for consumption in Class 43. Such date of first use precedes Applicant's filing date.

11. Opposer first used the mark BOB MARLEY at least as early as July 27, 2011 for cell phone accessories, namely, headsets, audio speakers for cell phones, and hands free headsets; computer carrying cases; electronic docking and charging stations for cell phones; electronic docking stations including speakers for portable electronic devices and media players; downloadable photo images; ear buds; eyewear; eyewear cases; goggles for sports; headphones; loudspeakers; and covers for cell phones and other mobile devices in Class 9. Such date of first use precedes Applicant's filing date.

12. Opposer first used the mark BOB MARLEY AND THE WAILERS at least as early as 1973 for sound and video recordings in Class 9, and for t-shirts, thermal shirts, jackets, hats, caps, sweatshirts, ties, and bandannas in Class 25. Such date of first use precedes Applicant's filing date.

13. Opposer first used the mark BOB MARLEY AND THE WAILERS at least as early as January 2009 for all purpose carrying bags in Class 18. Such date of first use precedes Applicant's filing date.

14. Opposer first used the mark MARLEY at least as early as July 27, 2011 for headphones; ear buds; audio speakers; electronic docking stations; boom boxes; downloadable video recordings featuring music, artistic performances, and information about audio equipment; downloadable electronic newsletters in the field of entertainment and audio equipment in Class 9. Such date of first use precedes Applicant's filing date.

15. Opposer first used the mark MARLEY at least as early as January 2011 for entertainment services, namely, providing a website featuring information relating to music tours and live stage events relating thereto; nondownloadable video recordings featuring music, and artistic performances; organizing and conducting music tours; providing online electronic newsletters delivered by email in the field of entertainment and audio equipment in Class 41. Such date of first use precedes Applicant's filing date.

16. Opposer first used the mark MARLEY for shirts and headwear at least as early as February 2003. Such date of first precedes Applicant's alleged first use date.

17. Opposer first used the mark M MARLEY & Design at least as early as July 27, 2011 for headphones; ear buds; audio speakers; electronic docking stations; boom boxes; downloadable video recordings featuring music, artistic performances, and information about audio equipment in Class 9. Such date of first use precedes Applicant's filing date.

18. Opposer first used the mark M MARLEY & Design at least as early as July 27, 2011 for entertainment services, namely, providing a website featuring information relating to music tours and live stage events relating thereto; nondownloadable video recordings featuring music, and artistic performances; organizing and conducting music tours; providing online electronic newsletters delivered by email in the field of entertainment and audio equipment in Class 41. Such date of first use precedes Applicant's filing date.

19. Opposer first used the mark MARLEY COFFEE at least as early as December 21, 2011 for greeting cards, blank journals, bumper stickers, calendars, and stickers in Class 16. Such date of first use precedes Applicant's filing date.

20. Opposer first used the mark MARLEY COFFEE at least as early as December 21, 2011 for clothing, namely, shirts, aprons, sweatshirts, underwear, infant wear; sleepwear; footwear; headwear in Class 25. Such date of first use precedes Applicant's filing date.

21. Opposer first used the mark MARLEY COFFEE at least as early as May 28, 2009 for clothing, namely, T-shirts and zippered pull-over jackets in Class 25. Such date of first use precedes Applicant's filing date.

22. Opposer first used the mark MARLEY COFFEE at least as early as April 2010 for unprocessed coffee in Class 31. Such date of first use precedes Applicant's filing date.

23. Opposer first used the mark MARLEY COFFEE at least as early as April 22, 2009 for retail store services featuring coffee, tea, beverage ware, coffee makers, coffee grinders, and espresso makers, and beans in Class 35. Such date of first use precedes Applicant's filing date.

24. Opposer first used the mark MARLEY COFFEE at least as early as April 22, 2009 for coffee roasting and processing in Class 40. Such date of first use precedes Applicant's filing date.

25. Opposer first used the mark MARLEY RESORT & SPA at least as early as July 4, 2008 for hotel services, namely, serving food and drinks and providing temporary accommodations and lodging in Class 43. Such date of first use precedes Applicant's filing date.

26. Opposer first used the mark HOUSE OF MARLEY MARETT TSEHAI DAM & Design at least as early as September 2009 for lamps in Class 11. Such date of first use precedes Applicant's filing date.

27. Opposer first used the mark HOUSE OF MARLEY MARETT TSEHAI DAM & Design at least as early as December 2009 for clocks in Class 14. Such date of first use precedes Applicant's filing date.

28. Opposer first used the mark HOUSE OF MARLEY MARETT TSEHAI DAM & Design at least as early as January 2010 for posters, calendars, blank journals, notebooks, folders, pencil pouches, stickers, and iron-on transfers in Class 16. Such date of first use precedes Applicant's filing date.

29. Opposer first used the mark HOUSE OF MARLEY MARETT TSEHAI DAM & Design at least as early as November 2010 for wallets in Class 18. Such date of first use precedes Applicant's filing date.

30. Opposer first used the mark HOUSE OF MARLEY MARETT TSEHAI DAM & Design at least as early as November 2009 for plastic key chains and mirrors in Class 20, and at least as early as November 2009 for beverage glassware and beverage mugs in Class 21. Such dates of first use precede Applicant's filing date.

31. Opposer first used the mark HOUSE OF MARLEY MARETT TSEHAI DAM & Design at least as early as January 2010 for bed or throw blankets and fabric banners in Class 24. Such date of first use precedes Applicant's filing date.

32. Opposer first used the mark HOUSE OF MARLEY MARETT TSEHAI DAM & Design at least as early as December 2009 for clothing, namely, shirts, t-shirts, tank tops, board shorts, and hooded shirts; footwear; headwear; and belts in Class 25. Such date of first use precedes Applicant's filing date.

33. Opposer first used the mark HOUSE OF MARLEY MARETT TSEHAI DAM & Design at least as early as August 2010 for ornamental novelty buttons in Class 26. Such date of first use precedes Applicant's filing date.

34. Opposer first used the mark HOUSE OF MARLEY MARETT TSEHAI DAM & Design at least as early as October 2009 for jigsaw puzzles, puzzle cubes, and snowboards in Class 28. Such date of first use precedes Applicant's filing date.

35. Opposer first used the mark HOUSE OF MARLEY MARETT TSEHAI DAM & Design at least as early as September 2010 for lighters for smokers in Class 34. Such date of first use precedes Applicant's filing date.

36. The Marley Goods and Services have been favorably received and are otherwise recognized by the consuming public and are associated with Opposer and the late musical legend, Bob Marley.

37. The MARLEY Marks are advertised and promoted together, in whole or in part, and constitute a family of trademarks.

FACTUAL BACKGROUND REGARDING THE APPLICATION

38. On October 23, 2012, Applicant Sandal Factory, Inc. ("Applicant"), having a place of business at 102411 Overseas Highway, Key Largo, Florida 33037, filed the Application seeking registration, on an intent-to-use basis, of GNARLY MARLEY'S for apparel, namely, t-shirts, shirts, pants, shorts, and dresses in Class 25; souvenirs and novelty goods, namely, ornamental novelty buttons, badges, and pins in Class 26; and retail store services featuring clothing, souvenirs, and novelty gift items in Class 35.

39. The Application was published for opposition in the Official Gazette on May 21, 2013. Opposer was granted a thirty-day extension and a sixty-day extension of time to oppose the Application.

40. Applicant is currently using the mark for retail store services featuring clothing, souvenirs, and novelty gifts. Applicant uses a Caribbean theme for its retail store services.

FIRST GROUND – LIKELIHOOD OF CONFUSION

41. Opposer incorporates the allegations contained in Paragraphs 1 to 40 herein.

42. Applicant's proposed mark is similar in sound, appearance and meaning and is confusingly similar to Opposer's MARLEY Marks. Further, the goods and services to be offered by Applicant are identical in some instances and similar and related in other instances to those offered under Opposer's MARLEY Marks.

43. Applicant's mark is likely to cause confusion, mistake, or deception as to the source, origin, affiliation, connection or association of Applicant's goods and services offered or to be offered under the GNARLY MARLEY'S mark.

SECOND GROUND – LIKELIHOOD OF DILUTION

44. Opposer incorporates the allegations contained in Paragraphs 1 to 43 herein.

45. The MARLEY Marks are inherently distinctive and have acquired secondary meaning and are associated with Opposer and Bob Marley. The MARLEY Marks are famous and distinctive and Bob Marley is famous within the meaning of the Federal Trademark Dilution Act. Applicant filed the Application after the MARLEY Marks and Bob Marley had become famous, and Applicant seeks to commercially use the applied-for mark GNARLY MARLEY'S.

46. The mark shown in the Application is likely to dilute Opposer's MARLEY Marks.

THIRD GROUND – FALSE ASSOCIATION WITH BOB MARLEY

47. Opposer incorporates the allegations contained in Paragraphs 1 to 46 herein.

48. The name and mark MARLEY is associated with Bob Marley and Opposer. Bob Marley is and has been enormously famous and world renowned for many years.

49. Opposer's MARLEY Marks were used prior to Applicant's use of, or filing date of the application to register, GNARLY MARLEY'S.

50. Applicant's proposed mark is the same or a close approximation of, as Bob Marley's name and trademark, which was previously used by and associated with Opposer and Bob Marley. The name and mark MARLEY is recognized as such, in that it uniquely and unmistakably points to Opposer and/or Bob Marley. Neither Opposer nor Bob Marley is

connected with the goods or services sold, to be sold, offered, or to be offered by Applicant under the GNARLY MARLEY'S mark; and the fame and reputation of Opposer and Bob Marley is of such a nature that a connection with Opposer and Bob Marley is presumed when Applicant's GNARLY MARLEY'S mark is used on or with Applicant's goods and services.

51. The registration of the GNARLY MARLEY'S mark will falsely suggest a connection, association, or sponsorship with Opposer and/or Bob Marley. Consumers will erroneously believe that Applicant's goods and services are licensed or sponsored by, or otherwise connected, affiliated, or associated with, Opposer and/or Bob Marley.

DAMAGE TO OPPOSER

52. As a result of all of the foregoing, the maturation of the Application into a registration would (a) cause a likelihood of confusion, mistake, or deception as to the source, origin, affiliation, connection, or association of Opposer's MARLEY Goods and Services and Applicant's GNARLY MARLEY'S goods and services, (b) cause a likelihood of dilution of the MARLEY Marks, and (c) falsely suggest a connection or association with Bob Marley and/or Opposer.

53. Opposer would be damaged by the registration of the mark shown in the Application, in that such registration would give Applicant a *prima facie* exclusive right to the use of GNARLY MARLEY'S, despite the likelihood of confusion, mistake, or deception, likelihood of dilution, and likelihood of false connection or association with Bob Marley described above, and will allow Applicant to trade on Opposer's existing goodwill in the MARLEY Marks.

PRAYER

WHEREFORE, Opposer prays that this Opposition be sustained in favor of Opposer, that the Application be rejected, and that registration of the Application be refused.

Please charge the requisite \$300 opposition filing fee and any additional amounts to
Deposit Account No. 50-5691.

Respectfully submitted,

Dated: September 11, 2013



Jill M. Pietrini
SHEPPARD MULLIN RICHTER & HAMPTON LLP
1001 Avenue of the Stars, Suite 1600
Los Angeles, California 90067-6017
(310) 228-3700

Attorneys for Opposer
Fifty-Six Hope Road Music Limited

CERTIFICATE OF SERVICE

I hereby certify that this Notice of Opposition is being deposited with the United States Postal Service, postage prepaid, first class mail, in an envelope addressed to:

Sandal Factory, Inc.
102411 Overseas Highway
Key Largo, Florida 33037

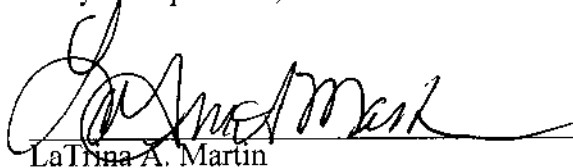
Francisco Ferreiro
Malloy & Malloy, P.L.
2800 SW 3rd Ave
Miami, FL 33129-2317

on this 11th day of September, 2013.


LaTrina A. Martin

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451, on this 11th day of September, 2013.


LaTrina A. Martin

SMRH:409304058.1

theJasmineBRAND.com

theJasmineBRAND.com

theJasmineBRAND.com

Exhibit A

Int. Cls.: 3, 6, 9, 14, 16, 18, 21, 24, 25, 26 and 34

Prior U.S. Cls.: 1, 2, 3, 4, 5, 6, 8, 9, 12, 13, 14, 17,
21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 36, 37, 38, 39,
40, 41, 42, 50, 51 and 52

Reg. No. 2,349,361

United States Patent and Trademark Office

Registered May 16, 2000

TRADEMARK
PRINCIPAL REGISTER

BOB MARLEY

FIFTY-SIX HOPE ROAD MUSIC LIMITED (BA-
HAMAS INTERNATIONAL BUSINESS COM-
PANY)
AQUAMARINE HOUSE
CABLE BEACH
NASSAU, BAHAMAS

FOR: INCENSE, IN CLASS 3 (U.S. CLS. 1, 4, 5,
30, 31 AND 52).

FIRST USE 0-0-1996; IN COMMERCE
0-0-1996.

FOR: NOVELTY LICENSE PLATE OF NON-
PRECIOUS METAL, IN CLASS 6 (U.S. CLS. 2,
12, 13, 14, 23, 25 AND 50).

FIRST USE 0-0-1995; IN COMMERCE
0-0-1995.

FOR: PLASTIC CASES FOR BEEPERS; MAG-
NETS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND
38).

FIRST USE 0-0-1996; IN COMMERCE
0-0-1996.

FOR: JEWELRY; WATCHES; MEDALLIONS,
IN CLASS 14 (U.S. CLS. 2, 27, 28 AND 50).

FIRST USE 0-0-1994; IN COMMERCE
0-0-1994.

FOR: GREETING CARDS; STICKERS; STA-
TIONERY TYPE PORTFOLIOS; POSTERS;
POSTCARDS; POSTCARD BOOKS; SONG-
BOOKS; DECALS; TRADING CARDS; CALEN-
DARS; NOVELS; BOOKMARKS, IN CLASS 16
(U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 0-0-1990; IN COMMERCE
0-0-1990.

FOR: BACKPACKS; FANNY PACKS; WAL-
LETS; TOTE BAGS, IN CLASS 18 (U.S. CLS. 1, 2,
3, 22 AND 41).

FIRST USE 0-0-1992; IN COMMERCE
0-0-1992.

FOR: MUGS, IN CLASS 21 (U.S. CLS. 2, 13, 23
29, 30, 33, 40 AND 50).

FIRST USE 0-0-1995; IN COMMERCE
0-0-1995.

FOR: TEXTILE WALL HANGINGS, IN
CLASS 24 (U.S. CLS. 42 AND 50).

FIRST USE 0-0-1990; IN COMMERCE
0-0-1990.

FOR: T-SHIRTS; THERMAL SHIRTS; JACK-
ETS; HATS; CAPS; SWEATSHIRTS; TIES; BAN-
DANNAS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 0-0-1990; IN COMMERCE
0-0-1990.

FOR: ORNAMENTAL CLOTH PATCHES, IN
CLASS 26 (U.S. CLS. 37, 39, 40, 42 AND 50).

FIRST USE 0-0-1990; IN COMMERCE
0-0-1990.

FOR: SMOKING PIPES, IN CLASS 34 (U.S.
CLS. 2, 8, 9 AND 17).

FIRST USE 0-0-1996; IN COMMERCE
0-0-1996.

BOB MARLEY IS THE NAME OF AN INDIV-
IDUAL WHO IS NOW DECEASED.

SER. NO. 75-489,475, FILED 5-21-1998.

SHANNA BLAUSTEIN, EXAMINING ATTOR-
NEY

United States of America

United States Patent and Trademark Office

BOB MARLEY

Reg. No. 3,934,085

Registered Mar. 22, 2011

Int. Cl.: 9

TRADEMARK

PRINCIPAL REGISTER

FIFTY-SIX HOPE ROAD MUSIC LIMITED (BAHAMAS INTERNATIONAL BUSINESS COMPANY)

AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS

FOR: AUDIOVISUAL RECORDINGS FEATURING MUSIC; DOWNLOADABLE RING TONES FOR CELL PHONES; MUSICAL SOUND RECORDINGS; DIGITAL MUSIC DOWNLOADABLE FROM THE INTERNET, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 0-0-1970; IN COMMERCE 0-0-1970.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,349,361, 2,820,741, AND 3,692,924.

THE NAME "BOB MARLEY" DOES NOT IDENTIFY A LIVING INDIVIDUAL.

SER. NO. 85-050,981, FILED 5-20-2010.

SANJEEV VOHRA, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

United States of America
United States Patent and Trademark Office

BOB MARLEY

Reg. No. 3,692,924 FIFTY SIX HOPE ROAD MUSIC, LIMITED (BAHAMAS INTERNATIONAL BUSINESS
COMPANY)
Registered Oct. 6, 2009

AQUAMARINE HOUSE CABLE BEACH
NASSAU, BAHAMAS

Int. Cl.: 43

FOR: RESTAURANT SERVICES, NAMELY, PREPARATION AND SERVICE OF FOOD AND
BEVERAGES FOR CONSUMPTION, IN CLASS 43 (U.S. CLS. 100 AND 101).

SERVICE MARK

PRINCIPAL REGISTER FIRST USE 2-6-1999; IN COMMERCE 2-6-1999.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-
TICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,349,361 AND 2,820,741.

SN 76-656,675, FILED 3-9-2006.

HOWARD SMIGA, EXAMINING ATTORNEY



David S. Kypos

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

BOB MARLEY

Reg. No. 4,340,082

Registered May 21, 2013

Int. Cl.: 9

TRADEMARK

PRINCIPAL REGISTER

FIFTY-SIX HOPE ROAD MUSIC LIMITED (BAHAMAS INTERNATIONAL BUSINESS COMPANY)

AQUA MARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS

FOR: CELL PHONE ACCESSORIES, NAMELY, HEADSETS, AUDIO SPEAKERS FOR CELL PHONES, AND HANDS FREE HEADSETS; COMPUTER CARRYING CASES; ELECTRONIC DOCKING AND CHARGING STATIONS FOR CELL PHONES; ELECTRONIC DOCKING STATIONS INCLUDING SPEAKERS FOR PORTABLE ELECTRONIC DEVICES AND MEDIA PLAYERS; DOWNLOADABLE PHOTO IMAGES; EAR BUDS; EYEWEAR; EYEWEAR CASES; GOGGLES FOR SPORTS; HEADPHONES; LOUDSPEAKERS; AND COVERS FOR CELL PHONES AND OTHER MOBILE DEVICES, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 7-27-2011; IN COMMERCE 7-27-2011.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,349,361, 2,820,741, AND 3,692,924.

THE NAME "BOB MARLEY" DOES NOT IDENTIFY A LIVING INDIVIDUAL.

SN 85-978,890, FILED 5-30-2010.

SANJEEV VOHRA, EXAMINING ATTORNEY



Lee Street
Acting Director of the United States Patent and Trademark Office

Int. Cls.: 9 and 25

Prior U.S. Cls.: 21, 22, 23, 26, 36, 38 and 39

United States Patent and Trademark Office

Reg. No. 2,820,741

Registered Mar. 9, 2004

**TRADEMARK
PRINCIPAL REGISTER**

BOB MARLEY AND THE WAILERS

FIFTY SIX HOPE ROAD MUSIC, LIMITED (BAHAMAS INTERNATIONAL BUSINESS COMPANY)

AQUAMARINE HOUSE CABLE BEACH
NASSAU, BAHAMAS

FOR: SERIES OF SOUND AND VIDEO RECORDINGS FEATURING MUSIC AND DOWNLOADABLE SOUND AND VIDEO RECORDINGS FEATURING MUSIC, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 0-0-1973; IN COMMERCE 0-0-1973.

FOR: T-SHIRTS, THERMAL SHIRTS, JACKETS, HATS, CAPS, SWEATSHIRTS, TIES, BANDANAS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 0-0-1973; IN COMMERCE 0-0-1973.

OWNER OF U.S. REG. NO. 2,349,361.

THE NAME "BOB MARLEY" REFERS TO THE DECEASED, WORLD-RENOWNED MUSICIAN, WRITER AND COMPOSER.

SER. NO. 76-441,329, FILED 8-19-2002.

WENDY GOODMAN, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office

BOB MARLEY AND THE WAILERS

Reg. No. 3,849,342

Registered Sep. 21, 2010

Int. Cl.: 18

TRADEMARK

PRINCIPAL REGISTER

FIFTY-SIX HOPE ROAD MUSIC LIMITED (BAHAMAS INTERNATIONAL BUSINESS COMPANY)

AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS

FOR: ALL PURPOSE CARRYING BAGS, IN CLASS 18 (U.S. CLS. 1, 2, 3, 22 AND 41).

FIRST USE 1-0-2009, IN COMMERCE 1-0-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,349,361, 2,820,741, AND 3,612,800.

THE NAME "BOB MARLEY" DOES NOT IDENTIFY A LIVING INDIVIDUAL.

SER. NO. 77-738,863, FILED 5-17-2009.

SUZANNE BLANE, EXAMINING ATTORNEY



David J. Kyros

Director of the United States Patent and Trademark Office

United States of America
United States Patent and Trademark Office

MARLEY

Reg. No. 4,222,036

Registered Oct. 9, 2012

Int. Cl.: 9

TRADEMARK

PRINCIPAL REGISTER

FIFTY-SIX HOPE ROAD MUSIC LIMITED (BAHAMAS INTERNATIONAL BUSINESS COMPANY)
AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS D

FOR: HEADPHONES; EAR BUDS; AUDIO SPEAKERS; ELECTRONIC DOCKING STATIONS; BOOM BOXES; DOWNLOADABLE VIDEO RECORDINGS FEATURING MUSIC, ARTISTIC PERFORMANCES, AND INFORMATION ABOUT AUDIO EQUIPMENT; DOWNLOADABLE ELECTRONIC NEWSLETTERS IN THE FIELD OF ENTERTAINMENT AND AUDIO EQUIPMENT, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 7-27-2011; IN COMMERCE 7-27-2011.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,349,361, 4,044,236 AND OTHERS.

SER. NO. 85-615,215, FILED 5-3-2012.

DAVID COLLIER, EXAMINING ATTORNEY



David J. Kybas

Director of the United States Patent and Trademark Office

United States of America
United States Patent and Trademark Office

MARLEY

Reg. No. 4,333,844

Registered May 14, 2013

Int. Cl.: 41

SERVICE MARK

PRINCIPAL REGISTER

FIFTY-SIX HOPE ROAD MUSIC LIMITED (BAHAMAS INTERNATIONAL BUSINESS COMPANY)
AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS 0

FOR: ENTERTAINMENT SERVICES, NAMELY, PROVIDING A WEBSITE FEATURING INFORMATION RELATING TO MUSIC TOURS AND LIVE STAGE EVENTS RELATING THERETO; NONDOWNLOADABLE VIDEO RECORDINGS FEATURING MUSIC, AND ARTISTIC PERFORMANCES; ORGANIZING AND CONDUCTING MUSIC TOURS; PROVIDING ONLINE ELECTRONIC NEWSLETTERS DELIVERED BY EMAIL IN THE FIELD OF ENTERTAINMENT AND AUDIO EQUIPMENT, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 1-0-2011; IN COMMERCE 1-0-2011.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,349,361, 4,044,256 AND OTHERS.

SER. NO. 85-615,216, FILED 5-3-2012.

DAVID COLLIER, EXAMINING ATTORNEY



Kevin Street
Acting Director of the United States Patent and Trademark Office

United States of America
United States Patent and Trademark Office



M A R L E Y

Reg. No. 4,222,035

Registered Oct. 9, 2012

Int. Cl.: 9

TRADEMARK

PRINCIPAL REGISTER

FIFTY-SIX HOME ROAD MUSIC LIMITED (BAHAMAS INTERNATIONAL BUSINESS
COMPANY)
AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS 0

FOR: HEADPHONES; EAR BUDS; AUDIO SPEAKERS; ELECTRONIC DOCKING STATIONS;
BOOM BOXES; DOWNLOADABLE VIDEO RECORDINGS FEATURING MUSIC, ARTISTIC
PERFORMANCES, AND INFORMATION ABOUT AUDIO EQUIPMENT, IN CLASS 9 (U.S.
CLS. 21, 23, 26, 36 AND 38).

FIRST USE 7-27-2011; IN COMMERCE 7-27-2011.

OWNER OF U.S. REG. NOS. 2,349,361, 4,044,256 AND OTHERS.

THE MARK CONSISTS OF A CARET CENTERED BETWEEN THE PEAKS OF A STYLIZED
CAPITAL "M" ALL CENTERED ABOVE THE WORD "MARLEY".

SER. NO. 85-615,212. FILED 3-3-2012.

DAVID COLLIER, EXAMINING ATTORNEY



David J. Kypas

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office



MARLEY

Reg. No. 4,333,843

Registered May 14, 2013

Int. Cl.: 41

SERVICE MARK

PRINCIPAL REGISTER

FIFTY-SIX HOPE ROAD MUSIC LIMITED (BAHAMAS INTERNATIONAL BUSINESS COMPANY)
AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS 0

FOR: ENTERTAINMENT SERVICES, NAMELY, PROVIDING A WEBSITE FEATURING INFORMATION RELATING TO MUSIC TOURS AND LIVE STAGE EVENTS RELATING THERETO; NONDOWNLOADABLE VIDEO RECORDINGS FEATURING MUSIC, AND ARTISTIC PERFORMANCES; ORGANIZING AND CONDUCTING MUSIC TOURS; PROVIDING ONLINE ELECTRONIC NEWSLETTERS DELIVERED BY EMAIL IN THE FIELD OF ENTERTAINMENT AND AUDIO EQUIPMENT, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 1-0-2011; IN COMMERCE 1-0-2011.

OWNER OF U.S. REG. NOS. 2,349,361, 4,044,256 AND OTHERS.

THE MARK CONSISTS OF A CARET CENTERED BETWEEN THE PEAKS OF A STYLIZED CAPITAL "M", ALL CENTERED ABOVE THE WORD "MARLEY".

SER. NO. 85-615,214, FILED 5-3-2012.

DAVID COLLIER, EXAMINING ATTORNEY



Steven M. Hockett
Acting Director of the United States Patent and Trademark Office

United States of America
United States Patent and Trademark Office

MARLEY COFFEE

Reg. No. 4,150,381

Registered May 29, 2012

Int. Cl.: 16

TRADEMARK

PRINCIPAL REGISTER

FIFTY-SIX HOPE ROAD MUSIC LIMITED (BAHAMAS A BAHAMAS INTERNATIONAL
BUSINESS COMPANY)
AQUAMARINE HOUSE, CABLE BEACH/
NASSAU, BAHAMAS

FOR: GREETING CARDS, BLANK JOURNALS, BUMPER STICKERS, CALENDARS, AND
STICKERS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 12-21-2011; IN COMMERCE 12-21-2011.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-
TICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-465,753; FILED 5-5-2008.

INGA ERVIN, EXAMINING ATTORNEY



David J. Kyppes

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

MARLEY COFFEE

Reg. No. 4,242,186

Registered Nov. 13, 2012

Int. Cl.: 21

TRADEMARK

PRINCIPAL REGISTER

FIFTY-SIX HOPE ROAD MUSIC LIMITED C/O BOB MARLEY MUSIC (BAHAMAS A
BAHAMAS INTERNATIONAL BUSINESS COMPANY)
AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS

FOR: COFFEE CUPS, COFFEE MUGS, TRAVEL MUGS AND BEVERAGEWARE, IN CLASS
21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 12-21-2011; IN COMMERCE 12-21-2011.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-
TICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-465,923, FILED 5-5-2008.

INGA ERVIN, EXAMINING ATTORNEY



David J. Kyte

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

MARLEY COFFEE

Reg. No. 4,158,045

Registered June 12, 2012

Int. Cl.: 25

TRADEMARK

PRINCIPAL REGISTER

FIFTY-SIX HOPE ROAD MUSIC LIMITED (BAHAMAS A BAHAMAS INTERNATIONAL
BUSINESS COMPANY)
AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS

FOR: CLOTHING, NAMELY, SHIRTS, APRONS, SWEATSHIRTS, UNDERWEAR, INFANT
WEAR, SLEEPWEAR, FOOTWEAR, HEADWEAR, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 12-21-2011; IN COMMERCE 12-21-2011.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-
TICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-465,974, FILED 5-5-2008.

INGA ERVIN, EXAMINING ATTORNEY



David J. Kypos

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

MARLEY COFFEE

Reg. No. 3,871,574

Registered Nov. 2, 2010

Int. Cl.: 25

TRADEMARK

PRINCIPAL REGISTER

FIFTY-SIX HOPE ROAD MUSIC LIMITED (BAHAMAS A BAHAMAS INTERNATIONAL BUSINESS COMPANY)

AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS

FOR: CLOTHING, NAMELY, T-SHIRTS AND ZIPPERED PULL-OVER JACKETS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 5-28-2009; IN COMMERCE 5-28-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-978,626, FILED 5-5-2008.

INGA ERVIN, EXAMINING ATTORNEY



David J. Kyros

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

MARLEY COFFEE

Reg. No. 4,254,177

Registered Dec. 4, 2012

Int. Cl.: 30

TRADEMARK

PRINCIPAL REGISTER

FIFTY-SIX HOPE ROAD MUSIC LIMITED (BAHAMAS A BAHAMAS INTERNATIONAL BUSINESS COMPANY)
AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS

FOR: COFFEE, COFFEE-BASED BEVERAGES, ESPRESSO, TEA, COFFEE BEANS, UNROASTED COFFEE, IN CLASS 30 (U.S. CL. 46).

FIRST USE 4-22-2009; IN COMMERCE 4-22-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SEC. 2(F).

OWNER OF U.S. REG. NO. 3,778,736.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "COFFEE", APART FROM THE MARK AS SHOWN.

SN 77-466,002, FILED 5-5-2008.

INGA ERVIN, EXAMINING ATTORNEY



David S. Kappas

Director of the United States Patent and Trademark Office

United States of America
United States Patent and Trademark Office

MARLEY COFFEE

Reg. No. 4,328,523

Registered Apr. 30, 2013

Int. Cl.: 31

TRADEMARK

PRINCIPAL REGISTER

FIFTY-SIX HOPE ROAD MUSIC LIMITED (BAHAMAS A BAHAMAS INTERNATIONAL
BUSINESS COMPANY)
AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS

FOR: UNPROCESSED COFFEE, IN CLASS 31 (U.S. CLS. 1 AND 46).

FIRST USE 4-0-2010; IN COMMERCE 4-0-2010.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SEC. 2(F).

OWNER OF U.S. REG. NO. 3,778,736.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "COFFEE", APART FROM THE MARK AS SHOWN.

SN 77-466,111, FILED 5-5-2008.

INGA ERVIN, EXAMINING ATTORNEY



Steven H. Smith
Acting Director of the United States Patent and Trademark Office

United States of America
United States Patent and Trademark Office

MARLEY COFFEE

Reg. No. 4,187,013

Registered Aug. 7, 2012

Int. Cl.: 35

SERVICE MARK

PRINCIPAL REGISTER

FIFTY-SIX HOPE ROAD MUSIC LIMITED (BAHAMAS A BAHAMAS INTERNATIONAL
BUSINESS COMPANY)
AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS

FOR: RETAIL STORE SERVICES FEATURING COFFEE, TEA, BEVERAGEWARE, COFFEE
MAKERS, COFFEE GRINDERS, AND ESPRESSO MAKERS, AND BEANS, IN CLASS 35
(U.S. CLS. 100, 101 AND 102).

FIRST USE 4-22-2009; IN COMMERCE 4-22-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-
TICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "COFFEE", APART FROM THE
MARK AS SHOWN.

SN 77-466,142, FILED 5-5-2008.

INGA ERVIN, EXAMINING ATTORNEY



David J. Kybas

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

MARLEY COFFEE

Reg. No. 3,778,736

Registered Apr. 20, 2010

Int. Cl.: 40

SERVICE MARK

PRINCIPAL REGISTER

FIFTY-SIX HOPE ROAD MUSIC LIMITED (BAHAMAS A BAHAMAS INTERNATIONAL
BUSINESS COMPANY)
AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS

FOR: COFFEE ROASTING AND PROCESSING, IN CLASS 40 (U.S. CLS. 100, 103 AND 106).

FIRST USE 4-22-2009; IN COMMERCE 4-22-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-
TICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "COFFEE", APART FROM THE
MARK AS SHOWN.

SN. 77-466,174, FILED 5-3-2008.

INGA ERVIN, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

Reg. No. 3,612,800

United States Patent and Trademark Office

Registered Apr. 28, 2009

Corrected

OG Date Sep. 15, 2009

SERVICE MARK
PRINCIPAL REGISTER

MARLEY RESORT & SPA

FIFTY-SIX HOPE ROAD MUSIC LIM-
ITED (BAHAMAS INTERNATIONAL
BUSINESS COMPANY),
AQUAMARINE HOUSE CABLE BEACH
NASSAU, BAHAMAS

THE MARK CONSISTS OF STAND-
DARD CHARACTERS WITHOUT CLAIM
TO ANY PARTICULAR FONT, STYLE,
SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 2,349,361.
NO CLAIM IS MADE TO THE EXCLU-
SIVE RIGHT TO USE "RESORT & SPA"
APART FROM THE MARK AS SHOWN.

SEC. 2(F).

FOR: HOTEL SERVICES, NAMELY,
SERVING FOOD AND DRINKS AND
PROVIDING TEMPORARY ACCOMMO-
DATIONS AND LODGING, IN CLASS 43
(U.S. CLS. 100 AND 101).

FIRST USE 7-4-2008; IN COMMERCE
7-4-2008.

SER. NO. 76-664,835, FILED 8-18-2006.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Sep. 15, 2009.*

United States of America

United States Patent and Trademark Office



Reg. No. 4,044,256

Registered Oct. 25, 2011

Int. Cl.: 11

TRADEMARK

PRINCIPAL REGISTER

FIFTY-SIX HOPE ROAD MUSIC LIMITED (BAHAMAS INTERNATIONAL BUSINESS COMPANY)

AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS

FOR: LAMPS, IN CLASS 11 (U.S. CLS. 13, 21, 23, 31 AND 34).

FIRST USE 9-0-2009; IN COMMERCE 9-0-2009.

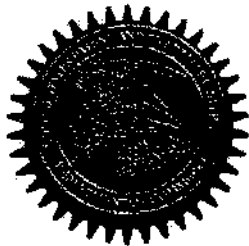
OWNER OF U.S. REG. NOS. 2,349,361, 3,692,924 AND OTHERS.

THE MARK CONSISTS OF A CREST DESIGN OF TWO HERALDIC LIONS FACING FORWARD, ONE OF WHICH IS RESTING ITS PAW ON A FOIL, WHILE BOTH ARE HOLDING AN ORNATE SHIELD DEPICTING A STAR AND CROSS DESIGN BETWEEN THEM, HAVING A BEJEWELED CROWN ABOVE THE SHIELD, A RIBBON AND ADDITIONAL ORNAMENTATION BELOW THE SHIELD WITH THE WORDS "MARETT TSEHAI DAM" INSIDE THE RIBBON, AND THE WORDS "HOUSE OF MARLEY" CENTERED AT THE BOTTOM OF THE DESIGN.

THE ENGLISH TRANSLATION OF "MARETT TSEHAI DAM" IN THE MARK IS "LAND SUN BLOOD".

SER. NO. 85-230,791, FILED 2-1-2011.

DAVID COLLIER, EXAMINING ATTORNEY



David J. Kyffers

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office



Reg. No. 4,044,257

Registered Oct. 25, 2011

Int. Cl.: 14

TRADEMARK

PRINCIPAL REGISTER

FIFTY SIX HOPE ROAD MUSIC LIMITED (BAHAMAS INTERNATIONAL BUSINESS COMPANY)

AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS

FOR: CLOCKS, IN CLASS 14 (U.S. CLS. 2, 27, 28 AND 50).

FIRST USE 12-0-2009; IN COMMERCE 12-0-2009.

OWNER OF U.S. REG. NOS. 2,349,361, 3,692,924 AND OTHERS.

THE MARK CONSISTS OF A CREST DESIGN OF TWO HERALDIC LIONS FACING FORWARD, ONE OF WHICH IS RESTING ITS PAW ON A FOIL, WHILE BOTH ARE HOLDING AN ORNATE SHIELD DEPICTING A STAR AND CROSS DESIGN BETWEEN THEM, HAVING A BEJEWELLED CROWN ABOVE THE SHIELD, A RIBBON AND ADDITIONAL ORNAMENTATION BELOW THE SHIELD WITH THE WORDS "MARETT TSEHAI DAM" INSIDE THE RIBBON, AND THE WORDS "HOUSE OF MARLEY" CENTERED AT THE BOTTOM OF THE DESIGN.

THE ENGLISH TRANSLATION OF "MARETT TSEHAI DAM" IN THE MARK IS "LAND SUN BLOOD".

SER. NO. 85-230,792, FILED 2-1-2011.

DAVID COLLIER, EXAMINING ATTORNEY



David J. Kyffas

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office



Reg. No. 4,044,258

Registered Oct. 25, 2011

Int. CL: 16

TRADEMARK

PRINCIPAL REGISTER

FIFTY SIX HOPE ROAD MUSIC LIMITED (BAHAMAS INTERNATIONAL BUSINESS COMPANY)
AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS

FOR: POSTERS, CALENDARS, BLANK JOURNALS, NOTEBOOKS, FOLDERS, PENCIL POUCHES, STICKERS, AND IRON-ON TRANSFERS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 1-0-2010; IN COMMERCE 1-0-2010.

OWNER OF U.S. REG. NOS. 2,349,361; 3,692,924 AND OTHERS.

THE MARK CONSISTS OF A CREST DESIGN OF TWO HERALDIC LIONS FACING FORWARD, ONE OF WHICH IS RESTING ITS PAW ON A FOIL, WHILE BOTH ARE HOLDING AN ORNATE SHIELD DEPICTING A STAR AND CROSS DESIGN BETWEEN THEM, HAVING A BEJEWELLED CROWN ABOVE THE SHIELD, A RIBBON AND ADDITIONAL ORNAMENTATION BELOW THE SHIELD WITH THE WORDS "MARETT TSEHAI DAM" INSIDE THE RIBBON, AND THE WORDS "HOUSE OF MARLEY" CENTERED AT THE BOTTOM OF THE DESIGN.

THE ENGLISH TRANSLATION OF "MARETT TSEHAI DAM" IN THE MARK IS "LAND SUN BLOOD".

SER. NO. 85-230,794; FILED 2-1-2011.

DAVID COLLIER, EXAMINING ATTORNEY



David J. Kypers

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office



Reg. No. 4,044,259

Registered Oct. 25, 2011

Int. Cl.: 18

TRADEMARK

PRINCIPAL REGISTER

FIFTY-SIX HOPE ROAD MUSIC LIMITED (BAHAMAS INTERNATIONAL BUSINESS COMPANY)
AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS

FOR: WALLET, IN CLASS 18 (U.S. CLS. 1, 2, 3, 22 AND 41).

FIRST USE 11-0-2010; IN COMMERCE 11-0-2010.

OWNER OF U.S. REG. NOS. 2,349,361, 3,692,924 AND OTHERS.

THE MARK CONSISTS OF A CREST DESIGN OF TWO HERALDIC LIONS FACING FORWARD, ONE OF WHICH IS RESTING ITS PAW ON A FOIL, WHILE BOTH ARE HOLDING AN ORNATE SHIELD DEPICTING A STAR AND CROSS DESIGN BETWEEN THEM, HAVING A BEJEWELLED CROWN ABOVE THE SHIELD, A RIBBON AND ADDITIONAL ORNAMENTATION BELOW THE SHIELD WITH THE WORDS "MARETT TSEHAI DAM" INSIDE THE RIBBON, AND THE WORDS "HOUSE OF MARLEY" CENTERED AT THE BOTTOM OF THE DESIGN.

THE ENGLISH TRANSLATION OF "MARETT TSEHAI DAM" IN THE MARK IS "LAND SUN BLOOD".

SER. NO. 85-230,795, FILED 2-1-2011.

DAVID COLLIER, EXAMINING ATTORNEY



David J. Koffas

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office



Reg. No. 4,044,260

Registered Oct. 25, 2011

Int. Cls.: 20 and 21

TRADEMARK

PRINCIPAL REGISTER

FIFTY-SIX HOPE ROAD MUSIC LIMITED (BAHAMAS INTERNATIONAL BUSINESS COMPANY)

AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS

FOR: PLASTIC KEY CHAINS; MIRRORS, IN CLASS 20 (U.S. CLS. 2, 13, 22, 25, 32 AND 50).

FIRST USE 11-0-2009; IN COMMERCE 11-0-2009.

FOR: BEVERAGE GLASSWARE; BEVERAGE MUGS, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 11-0-2009; IN COMMERCE 11-0-2009.

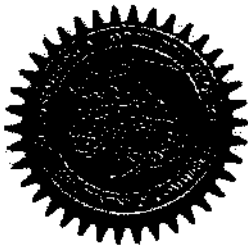
OWNER OF U.S. REG. NOS. 2,349,361, 3,602,924 AND OTHERS.

THE MARK CONSISTS OF A CREST DESIGN OF TWO HERALDIC LIONS FACING FORWARD, ONE OF WHICH IS RESTING ITS PAW ON A FOIL, WHILE BOTH ARE HOLDING AN ORNATE SHIELD DEPICTING A STAR AND CROSS DESIGN BETWEEN THEM, HAVING A BEJEWELLED CROWN ABOVE THE SHIELD, A RIBBON AND ADDITIONAL ORNAMENTATION BELOW THE SHIELD WITH THE WORDS "MARETT TSEHAI DAM" INSIDE THE RIBBON, AND THE WORDS "HOUSE OF MARLEY" CENTERED AT THE BOTTOM OF THE DESIGN.

THE ENGLISH TRANSLATION OF "MARETT TSEHAI DAM" IN THE MARK IS "LAND SUN BLOOD".

SER. NO. 85-230,796, FILED 2-1-2011.

DAVID COLLIER, EXAMINING ATTORNEY



David J. Kypas

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office



Reg. No. 4,044,261

Registered Oct. 25, 2011

Int. Cl.: 24

TRADEMARK

PRINCIPAL REGISTER

FIFTY-SIX HOPE ROAD MUSIC LIMITED (BAHAMAS INTERNATIONAL BUSINESS COMPANY)

AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS

FOR: BED OR THROW BLANKETS; FABRIC BANNERS, (IN CLASS 24 (U.S. CLS. 42 AND 50)).

FIRST USE 1-0-2010; IN COMMERCE 1-0-2010.

OWNER OF U.S. REG. NOS. 2,342,351, 3,692,924 AND OTHERS.

THE MARK CONSISTS OF A CREST DESIGN OF TWO HERALDIC LIONS FACING FORWARD, ONE OF WHICH IS RESTING ITS PAW ON A FOIL, WHILE BOTH ARE HOLDING AN ORNATE SHIELD DEPICTING A STAR AND CROSS DESIGN BETWEEN THEM, HAVING A BEJEWELED CROWN ABOVE THE SHIELD, A RIBBON AND ADDITIONAL ORNAMENTATION BELOW THE SHIELD WITH THE WORDS "MARETT TSEHAI DAM" INSIDE THE RIBBON, AND THE WORDS "HOUSE OF MARLEY" CENTERED AT THE BOTTOM OF THE DESIGN.

THE ENGLISH TRANSLATION OF "MARETT TSEHAI DAM" IN THE MARK IS "LAND SUN BLOOD".

SER. NO. 85-230,799, FILED 2-1-2011.

DAVID COLLIER, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office



Reg. No. 4,044,262

Registered Oct. 25, 2011

Int. Cl.: 25

TRADEMARK

PRINCIPAL REGISTER

FIFTY-SIX HOPE ROAD MUSIC LIMITED (BAHAMAS INTERNATIONAL BUSINESS COMPANY)

AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS

FOR: CLOTHING, NAMELY, SHIRTS, T-SHIRTS, TANK TOPS, BOARD SHORTS, AND HOODED SHIRTS; FOOTWEAR; HEADWEAR; AND BELTS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 12-0-2009; IN COMMERCE 12-0-2009.

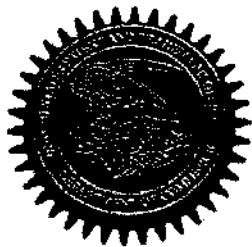
OWNER OF U.S. REG. NOS. 2,349,361, 3,692,924 AND OTHERS.

THE MARK CONSISTS OF A CREST DESIGN OF TWO HERALDIC LIONS FACING FORWARD, ONE OF WHICH IS RESTING ITS PAW ON A FOIL, WHILE BOTH ARE HOLDING AN ORNATE SHIELD DEPICTING A STAR AND CROSS DESIGN BETWEEN THEM, HAVING A BEJEWELLED CROWN ABOVE THE SHIELD, A RIBBON AND ADDITIONAL ORNAMENTATION BELOW THE SHIELD WITH THE WORDS "MARETT TSEHAI DAM" INSIDE THE RIBBON, AND THE WORDS "HOUSE OF MARLEY" CENTERED AT THE BOTTOM OF THE DESIGN.

THE ENGLISH TRANSLATION OF "MARETT TSEHAI DAM" IN THE MARK IS "LAND SUN BLOOD".

SER. NO. 85-230,800, FILED 2-1-2011.

DAVID COLLIER, EXAMINING ATTORNEY



David J. Kypas

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office



Reg. No. 4,044,263

Registered Oct. 25, 2011

Int. Cl.: 26

TRADEMARK

PRINCIPAL REGISTER

FIFTY SIX HOPE ROAD MUSIC LIMITED (BAHAMAS INTERNATIONAL BUSINESS COMPANY)
AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS

FOR: ORNAMENTAL NOVELTY BUTTONS, IN CLASS 26 (U.S. CLS. 37, 39, 40, 42 AND 50).

FIRST USE 8-0-2010; IN COMMERCE 8-0-2010.

OWNER OF U.S. REG. NOS. 2,349,381, 3,692,924 AND OTHERS.

THE MARK CONSISTS OF A CREST DESIGN OF TWO HERALDIC LIONS FACING FORWARD, ONE OF WHICH IS RESTING ITS PAW ON A FOIL, WHILE BOTH ARE HOLDING AN ORNATE SHIELD DEPICTING A STAR AND CROSS DESIGN BETWEEN THEM. HAVING A BEJEWELLED CROWN ABOVE THE SHIELD, A RIBBON AND ADDITIONAL ORNAMENTATION BELOW THE SHIELD WITH THE WORDS "MARETT TSEHAI DAM" INSIDE THE RIBBON, AND THE WORDS "HOUSE OF MARLEY" CENTERED AT THE BOTTOM OF THE DESIGN.

THE ENGLISH TRANSLATION OF "MARETT TSEHAI DAM" IN THE MARK IS "LAND SUN BLOOD".

SER. NO. 85-230,801, FILED 2-1-2011.

DAVID COLLIER, EXAMINING ATTORNEY



David J. Kypas

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office



Reg. No. 4,044,264

Registered Oct. 25, 2011

Int. Cl.: 28

TRADEMARK

PRINCIPAL REGISTER

FIFTY SIX HOPE ROAD MUSIC LIMITED (BAHAMAS INTERNATIONAL BUSINESS COMPANY)

AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS

FOR: JIGSAW PUZZLES, PUZZLE CUBES, AND SNOWBOARDS, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 10-0-2009; IN COMMERCE 10-0-2009.

OWNER OF U.S. REG. NOS. 2,349,361, 3,692,924 AND OTHERS.

THE MARK CONSISTS OF A CREST DESIGN OF TWO HERALDIC LIONS FACING FORWARD, ONE OF WHICH IS RESTING ITS PAW ON A FOIL, WHILE BOTH ARE HOLDING AN ORNATE SHIELD DEPICTING A STAR AND CROSS DESIGN BETWEEN THEM. HAVING A BEJEWELLED CROWN ABOVE THE SHIELD, A RIBBON AND ADDITIONAL ORNAMENTATION BELOW THE SHIELD WITH THE WORDS "MARETT TSEHAI DAM" INSIDE THE RIBBON, AND THE WORDS "HOUSE OF MARLEY" CENTERED AT THE BOTTOM OF THE DESIGN.

THE ENGLISH TRANSLATION OF "MARETT TSEHAI DAM" IN THE MARK IS "LAND SUN BLOOD".

SER. NO. 85-230,802. FILED 2-1-2011.

DAVID COLLIER, EXAMINING ATTORNEY



David J. K. Voss

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office



Reg. No. 4,044,265

Registered Oct. 25, 2011

Int. Cl.: 34

TRADEMARK

PRINCIPAL REGISTER

FIFTY-SIX HOPE ROAD MUSIC LIMITED (BAHAMAS INTERNATIONAL BUSINESS COMPANY)

AQUAMARINE HOUSE, CABLE BEACH
NASSAU, BAHAMAS

FOR: LIGHTERS FOR SMOKERS, IN CLASS 34 (U.S. CLS. 2, 8, 9 AND 17).

FIRST USE 9-0-2010, IN COMMERCE 9-0-2010.

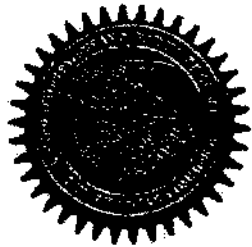
OWNER OF U.S. REG. NOS. 2,349,361, 3,692,924 AND OTHERS.

THE MARK CONSISTS OF A CREST DESIGN OF TWO HERALDIC LIONS FACING FORWARD, ONE OF WHICH IS RESTING ITS PAW ON A FOIL, WHILE BOTH ARE HOLDING AN ORNATE SHIELD DEPICTING A STAR AND CROSS DESIGN BETWEEN THEM, HAVING A BEJEWELLED CROWN ABOVE THE SHIELD, A RIBBON AND ADDITIONAL ORNAMENTATION BELOW THE SHIELD WITH THE WORDS "MARETT TSEHAI DAM" INSIDE THE RIBBON, AND THE WORDS "HOUSE OF MARLEY" CENTERED AT THE BOTTOM OF THE DESIGN.

THE ENGLISH TRANSLATION OF "MARETT TSEHAI DAM" IN THE MARK IS "LAND SUN BLOOD".

SER. NO. 85-230,803, FILED 2-1-2011.

DAVID COLLIER, EXAMINING ATTORNEY



David J. Kypas

Director of the United States Patent and Trademark Office

Docket No. 29WG-192069

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

<i>In re Matter of Application No. 85/760,798</i> for the mark: GNARLY MARLEY'S Fifty-Six Hope Road Music Limited, Opposer, v. Sandal Factory, Inc., Applicant.	Opposition No. 91-212582 OPPOSER FIFTY-SIX HOPE ROAD MUSIC LIMITED'S PRETRIAL DISCLOSURES
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Pursuant to 37 C.F.R. §§ 2.121(e), 2.123(e)(3), TMBP § 702.01, and Federal Rule of Civil Procedure ("FRCP") 26(a)(3), Opposer Fifty-Six Hope Road Music Limited ("Opposer") hereby makes the following pretrial disclosures to Applicant Sandal Factory, Inc. ("Applicant").

I. RESERVATIONS

In making these disclosures, Opposer does not intend to represent affirmatively or otherwise concede that the categories of documents identified herein are, in fact, relevant to the issues in this matter or that any individuals identified necessarily have discoverable information relevant to factual issues. Opposer's pretrial disclosures are made without waiver of, or prejudice to, any objections that Opposer may have. Opposer expressly reserves all such objections, including but not limited to: (a) relevance; (b) attorney-client privilege; (c) work-product protection; (d) any other applicable privilege or protection under federal or state law; (e) undue burden; (f) materiality; (g) overbreadth; (h) the admissibility in evidence of these initial disclosures or the subject matter thereof; (i) proprietary and confidential business information, financial data, and trade secrets that belong either to Opposer or to individuals and entities with whom Opposer conducts, or has conducted, business; and (j) documents containing information

disclosed or transmitted to any state or federal agency, to the extent such information is confidential and not required to be disclosed under applicable law. All objections are expressly preserved, as are Opposer's rights to move for entry of a protective order.

Furthermore, Opposer makes these disclosures based upon information reasonably available at this time. Opposer has not completed preparation for its testimony period. Additionally, as described fully in Applicant's Motion to Extend Time (Dkt. No. 9), Applicant has not fully or timely complied with its discovery obligations including, but not limited, failing to provide responses to document requests—responses that have still not been provided as of the date of filing. Accordingly, these disclosures are provided without prejudice to Opposer's right to introduce during its testimony period any evidence that is subsequently discovered. Further, because of Applicant's discovery failures, Opposer is going to file a motion to compel before the first testimony period opens. Opposer reserves the right to clarify, amend, modify, or supplement the information contained in these initial disclosures in accordance with the TBMP, the FRCP, and the Trademark Rules of Practice.

II. WITNESSES

Opposer is aware of the following persons likely to be called during its testimony period. All employees of, or others associated with, Opposer identified below may be contacted through counsel, Sheppard Mullin Richter & Hampton LLP, Attn: Jill Pietrini, 1901 Avenue of the Stars, Suite 1600, Los Angeles, CA 90067-6017, Phone: (310) 228-3723.

Opposer's Witnesses

Courtney White:

Subject matter: Licensing of Opposer's trademarks, types of products and services offered under Opposer's trademarks, marketing of Opposer's products and services bearing its trademarks, fame of Bob Marley, association

Applicant's Witness

Applicant's FRCP 30(b)(6) Witness(es)

Subject matter: All admissions or denials of Opposer's allegations in its Notice of Opposition, all of Applicant's affirmative defenses, Applicant's discovery responses, documents produced by Applicant, Applicant's

Opposer's Witnesses

of Bob Marley with the term "Marley," date of first use of certain of Opposer's trademarks, customers for products and services bearing Opposer's trademarks, and channels of trade and commerce in which Opposer's products and services bearing its trademarks move.

Michael Conley

Subject matter: Sale and channels of trade for certain of Opposer's licensed products and customers therefor.

Applicant's Witness

attempt to register the mark GNARLY MARLEY'S with the PTO, Applicant's selection and adoption of the GNARLY MARLEY'S mark, Applicant's search report (if any) for the GNARLY MARLEY'S mark, Applicant's first use of the GNARLY MARLEY'S mark, Applicant's knowledge of Opposer's trademarks, Applicant's knowledge of Bob Marley's and Opposer's association with the term "Marley," intent to trade on Opposer's goodwill and other indicia of willfulness of Applicant's conduct, Applicant's offering of the services listed in Applicant's application, Applicant's marketing, advertisement and promotion of the goods and services listed in Applicant's application, Applicant's sales of the goods and services listed in Applicant's application, and Applicant's other applications for registration, if any, of trademarks identical or similar to, or including, MARLEY.

Shawn Tolley

Subject matter: All admissions or denials of Opposer's allegations in its Notice of Opposition, all of Applicant's affirmative defenses, Applicant's discovery responses, documents produced by Applicant, Applicant's attempt to register the mark GNARLY MARLEY'S with the PTO, Applicant's selection and adoption of the GNARLY MARLEY'S mark, Applicant's search report (if any) for the GNARLY MARLEY'S mark, Applicant's first use of the GNARLY MARLEY'S mark, Applicant's knowledge of Opposer's trademarks, Applicant's knowledge of Bob Marley's and Opposer's association with the term "Marley," intent to trade on Opposer's goodwill and other indicia of willfulness of Applicant's conduct, Applicant's offering of the services listed in Applicant's application, Applicant's marketing, advertisement and promotion of the goods and services listed in Applicant's application, Applicant's sales of the goods and services listed in Applicant's application, and

Opposer's Witnesses

Doreen Crujeiras
Bob Marley Music, Inc.

Subject matter: Types of products and services offered under Opposer's trademarks, revenue earned from the use of Opposer's trademarks, promotion of products and services under Opposer's trademarks, fame of Opposer's trademarks, Opposer's dates of first use of its trademarks, fame of Bob Marley, Opposer's rights in Bob Marley's persona and identity, Opposer's ownership of Bob Marley's right of publicity, trademarks, and persona rights and use of Opposer's trademarks on goods and in conjunction with services.

Tom Bennett
Bravado International Group
1755 Broadway, 2nd Floor
New York, NY 10019

Subject matter: Sale and channels of trade for certain of Opposer's licensed products and customers therefor.

Applicant's Witness

Applicant's other applications for registration, if any, of trademarks identical or similar to, or including, MARLEY.

John Cioffi

Subject matter: All admissions or denials of Opposer's allegations in its Notice of Opposition, all of Applicant's affirmative defenses, Applicant's discovery responses, documents produced by Applicant, Applicant's attempt to register the mark GNARLY MARLEY'S with the PTO, Applicant's selection and adoption of the GNARLY MARLEY'S mark, Applicant's search report (if any) for the GNARLY MARLEY'S mark, Applicant's first use of the GNARLY MARLEY'S mark, Applicant's knowledge of Opposer's trademarks, Applicant's knowledge of Bob Marley's and Opposer's association with the term "Marley," intent to trade on Opposer's goodwill and other indicia of willfulness of Applicant's conduct, Applicant's offering of the services listed in Applicant's application, Applicant's marketing, advertisement and promotion of the goods and services listed in Applicant's application, Applicant's sales of the goods and services listed in Applicant's application, and Applicant's other applications for registration, if any, of trademarks identical or similar to, or including, MARLEY.

FRCP 30(b)(6) Witness(es) For TFLS Team
Florida Sportswear

Subject matter: Manufacture and production of goods bearing or sold under the GNARLY MARLEY'S Mark

Rose Parks
Sunkissed Enterprises Inc.

Subject matter: Conception and design of goods bearing or sold under the GNARLY MARLEY'S Mark

III. DOCUMENTS

The following categories of documents and things are, or will be, in Opposer's custody, control, or possession and may be used by Opposer to support its claims in this action.

- Opposer's registrations for BOB MARLEY, BOB MARLEY AND THE WAILERS, MARLEY, MARLEY RESORT & SPA, M MARLEY & Design, MARLEY COFFEE, HOUSE OF MARLEY MARETT TSEHAI & Design, and other marks derived from the name and legacy of Bob Marley
- Documents from <www.uspto.gov> regarding Opposer's trademarks
- Website pages from <bobmarley.com> and other websites owned or operated by Opposer or its licensees
- Photographs of Opposer's products bearing Opposer's trademarks and promotions/advertisements reflecting and products offered in conjunction with services offered under Opposer's trademarks
- Photographs of hangtags and labels showing use of Opposer's trademarks by Opposer and its licensees
- Promotional materials showing use of Opposer's trademarks
- Unsolicited media attention and articles about Opposer's trademarks and Bob Marley
- Documents relating to and evidencing the fame of Bob Marley
- Correspondence between Applicant and Opposer
- Internet printouts related to Applicant and the GNARLY MARLEY'S Mark
- Photographs of Applicant's products bearing the GNARLY MARLEY'S Mark
- Photographs of Applicant's services bearing and/or provided under the GNARLY MARLEY'S Mark
- Catalog pages showing use of the MARLEY Marks
- Chain of title chart summarizing transactions relating to acquisition of rights in Bob Marley
- License agreements relating to Bob Marley
- Policing letters relating to Bob Marley's trademarks, identify and persona

- Induction into Rock and Roll Hall of Fame
- Grammy Lifetime Achievement Award
- Star on Hollywood Walk of Fame
- Induction into U.K. Music Hall of Fame
- RIAA Artist of the Century Award for *Legend* (1999)
- *Legend* named "Album of the Century" by *Time* magazine (1999)
- "One Love" named "Song of the Millennium" by BBC (2008)
- MSNBC's 10 Best Rock Bands Ever.
- *Rolling Stone* 500 Greatest Albums of All Time – *Legend* (№ 46), *Catch a Fire* (№ 123), *Exodus* (№ 169), *Natty Dread* (№ 182), *Burnin'* (№ 319) (2003)
- *Rolling Stone* 100 Greatest Artists of All Time ("The Immortals") – Bob Marley (№ 11) (2004)
- *Rolling Stone* 500 Greatest Songs of All Time – "No Woman No Cry" (№ 37), "Redemption Song" (№ 66), "Get Up Stand Up" (№ 296), "I Shot the Sheriff" (№ 443) (2004)
- *Rolling Stone* 100 Greatest Singers of All Time – Bob Marley (№ 19) (2008)
- VH1's 100 Greatest Artists in Rock & Roll
- VH1's 100 Best Rock Albums
- VH1's Top 100 Rock Songs
- *Q* magazine's 100 Greatest Musical Stars of the 20th Century
- *Q* Awards – Best Reissue/Compilation – Songs of Freedom (1992)
- MOBO award - Posthumous Achievement (2005)
- Grammy Hall of Fame inductee – *Catch a Fire* (album) (2010)
- Grammy Hall of Fame inductee – "One Love" (single) (2007)
- Grammy Hall of Fame inductee – *Exodus* (album) (2006)
- Grammy Hall of Fame inductee – "No Woman No Cry" (single) (2005)
- Grammy Hall of Fame inductee – "Get up Stand Up" (single) (1999)
- Grammy nomination - The Bob Marley Story – 2002

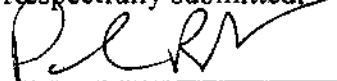
- *Rolling Stone* cover story "The Life and Times of Bob Marley: How He Changed Our World Forever"
- Recording Industry Association of America's [RIAA] Gold & Platinum certifications
- RIAA Diamond Award
- RIAA'S current Top Selling Artists list and Artists with the Most Gold, Platinum and Multi-Platinum (Diamond) Albums as of April 2010 list
- Billboard recent charting for Bob Marley including debut of B is for Bob at № 1 on Top Kids Audio chart and Top Reggae Albums chart and № 77 on Top 200 Albums chart (2009)
- Preservation of Burnin' in U.S. Library of Congress
- Peace Medal of the Third World
- Jamaican Order of Merit award
- Church Ave. in Brooklyn co-named Bob Marley Boulevard
- London home honored with heritage plaque for Bob Marley
- Jamaica home protected national monument
- Bob Marley gold and silver coins issued by Bank of Jamaica
- Bob Marley statue in Serbia
- UWI (University of West Indies) Bob Marley Award
- Petition for National Hero status
- Bob Marley Tribute to Freedom at Universal Citywalk
- Bob Marley Day
- One Love Peace Concert
- Press/publicity re Bob Marley
- Wikipedia entries relating to Bob Marley
- Books about Bob Marley (Barnes & Noble search results)
- Cover of CD – studio recording – released 1965 – *The Wailing Wailers* by Bob Marley and the Wailers [Studio One]

- Cover of CD – studio recording – released 1970 – *Soul Rebels* by Bob Marley and the Wailers [Upsetter/Trojan]
- Cover of CD – studio recording – released 1971 – *Soul Revolution* by Bob Marley and the Wailers [Upsetter/Trojan]
- Cover of CD – studio recording – released 1971 – *Soul Revolution Part II* by Bob Marley and the Wailers [Upsetter/Trojan]
- Cover of CD – studio recording – released 1973 – *Catch a Fire* by Bob Marley and the Wailers [Island/Tuff Gong]
- Cover of CD – studio recording – released 1973 – *Burnin'* by Bob Marley and the Wailers [Island/Tuff Gong]
- Cover of CD – studio recording – released 1973 – *African Herbsman* by Bob Marley and the Wailers [Upsetter/Trojan]
- Cover of CD – studio recording – released 1974 – *Rasta Revolution* by Bob Marley and the Wailers [Upsetter/Trojan]
- Cover of CD – studio recording – released 1974 – *Natty Dread* by Bob Marley and the Wailers [Island/Tuff Gong]
- Cover of CD – studio recording – released 1976 – *Rastaman Vibration* by Bob Marley and the Wailers [Island/Tuff Gong]
- Cover of CD – studio recording – released 1977 – *Exodus* by Bob Marley and the Wailers [Island/Tuff Gong]
- Cover of CD – studio recording – released 1978 – *Kaya* by Bob Marley and the Wailers [Island/Tuff Gong]
- Cover of CD – studio recording – released 1979 – *Survival* by Bob Marley and the Wailers [Island/Tuff Gong]
- Cover of CD – studio recording – released 1980 – *Uprising* by Bob Marley and the Wailers [Island/Tuff Gong]
- Cover of CD – studio recording – released 1983 – *Confrontation* by Bob Marley and the Wailers [Island/Tuff Gong]
- Cover of CD – compilation - released 1984 – *Legend* by Bob Marley and the Wailers [Island/Tuff Gong]
- Cover of CD – compilation - released 1986 – *Rebel Music* by Bob Marley and the Wailers [Island/Tuff Gong]
- Cover of CD – compilation - released 2001 – *One Love: The Very Best of Bob Marley and the Wailers* by Bob Marley and the Wailers [Island/Tuff Gong]

- Awards and accomplishments of Bob Marley
- Social networking sites relating to Bob Marley
- Letters Probate for Bob Marley in 1981 and chain of title documents
- Documents and things produced by Opposer in this action
- Documents and things produced by Applicant in this action.
- Online materials related to Opposer.

Dated: July 11, 2014

Respectfully submitted,



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Attorneys for Opposer
Fifty-Six Hope Road Music Limited

CERTIFICATE OF SERVICE

I hereby certify that **OPPOSER FIFTY-SIX HOPE ROAD MUSIC LIMITED'S PRETRIAL DISCLOSURES** is being deposited with the United States Postal Service, postage prepaid, first class mail, in an envelope addressed to:

**Francisco J. Ferreiro
Malloy & Malloy, P.L.
2800 S.W. 3rd Avenue
Miami, Florida 33129**

on this 11th day of July, 2014.



LaTrina A. Martin

SMRH:426872816.1

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

Mailed: January 27, 2015

Opposition No. 91212582

Fifty-Six Hope Road Music Limited

v.

Sandal Factory, Inc.

**M. Catherine Faint,
Interlocutory Attorney:**

On January 21, 2015 the Board held a telephone conference involving Paul A. Bost, Atty., counsel for opposer, Fifty-Six Hope Road Music Limited, and Francisco J. Ferreiro, Atty., counsel for applicant, Sandal Factory, Inc.¹ Before the Board was opposer's fully-briefed motion, filed November 28, 2014, to extend its trial period and to require applicant to provide addresses for its officers named in its initial disclosures.

The Board carefully considered the arguments raised by counsel for both parties, as well as the supporting correspondence and the record of this case, in coming to a determination regarding the above matters. During the telephone conference, the Board made the following findings and determinations.

As last reset by the Board, opposer's testimony period was set to close on January 25, 2015. Opposer seeks to extend its testimony period due to the

¹ The reiterated to the parties that Board proceedings may not be recorded.

Opposition No. 91212582

extension of, and consequent re-setting of dates, in an unrelated trial in the United States District Court for the Central District of California. Opposer also seeks to take the testimonial depositions of two of applicant's officers, Mr. Cioffi and Mr. Tolley, and the only address provided for them in applicant's initial disclosures was the address of applicant's counsel, which may not be sufficient for service of a subpoena. Applicant's counsel argues that opposer made no attempt to depose the officers during discovery, and that counsel cannot accept ex parte subpoenas on behalf of the officers.

In reply, opposer's counsel provided an update on the unrelated litigation, and the change in schedule in that case, and asked that all trial dates in this Board proceeding be extended for 90 days.

The Board heard additional argument from counsel for both sides during the teleconference.

Motion to Extend Time

The standard for extending time under Fed. R. Civ. P. 6(b) is "good cause." A motion to extend must set forth with particularity the facts said to constitute good cause for the requested extension; and a party moving to extend time must demonstrate that the requested extension of time is not necessitated by the party's own lack of diligence or unreasonable delay in taking the required action during the time previously allotted therefor. See TBMP § 509.01(a) (2014). Ordinarily, the Board is liberal in granting extensions of time before the period to act has elapsed, so long as the moving

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party has not been guilty of negligence or bad faith and the privilege of extensions is not abused. *American Vitamin Products, Inc. v. Dow Brands Inc.*, 22 USPQ2d 1316 (TTAB 1992). A request for an extension of time based on the press of other litigation should set forth sufficient detail to warrant a finding of good cause. *Societa Per Azioni Chianti Ruffino Esportazione Vinicola Toscana v. Colli Spolentini Spoletoducali SCRL*, 59 USPQ2d 1383, 1384 (TTAB 2001) (“Opposer’s counsel, in his declaration, has set forth the facts relating to his other litigation matters in sufficient detail to warrant a finding that good cause exists for at least a limited extension of opposer’s testimony period”).

Here, the Board finds opposer’s counsel has set forth sufficient detail to grant an extension of time, and the Board finds good cause to grant the extension. In view thereof, opposer’s motion to extend time is **granted**, however the Board will set the dates for trial at a later date as noted below.

Scheduling of Testimonial Depositions

The party wishing to take the testimonial deposition of an unwilling witness, must secure the attendance of that witness by subpoena. *See Galaxy Metal Gear Inc. v. Direct Access Tech. Inc.*, 91 USPQ2d 1859, 1862 (TTAB 2009). The subpoena must be issued, according to 35 U.S.C. § 24 and Fed. R. Civ. P. 45, from the United States district court in the federal judicial district where the witness resides or is regularly employed, thus the address of the witness is important to the issuance of a subpoena. Enforcement of the

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subpoena is a matter that is wholly before the United States district court that issues the subpoena. *See, e.g., PRD Elec. Inc. v. Pacific Roller Die Co.*, 169 USPQ 318, 319 n.2 (TTAB 1971) (allegation that party defied subpoena to produce witnesses is matter to be pursued before court that issued subpoena).

Nonetheless, a party is under a continuing duty to supplement its disclosure and discovery responses. Fed. R. Civ. P. 26(e)(1) and (2), and the Board may order such supplementation. *See Byer California v. Clothing for Modern Times Ltd.*, 95 USPQ2d 1175, 1179 (TTAB 2010) (party ordered to serve revised pretrial disclosures).

During the teleconference, applicant provided the following as the address for Mr. Cioffi, Mr. Tolley and Sandal Factory, Inc.:

102411 Overseas Hwy.
Key Largo, FL 33037

The Board expects matters before it to proceed in an orderly and expeditious manner. At this juncture in this case, the Board finds this can best be served by a short suspension while the parties cooperate in setting dates for any testimonial depositions that may be scheduled, and to allow opposer time in which to secure subpoenas from the United States district court. In view thereof, **this proceeding is suspended for 30 days** to allow the orderly scheduling of testimonial depositions.² At the end of that period,

² The testimonial depositions should not occur during this suspension. The suspension is solely to allow counsel to cooperate in scheduling dates for the testimonial depositions.

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or earlier, opposer will contact the Interlocutory Attorney at (571) 272-9274 to set a teleconference for resuming proceedings and setting the trial schedule.

* * * *