

FIRM NEWS

Win For Lathrop GPM Client Bach to Rock Is Like Music To Their Ears

USPTO finds that BACH N ROLL MUSIC ACADEMY would likely cause confusion with BACH TO ROCK

08/17/2022 | 3 minute read

Washington, DC (August 2022) – On August 5, a three-judge panel of the USPTO Trademark Trial and Appeal Board (TTAB) delivered a victory for Lathrop GPM client Music Makers Holdings LLC. Better known as “Bach to Rock,” Music Makers is an operator and franchisor of music education schools in more than 20 states. Bach to Rock owns numerous federal registrations for their various trademarks, which include:



On behalf of Bach to Rock, Lathrop GPM opposed an application by a competitor called “The Piano Studio” to register the trademark BACH N ROLL MUSIC ACADEMY. After a full administrative trial on the merits, the TTAB issued a 39-page decision sustaining the opposition and denying registration to the disputed mark. Attorneys for Bach to Rock were Sheldon Klein and Timothy Hadachek and, in pre-trial stages of the case, former Lathrop GPM associate Molly Littman. The TTAB panel agreed with Lathrop GPM’s arguments that a registration for BACH N ROLL MUSIC ACADEMY would likely cause confusion with the BACH TO ROCK marks.

“Protecting our trademark is of the utmost importance to our brand. We will vigorously defend our brand on behalf of our franchisees,” said Brian Gross, President of Bach to Rock.

Lathrop GPM opposed registration of The Piano Studio’s mark under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), which prohibits the registration of a mark that:

“[c]onsists of or comprises a mark which so resembles a mark registered in the Patent and Trademark Office . . . as to be likely, when used on or in connection with the goods of the applicant, to cause confusion, or to cause mistake, or to deceive.”

According to Klein and Hadachek, “We have no doubt that BACH N ROLL is confusingly similar to BACH TO ROCK and that its registration as a trademark

Related People

Sheldon H. Klein

Senior Counsel

Washington, D.C.

202.295.2215

sheldon.klein@lathropgpm.com

Timothy (Tim) J. Hadachek

Associate

Kansas City

816.460.5532

timothy.hadachek@lathropgpm.com

Related Services

[Intellectual Property](#)

[Franchise & Distribution](#)

[Intellectual Property](#)

[Litigation](#)

[Trademarks](#)



would harm consumers as well as our client. We – and our client – are gratified that the TTAB agreed.”

In reaching its conclusion, the TTAB focused on the similarity of the parties’ goods and services and the similarity of the parties’ trademarks.

Comparing the parties’ goods and services, the TTAB noted The Piano Studio admittedly intended to use the applied-for mark on identical music education and related goods and services targeted at the same types of consumers. “Applicant did not argue that the goods and services of the parties were not related,” the opinion stated.

In discussing the similarity of the marks, the TTAB considered the appearance, sound, connotation, and commercial impression of the marks and concluded that there would likely be confusion over BACH N ROLL if it were used in connection with the same goods and services as the registered BACH TO ROCK marks.

The TTAB found the marks similar in connotation and commercial impression because “both BACH N ROLL and BACH TO ROCK consist of three elements starting with the surname BACH followed by a reference to “Rock N Roll,” either N ROLL or ROCK.” Both marks would thus “engender the commercial impression of music spanning the breadth of Bach’s classical style to rock n roll.”

Likewise, the TTAB found the marks similar in appearance and sound because “both start with the surname Bach and end[] with a term starting with the letter “R” that refers to rock n roll.”

Ultimately, the TTAB judges concluded that because of the identical goods and services and the confusing similarity of the marks, the BACH N ROLL MUSIC ACADEMY mark could not be registered.