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U.S. Patent & TMOfo/TM Mail RoptDt. #22

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U.S. Department of Commerce  
Patent and Trademark Office  
**TRADEMARK**

**RECORDATION FORM COVER SHEET  
TRADEMARKS ONLY**

10-10-00

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

**Submission Type**

- New
- Resubmission (Non-Recordation)  
Document ID #
- Correction of PTO Error  
Reel #  Frame #
- Corrective Document  
Reel #  Frame #

**Conveyance Type**

- Assignment  License
- Security Agreement  Nunc Pro Tunc Assignment  
Effective Date  
Month Day Year
- Merger
- Change of Name
- Other

**Conveying Party**

Mark if additional names of conveying parties attached

Execution Date  
Month Day Year  
11-Aug-2000

Name

Formerly

75865116

- Individual  General Partnership  Limited Partnership  Corporation  Association
- Other
- Citizenship/State of Incorporation/Organization

**Receiving Party**

Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

City State/Country Zip Code

- Individual  General Partnership  Limited Partnership
- Corporation  Association
- Other
- Citizenship/State of Incorporation/Organization

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

10/24/2000 DBYRNE 00000046 75865116

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Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

Mail documents to be recorded with required cover sheet(s) information to:  
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**TRADEMARK**  
REEL: 002159 FRAME: 0547

**Domestic Representative Name and Address**

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

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**Correspondent Name and Address**

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

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**Pages**

Enter the total number of pages of the attached conveyance document including any attachments.

#

**Trademark Application Number(s) or Registration Number(s)**

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

**Trademark Application Number(s)**

**Registration Number(s)**

<input type="text" value="75/865,116"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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**Number of Properties**

Enter the total number of properties involved.

#

**Fee Amount**

Fee Amount for Properties Listed (37 CFR 3.41):

\$

Method of Payment: Enclosed  Deposit Account

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number: #

Authorization to charge additional fees: Yes  No

**Statement and Signature**

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.

M. Graham Coleman, 2d

-Oct-2000

Name of Person Signing

Signature

Date Signed

## AGREEMENT

AGREEMENT, effective as of July 1, 2000, by and between NATIONAL AUDUBON SOCIETY, INC., a not-for-profit corporation of the State of New York ("NAS"), and Clyde Thomas Shaw, a resident of the State of Virginia ("Applicant").

WHEREAS, NAS has adopted and is using a variety of marks incorporating the distinctive term AUDUBON in connection with a variety of goods and services; and

WHEREAS, NAS is the owner of approximately fifty federal registrations for trademarks incorporating the distinctive term AUDUBON, and is the owner of the only currently existing federal registrations for marks containing that term for use in connection with entertainment services in International Class 41, namely, U.S. Trademark Registration Nos. 2,130,699, 1,368,260 and 1,348,663; and

WHEREAS, Applicant has adopted and is using the mark AUDUBON QUARTET (the "Mark") in connection with live musical performances; and

WHEREAS, on December 17, 1999, Applicant filed an application with the United States Patent and Trademark Office, Serial Number 75/865,116, for registration of the Mark in International Class 41, for "musical entertainment services, namely, live musical performances by a musical group before international and domestic audiences" (the "Subject Services");

NOW, THEREFORE, to avoid the expense of litigation and to provide for coexistence in connection with use of the Mark, the parties agree as follows:

1. Applicant and his successors, assigns and licensees may use the Mark, in the United States and internationally, on and in conjunction with the Subject Services, subject to the restrictions described in Section 2 below.

2. Applicant agrees to abide by the following restrictions with respect to his use and/or registration of the Mark:

(a) Applicant and his successors, assigns and licensees will refrain from use of the Mark in connection with environmental, conservation or related wildlife activities, and from taking any action that might suggest that Applicant and/or his activities in connection with the Mark are sponsored by, affiliated with, or approved by NAS. NAS agrees to notify Applicant or his successors, assigns or licensees, in writing, of any claimed

violation of this Section 2(a) and the parties agree to use their best efforts to reach a commercially reasonable and mutually acceptable resolution with respect to any such claimed violation.

(b) Applicant and his successors, assigns, and licensees shall not use the term AUDUBON separate from or unaccompanied by the term QUARTET.

(c) Applicant shall not file any application for Federal registration of a trademark incorporating the term AUDUBON for use in connection with goods or services, other than its current application for the Mark with respect to the Subject Services, without the prior written approval of NAS.

(d) Applicant shall not oppose, cancel, attempt to oppose or cancel or otherwise challenge any future use and/or registration by NAS of marks incorporating the term AUDUBON.

3. Except in the event of a breach by Applicant or his successors, assigns or licensees of any of the conditions of Section 2 above, NAS shall not oppose, cancel, attempt to oppose or cancel, or otherwise challenge Applicant's application to register the Mark for use in connection with the Subject Services or Applicant's future use of the Mark in connection with the Subject Services. NAS hereby consents to registration of the Mark by the Applicant with respect to the Subject Services.

4. The parties agree that the use by Applicant of the Mark in the manner provided in this Agreement concurrently with NAS' use of its respective marks is not likely to confuse consumers as to the source of the goods and services provided by Applicant and/or NAS. The parties further agree that in the unlikely event that a likelihood of confusion should arise in the future, they will consult with each other as soon as possible and take whatever steps are necessary to prevent confusion in the marketplace.

5. This Agreement shall inure to the benefit of and be binding upon the parties, their successors and assigns, and may be assigned by any party without the other party's consent.

6. The validity, construction and performance of this Agreement shall be governed by the laws of the State of New York without giving effect to the conflict of laws rules thereof.

7. There are no representations, warranties or covenants other than those set forth in this Agreement, which sets forth the entire understanding between the parties, and which cannot be modified except by an agreement in writing.

8. Applicant agrees to record a fully-executed copy of this Agreement with the U.S. Trademark Office as part of the file for the Mark, and to provide NAS with a copy of the Trademark Office's filing receipt for such submission.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed as of the date indicated below.

Date: 8-17-00

NATIONAL AUDUBON SOCIETY, INC.

By:

Title:

Date: August 11, 2000

CLYDE THOMAS SHAW

Clyde Thomas Shaw