

ESTTA Tracking number: **ESTTA16437**

Filing date: **10/05/2004**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Joel S. Laxmeter		
Entity	Individual	Citizenship	UNITED STATES
Address	14718 Greenleaf Street Sherman Oaks, CA 91403 UNITED STATES		

Correspondence information	Joel S. Laxmeter 14718 Greenleaf Street Sherman Oaks, CA 91403 UNITED STATES joelsoul@gmail.com Phone:(323) 632-6194		
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Applicant Information

Application No	78340461	Publication date	09/14/2004
Opposition Filing Date	10/05/2004	Opposition Period Ends	10/14/2004
Applicant	Martino, Carlos Daniel		

Goods/Services Affected by Opposition

Class 041.
All goods and services in the class are opposed, namely: Entertainment services, namely,

live performances by a musical band

Attachments

10-04-04 notice of opposition dog days.txt (1 page)

Signature	/Joel S. Laxmeter/
Name	Joel S. Laxmeter
Date	10/05/2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
In the matter of Trademark Application Serial No.: 78340461
Filed: December 13, 2003
For the mark: Dog Days
Published in the Official Gazette: September 14, 2004
Joel S. Laxmeter

v.

Carlos Daniel Martino

Opposition No. _____

NOTICE OF OPPOSITION

Opposer, Joel S. Laxmeter is an individual currently residing at
14718
Greenleaf Street, Sherman Oaks, California, 91403.

To the best of Opposers knowledge, the name and current address
of the
Applicant in question is Carlos Daniel Martino, 5629 Whitnall Hwy,
North Hollywood, California, 91601.

Opposer believes that he will be damaged by the registration of
the
mark shown in the above-identified application, and hereby opposes
same.

As grounds of opposition, it is alleged that:

1. Opposer, since at least March 1, 2002, has been appearing live to perform musical recordings under the name Dog Days, and which Opposer has a valid and legal right to describe his musical group by using the term sought to be registered by the applicant.
2. Opposer has been utilizing applicants alleged mark in commerce since at least March 1, 2002, and if a registration is granted to the applicant, it will impair Opposers right to use the term Dog Days to promote its musical band for live performances. Consequently, Opposer will be damaged by confusion created by any musical group applicant forms.
3. Opposer submits that the alleged mark functions as the description for his existing musical group that has been performing live music since at least March 1, 2002 and is in the process of promoting musical recordings (i.e., compact discs) under the name Dog Days. Therefore, Opposer alleges that the term Dog Days functions to identify Opposers musical group.
4. In view of the above allegations, applicant is not entitled to federal registration of its alleged mark because (a) Opposer has been utilizing the term Dog Days in connection with live performances by a musical group since at least March 1, 2002; and (b) the term Dog Days does not function to identify Applicants musical group (i.e., it serves to identify Opposers musical group).

WHEREFORE, Opposer prays that said application Serial No. 78073160 be rejected, that no registration be issued thereon to applicant, and that this opposition be sustained in favor of the Opposer.

By: Joel S. Laxmeter

Dated: October 5, 2004

14718 Greenleaf Street

Sherman Oaks, California, 91403

Opposer